Filiberto Agusti
Joshua R. Taylor (admitted *pro hac vice*)
STEPTOE & JOHNSON LLP
1330 Connecticut Avenue, NW
Washington, DC 20036
Tel: (202) 429-3000
Facsimile: (202) 429-3902

Edgar N. James (admitted *pro hac vice*)
Kathy L. Krieger (admitted *pro hac vice*)
David P. Dean (admitted *pro hac vice*)
Darin M. Dalmat (admitted *pro hac vice*)
Daniel M. Rosenthal (admitted *pro hac vice*)
JAMES & HOFFMAN, P.C.
1130 Connecticut Avenue, NW, Suite 950
Washington, DC 20036
Tel: (202) 496-0500
Facsimile: (202) 496-0555

Charles R. Hairston (admitted *pro hac vice*)
Staff Attorney
ALLIED PILOTS ASSOCIATION
14600 Trinity Boulevard, Suite 500
Fort Worth, TX 76155-2512
Tel: (817) 302-2178
Facsimile: (817) 302-2187

Counsel for Allied Pilots Association

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	:	Chapter 11
	:	
AMR CORPORATION, *et al.*,	:	Case No. 11-15463-SHL
	:	
Debtors.	:	(Jointly Administered)

ALLIED PILOTS ASSOCIATION'S MEMORANDUM IN OPPOSITION TO DEBTORS' MOTION TO REJECT COLLECTIVE BARGAINING AGREEMENTS PURSUANT TO 11 U.S.C. § 1113

Table of Contents

Table of Authorities

Cases

Statutes

Other Authorities

INTRODUCTION AND SUMMARY OF ARGUMENT

The Allied Pilots Association ("APA," "Association" or "Union"), on behalf of the approximately 10,000 pilots employed by American Airlines, Inc. ("American" or "the Company"), submits this Memorandum in Opposition to the Debtors' application pursuant to Section 1113 of the Bankruptcy Code ("Section 1113 Motion" or "Application") seeking authorization to reject the collective bargaining agreement between American and the APA.[1]

The Debtors base their Section 1113 Motion on the core premise that "American cannot successfully reorganize" and emerge from this Chapter 11 case with its current collective bargaining agreements in place. Debtors' Memorandum of Law ("Debtors' Mem."), Part I, at 4. In particular, the Debtors assert that their Motion "rests on three unpleasant but undeniable facts:" (1) that "American will not survive if it does not restructure;" (2) that competing legacy carriers have all reorganized and consolidated since 2003, while American has incurred "billions in losses and a crushing debt load;" and (3) that American's current CBAs burden the Company

---

[1] The Debtors filed their Application, styled as "Debtors' Motion for Entry of Order Pursuant to 11 U.S.C. §1113 Authorizing Debtors to Reject Collective Bargaining Agreements," on March 27, 2012, together with their Declarations, Exhibits and Memoranda of Law Parts I, II and III (docketed as ECF Nos. 2035, 2041-2043, 2046-2047, 2050). In particular, the Debtors' Application seeks rejection of collective bargaining agreements ("CBAs") between American and the APA, the Association of Professional Flight Attendants ("APFA") and the Transport Workers Union of America ("TWU").

For the reasons detailed in its separate Adversary Proceeding, *Allied Pilots Association v. AMR Corp. and American Airlines, Inc.,* Adv. Proc. No.12-01094 (SHL), the APA contends that its most recent CBA with American (the "2003-2008 CBA") expired by operation of its own terms as of May 1, 2008, that the CBA was not subsequently extended or renewed, and that Section 1113 does not authorize "rejection" of pilots' working conditions that are imposed by law on the parties as the post-expiration status quo solely by virtue of the Railway Labor Act ("RLA"). The APA has filed a Notice of Appeal and Request for Certification (*see* Adv. Proc. ECF Nos. 28-32) seeking direct appeal of the April 20, 2012 decision of the Bankruptcy Court dismissing its complaint (Adv. Proc. ECF No. 27). The APA continues to assert – and hereby incorporates fully by reference in this Opposition to the Debtors' Section 1113 Motion – all the legal grounds and arguments raised in its Adversary Proceeding and its pending appeal.

with above-market labor costs and burdensome work rules, presenting the "greatest single challenge" to American's financial health. *Id.* at 1-3. According to the Debtors, "[t]hese three undeniable facts yield but one irrefutable conclusion: *with these CBAs in place*, American cannot successfully reorganize." *Id.* at 4 (emphasis added). To support this contention, American Airlines filed a mountain of paper on March 27 and then presented the testimony of its key witnesses in the first phase of the Section 1113 hearing, conducted on April 23-27, 2012.

Consistent with its basic premise, the Company has devoted its filings and hearing presentations primarily to showing that American has not been operating profitably as a stand-alone carrier for most of the past decade, and that despite massive bankruptcy-avoidance concessions extracted from the APA, APFA and TWU in 2003, American's *existing CBAs* are not competitive with those of other network carriers.[2] But those assertions are straw men; they are simply not the factors that determine the outcome of this Section 1113 motion.

The issue in this case is not whether American needs *some* contract modifications and *some* reductions in labor costs to be more competitive and emerge from bankruptcy. The pilots have not opposed changes; on the contrary, the APA has proposed two alternative visions that would enable American to restructure successfully. First, it has offered concessions in nearly every aspect of the parties' most recent agreement that, collectively, would save the Company $271 million per year – over $10 million *more* per year than American has stated it needs to be competitive with its network airline peers. Second, it has proposed a consolidation plan between American and US Airways that would allow American to address the fundamental, structural obstacles it faces in competing with the larger network carriers while requiring the pilots to

[2] The so-called "legacy" carriers (also referred to herein as "network carriers") identified as American's principal competitors and comparators in this proceeding are Delta (including the former Northwest), United (including the former Continental Airlines), and US Airways (including the former America West).

sacrifice only $240 million per year – $130 million per year less than what American demands as a standalone. Both alternatives offered by the pilots would also provide American flexibility to outsource significant flying, which the Company has valued at hundreds of millions per year. Nonetheless, American has refused to engage with the APA on either of its alternative visions for how the Company can successfully reorganize. Instead, it has stuck steadfastly to its non-negotiable demand for $370 million in annual concession from the pilots, a figure rooted in the hopes of achieving unprecedented profit levels through the continuation of the Company's failed limp-along "cornerstone" strategy.

Against that backdrop, the real issue before this Court is the *particular* set of contract modifications demanded by the Company – which they have labeled their "Section 1113 Term Sheet" – and the particular Restructuring Business Plan that drives the Company's concession demands. Specifically, the only question properly before the Court is whether the Company, with that March 21, 2012, Term Sheet in hand, has satisfied each and every one of the statutory tests that must be met in order for the Court to authorize rejection of the APA's collective bargaining agreement under Section 1113.

Section 1113 of the Code prescribes nine statutory criteria that the Debtors must meet in order to prevail on their motion. The Debtors unquestionably have the burden of persuasion on each of these requirements. Moreover, on the last of the listed criteria, the Debtors must meet a heightened standard of proof: they must show by "clear and convincing evidence" (not just a "preponderance of the evidence") that the balance of all equities in this case clearly favors rejection of the pilots' CBA. Each and all of the statutory criteria must be satisfied; if the Debtors' case is deficient on any one of the requirements, the Motion must be denied at this time.

Notably, the Debtors' Memorandum of Law fails to recognize all of Section 1113's distinct requirements. Moreover, even those statutory criteria the Debtors do mention are dismissed with the sweeping, patently erroneous assertion that "the entire § 1113 analysis 'quickly melts down to the one, single question which is almost always controlling: *what effect will rejection of the agreement have on the firm's prospects for reorganization*?'" Debtors' Mem. at 75 (emphasis added). This baseless contention so completely misreads the text of Section 1113 – not to mention its application by the courts in the 28 years since Section 1113's enactment – that it casts doubt on the Debtors' entire case. At the very least, the Debtors' prominent reliance on this distorted view of Section 1113, based on a 1984 article, may explain why they focus so much of their case on the irrelevant point that rejection of the unions' current agreements will facilitate American's reorganization.

To avoid further confusion regarding the legal criteria that actually govern this Motion, the APA's brief begins by reviewing the specific requirements of Section 1113. The APA will address these criteria and the relevant case law at greater length in the Argument that follows.

I. The Controlling Statutory Requirements

The first five statutory requirements must have been satisfied before the filing of the Debtors' Section 1113 Motion on March 27, 2012.[3]

[3] The APA has previously briefed in detail the *pre-application* requirements of Section 1113. *See* Brief of Allied Pilots Association Regarding Debtors' Proposals To Be Considered Pursuant to 11 U.S.C. § 1113 (ECF No. 2577). The APA maintains that position and incorporates by reference the legal arguments set forth in that May 3, 2012, brief. In any case, American's subsequent proposal on April 19, 2012, has little effect on the arguments presented herein. That proposal demanded more from the pilots with respect to monthly scheduling and outsourcing of regional jets configured with 70 or more seats, although it did moderate the demand from pilots with respect to pay guarantees. *Compare* AA Exhibit 918 (American's March 21, 2012 term sheet) *with* APA Exhibit 2 (American's April 17, 2012, term sheet).

1. **First, the Debtors had to make a valid "proposal" to the union before filing their application to reject**. 11 U.S.C. § 1113(b)(1)(A). In the case of the pilots, the particular proposal that the Court must evaluate under Section 1113 is the Company's "Section 1113 Term Sheet" dated March 21 (AA Exh. 918), the last set of demands presented to APA before the Debtors' March 27 Application.

2. **Second, the Debtors must prove that their March 21 pre-application proposal was "based on *the most complete and reliable information available* at the time of such proposal."** 11 U.S.C. § 1113(b)(1)(A) (emphasis added). Among other things, this statutory provision required the Company to base its Section 1113 proposal on realistic projections, and to consider – not willfully ignore – obvious, reasonable restructuring alternatives that could strengthen this airline and enable successful operations after bankruptcy.

3. **Third, the Debtors must prove that the March 21 Term Sheet seeks only "those *necessary* modifications in the employees' benefits and protections that are *necessary* to permit the reorganization" of the Company**. 11 U.S.C. § 1113(b)(1)(A) (emphasis added). To satisfy this test, American must demonstrate that the overall amount of concessions it seeks from the APA is necessary to reorganize; and, where the APA has made a counterproposal regarding a particular term, the challenged term must itself be necessary for reorganization. Of course, American need not prove that its proposals are essential to stave off imminent liquidation. But the Debtors must do more than show that their proposed modifications would be helpful and improve American's financial profile. Such a degraded standard would render the "necessity" requirement utterly meaningless because *any* proposed labor cut would satisfy that test. On the contrary, Congress used the word "*necessary*" in Section 1113(b)(1)(A) – and used it not once, but twice – because it intended the statute to have real teeth.

4. **Fourth, the Debtors must prove that the March 21 proposal to APA "assures that *all creditors, the debtor and all of the affected parties are treated fairly and equitably*."** 11 U.S.C. § 1113(b)(1)(A) (emphasis added). This means that unionized employees, non-union employees, management, non-labor creditors, and Company owners must all bear proportionate sacrifices. Further, to show that the pain is spread fairly, American's proposal must also account for what can fairly be expected from each constituency in light of that group's pre-petition sacrifices.

5. **Fifth, the Debtors must prove that before filing their Application, they gave the Unions "such relevant information as is necessary to evaluate the [pre-application] proposal."** 11 U.S.C. § 1113(b)(1)(B). This is an affirmative duty that the Company must fulfill on its own initiative; the extent of disclosure required by the statute does not depend on a union making a specific request for specific data. The information that must be shared includes, among other things, forecasting models of the effect of different contractual changes, and analyses underlying the Restructuring Business Plan elements driving the Company's labor concession demands.

The sixth and seventh statutory requirements specify what is required of the Debtors after the March 21 proposal and before the commencement of the hearing on April 23:

6. **The Debtors must prove that American met with the APA at reasonable times**. 11 U.S.C. § 1113(b)(2).

7. **The Debtors must prove that American conferred in "good faith" with the APA "in attempting to reach mutually satisfactory modifications" of the CBA**. 11 U.S.C. § 1113(b)(2). As detailed below, a take-it-or-leave-it approach that treats Term Sheet demands as non-negotiable does not satisfy this statutory requirement. To meet the "good faith" test,

American must have demonstrated a willingness to negotiate over particular terms, once the APA made a counterproposal, as well as over the total amount of concessions sought.

The last two statutory requirements take into account the entirety of the record. As with the other Section 1113 criteria, however, the Debtor must separately meet each of these final statutory tests. The penultimate "without good cause" requirement is of particular significance here, given the circumstances of this case:

8. **The Debtors must prove that the APA refused to accept the March 21 Term Sheet proposal "without good cause."** 11 U.S.C. § 1113(c)(2). Notably, there is no fixed rule limiting what qualifies as "good cause," because a union may have any number of legitimate reasons for refusing to accept a particular Section 1113 Term Sheet, depending on the circumstances presented. For example, when a union offers counterproposals that achieve savings sufficient for effective reorganization, it has good cause to reject the debtor's proposal. Similarly, as discussed below, if there is another reasonable business plan that would allow the Company to reorganize while requiring less severe concessions from relevant stakeholders, a union has good cause to reject the debtor's offer.

9. **Finally, the Debtors must prove by clear and convincing evidence that "the balance of the equities clearly favors rejection" of the pilots' CBA.** 11 U.S.C. § 1113(c)(3). The Court has wide discretion to consider all the circumstances in a given case, including the APA's diligent efforts to reach a compromise and to negotiate in good faith toward that end.

II. The Debtors Cannot Satisfy Section 1113's Requirements Based on American's March 21 Term Sheet and its Related Course of Conduct

As demonstrated more fully in the Argument below, the Debtors' affirmative case fails to satisfy all of the Section 1113 requirements for rejection of APA's collective bargaining agreement. By the conclusion of the hearing in this case, the record will confirm that the

Debtors cannot meet their statutory requirements through American's placeholder Business Plan and its decision to negotiate inflexibly based only on that plan. Notable defects in the Debtors' case include the following, any one of which requires denial of the Debtors' motion at this time.

The Restructuring Business Plan that drove American's March 21 Term Sheet demands was not "based on the most complete and reliable information available." Among other deficiencies, American's own witnesses have testified that the Company not only failed but deliberately refused to consider the obvious possibility of consolidation when it formulated its Restructuring Business Plan (unveiled as the February 1, 2012, "Plan for Success") and resulting Section 1113 Term Sheets. At the same time, the evidence confirms that the Company's Restructuring Business Plan is not the likely template for American's eventual emergence from bankruptcy and its future operation. Rather, that standalone Plan is only an interim means to gut the pilots' and other employees' CBAs, at which point American will then belatedly "consider" and "compare" the alternative of consolidation with another carrier. In short, despite the ample evidence that American is now and has been fully capable of modeling and comparing restructuring alternatives all along, the Company is willfully blinding itself to any and all potential benefits of consolidation. Significantly, by intentionally ignoring the most complete and reliable information until after completing the Section 1113 process, American would effectively deny a share of the potential consolidation benefits to the pilots and other union-represented employees, while reserving the eventual restructuring gains to its management and other stakeholders. Because American did not and will not even consider whether consolidation would allow it to restructure without requiring concessions of the magnitude demanded in its March 21 Term Sheet, the Court must conclude that its placeholder plan and associated

concession demands are not based on the most complete and reliable information as required by Section 1113(b)(1)(A).

American's Business Plan and the labor concessions it prescribes are not "necessary to permit the reorganization" of the Company. On the contrary, the record confirms that American can successfully reorganize while taking significantly less from the pilots than the March 21 Term Sheet demands. On the eve of bankruptcy, American contended that it needed only about $50 million in annual concessions from the pilots to overcome the $260 million competitive disadvantage American faced vis-à-vis other major network airlines. It believed those reductions would bring the Company to market-competitive levels within just two years due to changes in its competitors' cost structures. Now that American has filed its bankruptcy petition, it seeks $370 million per year – a seven-fold increase over its pre-petition demand and a 40% increase over the $260 million cost gap that American itself identified as necessary to achieve market-based pilot labor costs. These excessive post-petition demands fail to account for the full range of sacrifices its Term Sheet would impose upon the pilots: when valued with reasonable assumptions, the Company's Term Sheet would actually require $460 million in annual concessions from the pilots – a nine-fold increase over the $50 million proposal that it thought sufficient to avoid bankruptcy. That figure does not account for American's proposal to eviscerate the job protections contained in the "Scope" clause of the CBA, none of which are necessary to reorganization.

The Company's March 21 Term Sheet is not fair and equitable, especially for the pilots of American Airlines. The evidence shows that above and beyond the $370 million per year in direct labor cost cuts American seeks to extract from the pilots, the Company's proposal to eliminate important Scope protections from the APA's contract would compel pilots to

contribute hundreds of millions annually toward American's bottom-line, according to the Company's own calculations, at an average annual cost to the pilots of at least $21 million. As the evidence further confirms, American has consistently refused to recognize the APA and the pilots for these substantial contributions to restructuring. Instead, the Company's Business Plan and resulting Section 1113 proposals treat those disproportionate contributions as if they count for nothing.

Before filing its Motion the Company failed to provide APA "such relevant information as is necessary to evaluate" the March 21 Term Sheet. In July 2011, American made the largest fleet order in history. Yet, the Company has refused to provide the APA or the other unions with any financial analysis underlying that decision, even though the timing and magnitude of the order could still be modified to require fewer concessions from labor. American has also refused to provide the APA with the Company's valuation of the Association's proposals, with the models that the Company used to determine its manpower needs, and with an accounting of the non-labor savings it intends to achieve through restructuring. All of this relevant information is necessary to evaluate American's proposals.

American's conduct at the bargaining table fell short of good faith negotiations and exacerbated every statutory shortcoming built into its Business Plan. Since presenting American's February 1, 2012, term sheet, the Company's negotiators have refused to negotiate over their demand for $370 million in average annual concessions from the pilots. They have also manufactured valuation disputes through unreasonable assumptions on several specific contract terms as a pretext to avoid genuine bargaining with the Union.

Under the circumstances of this case, APA had "good cause" to reject the Company's March 21 Term Sheet. The pilots' "good cause" is especially clear in the face of

the Company's stubborn refusal to consider a realistic alternative for restructuring that would greatly enhance American's network and improve its ability to compete, while inflicting much less damage on the pilots and other union-represented employees. The APA also has "good cause" because the Company has refused to adopt the Union's fully reasonable counterproposals, particularly on sick leave and Scope, instead insisting on a set of demands that produce far more in both cost savings and revenue enhancements than the Company says it needs for a successful reorganization.

The Company cannot show by clear and convincing evidence that the balance of all the equities clearly favors rejection of APA's agreement. As explained below, no plausible assessment of the equities would require APA to submit to concession demands that are driven by a placeholder Business Plan with no likely future – a dubious plan that depends on disproportionate contributions from pilots, and which serves primarily to divest the APA and the pilots of their contract in the near term while reserving potential future restructuring gains for other stakeholders – when a viable and less harmful alternative is available.

Based on the factual record and legal arguments discussed below, the Court must deny the Debtors' Section 1113 application at this time.

STATEMENT OF FACTS

I. American Seeks Pilot Concessions Far Beyond Competitive Levels to Satisfy a Standalone Restructuring Plan Developed Without Considering Alternatives, and Which Seeks Unprecedented, Unnecessary Profit Margins on the Backs of Labor

A. By American's Own Calculations, It Needs Only $260 Million in Annual Concessions From the Pilots to Make its Pilot Labor Costs Competitive

Since its out-of-court restructuring in 2003, American has employed a sophisticated computational model to project revenue and labor costs for three to four years into the future. *See* Transcript of Hearing on Debtors' Motion to Reject Collective Bargaining Agreements

(April 24, 2012) ("Apr. 24 Tr.") at 129:24-130:18, 199:18-201:16, 201:25-202:21 (Goulet).[4] Beverly Goulet, the Company's Vice President of Corporate Development since 2002 and its current Chief Restructuring Officer, and her staff would update this model in preparation for meetings of the Company's Board of Directors, which occurred approximately eight times per year. *See* Apr. 24 Tr. at 202:22-203:16 (Goulet).

Based on that model, American's senior management reported to its Board of Directors in October 2011 that the Company's labor expenses exceeded those of its peer competitors by approximately $600 million per year. *See* Apr. 24 Tr. at 165:9-13 (Goulet); APA Exhibit 407. Consistent with those reports, American had previously disclosed this $600 million annual labor cost disadvantage in February 2011 as part of its 2010 10-K filing with the Securities and Exchange Commission ("SEC"). *See* Declaration of Andrew Yearley ("Yearley Decl."), APA Exhibit 100 at ¶ 20. According to American's calculations, $230 million of that labor cost disadvantage was attributable to the pilots. *See* Declaration of Neil Roghair ("Roghair Decl."), APA Exhibit 400a at ¶ 26.

In the weeks before filing its petition for Chapter 11 protection on November 29, 2011, American's estimates increased and it reported to the press and at the negotiating table that its labor cost disadvantage was actually $800 million per year. *See* Yearley Decl., ¶ 20 (describing November 29, 2012, press report by AMR's CEO Tom Horton); Roghair Decl., ¶ 26 (describing negotiations). Of that $800 million competitive disadvantage, American determined that **$260 million was attributable to pilot labor costs**. *See* Roghair Decl., ¶ 26; Declaration of Daniel

[4] This memorandum will cite to the transcript of the Section 1113 hearing in this case as follows: "Apr. 23 Tr." will refer to citations to the transcript of the portion of the hearing that took place on April 23, 2012; "Apr. 24 Tr." will refer to citations to the transcript of the portion of the hearing that took place on April 24, 2012; and so forth. Where applicable, citations to the transcripts will also identify the witness who provided the cited testimony.

W. Akins ("Akins Decl."), APFA Exhibit 700 at 77 (Chart 21). In a presentation to the Pension Benefit Guarantee Corporation on March 8, 2012, four months after the filing of the petition in this case and contemporaneous with the development of its Term Sheets, American repeated this analysis and calculated its labor cost disadvantage attributable to pilots at $259 million. *See* APFA Exhibit 4 at 4, 12.

Based on their knowledge and projections of how labor costs at other airlines would change in the coming years, American's senior management contended in October and November 2011, that this cost disadvantage would diminish over time. Specifically, if it could secure between $47 and $55 million in average annual concessions from the pilots, American's projections showed that its labor costs would transform into a substantial *advantage* over its competitors by 2014. *See* Roghair Decl., ¶¶ 27, 30-31; APA Exhibit 410. In fact, Jeffrey Brundage, the then-Senior Vice President of Human Relations for American, conveyed to the pilots' negotiators that concessions of this magnitude would enable the Company to avoid less desirable alternate paths– namely, dramatic downsizing of the airline; a merger with another carrier, most likely US Airways; or restructuring through the Chapter 11 process. *See* Roghair Decl., ¶ 23.

At the time that American developed these analyses showing how its labor costs related to the costs of its competitors, American had a thorough and detailed business planning model, according to its outside financial expert, David Resnick of Rothschild, Inc. *See* Apr. 25 Tr. at 39:4-12 (Resnick). Moreover, Ms. Goulet and other senior managers at the Company had long monitored significant trends in the industry closely and tracked key performance metrics, such as

the Company's profit margins compared to those of its competitors. Apr. 24 Tr. at 213:10-214:20, 216:23-217:10 (Goulet).[5]

B. To Achieve Unprecedented Profits, American's Restructuring Plan Seeks $370 Million in Annual Pilot Concessions, A Demand That Greatly Outstrips Market-Based Labor Costs

1. American's Restructuring Plan Calls for $370 Million in Average Annual Concessions from the Pilots

Just two and a half months after seeking $47-55 million in annual concessions from the pilots, American constructed a Restructuring Business Plan in which it formulated a demand for $370 million per year from the pilots. AA Exhibit 1505.[6] That Plan seeks to improve the Company's financial profile by $3.1 billion as of 2017. *See* Declaration of Beverly Goulet ("Goulet Decl."), AA Exhibit 100 at ¶ 54. None of American's advisors rendered an opinion on the appropriateness, feasibility, or necessity of this goal; instead, American established that goal at its own discretion. *See* Apr. 24 Tr. at 244:21-246:8 (Goulet). American hopes to achieve the improvements called for by that Plan through (1) $1.0 billion incremental enhancements to the Company's annual revenue; (2) $600 million in annual reductions in non-labor costs, achievable through the restructuring tools made available by Chapter 11; and (3) $1.5 billion in annual reductions in labor costs. *Id.*; Apr. 24 Tr. at 116:2-117:16 (Goulet). These figures reflect

---

[5] American, like other airlines, often measures operational profits through EBITDAR margins, which measure the ratio of "EBITDAR" (earnings before interest, taxes, depreciation, amortization, and rent) to total revenue. *See* Yearley Decl., ¶ 12 n.13.

[6] American first presented its Restructuring Business Plan (also referred to as the "Plan for Success") to its stakeholders on or around February 1, 2012. *See* Yearley Decl., ¶ 9 n.2. It modified that plan six weeks later, in part, to reflect American's decision to freeze rather than terminate its pension plans, where possible. *Id.* That plan assumed the Company would need to [redacted] *Id.* Three weeks later, American revised its plan again to correct several mathematical errors. *Id.* As used herein, "Restructuring Business Plan," "Business Plan" or "Plan" refers to American's business plan updated as of April 6, 2012.

American's plans as of 2017. Like its overall cash improvement target, American's outside advisors did not make recommendations to the Company as to the appropriateness, feasibility, or necessity of allocating the revenue enhancements and cost savings in the manner that American chose. *See* Apr. 24 Tr. at 246:10-248:11 (Goulet); Apr. 25 Tr. at 90:6-17 (Resnick).

Over the course of the period from 2012 through 2017, American's Restructuring Business Plan calls for average annual labor cost reductions of $1.25 billion per year. *Id.* at ¶ 54 n.21. American plans to allocate those average annual labor cost reductions according to each labor group's pro rata share of the Company's total labor costs. Declaration of Jeffrey Brundage ("Brundage Decl."), AA Exhibit 500 at ¶ 26. Under that formula, American determined the pilots' pro rata share of concessions to be an average of $370 million per year over the six year period American contemplates. *Id.*; AA Exhibit 507.

2. American's Profitability Target Drove its Demand for Labor Concessions Far Beyond Competitive Levels

As described by American's Chief Restructuring Officer and its various advisors, the Company's Restructuring Business Plan has four components: (1) a revenue model that projects the amount of revenue improvements the Company can achieve by 2017; (2) a profitability target that American hopes to achieve by 2017 in order to attain a financial profile that will enable it to have sufficient liquidity to make investments and cope with exogenous shocks to the industry; (3) a non-labor cost structure, which reflects the amount of reductions in non-labor costs it has already achieved and hopes to achieve through the Chapter 11 process; and (4) a target for labor cost reductions. *See* Apr. 24 Tr. at 112:18-16, 196:22-198:16 (Goulet); Apr. 26 Tr. at 72:3-73:23 (Dichter). According to American's managers and advisors, the Company arrived at the specific figures for each of these components by treating the revenue, profitability, and non-labor cost components as fixed inputs to the Plan and then calculating, as a matter of simple

"mathematics," the labor cost reductions that follow once the other components are treated as fixed inputs to the Plan. Apr. 26 Tr. at 75:15-76:11 (Dichter); *see also* Apr. 24 Tr. at 114:2-116:1 (Goulet). In other words, American "backsolved" the hole left in its Restructuring Business Plan by calculating the labor savings that would be needed ***once the other components of the Plan were pre-determined.*** Yearley Decl., ¶ 11; Apr. 26 Tr. at 75:15-76:11 (Dichter).

Although American retained a financial advisor in connection with the development of the Restructuring Business Plan, American established the Plan's profitability targets at its own discretion. In particular, American's Restructuring Business Plan calls for the Company to achieve a [redacted] EBITDAR margin by 2017. Declaration of David Resnick ("Resnick Decl., ¶ 27), AA Exhibit 300A at 27; AA Exhibit 306A. American established that target, and the Plan's related financial targets, according to its own designs. *See* Apr. 24 Tr. at 113:17-21 (Goulet). American's financial advisor, Rothschild, did not render an opinion to American or during the hearing on this motion as to the appropriateness or necessity of the [redacted] EBITDAR margin American had established. *See* Apr. 25 Tr. at 95:9-96:11 (Resnick). McKinsey & Company, Inc., the consultants retained by American to advise the Company on strategic and business planning matters, also rendered no such opinion. *See* Apr. 26 Tr. at 129:9-17 (Dichter).

American's plans for non-labor cost reductions fall into two camps: pre-petition initiatives to reduce non-labor costs and additional reductions to non-labor costs that became available only through the Chapter 11 restructuring process. McKinsey reviewed American's pre-petition efforts to reduce non-labor costs, *see* Apr. 26 Tr. at 42:17-44:7, but neither McKinsey nor Rothschild offered an opinion as to whether American's Restructuring Business Plan calls for sufficient levels of reductions to non-labor costs using the Chapter 11 procedures.

See Apr. 25 Tr. at 88:7-89:7 (Resnick) (no such opinion from Rothschild); Apr. 26 Tr. at 74:19-75:2 (Dichter) (no such opinion from McKinsey).

Similarly, American determined the level of labor cost reductions on its own accord. *See* Apr. 24 Tr. at 248:1-8 (Goulet). None of American's outside advisors or experts rendered an opinion on whether American's Plan to achieve $1.25 billion in average annual labor cost reductions for all groups, and $370 million per year for the pilots, was appropriate or necessary. *See* Apr. 25 Tr. at 84:23-85:8, 89:21-90:5 (Resnick) (no such opinion from Rothschild or McKinsey); Apr. 26 Tr. at 114:21-115:9, 116:14-21 (Dichter) (McKinsey had views on competitiveness of overall labor cost reduction target, but American did not request those opinions); Apr. 23 Tr. at 187:12-16 (Kasper) (no such opinion from Daniel Kasper); Apr. 24 Tr. at 44:8-11 (Glass) (no such opinion from Jerrold Glass).

American established the targets under the Restructuring Business Plan at a time when it has nearly $5 billion of cash on hand, no debtor-in-possession financing agreements that subjected it to covenant or liquidity tests, and no current plans to seek a revolving credit facility upon emergence from bankruptcy. *See* Yearley Decl., ¶¶ 9, 38; Apr. 24 Tr. at 259:11-24, 260:11-261:14 (Goulet); Apr. 25 Tr. at 104: 5-105:1, 129:3-12 (Resnick).

Given the methodology that American used to derive its labor cost reduction target, if its profit margin target for 2017 (e.g., EBITDAR margin target) were merely 1% lower, it would "need" [redacted] less in 2017 labor cost reductions, thereby reducing the labor concessions American allegedly needs by [redacted] *See* Yearley Decl., ¶ 16. In short, American – unconstrained by immediate fiscal crisis – selected an EBITDAR margin that, combined with its revenue and non-labor cost reduction targets, yielded an excessive demand for $370 million in annual pilot

concessions. This demand exceeded American's own calculations of the $260 million it needed in concessions to be market competitive by $110 million per year, or by more than 40%.

3. The Profits Sought by American are Unprecedented and Unrealistic

The profitability level that American seeks in its Restructuring Business Plan not only exceeds what it needs to be competitive but also targets a profitability level that ***no network carrier*** has achieved since September 11, 2001. Yearley Decl., ¶ 15. Indeed, in the last eleven years, domestic network airlines have achieved an EBITDAR margin above 15% only 6.7% of the time and have ***never*** achieved an EBITDAR margin above 16.5%. Yearley Decl., ¶ 16.

As noted above, American's financial advisor did not opine that the Company's [redacted] target for its EBITDAR margin is either necessary or appropriate. *See supra* at 16-17. Instead, Rothschild simply provided American with profitability and other financial metric targets that other network airlines had ***hoped to achieve*** in their restructuring plans. *See* Apr. 25 Tr. at 95:9-96:11 (Resnick); Resnick Decl., ¶¶ 41-43. While some low cost carriers can achieve higher profit margins, American's actual competitors – Delta, United, and US Airways – have not. Yearley Decl., ¶¶ 17-18.

II. The APA Has Proposed An Alternative Path to American's Successful Restructuring through Consolidation

A. The APA Has Negotiated an Agreement With US Airways that Would Put the Company on a Path to Success While Requiring Significant, but Less Painful, Sacrifices than American Currently Demands from the Pilots

In April 2012, the APA concluded a Conditional Labor and Plan of Reorganization Agreement ("Plan Support Agreement") with US Airways in which the APA expressed its opinion that a US Airways Plan of Reorganization ("POR") "would enhance the prospects of the reorganized Debtors and enhance recoveries for unsecured creditors." Roghair Decl., ¶ 103; APA Exhibit 432. Accordingly, US Airways and the APA negotiated the terms that would

modify the 2003-2008 CBA and create a new CBA with a six year term in the event of a US Airways POR. Roghair Decl., ¶ 103. Under that Plan Support Agreement, the APA agreed to $240 million in annual concessions, made up of changes to benefits and productivity improvements that both parties believe would put the APA at competitive market rates vis-à-vis the pilots at the remaining legacy carriers. *Id.* If disputes over the valuation of specific terms were to arise, the parties have further agreed to arbitrate those disputes on an expedited basis. *Id.*

This Plan Support Agreement provides a "real-time 'market test'" of the competitiveness of the terms that the APA is willing to offer in order to support the Debtors' successful emergence from bankruptcy. Yearley Decl., ¶ 37. Unsurprisingly, the $240 million in annual concessions the APA offered and US Airways accepted falls squarely within the range that American itself estimated as necessary to overcome the competitive disadvantage it faces as a result of its pilot labor costs. *See supra* at 11-13 (calculating pilot labor cost gap to be between $230 million and $260 million per year).

B. Consolidation Would Fix American's Structural Deficiencies and Truly Secure the Company's Long-Term Success

In addition to requiring $130 million less in annual concessions than American is demanding from the pilots, the consolidation contemplated by the Plan Support Agreement between American and US Airways would enable American to emerge from Chapter 11 with the network and synergies it needs to compete successfully against the other network carriers. As explained by Air Transport Economist Daniel Akins,

> [i]f American merged with US Airways, it would become the largest carrier in the world, fix many of the network structure issues which plague its East Coast operation, and most importantly offer the services that would attract high value customers back to AMR. Annual synergy benefits from this merger have already been estimated by US Airways at $1.5 billion, which would allow the carrier to achieve its targeted EBIDTAR margins without having to rely on unrealistic growth and the uncertain assumptions which underlie its stand-alone plan.

Declaration of Daniel Akins ("Akins Decl."), APFA Exhibit 700 at 65.

American's current Restructuring Business Plan, however, does not contemplate consolidation with another airline. Instead, it is based on a strategy in which American continues to operate as a standalone network airline, whose operations would be heavily invested in five "cornerstone" cities: Dallas/Fort Worth, Miami, Chicago, Los Angeles, and New York. Goulet Decl., ¶ 46; Declaration of Virasb Vahidi ("Vahidi Decl."), AA Exhibit 200 at 9. American has followed this "cornerstone" strategy since at least 2009, when it invested 98% of its assets in those five cities. *See* Apr. 25 Tr. at 227:22-228:228:4 (Vahidi); Apr. 24 Tr. at 212:5-213:9 (Goulet). That strategy, however, failed American because it was unable to keep up with its competitors who were able rapidly and dramatically to expand their networks through consolidation. Akins Decl., ¶¶ 16-25.

C. Although American's Leadership Acknowledges that it Must Consolidate to Succeed Over the Long-Term, the Company Has Refused to Consider Consolidation Until After Extracting Concessions from Labor

On the eve of American's bankruptcy filing in November 2011, CEO Tom Horton expressed his view that consolidation has been good for the airline industry and it might have a role for American as it moves forward through the Chapter 11 process. *See* Apr. 24 Tr. at 119:14-120:7 (Goulet). Since then, Mr. Horton has pronounced his views more strongly and declared that American needs to consolidate in order to keep us with industry trends; the only question, according to Mr. Horton, is when to pursue consolidation and with whom. *See* Apr. 24 Tr. at 177:1-9 (Goulet).

In fact, American's own advisors recognize that as a debtor in possession the Company bears a fiduciary obligation to compare its current Restructuring Business Plan, which contemplates that American will emerge from bankruptcy as a standalone entity, with an

alternative business plan in which American consolidates with another airline. *See* Apr. 25 Tr. at 111:11-16, 134:10-22 (Resnick). Only by so doing can American assure its creditors that its reorganization plan maximizes the value of their claims. *Id.*

Yet, in formulating its Restructuring Business Plan, American did not undertake any analysis of a plan that contemplates a merger or consolidation, even though American's current Chief Restructuring Officer, Ms. Goulet, has closely monitored consolidation trends in the airline industry since at least 2000. *See* Apr. 24 Tr. at 120:22-121:2, 213:14-17 (Goulet). American's financial advisors at Rothschild have not attempted to model the financial implications of such a scenario, even though Rothschild acknowledges that such a comparison would normally constitute part of its due diligence in a restructuring. *See* Apr. 25 Tr. at 36:10-15, 36:21-37:13, 155:20-156:20 (Resnick). Notably, Rothschild has a "strategic advice team," which is "integrated" with Rothschild's restructuring team and composed of nine or ten bankers who interact regularly with Ms. Goulet, Mr. Horton and Mr. Vahidi and who have looked at consolidation scenarios since American filed for bankruptcy. Apr. 25 Tr. at 124:4-125:13 (Resnick). Similarly, American's advisors at McKinsey have made no attempt to determine the revenue implications of consolidation because American never asked it to do so, even though McKinsey would normally do so unasked as part of its professional obligation to its clients. *See* Apr. 26 Tr. at 40:12-42:14 (Dichter).

When questioned about its fiduciary obligations to its stakeholders, American and its advisors attempted to explain their persistent deferral of any analysis of consolidation as follows: Mr. Resnick of Rothschild contended that it is appropriate to develop a standalone business plan prior to developing a consolidation plan, so that the standalone plan can serve as a baseline for comparison. *See* Apr. 25 Tr. at 166:3-167:6 (Resnick). And Mr. Dichter of McKinsey

contended that American might have difficulty finding an airline willing to consolidate while American has higher labor costs than its counterpart and, even if the Company could find such a partner, it would have more power in the merger negotiations if it has a viable standalone plan that has actually been or can readily be implemented. *See* Apr. 26 Tr. at 69:12-71:12 (Dichter).

Notwithstanding these contentions, Mr. Resnick acknowledges that a standalone plan can be compared with a consolidation plan virtually, through the modeling capabilities that his firm and American have. *See* Apr. 25 Tr. at 181:22-184: 11 (Resnick). He also acknowledges that a consolidation plan could require fewer labor cost reductions than a standalone plan. *See* Apr. 25 Tr. at 177:18-23 (Resnick).

III. The APA Has Also Offered Tremendous Concessions That Would Enable American to Reorganize Successfully as a Standalone Airline Without Exacting Unnecessary, Punitive Concessions From the Pilots

A. The APA's Proposals Would Save the Company $271 Million Per Year and Make American Competitive by the Second Year of the Agreement

Even though the APA believes that American can generate additional benefits for all stakeholders by emerging from Chapter 11 through a merger with US Airways than as a standalone entity, the APA has bargained diligently with American both prior to the bankruptcy petition in this case and continuing through the present. In fact, the parties have scheduled a negotiating session during the pendency of this hearing. Throughout those negotiations, the APA has put forward counterproposals that address nearly every aspect of the 2003-2008 CBA. Roghair Decl., ¶¶ 29, 54-90; AA Exhibit 916; APA Exhibit 415a. Together, the APA's counterproposals offer American $271 million in average annual cost savings to American. Clark Decl., ¶¶ 4, 17-51. In other words, the APA has offered American ***$ 31 million more*** in annual savings than it has offered to US Airways, an offer that US Airways has accepted. *See supra* at 18-19. The APA has also offered American ***$10 million more*** in annual savings than

American itself has calculated to be necessary to reach competitive, market-based labor costs. *See supra* at 11-13. However, Mr. Resnick of Rothschild did not analyze the effect that reducing pilot labor costs by $270 million per year ($100 million less than the Company's current demand), or by any other amount, would have on the Company's 2017 EBITDAR levels. Apr. 25 Tr. at 99:19-104:2 (Resnick).

As discussed below, these savings exclude additional labor cost reductions and revenue enhancements that result from concessions in the pilots' contractual protections, under the "Scope" clause, against outsourcing.

1. The APA Has Offered American $168 Million Per Year in Benefit Savings

The APA's benefits proposals address every major area of benefits under the 2003-2008 CBA: namely, pensions, medical benefits for active pilots, medical benefits for future retirees, and long term disability benefits. The APA's proposals achieve $168 million in annual savings for the Company by:

- Working with American, the UCC, and the PBGC to freeze (rather than to terminate) pilots' defined benefit pension plans, resulting in $116 million in annual savings. Roghair Decl., ¶ 63; Clark Decl., ¶ 29.

- Increasing pilots' contribution to the medical plan for active pilots to 17%, resulting in $24 million in annual savings. Clark Decl., ¶ 30; APA Exhibit 306; Roghair Decl., ¶¶ 61-62.

- Increasing to 25% the pilots' required contribution to the cost share for the medical plan that future retirees will make, resulting in $25 million in annual savings. Clark Decl., ¶ 31; APA Exhibit 306.

- Modifying the long term disability plan, resulting in $3 million in annual savings. Clark Decl., ¶ 32.

2. The APA Has Offered American $70 Million Per Year in Non-Punitive Productivity Savings

a. Scheduling and related work rules

The APA offers American significant increases in pilot productivity through a combination of changes to current rules governing scheduling and other staffing requirements. These proposals have an interactive effect and are difficult to quantify on their own, but APA's highly sophisticated models can determine the cumulative effect of changes to these work rules on pilot labor costs. Declaration of Lawrence Rosselot ("Rosselot Decl."), APA Exhibit 600 at ¶¶ 6-33. Together with its proposals on sick leave, described more below, the APA's proposals will achieve $70 million in annual savings, Clark Decl., ¶ 35, through several proposals, including:

- Implement a preferential bidding system in which American can schedule pilots in a way that automatically avoids scheduling conflicts while respecting to the extent possible pilots' preferred schedules. Roghair Decl., ¶ 72; Rosselot Decl., ¶¶ 9-10, 35.

- Increase the monthly maximum schedules through a flexible system based on average monthly and yearly schedules. Roghair Decl., ¶¶ 73-76; Rosselot Decl., ¶ 35.

- Modify certain contractual pay guarantees that provide incentives for the Company to schedule pilots efficient by compensating them for inefficient schedules or other unexpected events. Roghair Decl., ¶ 81; Rosselot Decl., ¶¶ 6-7.

b. Sick leave

The APA has also proposed changes to current sick leave provisions, which the APA has designed to achieve the Company's stated goal to reduce the rate of sick leave usage to 7.2%. Rosselot Decl., ¶ 41. The APA's proposals achieve this target through a combination of:

- A sick leave "sellback" program, which would permit pilots to sell unused sick leave to the Company for pay. Roghair Decl., ¶ 57; Rosselot Decl., ¶¶ 42.

- A sequence protection program, which would protect pilot pay in case his sequence of trips gets cancelled for reasons beyond his control, while also giving the Company flexibility to reassign pilots to new sequences during a limited period. Roghair Decl., ¶ 68; Rosselot Decl., ¶ 43.

- The preferential bidding system. Rosselot Decl., ¶ 43.

The APA's sick leave proposals also address the Company's concerns about the potential misuse of sick leave by offering a limited medical verification program that would require a pilot who has used thirty consecutive days of sick leave to provide documentation from his doctor or from American's in-house doctors with whom the pilots already have relationships. Roghair Decl., ¶ 57. This proposal achieves American's legitimate interest in avoiding abuse of sick leave while also recognizing that pilots bear ultimate responsibility as professionals subject to the Federal Aviation Regulations ("FARs") to determine when they are medically unfit to fly. Roghair Decl., ¶ 56.

3. The APA Has Offered Substantial Compensation Concessions

The APA achieves $17 million in annual savings for the Company through its offers to eliminate the lineholder guarantee, under which most pilots receive payment for a minimum of 64 hours of flying per month, the premium for night flying, and the guarantee for pilots who take military leave. Clark Decl., ¶¶ 21-26; APA Exhibit 204; Roghair Decl., ¶¶ 66-67.

4. The APA Has Offered Additional Concessions on Other Contractual Terms, Offset in Part by Minimal Contract Improvements that Increase Labor Costs

The remaining savings achieved by the APA's proposal result from a variety of contract modifications, including to the distance learning program, crew rest seats, and vacation float accrual. Roghair Decl., ¶¶ 69, 90; APA Exhibit 204. *See also* Clark Decl., ¶¶ 45-49 (describing the rationales behind proposals that would impose minimal cost increases).

B. The APA's Proposals Also Offer American Significant Concessions in Protections Against Outsourcing That Would Contribute Hundreds of Millions Per Year to the Company's Profits

The "Scope" clause of the pilots' 2003-2008 CBA is a core provision of that labor agreement because it defines the scope of work and the pilot flying opportunities covered by the agreement. Declaration of James Eaton ("Eaton Decl."), APA Exhibit 500 at ¶ 6. The central provision of that clause requires that, subject to several negotiated exceptions, "[a]ll flying performed by or on behalf of the Company . . . shall be performed by pilots on the American Airlines Pilots Seniority List in accordance with the terms and conditions of this Agreement. . . ." *Id.* This clause prevents American from outsourcing its flying to low-cost subcontractors and from forming a non-union, sister subsidiary to do the flying that would otherwise be performed by American with pilots subject to the pay and work rules negotiated by the Association. Eaton Decl., ¶ 7.

Over time, the pilots and the Company have negotiated exceptions to the Scope clause in response to the Company's needs and changes in the industry. Eaton Decl., ¶ 11. These exceptions permit the Company to outsource the flying of regional jets to "Commuter Air Carriers" that American may own and operate and to outsource additional flying to other carriers through codesharing agreements that permit other carriers to operate aircraft "on behalf of" the Company by carrying American's designator code on flights operated by the other carrier's pilots, rather than American's pilots. Eaton Decl., ¶¶ 11-14.

Under the 2003-2008 CBA, American is allowed to outsource to commuter carriers over 500 50-seat jets and up to 90 70-seat aircraft, jets and propeller-driven aircraft (also known as "turboprops"). Roghair Decl., ¶ 47; Eaton Decl., ¶ 11.[7] Under the terms of that agreement,

[7] Mr. Vahidi's suggestion that the Scope clause prevents American from owning and

American is also allowed to maintain robust domestic codesharing agreements with Alaska Airlines and Hawaiian Airlines. Roghair Decl., ¶ 47. The agreement also permits American to enter new codesharing agreements with domestic carriers as long as it notifies the APA of its intent to do so 30 days before entering the codesharing arrangement. Eaton Decl., ¶ 30. After the notice, the APA and the Company will discuss the codesharing agreement for 30 days, with the facilitation of a mediator or interest-arbitrator who can resolve any outstanding issues at the end of the 30-day period according to industry standards. Eaton Decl., ¶ 30.[8]

In response to American's stated needs, the APA has offered concessions in both protections against outsourced regional jet flying and codesharing. With respect to regional jet flying, the APA has offered to allow American to outsource over 500 regional feed aircraft, including up to 193 aircraft configured with 70 seats. Roghair Decl., ¶ 51.[9] The APA, along with the two other unions who represent American's employees, also offered to fly large regional jets with greater than 50 seats at the mainline at market rates with a competitive cost structure. Roghair Decl., ¶ 60. With respect to codesharing arrangements, [redacted]

operating certain aircraft in-house, rather than simply from outsourcing the flying of those aircraft, Apr. 25 Tr. at 228:16-231:3 (Vahidi), is simply mistaken. *See* APA Exhibit 501.

[8] The 2003-2008 CBA directs the interest arbitrator to base those standards on the terms of the United, Delta, Northwest, Continental, and US Airways CBA. *Id.* Aside from Mr. Dichter of McKinsey, Apr. 26 Tr. at 60:5-61:2 (Dichter), American's other witnesses simply misconstrue the effect of this clause. *See* Eaton Decl., ¶ 31. Contrary to the suggestions of Mr. Glass and Mr. Newgren, the clause *does not* prohibit American from entering new domestic codeshare agreements. *Id.*

[9] First Officer Roghair describes the details of the size and configuration of those regional jets in his declaration at paragraph 51.

[redacted]

[redacted] Roghair Decl., ¶ 59; Eaton Decl., ¶¶ 38-42. The only conditions imposed on the APA's proposed Scope concessions are designed to prevent the Company from using its Scope flexibility to outsource flying currently performed by APA pilots, something that American insists it has no intention to do in any case. *See, e.g.,* Apr. 26 Tr. at 198:13-199:4 (Vahidi) (assertions that the Company will use Scope flexibility to outsource flying are "a complete mischaracterization"). The APA's proposals fall well in line with industry standards on regional jet flying and codesharing agreements. Eaton Decl., ¶¶ 16-45.

According to American's own documents and witnesses, these Scope concessions would contribute tremendously to American's efforts to reorganize. [redacted] Roghair Decl., ¶ 28; APA Exhibit 407 at 34; Apr. 24 Tr. at 253:18-254:7 (Goulet). And it values the ability to outsource additional regional jets at "up to hundreds of millions annually." Roghair Decl., ¶ 28; APA Exhibit 407 at 34. In fact, Ms. Goulet acknowledged during the hearing that "a substantial majority" of the $1.0 billion revenue improvements that American aims to achieve by 2017 are "attributable to the pilot contributions" American seeks, and the APA has substantially offered, regarding outsourced regional flying. *See* Apr. 24 Tr. at 249:18-252:17 (Goulet).

Nevertheless, American has rejected the APA's proposals. Instead, it has insisted on outsourcing rights that far exceed those enjoyed by other network carriers. Eaton Decl., ¶¶ 16-45. Specifically, American's Term Sheet seeks the right to outsource commuter aircraft configured with up to 88 seats and a take-off weight up to 114,500 pounds. Eaton Decl., ¶ 16. This proposal would allow American to maintain a large fleet of Embraer 190s flown by pilots

not covered by the APA's labor agreement. Eaton Decl., ¶ 16. Based on the Company's current fleet, American's Term Sheet would allow it to outsource up to 536 small regional jets (configured with less than 50 seats) and 305 large regional jets (with 51-88 seats). Eaton Decl., ¶ 23. These proposals far outstrip the outsourcing rights of American's peers. Eaton Decl., ¶¶ 17-20. American's Term Sheet also seeks the complete elimination of pilot protections against domestic and international codesharing. Eaton Decl., ¶¶ 33-35, 43. Those proposals would give American pilots none of the protections enjoyed by their counterparts at Delta, Continental, or US Airways. Eaton Decl., ¶¶ 33-35, 45.

IV. Rather Than Engaging in Good Faith With the Pilots Over Realistic Visions for Success, American Manufactured Valuation Disputes and Steadfastly Clung to its Excessive, Inequitable Demands

A. American Has Manufactured Valuation Disputes in Order to Avoid Bargaining

Although the APA and American do agree on several modifications to the 2003-2008 CBA, the Company has consistently underestimated the amount of sacrifice its proposals would require of the pilots and has insufficiently credited the amount of sacrifice that the pilots are willing to make through the APA's proposals. The declarations of First Officer Roghair, First Officer Rosselot, Ms. Clark and Charles Heppner of The Segal Company describe those disputes in detail. *See* Roghair Decl., ¶¶ 54-90; Rosselot Decl., ¶¶ 39-44; Clark Decl., ¶¶ 10-12, 22-25, 27-28, 30, 31, 33-35, 37-41, 44, 46-48, 62-69; Declaration of Charles Heppner ("Heppner Decl."), APA Exhibit 300 at ¶¶ 9-13. While American has refused to apply reasonable valuation assumptions with respect to numerous APA proposals, its approach has been particularly unreasonable in three areas: Scope, medical benefits, and scheduling.

1. American Refuses to Credit Scope Concessions

American has simply refused to credit any concession by pilots in their Scope protections as part of the pilots' contribution to its effort to reorganize. The Company has taken the position that pilots' Scope concessions enhance revenue without decreasing labor costs and, therefore, should be assigned no value whatsoever. Roghair Decl., ¶ 53. Nonetheless, American's outside labor counsel, Tom Reinert, did acknowledge that Scope concessions *should* count toward the $370 million cost reduction target established by American if the APA could show that those concessions would result in pilot furloughs or other direct impacts on pilots that would reduce the Company's labor costs. *Id.* American was fully capable of performing such an analysis with the sophisticated, driver-based models that calculated the financial impact that particular routes had on Company profits. *See, e.g.*, Apr. 26 Tr. at 25:6-8, 25:25-26:6, 27:23-28:25, 101:19-104:5 (Dichter). Such a model could have been used to compare American 2017 network plan with its current plan and determine the cost to pilots from outsourced routes. Clark Decl., ¶¶ 67-68.

Although American did not perform such an analysis, Ms. Clark did for the APA. *Id.* Using highly conservative assumptions, Ms. Clark determined that such outsourcing would reduce the flying performed by pilots by 536,000 pilot block hours between 2014 and 2017. Clark Decl., ¶ 68.[10] Those lost block hours would cause a headcount reduction of 313 pilots by 2017, resulting in $131 million in wages and benefits that American will not pay to APA members. Clark Decl., ¶¶ 66-68. Those lost wages and benefits amount to $21 million per year, on average, in costs to the pilot group. Clark Decl., ¶ 68. That figure is, of course, wholly

[10] The calculation assumes that that American will outsource only those routes that, though currently flown by American pilots, are projected to be flown by regional jets in 2017 under the plans disclosed by the Company to the APA. Under its proposal, American will have the discretion to engage in significantly greater outsourcing.

separate from the hundreds of millions of dollars that Scope relief would contribute to American's annual revenue.

2. American Significantly Underestimates the Sacrifices Demanded by its Proposals on Medical Benefits Because it Unreasonably Assumes that Increased Medical Costs Will Not Affect How Often Pilots Use Their Benefits

American's Director of Benefits Strategy has acknowledged that pilots, like other people, generally demonstrate "consumer-based employee behavior when using healthcare services." Roghair Decl., ¶ 62; APA Exhibit 424. When a service – such as healthcare – becomes more expensive to a pilot following an increase in his share of the cost of the benefit, the pilot will generally purchase less of that service. American failed to account for this decreased rate of usage of the active employee medical benefit when valuing its proposal. Heppner Decl., ¶ 11; Apr. 26 Tr. at 281:19-285:2 (McMenamy). As a result, the Company underestimated the savings its proposal for changes to the benefit for active employees would generate by $52.5 million over the 2012 – 2017 period, or $8.75 million per year on average. Heppner Decl., ¶ 11.

The Company also made unreasonable assumptions in valuing the medical benefit for future retirees. Because this benefit accrues in the future, a discount rate must be applied to determine the present cost to the Company to provide the benefit. American selected an unreasonable discount rate of 8.25%, based on returns in a pension plan attained through a combination of stock and bond holdings. *See* Apr. 26 Tr. at 290:3-296:14 (McMenamy). The accepted practice in the industry, by contrast, is to use a discount rate that approximates the return a high-quality bond portfolio might generate. Heppner Decl., ¶ 10. Using a discount rate of 5%, an appropriate rate based on industry practice, the Company's proposals for medical benefits for future retirees would generate $106.1 million more savings for the Company than it currently recognizes, or $17.7 million per year on average. *Id.*

3. American Makes Unreasonable Assumptions Regarding Sick Leave

Currently, 8.2% of pilots' paid hours at American are paid on account of sick leave. Rosselot Decl., ¶ 39. American assumes that its proposal would cause the rate of sick leave usage to skyrocket immediately to 9.2%. *Id.* American bases this assumption on the notion that pilots will call in sick excessively in order to retaliate against the Company for implementing contract changes, and, in so doing, will reach the highest rate of sick leave usage in the last decade. Rosselot Decl., ¶¶ 39-40.

On the other hand, the APA has proposed a non-punitive sellback program, *see supra* at 32, to provide pilots with incentives to minimize their sick leave. Roghair Decl., ¶ 57. In October 2011, American's financial analyst, Michael Burtzlaff, acknowledged that the sellback program, by itself, would reduce pilots' rate of sick leave by 10%. *Id.* American's current valuations of the APA's sick leave proposals, however, have abandoned that assumption without explanation. *Id. See also* Rosselot Decl., ¶¶ 34-37 (discussing related scheduling proposals). Instead, the Company inexplicably assumes that sick leave will immediately skyrocket even if the Company fully adopts the APA's proposal, thereby negating any positive impact of the program.

B. American Has Firmly Insisted on its Demand for $370 Million Annually and on the Terms that Must Compose That Demand

There is no dispute that American's negotiators have steadfastly refused to accept any level of cost reductions from the pilots less than the $370 million annual average reductions it seeks. *See* Apr. 26 Tr. at 189:11-25, 191:22-192:20 (Brundage); Roghair Decl., ¶¶ 35-40. To the extent that the pilots had any hope that the $370 million target was negotiable, Mr. Brundage erased it following the Company's decision to try to freeze the pension plan rather than terminate it. *See* Apr. 26 Tr. at 193:15-20 (Brundage).

American has also insisted on the specific form that the pilots' concessions must take. For example, since making its original February 1, 2012, proposal, American has acknowledged that the proposal would actually generate $41 million per year *more* in savings for the Company than it initially recognized. Roghair Decl., ¶¶ 41-43. Instead of bargaining with the pilots about how to allocate those surplus savings, however, the Company's negotiators simply revised the Company's previous term sheet on their own accord and handed the pilots a new term sheet reflecting the new terms that American demanded. Roghair Decl., ¶¶ 43-44; Apr. 26 Tr. at 202:21-203:3 (Brundage).

C. American's Demands Require Far More from the Pilots Than Their Fair Share of Contributions to the Company's Reorganization and Build on Years of Inequities

During the course of this bankruptcy proceeding, American has sought market-based sacrifices from the employees at American Eagle and from its non-labor contractors. *See* Apr. 24 Tr. at 125:20-126:9, 183:10-184:7 (Goulet). As shown above, by American's own calculations, American would need only $230 to $260 million per year in concessions from the pilots in order to achieve competitive, market-based pilot labor costs. *See supra* at 11-13. Yet, American demands at least $370 million per year in concessions from its pilots. *See supra* at 14. Moreover, American's April 5, 2012, valuation of its own proposals shows that the Company thinks those proposals will actually achieve $377 million in annual savings for the Company. APA Exhibit 412.

The APA, however, calculates the sacrifices demanded by American from the pilots to be far greater, even excluding the sacrifices from Scope concessions. Using reasonable assumptions, American's March 21 Term Sheet proposals actually demand $460 million in average annual sacrifices. Clark Decl., ¶¶ 52-55.

These excessive demands come after years of disproportionate sacrifices by the pilots. In 2003, American went through an out-of-court restructuring in which it obtained labor cost reductions that were equivalent to the reductions US Airways obtained in its first bankruptcy and that United Airlines was seeking from its unionized employees at the time. Goulet Decl., ¶ 21. Although pilots accounted for 28.39% of American's labor costs and 12.54% of its workforce, they gave 36.67% of the $1.8 billion in annual concession achieved by the Company. Roghair Decl., ¶ 10; APA Exhibit 401. That disproportionate share of the 2003 sacrifices amounted to $660 million per year. *Id.* At the same time, management gave only 5.56% of the concessions, even though they accounted for 9.86% of American's labor costs and 12.38% of the workforce. *Id.*

Because of the RLA, pilots work today under the concessionary terms and conditions they negotiated in 2003, nine years ago. Roghair Decl., ¶ 14. Because American's pilots took a 23% pay cut in 2003, they now work for the same pay rates that they earned in 1993, measured in nominal dollars. *Id.* American's management, however, has not made the same prolonged sacrifices. On the contrary, on the very day that the pilots ratified their concessionary agreement in 2003, the Company filed statements with the SEC disclosing that management received pensions that were protected against bankruptcy. Roghair Decl., ¶ 15. Although American lost $2.9 billion from 2003 to 2005, the Company announced in 2006 that it would likely pay close to $100 million in cash compensation to a small group of executives under a program that has ultimately paid $359 million in executive bonus compensation since it began. Roghair Decl., ¶ 19.

V. American Has Failed to Provide Relevant Information That is Necessary to Evaluate its Proposals

Both prior to and after filing its Section 1113 Motion, American has failed to provide the APA and other unions with any information relating to analyses of or presentations about potential consolidation. Roghair Decl., ¶¶ 94-95. Concurrently, the Company has also failed to provide meaningful information relating to the Company's major fleet order announced in July 2011, including the "business case," financial analysis or other information enabling the APA to evaluate the magnitude, timing and impact of the capital expenditures involved. Yearley Decl., ¶¶ 33-36 & Appendix B thereto. Notwithstanding the parties' significant valuation disputes, *see supra* at 29-32, the Company has refused to provide information regarding the Company's valuation of the APA's counterproposals. Roghair Decl., ¶¶96-99; Clark Decl., ¶¶ 50-51. It has provided only the most minimal information relating to the accounting of the non-labor savings American has achieved and plans to achieve through restructuring. Roghair Decl., ¶¶ 100-102. And American has consistently refused to share its manpower planning model, a key driver of the Company's valuations. Rosselot Decl., ¶¶ 28-33.

ARGUMENT

As the courts have recognized, a debtor seeking rejection of a collective bargaining agreement has the burden of persuasion to establish compliance with each of Section 1113's substantive and procedural requirements, set forth above at 4-7.[11] Moreover, a debtor faces a

[11] *See, e.g., Truck Drivers Local 807, Int'l Broth. Of Teamsters, Chauffeurs, Warehousemen & Helpers of AM. v. Carey Transp. Inc.*, 816 F.2d 82, 90 (2d Cir. 1987); *In re Karykeion, Inc.*, 435 B.R. 663, 677 (Bankr. C.D. Cal. 2010); *In re Northwest Airlines Corp.*, 346 B.R. 307, 320-21 (Bankr. S.D.N.Y. 2006); *Ass'n of Flight Attendants-CWA, AFL-CIO v. Mesaba Aviation Inc.*, 350 B.R. 435, 458 (D. Minn. 2006); *In re Maxwell Newspapers, Inc.*, 146 B.R. 920, 931-32 (Bankr. S.D.N.Y. 1992), *aff'd* 981 F.2d 85 (2d Cir. 1992) (noting that the debtor has the burden to show that its proposal was necessary as well as fair and equitable, that it bargained in good faith, and that the union refused to accept the proposal without good cause); *In re American*

heightened burden of proof to establish the final requirement, that the balance of equities "*clearly* favors rejection." 11 U.S.C. § 1113(c)(3) (emphasis added)).[12] For the reasons detailed below, the APA submits that the Debtors cannot satisfy their burden in this case.

I. The Company's March 21 Proposal Was Not Based On the Most Complete and Reliable Information Available at the Time

The Debtors cannot prevail if they fail to satisfy the Court that their March 21 proposal was "based on the most complete and reliable information available at the time of such proposal. . . ." 11 U.S.C. § 1113(b)(1)(A). This standard ensures that the debtor's proposal is not "cursory," "arbitrary," or "results-driven" but is, instead, built on a clearheaded assessment of business realities. *Karykeion*, 435 B.R. at 677 (quoting *In re Mesaba Aviation, Inc.*, 341 B.R. 693, 709 (Bankr. D. Minn. 2006)). The requirement is distinct from the Debtors' obligation to provide relevant information to the union. 11 U.S.C. § 1113(b)(1)(B).

The "complete and reliable information" contemplated by the statute extends beyond matters directly at issue in negotiations between the debtor and the union. To satisfy the requirement, American must prove that it thoroughly considered a wide range of business information that could impact the Company's needs with respect to labor. *See Karykeion*, 435 B.R. at 678 (holding that the debtor had satisfied the requirement because it had thoroughly

---

Provision Co., 44 B.R. 907, 909 (Bankr. D. Minn. 1984) (noting that union may have a burden of production regarding good faith and good cause to reject). *See also In re Howard's Express, Inc.*, 151 F. App'x 46 (2d Cir. 2005) ("[T]he bankruptcy court made clear that the Company had to establish its entitlement to rejection, and explicitly held that the 'the Company ha[d] met its burden to demonstrate that each of its proposed modifications to the Agreement, both economic and non-economic, are necessary to its business plan, survival and potential for a Chapter 11 reorganization.'").

[12] *See Matter of Walway Co.*, 69 B.R. 967, 974 (Bankr. E.D. Mich. 1987) (indicating that this element must be proven by "clear and convincing evidence"); *Matter of K & B Mounting, Inc.*, 50 B.R. 460, 467 (Bankr. N.D. Ind. 1985) (indicating that on this element "a preponderance of the evidence will not be sufficient.").

considered financial metrics in deciding whether to sell its business). One critical type of information under Section 1113 is information about third parties who might be willing to purchase and run the business without extracting the labor cuts outlined in the debtor's application to reject. *See Karykeion*, 435 B.R. at 678.[13]

Here, American must prove that it considered the most complete and reliable information available to determine whether such an alternative existed. In *Karykeion*, for example, the court approved the debtor's application because the debtor had used reliable information to conclude that no buyer would have been willing to purchase the business absent the contract modifications demanded by the one buyer who had expressed an interest. *Id.* at 678. Where a debtor fails to adequately investigate that possibility, *Karykeion* therefore instructs that its application should be denied under the "complete and reliable information" prong of Section 1113.[14]

American must also show that it used the most complete and reliable information available to determine that labor concessions less severe than those requested in its March 21 proposal would have significantly interfered with a successful reorganization. A debtor must use "accurate" and "up-to-date" data in creating the broader business plan on which its labor

---

[13] Similarly, the court in *In re Lady H Coal*, 193 B.R. 233 (Bankr. S.D.W. Va. 1996) denied an application to reject because "the [debtor's] officers did not pursue a possible sale to another buyer who was willing to assume" the collective bargaining agreement. *Id.* at 242 (discussing the good faith bargaining requirement of Section 1113).

[14] American may claim that *Karykeion* is distinguishable because the debtor in that case was already investigating a sale of the business. That contention fails as a matter of both law and fact. Legally, the "complete and reliable information" requirement does not permit the court to defer to the debtor's judgment as to business options; indeed, the element is designed precisely as a check against that judgment. Factually, although American has so far declined to "focus on" consolidation with another airline, American's own witnesses indicate that the Company assembled an integrated team of outside experts and senior management experienced in M&A issues and competent to guide American in dealing with consolidation, that the Company has had preliminary discussions on that topic, and that American will continue to consider consolidation before it exits from this bankruptcy. *See, e.g.*, Apr. 25 Tr. at 134:10-22 (Resnick).

proposal is founded. *In re Mesaba*, 341 B.R. at 709. If American failed to investigate whether its Restructuring Business Plan would have been viable with a smaller "ask" from the pilots, then it has failed to consider the most complete and reliable information available.

American's Memorandum of Law fails to make any showing that the Company satisfied the "complete and reliable information" test. But the testimony of American's own witnesses demonstrates that the Company has fallen short of its burden on at least two grounds.

A. American Did Not Consider the Most Complete and Reliable Information Available Regarding Potential Consolidation With Another Airline

The Company has admitted that at no point between its bankruptcy filing and its March 21 proposal to the APA did American consider consolidation with another airline.[15] *See supra* 20-22. That failure is fatal to American's application under the "complete and reliable information" prong of Section 1113. The "standalone" nature of American's Restructuring Business Plan generates every element of that plan, especially its revenue projections and targeted labor cost reductions. If, for example, consolidation would improve American's network reach and therefore increase revenue – an assumption that many of American's own witnesses believe is likely – then consolidation would have a corresponding effect on American's need for labor savings, decreasing its "ask" to the APA. Similarly, consolidation would allow American to attain a large network without endangering job protections related to codesharing and outsourcing of regional flying.

Section 1113 is designed to prevent debtors from ignoring reasonable options such as this. As the *Karykeion* court recognized, corporate transactions often deeply impact labor relations. 435 B.R. at 678. It was therefore critical for the debtor in that case to consider

[15] If American did, in fact, perform an analysis of consolidation, Section 1113(b)(1)(B) obligated the Company to provide that analysis to the APA and the other unions. *See infra* at 53-55.

whether a buyer existed who would not demand severe modifications of the collective bargaining agreement. *Id.* American failed (and continues to fail) to engage in a similar analysis. Its proposal, therefore, was not based on the most complete and reliable information available.

B. American's Proposal Was Not Based on the Most Complete and Reliable Information Available Because the Company Has Failed to Analyze the Impact of a Smaller Labor "Ask" on its Business Plan

American claims that it needs $1.5 billion annually in labor cost reductions, including $370 million annually from pilots. One might naturally assume that, in order to determine its need, American would have examined whether its Business Plan would succeed with only $1.4 billion in labor cost reductions or only $350 million per year from pilots. That was not the case. As American's witnesses admitted, the Company never analyzed the impact of a smaller labor "ask." *See supra* at 23. The Company did not, therefore, test whether the APA's proposal to cut $271 million in pilot labor costs would have met the Company's needs. It would not have been burdensome to undertake these analyses. According to Mr. Dichter, the Company could have done it in one and a half to three weeks. Apr. 26 Tr. at 119:5-122:23 (Dichter).

Information about the effect of a smaller labor "ask" is a paradigmatic example of the "complete and reliable information" required under Section 1113. American cannot reliably claim that it needs at least $370 million in annual cost reductions from the APA if it has never assessed the impact of cost cuts less severe than that magic number. The Company's application fails because it had not performed that analysis as of the day it filed its application. Indeed, the Company indisputably made no such evaluation as of the day the Section 1113 hearing began, and there is no indication that it has deigned to consider the effect of a lesser number even today.

II. The Company's March 21 Term Sheet Does Not Seek Only Those Necessary Modifications That Are Necessary to Permit American's Reorganization

To prevail under Section 1113, the Debtors must propose only those "necessary modifications in the employees' benefits and protections that are necessary to permit the reorganization of the debtor." 11 U.S.C. § 1113(b)(1)(A). Thus, this Court must scrutinize the specific proposal made by the Company to determine if *that proposal* is "necessary." The question is not, as the Creditors' Committee has suggested, whether *abrogation* of a "collective bargaining agreement[] in existence at the moment" is necessary. Apr. 23 Tr. at 110:5-12. Nor is the test whether American requires *some* degree of relief from current labor costs to reorganize. Congress could have written the statute that way; it chose not to.

Instead, in accordance with the text of Section 1113, this Court must assess whether the specific terms of the Debtors' March 21 proposal are "necessary" for reorganization. And the Court must deny the motion *even if* the record proves that American's current labor costs are unsustainable unless American proves that its specific proposals are necessary. *See In re Sun Glo Coal Co., Inc.*, 144 B.R. 58, 63 (Bankr. E.D. Ky. 1992) (denying application under the "necessity" requirement although debtor had shown that it needed "major economic concessions" to avoid liquidation); *In re Fiber Glass Indus.*, 49 B.R. 202, 206-08 (Bankr. N.D.N.Y. 1985) (denying application under the "necessity" requirement although the record indicated a possibility that "without substantial modifications of this contract, the debtor faces liquidation").

The Court must scrutinize each relevant proposal on two dimensions. First, as the APA and American agree, the Court must examine the proposal as a comprehensive package. Debtors' Mem., Part I at 76-77. In this "global phase" of the analysis, courts ordinarily focus on the total "ask" reflected in the debtor's package – that is, the sum of savings generated by the

debtor's proposal. In this case, American's "ask" from the pilots is $370 million in average annual savings over six years,[16] rising by almost a hundred million over that target by 2017. But one of the most critical components of American's proposal to the APA – its revision to the pilot Scope clause – is not incorporated into that $370 million target because American claims that it will generate no savings. Thus, to assess the extent of the restructuring contributions extracted from pilots in American's comprehensive Term Sheet package, this Court must review the $370 million "ask" in conjunction with American's Scope proposal.

The Court must assess whether this package, as a whole, is driven by true need. In order to prevail, the Company must make a "significant showing," *UAW v. Gatke Corp.*, 151 B.R. 211, 213 (N.D. Ind. 1991), that its demands are truly necessary and that American did not simply "predetermine what concessions [it] wanted from the union," *Fiber Glass Indus.*, 49 B.R. at 207. The necessity inquiry would be simplified if, as in many prior cases under Section 1113, external factors required the Debtors to achieve a set amount of labor cost reductions in order to, e.g., secure DIP financing or complete a corporate transaction. Here, however, that is *not* the case, and the Court must engage in a more searching analysis.

To assess the necessity of American's demands, the Court may analyze the effect of the Company's comprehensive proposal on the debtor's labor costs as compared to its industry peers. If American's peers are able to operate profitably with a certain cost structure, then the Court may infer that cuts below that cost structure are not "necessary" to a successful reorganization. *See, e.g., In re Express Freight Lines, Inc.*, 119 B.R. 1006, 1016 (Bankr. E.D. Wis. 1990) (denying an application under Section 1113 because other companies operated under contract terms similar to those the debtor sought to modify).

[16] As explained below, by American's own admission, its March 21, 2012 proposal would have generated $377 million in average annual savings.

American wrongly suggests that the relevant question under the necessity prong of Section 1113 is whether the debtor's "ask" would "increase the likelihood of a successful reorganization." Debtors' Mem. at 76. That is inconsistent with the text of Section 1113 and the applicable precedent.[17] As a matter of text, the debtor's interpretation would read the necessity standard out of the statute, since *any* reduction in costs will increase the probability that a company will be successful in the future. It would further reduce the necessity requirement to nothing more than the superseded "business judgment" standard for rejection of an executory contract under *NLRB v. Bildisco & Bildisco*, 465 U.S. 513 (1984), and Section 365 of the Code.[18]

American's labor demands are not "necessary to permit the reorganization," whether the Company's proposal is assessed globally or by specific disputed terms:

A. American's Demands Should be Presumed Unnecessary Because the Company Seeks Seven Times More in Annual Labor Cuts Than its Pre-Petition Contract Proposal, Although Nothing Material Has Changed

The Company's claim to need $370 million in average annual cuts to pilot labor costs is implausible on its face in light of the proposal the Company made to the APA just two weeks before it filed for bankruptcy. On November 14, 2011, the Company's comprehensive contract

---

[17] In *United Savings Ass'n of Texas v. Timbers of Inwood Forest Assocs*., 484 U.S. 365, 375-76 (1988), decided after *Carey*, the Supreme Court interpreted "necessary" in Section 362(d) of the Code as meaning "essential" for an effective reorganization. Given the basic principal of statutory construction "that language used in one portion of a statute . . . should be deemed to have the same meaning as the same language used elsewhere in the statute," *Mertens v. Hewett Assocs.*, 508 U.S. 248, 260 (1993), the term "necessary" in Section 1113 should likewise mean "essential," not merely helpful, for reorganization of the debtor.

[18] To make its point, the Company takes language out of context from *Howard's Exp.*, 151 F. App'x 46. The issue there was whether the bankruptcy court's approval of an application under Section 1113 was clearly erroneous due to the debtor's subsequent liquidation, which, according to the union, proved that the debtor's labor proposal was never "necessary" to an already doomed reorganization. *Id*. at 48-49. In that context, the Second Circuit held that hindsight could not supplant the bankruptcy court's ex-ante assessment as to the necessity of the debtor's proposal. *Id*. The court used the word "likelihood" to emphasize that necessity must be assessed ex-ante, when the debtor's prospects remain somewhat uncertain. *Id*.

proposals called for $47 million to $55 million in average annual cost reductions from pilots. *See supra* at 13. That number was the product of a thorough and detailed planning model and reflected the Company's analysis of industry and economic trends. *See supra* at 11-13. American's leadership – which included, at that time, Beverley Goulet, Virasb Vahidi, Jeff Brundage and Brian McMenamy – had determined that $47 million to $55 million in cuts to pilot labor costs would be sufficient to avoid bankruptcy. The Company was well aware of each factor affecting American's competitive position and its prospects for success. *See, e.g.*, Apr. 24 Tr. at 213:10-214:20 (Goulet).

Nothing changed in the airline industry between November 14, 2011 and February 1, 2012. There was no shock in the economy, no catastrophic weather event, no terrorist attack, no unexpected spike in fuel prices, and no announcement of a new airline merger. Those events last occurred *years* before American's bankruptcy. Indeed, each and every industry trend discussed by American's experts has, by the expert's admission, been evident for several years. *See* Kasper Decl. at ¶¶ 40-50 (steady expansion of "Low Cost Carriers" over the past decade), 58-62 (airline consolidation in 2008 and 2010), 72-73 (fare-finding websites); Resnick Decl. at ¶¶ 21 (the economic recession beginning in 2008), 22 (fuel prices steadily increasing since 2009).[19] Only one thing has changed since November 2011: the Company's bankruptcy filing has given it access to Section 1113.

American's witnesses claim that the Company's pre-petition proposals were built on erroneous assumptions that the economy would "recover steadily," that the price of fuel would stabilize, and that pilots at other airlines would receive pay increases. *See* Brundage Decl. at

[19] Tellingly, the Company insists that the business analysis supporting its most significant pre-bankruptcy business decision – its June 2011 aircraft fleet order – remains the same today as a year ago.

¶ 33. But American has presented no evidence that any of those assumptions were any more or less plausible in March 2012 than they were in November 2011. Meanwhile, the Company seeks to take advantage of bankruptcy to shed $600 million in annual non-labor costs that were apparently weighing down the airline when it made its November 2011 proposals.

Even if this Court were to credit the implausible testimony of American's witnesses that the Company had not accounted for obvious industry trends before filing for bankruptcy, it would still not be enough to account for a *sevenfold* increase in American's "ask" to its pilots, a figure completely unprecedented in prior Section 1113 cases. At most, the Company's supposedly mistaken projection of pilot compensation increases at other airlines would support an "ask" of $260 million in pilot cost reductions. That was the cost gap identified by American for 2011 based only on current contracts, not any expectations of future raises for pilots at the Company's competitors. American presented its estimate of the labor cost gap in a 2011 SEC filing, Yearley Decl. at ¶ 20, in which the Company was barred under federal law from making any material omission. *See* 15 U.S.C. § 78r.

B. The Agreement Between the APA and US Airways Demonstrates That American's Demands Fail the Test of the Market and Are Unnecessary

While American insists that it must achieve $370 million in annual cuts from the pilots in order to operate a successful airline, the Company's rival, US Airways, has placed a multi-billion dollar wager that those cuts are vastly excessive. Under an agreement negotiated between US Airways and the APA, the parties would agree to cut pilot labor costs by $240 million annually if US Airways acquired American.[20] *See supra* at 18-19. Over the course of that agreement, pilots would therefore retain many hundreds of millions of dollars in wages and benefits that would be

[20] Pay rates and work rules would be specifically indexed to terms in place at Delta and United, American's closest competitors. Meanwhile, disputes over valuation, if not solved through consensus, would be resolved by a panel of arbitrators.

annihilated under American's proposal. By the test of the market, American's cuts are demonstrably unnecessary.

It is no coincidence that US Airways agreed to labor cuts approximately equal to the pilot labor cost gap between the APA's current contract and those in place at the other network carriers. American itself calculated that gap to be $260 million dollars. It presented the figure at a November 2011 meeting of the Board of Directors and again in March 2012 to the PBGC. *See* APA Exhibits 410 and 201. Ignoring its own calculation, the Company has demanded over a hundred million more in annual cuts than are necessary to reach market levels. American seeks to lower its labor costs to levels drastically lower than those under which American's peers have attained strong profitability.

C. American's Case for Necessity is Based on An Earning Target That the Company Cannot Justify

American says it needs to implement its labor demands so that it can achieve its 2017 target of $3.1 billion in earnings before interest, taxes, depreciation, amortization, and rent (EBITDAR).[21] *See supra* at 15-16. That would give the airline an EBITDAR margin of [redacted], which the Company says is crucial to its future success. American's labor demand hinges entirely on this earning target. If the Company had set its target [redacted] for example, it could have achieved the target while requesting over [redacted] less per year from pilots, all else being equal.[22]

---

[21] Although the Company's financial expert also refers to a smattering of other financial metrics, these metrics do not drive American's business plan and could not reasonably do so. *See* Yearley Decl. at ¶ 27.

[22] A one percentage point decrease in the EBITDAR target leads to a [redacted] decrease in American's labor ask, all else being equal. *See* Yearley Decl. at ¶ 16.

But American's earnings target is completely outside the norms of the airline industry. Over the last two years, the average EBITDAR margin of American's closest competitors has been 13%. *See* Yearley Decl. at ¶ 15. In only a handful of instances since 2001 has any network carrier achieved an EBITDAR margin of 15% in a year. *Id.* None of those airlines have come within [redacted] *See* APA Exhibit 101. To try to portray its target as reasonable, the Company uses reference points including vastly smaller airlines like Allegiant Air. *See* AA Exhibit 305A. That comparison is not so much "apples to oranges" as apples to beach balls. American and Allegiant both fly airplanes, but their business models and financial profiles differ in virtually every other important way. *See* Yearley Decl. at ¶17. The same is true of the other non-network carriers cited by American. *Id.*

American's own paid consultants have refused to validate the Company's earnings target as appropriate or necessary. One by one, Mssrs. Kasper, Resnick, Dichter and Glass all testified that they had not rendered an opinion as to the necessity of the earnings target or of the resulting labor ask. *See* Apr. 25 Tr. at 88:7-89:7, 84:23-85:8, 89:21-90:5 (Resnick) (no opinion from Mr. Resnick or Rothschild on the necessity of the earnings target); Apr. 26 Tr. at 129:9-17 (Dichter) (no such opinion from Mr. Dichter or McKinsey); Apr. 23 Tr. at 187:12-16 (Kasper) (no such opinion from Mr. Kasper or his firm on the necessity of American's labor "ask"); Apr. 24 Tr. at 44:8-11 (Glass) (no such opinion from Jerrold Glass or his firm). Instead, the Company developed its earning target at its own discretion. *See supra* at 15-17. Because American has not demonstrated that its target is reasonable, the Court must reject the Company's application.

D. Even Accepting the Company's Financial Targets, American's Failure to Justify the Planned Capital Expenditures Associated With its Recent Fleet Order – the Largest in History – Means it Has Not Established That it Needs the Requested Labor Savings to Meet its Targets

A major source of American's costs over the next six years will be the 460 aircraft it currently has on order from Boeing and Airbus. To pay for those aircraft, American plans capital expenditures amounting [redacted] billion over the next six years. *See* Yearley Decl. at ¶ 29. That equals the Company's annual "ask" from the pilots [redacted] *times over*. The fleet order therefore is a critical force driving the Company's self-imposed "need" to cut labor costs in order to pay for new aircraft.

American claims that the fleet order will have a net positive effect on the Company's earnings. But if the fleet order is even slightly financially disadvantageous, then American could be better off modifying its (presumptively executory) contracts with Boeing and Airbus to diminish or slow the order, thereby freeing it to demand much less from labor while meeting the range of financial metrics provided for reference by the Company's financial advisor, Mr. Resnick.

American has failed to meet its burden on necessity because it has produced no evidence to justify the fleet order or the magnitude and timing of the planned capital expenditures. The APA's advisors at Lazard have sought such substantiation from the Company since February 2012. *See* Yearley Decl. at ¶¶ 31-16. Lazard principal Andrew Yearley has explained that, although new aircraft may be more efficient as a general matter, it is entirely unclear whether an order of this size and pace is necessary or wise for the Company at this time. *Id.* American may have had a number of options, but the APA's lack of information foreclosed any meaningful evaluation and exploration of possible alternatives to the size and timing of refleeting expenditures driving the Company's pre-application concession demands.

The Company's failure to show that the planned fleet order yields a significant net benefit, or that the scope and schedule of capital expenditures cannot reasonably be modified, thus precludes a finding that the associated labor cuts in the March 21 Term Sheet are necessary. This failure is yet another fatal flaw in the Company's case.

E. American's Demands Will Produce Much Greater Labor Cuts Than the Company Claims to Need

In reality, American's March 21 Term Sheet produces much more than the Company's target of $370 million in annual savings. American admits that its proposal actually produces $377 million in average annual cuts and that those cuts rise to $451 million by the sixth year of the proposed agreement. Yet, the magnitude of cost cuts demanded by American is still greater. American undervalues its proposals by over $80 million per year, as calculated by the APA using more realistic assumptions and more sophisticated models. *See supra* at 33. And those calculations do not include Scope concessions, which American implausibly claims will produce *no* savings for the Company even though American has proposed practically limitless flexibility to outsource flying to cheaper regional airlines. Because the APA's calculations exclude Scope concessions, $460 million should be considered a conservative estimate of the annual savings American will realize if it implements it demands.

F. American's Specific Demands on Scope, Sick Leave and Other Areas Are Wholly Unnecessary to Reorganization in Light of APA Counterproposals

American asserts that the Court's inquiry should end at the global phase, arguing that "'[n]ecessity' is judged as a whole, not proposal by proposal." Debtors' Mem., Part I at 76-77. In fact, the applicable precedent indicates that this Court must also assess the necessity of each *individual proposal* that APA has chosen to dispute and negotiate over. *See, e.g.*, *Carey Transp.*, 816 F.2d at 86 (indicating that the debtor's Section 1113 proposal must "contain[] *only necessary*

modifications of the existing agreements") (emphasis added).[23] In a variety of cases, courts have denied applications under Section 1113 because a *particular element* of the debtor's proposal was not needed for reorganization.[24] That rule prevents debtors from gratuitously extracting contract modifications that are not truly necessary.

To argue that this Court cannot examine its individual proposals, American relies on a selective quotation of *In re Royal Composing Room, Inc.*, 848 F.2d 345 (2d. Cir. 1988). In that case, the union had adopted a "stonewall position," refusing to make any counterproposal until just three days before the rejection hearing. *Id.* at 347. Consequently, the court refused to allow the union to "belatedly attack[]… specific element[s]" of the debtor's proposal and engaged only in a holistic analysis. The court stated its holding as follows: "*where a union refuses to negotiate in order to obtain a different combination of modifications*, it may not challenge the particular combination, or any vital element, contained in the debtor's proposal." *Id.* at 349.[25] Here, because the APA has bargained vigorously over each element of the Company's proposal, the Court must review the necessity of those elements individually.

The test for the necessity of an individual proposal is whether "reorganization would be unlikely absent" the debtor's proposed modification. *Express Freight Lines*, 119 B.R. at 1014. Several courts have denied rejection applications under that approach. In *Express Freight Lines*,

---

[23] *See also In re Mile Hi Metal Sys., Inc.*, 899 F.2d 887, 897 n.8 (10th Cir. 1990) (noting the "majority view" that "each proposed modification be necessary to the reorganization").

[24] *See, e.g., In re Valley Kitchens, Inc.*, 52 B.R. 493, 497 (Bankr. S.D. Ohio 1985) (rejecting the view that an 1113 proposal need not be limited to items that are necessary for reorganization and denying the debtor's rejection application on the grounds that some proposals did not produce any specific savings); *Express Freight Lines*, 119 B.R. 1014 (rejecting an application for rejection under Section 1113 in part because a proposal related to grievance procedures was not necessary to a successful reorganization).

[25] *See also id.* at 348 (declining to "focus[] on a particular element vital to the proposal when the union does not bargain to change that element").

the bankruptcy court applied Second Circuit precedent to deny a debtor's application because certain proposed terms were not necessary to reorganization. 119 B.R. at 1014-15. Similarly, the court in *Valley Kitchens*, 52 B.R. at 497, denied a rejection application because the debtor had assigned no cost saving value to some of its proposals, making those proposals unnecessary for reorganization.

Even if American's comprehensive proposal satisfied the test for global necessity, the Company's application would still fail because American proposes numerous terms that are not necessary to its reorganization. First, with regard to the pilot Scope clause, American's Section 1113 proposal would give the Company the right to outsource up to 304 EMB-190 aircraft or their equivalent, and over 530 50-seat aircraft – flown by a separate group of pilots at non-CBA rates under non-CBA work rules. In other words, the Company could create and separately operate an air carrier over four times the size of JetBlue – which does in fact fly the EMB-190 and currently has a fleet of 172 aircraft – and then shift flying from Company pilots to pilots at that separate airline. In addition, American is demanding the right to enter into *completely unrestricted* codesharing with other Domestic and International carriers; such carriers would fly "on behalf of" American with no contractual job protections for Company pilots. This Scope demand is completely inconsistent with the standards in the industry and represents such an extraordinary over-reach from what is "necessary" to the Company's business plan that it is alone sufficient grounds to deny this motion. In contrast, as shown *infra* 69-71, the APA's counterproposal on Scope would meet all of the Company's stated needs.

Second, American demands contract modifications that serve little or no economic purpose and therefore suggest that the Company's proposals are more punitive than economic. The Company proposes elimination of a clause in the current contract that limits pilot furloughs.

Roghair Decl., ¶ 85. But American admits that clause is so permissive that the Company will only need to exceed current limitations in the case of an "unforeseen catastrophic event[] such as the September 11 terrorist attacks." Newgren Decl. at ¶ 156. American's proposal is wholly unnecessary because the contract already contains a *force majeur* exception, which the Company did in fact successfully utilize after September 11. *See* Roghair Decl. at ¶ 85, n.12. The Company assigns no value to this proposal. *Id.* The Company also proposes to eliminate the pay protection for reserve pilots who report too fatigued to fly. *See* Roghair Decl. at ¶ 84. That proposal encourages unsafe behavior while generating only $100,000 in average annual savings by the Company's calculation.

Finally, as described below, the APA's counterproposal on sick leave would fully satisfy the Company's goals with respect to a reduction in the amount of sick leave used by pilots. *See infra* at 71-72. American cannot show that "reorganization would be unlikely absent" its proposals on sick leave because the alternatives offered by the APA would be equally effective in meeting the Company's own targets. *See Express Freight Lines,*119 B.R. at 1014.

III. American's March 21 Proposal Does Not Treat Pilots "Fairly and Equitably"

An application under Section 1113 must be denied if the debtor's proposal does not "assure[] that all creditors, the debtor and all of the affected parties are treated equitably and fairly." 11 U.S.C. § 1113(b)(1)(A). The "fair and equitable" requirement is intended to "spread the burden of saving the company to every constituency *while ensuring that all sacrifice to a similar degree*." *In re Century Brass Prods., Inc.*, 795 F.2d 265, 273 (2d Cir. 1986) (emphasis added). Thus, the Court should deny the Company's application if the contributions demanded from the pilots are disproportionate to those borne by other stakeholders.

In determining whether the debtor's proposal asks for commensurate sacrifices from all stakeholders, the court should compare the contributions of each unionized labor group,[26] management,[27] creditors[28] and shareholders.[29] Moreover, the court should consider contributions to the reorganization effort *in whatever form*, including both diminished compensation and increased productivity. *See Carey Transp.*, 816 F.2d at 91 (affirming grant of 1113 order as fair because business plan required management to sacrifice through increased productivity). In this case, for example, the Court must consider the contributions demanded from American pilots through decimation of the principal provision of their collective bargaining agreement, the Scope clause. If the aggregate contribution demanded from pilots is disproportionate to the contribution demanded from other constituencies, American's application to reject must be denied.

In determining what can fairly be expected from each group in bankruptcy, the Court must also consider the magnitude of each constituency's pre-petition sacrifices. *See id.* at 91 (considering pre-petition sacrifices by a union and two creditors in assessing fairness). If a group

---

[26] *See, e.g., In re Delta Air Lines, Inc.*, 342 B.R. 685, 698-99 (Bankr. S.D.N.Y. 2006) (denying application under Section 1113 in part because debtor asked flight attendants to bear disproportionate share of burden in comparison to other employee groups, including pilots and mechanics).

[27] *See, e.g., In re Jefley, Inc.*, 219 B.R. 88, 94 (Bankr. E.D. Pa. 1988) (denying application under Section 1113 where Debtor's proposal left "the potential for more sacrifice on the part of management").

[28] *See, e.g., Wheeling-Pittsburgh Steel Corp. v. United Steelworkers of Am.*, 791 F.2d 1074, 1092-93 (3d Cir. 1986) (reversing grant of application under Section 1113 because absence of snapback provision meant that workers would bear disproportionate share of burden in comparison to creditors if debtor did better than expected post-bankruptcy).

[29] *See, e.g., AFA v. Mesaba* , 350 B.R. at 460-61 (reversing grant of application under Section 1113 and remanding to determine whether holding company – debtor's sole shareholder – had been asked to make its share of sacrifices).

has sacrificed prior to bankruptcy in excess of other stakeholders, fairness would dictate that the group need be asked for less within bankruptcy.

American's demands are not "fair and equitable" for two reasons:

A. American Has Demanded Unique and Enormous Contributions From Pilots With Respect to Scope

American claims that its labor proposals are fair because the costs for each labor group will be cut by twenty percent. Under that formula, American calculates the pilots' share of concessions to be $370 million per year. But American admits that the $370 million is exclusive of changes to the pilot Scope clause. From pilots' perspective, that clause is the most important in the entire contract. *See supra* at 26. It has been the most contentious issue in negotiations between the APA and the Company over the last decade.

As a result of the Company's demands on Scope, pilots are being asked to contribute much more than $370 million. Under the Company's business plan, Scope changes will generate at least half a billion dollars annually in revenue for the Company. This revenue will be a direct result of the near total evisceration of the pilot Scope clause. Moreover, Scope changes will almost certainly allow the Company to eliminate flying by American pilots, thereby reducing the number of pilots employed by the Company. A very conservative estimate places the impact of this elimination at $131 million over the next six years. No other constituency is being asked to make sacrifices of this kind.

B. American's Allocation of Demands Ignores the Extraordinary Pre-Petition Sacrifices by Pilots and the Lack of Similar Sacrifices by Management

American's proposal is not fair and equitable because it ignores a decade of history in which pilots have borne a disproportionate burden for the Company's difficulties. When the Company engaged in an out-of-court restructuring in 2003, pilots provided 37% of the cost cuts

while management and support provided 6%, even though the two groups constituted approximately the same portion of the Company's workforce. The Company's executives, however, recouped their losses through a series of bonuses, totaling $360 million since 2006. In contrast, hourly rates for pilots are much lower than they were in 2003 and the same, in nominal dollars, as they were in 1993. Recognizing this history, American should not have demanded the same percentage in cuts from pilots as the Company has said it plans to impose on management. The Company's failure to do so makes its proposal unfair and inequitable.

IV. American Failed to Provide All Relevant Information Needed to Evaluate its March 21 Proposal

To prevail under Section 1113, the debtor must provide "the representative of the employees with such relevant information as is necessary to evaluate the proposal." 11 U.S.C. § 1113(b)(1)(B). The debtor's disclosure must be "full and detailed," sufficient to "justify each of its proposed modifications." *K & B Mounting*, 50 B.R. at 467-68.[30] The information requirement creates an affirmative duty that the Company must fulfill on its own initiative and the extent of which does not depend on the APA's specific requests for information. *See* 11 U.S.C. § 1113(b)(1)(B); *Fiber Glass Indus.*, 49 B.R. at 203 ("It is the debtors' burden to provide the employee representative 'with such relevant information as is necessary to evaluate the proposal.'"). Indeed, the statute requires the debtor to fulfill its disclosure obligation contemporaneously with its legally sufficient proposal, in "the time period 'prior to filing an application seeking rejection.'" *Teamsters Airline Div. v. Frontier Airlines, Inc.*, 09 CIV. 343 (PKC), 2009 WL 2168851, at *11 (S.D.N.Y. July 20, 2009) (citing 11 U.S.C. § 1113(b)(1)(B)).

[30] *See In re Carey Transp., Inc.*, 50 B.R. 203, 208 (Bankr. S.D.N.Y. 1985) (citing *K & B Mounting* approvingly on the issue of information provision); *Century Brass*, 795 F.2d at 273-74 (suggesting that the Second Circuit follows the "same approach" as *K & B Mounting*).

As used in Section 1113, "relevant information" includes information about the debtor's business plan, not just its labor proposals. *See, e.g., In re Mesaba*, 341 B.R. at 717. Prior to filing its application, American was obligated to provide the models supporting its business plan, including such aspects as the airline's fleet decisions. *See id.* (denying an application under Section 1113 because the debtor did not provide such information). It is not sufficient to provide the output of such models; rather, the actual calculations and methods must be shared. *See id.* Similarly, American was required to provide a detailed account of the savings that the Company expected to achieve outside of labor as part of its business plan.[31] APA needed all of that information to determine whether American's demands were rooted in a reasonable business plan.

In addition, American was obligated to provide information describing the Company's assessment of the APA's counterproposals. That information is a critical factor in the union's assessment of whether it has sufficient justification to reject the debtor's proposal. *See Carey Transp.*, 816 F.2d at 92 (indicating that "a union's counterproposal of an equally effective set of modifications might justify its refusal to accept management's proposal.").

American failed to provide several critical pieces of information to the APA: (1) the model used by American to calculate the impact of workrule changes, (2) company valuations of APA proposals, (3) critical information about American's business plan, including an analysis of the non-labor savings that the Company hoped to achieve and an analysis of the Company's fleet plan.

---

[31] Such information is relevant to whether American's labor proposals treat pilots "fairly and equitably" when compared to the sacrifices of other stakeholders, as well as whether American's proposals were "necessary" and based on the "most complete and reliable information available." 11 U.S.C. § 1113(b)(1)(A). *See, e.g., In re Cook United, Inc.*, 50 B.R. 561, 564 (Bankr. N.D. Ohio 1985) (finding that non-labor savings and revenue enhancements mitigated the debtor's need for labor savings through Section 1113).

A. The Company Failed to Provide the Model it Used to Calculate the Impact of Changes to Work Rules

"Relevant information" under Section 1113 includes mathematical models used by the debtor because thorough review of those models is critical to a union's assessment of the Company's proposals, as well as counterproposals contemplated by the union. *See In re Mesaba*, 341 B.R. at 717. In evaluating contract proposals, American has relied heavily on its Manpower Planning Model, referred to as "AAMPL." *See* Rosselot Decl. at ¶ 28. Given a specified set of contract modifications, together with a fleet and network plan, the model predicts how many active pilots American will need to employ for the following four years. *Id.* That figure, in turn, is used to estimate the magnitude of savings associated with American's contract proposals. *Id.* Because bargaining between the Company and the Union has centered on valuation disputes – and especially valuation disputes related to work rules – the APA needed access to the model in order to fully vet American's proposal.

Critically, the AAMPL model reveals information about how many pilots could be laid off under various contract proposals. *See id.* The APA needed to fully review and test those numbers in order to evaluate the Company's proposal and engage in meaningful bargaining. *See Fiber Glass Indus.*, 49 B.R. at 207 (denying an application under Section 1113 in part because the debtor did not provide information about anticipated layoffs, which the court held to be "relevant information" under Section 1113).

American has refused to share the AAMPL model with APA. *See* Rosselot Decl. at ¶¶ 29-30. The Company first disclosed the existence of the model in early March and allowed the APA to run just four scenarios on the model on March 27, 2012. *Id.* The Company has never provided the Union with the full output of those scenarios. Nor has it ever allowed the APA or its advisors to review the mechanics of the model, including the critical assumptions that

affect its calculations. *Id.* Consequently, the APA is unable to determine whether the Company's valuations are credible.

B. The Company Failed to Provide its Latest Valuations of APA Proposals

In communications with APA, the Company has refused to share its valuations of APA proposals because "American's obligation is to provide information necessary to evaluate its own proposals, and it is for the APA to validate proposals" made by the Union. APA Exhibit 429. This longstanding position has interfered with negotiations since before American filed for bankruptcy. American does not routinely share valuations of APA proposals and last offered a comprehensive valuation on March 5, 2012, prior to several changes to the parties' proposals. *See* Clark Decl. at ¶¶ 50-51.

The Company's flat refusal to provide and explain its analysis of APA proposals violates the Company's obligations under Section 1113. That information is obviously relevant to negotiations and to the APA's evaluation of the necessity of the Company's proposal. For example, if the APA's proposal will produce the same savings requested by American under the Company's own calculations, then the Union would know that it is justified in refusing to adopt the Company's proposal. American's obstinance made it impossible for the Union to determine whether that was the case.

C. The Company Failed to Provide Critical Information About its Business Plan

As discussed above *supra* 45-46, American's labor proposals are inextricably linked to its broader business plan. The Company calculated its "ask" by evaluating the gap between its earnings target ($3.1 billion by 2017) and the sum of planned revenue enhancements ($1 billion) and non-labor cost savings ($600 million). In order to evaluate the "ask," then, the APA needed to analyze the non-labor aspects of the business plan.

American has refused to provide information critical to that analysis. First, although the Company has offered a total target for non-labor savings, the Company has refused to disclose any projection of the magnitude of cost-savings achieved from non-labor creditors such as suppliers, vendors, and professionals. *See supra* at 35. Without that analysis, the Company cannot evaluate whether American might achieve more or less than its targeted $600 million in non-labor savings. Greater non-labor savings would lessen the need for labor cuts. The APA has also been hamstrung in in its ability to assess whether the Company's proposal treats the Union equitably as compared to other stakeholders.

Second, the Company has refused to disclose the business analysis used to justify its June 2011 aircraft order – the largest such order in the nation's history. *See supra* at 35. The APA's advisors at Lazard have tirelessly sought this information as part of their diligence on American's business plan. *See* Yearley Decl. at ¶¶ 34-35. Lazard has been rebuffed at every turn. *See id.* Without this information, the APA cannot assess the reasonableness of American's business plan and therefore cannot determine whether American's labor proposals, as part of that business plan, will facilitate a successful organization.[32]

[32] American claims that its information-sharing "compares favorably" to debtors whose rejection applications were approved, citing two cases from the bankruptcy court of the Western District of Pennsylvania. Debtors' Mem. at 86, n.74 (citing *Bowen Enters., Inc.*, 196 B.R. 734 (Bankr. W.D. Pa. 1996) and *In re Sol-Sieff Produce Co.*, 82 B.R. 787, 794 (Bankr. W.D. Pa. 1988)). This case, however, is a very different from *Bowen* and *Sol-Sieff* for the simple reason that American Airlines is a vastly larger and more complicated enterprise than the debtors in those cases. The debtor in *Bowen* was a single supermarket with annual sales of $11.4 million, 196 B.R. at 738; the debtor in *Sol-Sieff* was a produce distributor that had generated $3.7 million in revenue in the ten months prior to filing for bankruptcy, 82 B.R. at 790. In contrast, American takes in nearly four hundred million dollars *in a single week*. *See* Apr. 26 Tr. at 105:2-3 (Dichter) (describing American's annual revenue as approximately $20 billion). The complexity of American's business heightens its obligation to provide information that would allow the APA to fully understand the Company's business plan.

V. The Company Failed to Bargain in Good Faith

A debtor may not obtain approval to reject a labor contract unless, "[d]uring the period beginning on the date of the making of a [1113] proposal . . . and ending on the date of the hearing," the debtor has "confer[red] in good faith in attempting to reach mutually satisfactory modifications" of the collective bargaining agreement. 11 U.S.C. § 1113(b)(2). In the context of Section 1113, good faith bargaining means that the debtor must not adopt a take-it-or-leave-it approach, whether on its total "ask" or its package of particular terms. *See Northwest*, 346 B.R. at 327 ("The 'good cause' and good faith requirements have been held to preclude a debtor from simply offering a 'take it or leave it' proposal.").[33] Such a take-it-or-leave-it approach would be incompatible with the goal of Section 1113 to facilitate consensual agreements.[34]

This Court has established a "general rule" that a debtor's application should be denied under the good faith requirement if the debtor has insisted that the total amount of labor savings reflected in its proposal is non-negotiable. *See Delta* 342 B.R. 685, 697 (Bankr. S.D.N.Y. 2006) (denying an application under Section 1113 because the debtor made a non-negotiable demand for $8.9 million in concessions). Similarly, where the debtor refuses to engage in a genuine back-and-forth over the particular terms in its proposal, the debtor has failed to satisfy its statutory obligation, and its application must be denied. *See AFA v. Mesaba* 350 B.R. at 459 (denying an application under Section 1113 where debtor made a non-negotiable demand that no snapback be included in the modified agreement).

---

[33] *See also Liberty Cab & Limousine*, 194 B.R. at 777 (holding that the debtor failed to negotiate in good faith due to its "take it or leave it" attitude).

[34] *See* 130 Cong. Rec. S8898 (daily ed. June 29, 1984) (quoting Senator Packwood, the sponsor of the language later enacted as Section 111, as stating, "this provision encourages the collective bargaining process, so basic to federal labor policy").

As a rare exception to this rule, a debtor may insist on a non-negotiable total "ask" or particular set of terms where the debtor has proven that its proposal is *absolutely essential* for reorganization – or, in the words of this Court, the "*sine qua non* of the debtor's reorganization." *Delta*, 342 B.R. at 697.[35] That bar, higher than the ordinary necessity test under Section 1113, has not been met or even approached by American. Thus, American's burden is to show that it did not treat its total "ask" or any particular term as non-negotiable.

In spite of the rule established by this Court in *Delta* and the commonsense meaning of "good faith" bargaining, American contends that a debtor is generally entitled to make its proposal non-negotiable and still satisfy the requirement. Debtors' Mem. at 90-92. To support that claim, American cites several cases decided under the National Labor Relations Act (NLRA). But American completely misconstrues the law under the NLRA.

To assess whether an employer has bargained in "good faith" under the NLRA, the court must analyze the "totality of the circumstances." *NLRB v. Ins. Agents' Int'l Union, AFL-CIO*, 361 U.S. 477, 508 (1960); *NLRB v. Suffield Acad.*, 322 F.3d 196, 198 (2d. Cir 2003). American's citations must be read in light of that principle. Thus, while a debtor's adoption of an "intransigent position" on an issue in negotiations might not in itself indicate bad faith, Debtors' Mem. at 91, a broader pattern of intransigent behavior may indeed constitute strong evidence that the debtor has failed to meet its statutory obligation.

Cases are legion under the NLRA in which an employer's refusal to budge on *nearly all key issues* in a labor negotiation has been considered nearly incontrovertible evidence of bad

[35] *See also AFA v. Mesaba*, 350 B.R. at 458 (holding that a debtor may refuse to negotiate over one of its proposal only when that proposal is "essential" to reorganization).

faith bargaining.[36] The First Circuit explained that rule in upholding a finding of bad faith issued by the National Labor Relations Board:

> [I]f the employer makes not a single serious proposal meeting the union at least part way, then certainly the Board must be able to conclude that this is at least some evidence of bad faith. . . . In other words, while the Board cannot force an employer to make a concession on any specific issue or to adopt any particular position, *the employer is obliged to make some reasonable effort in some direction to compose his differences with the union. . . .*

Reed, 205 F.2d at 135.

In a similar case, the court found bad faith largely because "[t]he parties began to reach agreement only when the union gave way to [the employer's] demands." *Ass'n of Flight Attendants, AFL-CIO v. Horizon Air Indus.*, 976 F.2d 541 (9th Cir. 1992). That case is one of American's own citations. Debtors' Mem. at 91. And American's citation to *NLRB v. Advanced Bus. Forms Corp.*, 474 F.2d 457 (2d Cir. 1973) is the exception that proves the rule. In *Advanced Bus. Forms*, the employer was found to have negotiated in good faith even though it had refused to compromise on its opposition to a union security clause. *Id.* at 467. However, that refusal was considered in the broader context of the company's "entire course of conduct" – which included tentative agreements between the company and the union on "most of the economic issues" on the table. *Id.* at 466. American cannot claim those circumstances here.[37]

---

[36] Cases finding bad faith under the NLRA on the basis of refusal to compromise include *Sparks Nugget, Inc. v. NLRB.*, 968 F.2d 991, 995 (9th Cir. 1992); *NLRB v. Reed & Prince Mfg. Co.*, 205 F.2d 131, 135 (1st Cir. 1953); *NLRB v. Columbia Tribune Pub. Co.*, 495 F.2d 1384, 1391 (8th Cir. 1974); *NLRB. v. Tower Hosiery Mills*, 180 F.2d 701, 705 (4th Cir. 1950). In one recently decided example, the federal district judge upheld a finding of bad faith bargaining by the employer where "nearly all of the provisions of [the employer's] final offer were identical to [the employer's] first offer." *Paulsen v. Renaissance Equity Holdings*, 2012 WL 1033339 (E.D.N.Y. Mar. 27, 2012).

[37] American also suggests it was hamstrung by the necessity requirement of Section 1113. *Id.* at 90-91. Because American's initial proposal had to be "necessary," the Company says, it was impossible for American to then "collapse towards some smaller package of concessions." *Id.* Yet, although the necessity standard is much more rigorous than American admits in its

Furthermore, an employer may be held to have violated its duty to bargain in good faith even where the employer makes concessions, where those concessions are trivial in the context of broader negotiations. *See Columbia Tribune Pub. Co.*, 495 F.2d at 1391. Accordingly, this Court must determine whether American has made a *meaningful* effort to compromise with the APA.

Here, American has violated its obligation to bargain in good faith because it has failed to engage in genuine dialogue over both its $370 million "ask" and its particular package of proposals to the APA. Instead, American has prevented genuine bargaining by creating needless and meritless disputes over valuation.

A. American Has Refused to Consider Compromise Over its $370 Million "Ask"

American has been quite clear, both in its negotiations with APA and in this Court, that the Company views its $370 million demand as non-negotiable. *See supra* at 32-33. That approach is incompatible with the "good faith" requirement of Section 1113, as this Court held in *Delta Air Lines, Inc.*, 342 B.R. at 697. Here, as in *Delta*, the Company has not revised its "ask" or demonstrated any willingness to consider doing so. American could not bargain in good faith while it stood unwilling to consider any package of proposals that did not meet or exceed the $370 target for concessions, as measured by the Company.

American's former labor chief, Mr. Brundage, claimed at trial that the Company would have considered a smaller "ask" if only the union had "made a suggestion to modify the business plan." Apr. 26 Tr. at 191:22-192:20 (Brundage). Yet, the APA in fact presented the Company

---

separate discussion of the element, Debtors' Mem. at 76, it is not so rigid that it prevents subsequent compromise in the debtor's total ask or its specific package of modifications. *See Carey Transp.*, 816 F.2d at 89 (holding that "necessary" does not mean "bare minimum"). In light of *Carey*, American cannot claim that it had no room to revise its ask downward or engage in a true dialogue with the APA over particular terms in its proposal.

with a comprehensive and specific counterproposal that would have closed the labor cost gap previously quantified by American, while meeting three quarters of the Company's savings target and granting extraordinary concessions on Scope and productivity. That proposal was, of course, an alternative approach that American was obligated to consider sincerely under the "good faith" requirement. Instead, the Company stuck to its $370 million demand without ever analyzing the impact of even a slightly smaller cost cut.

American's bargaining stance does not satisfy the exception articulated in *Delta* that may apply when the debtor's demands are the "*sine qua non*" of reorganization. *Delta Air Lines, Inc.*, 342 B.R. at 697. Had the Company shown that its reorganization would undoubtedly be doomed if it achieved less than $370 million in annual savings from pilots, then it might have been justified in standing firm on that number. But as detailed *supra* 39-51, American has failed to satisfy even the ordinary necessity test of Section 1113. Moreover, even if American had satisfied that ordinary necessity standard, it still would have failed to make the more rigorous showing required for a debtor to claim that it had no room at all to consider compromise over its "ask." *Compare Delta Air Lines, Inc.*, 342 B.R. at 697, *with Carey Transp.*, 816 F.2d at 89. Indeed, American's own expert testified that the Company had never assessed whether reorganization might be successful with something less than $370 million in pilot labor savings. *See supra* at 22-23.

B. American Has Made Only Unilateral Changes to its Particular Package of Terms

In its briefs and declarations, American claims that it made meaningful concessions in negotiations with the APA. *See, e.g.*, Newgren Decl. at ¶ 40. In fact, these so-called "concessions" were nothing of the sort. Instead, after disclosing errors resulting in undervaluation of its own cost-cutting demands, American unilaterally altered the terms of its

package so that the total savings would realign with the unmovable $370 million target. *See supra* at 32-33. The Company did not consult the Union in making those modifications to its proposal. The Company never asked, for example, which proposals the Union would prefer as a means to recoup the additional $22 million discovered by American on February 10, 2012, e.g., added benefits or increased hourly wage rates.

American's unilateral moves were not true "concessions" because they did not emerge from discussion with the APA. Instead, they served only American's goal of hewing to its $370 million cost reduction target for the pilots. Indeed, at no point in these negotiations has American made a genuine concession. Each change to American's proposal has been carefully calculated to serve only the Company's interests.

C. American Has Prevented Genuine Bargaining by Creating Needless and Meritless Disputes Over Valuation

As both sides acknowledge, bargaining between the APA and American has been bogged down in disputes over valuation. Discussions over valuation have been especially intractable and unproductive for three reasons: (1) the Company has taken positions that are unwarranted and implausible, such as valuing the APA's work rules and sick leave proposal at only $22 million while valuing its own proposal at $100 million, even though the parties agree on many of the same approaches; (2) the Company has refused to share critical valuations and valuation models, so that the parties have been unable to engage in a genuine back-and-forth over the value; and (3) the Company has constantly changed its positions on the valuation of both parties' proposals. These facts support an inference that the Company has used valuation disputes as a way to avoid discussion on other issues and prevent real progress towards a mutually-agreeable contract.

First, as detailed in the declarations of First Officer Rosselot and Ms. Clark, the Company has made valuation assumptions that have not been and likely cannot be justified. The Company

assumes, for example, that use of sick leave will skyrocket after adoption of either party's proposal, and they justify that assumption by cherry picking data from the twelve month period with the highest sick usage in American's recorded history. *See* Rosselot Decl. at ¶¶ 39-40. The Company also assumes an unreasonably high discount rate, leading it to overestimate the present cost of future expenditures. *See* Clark Decl. at ¶ 48. The net result of the Company's mistaken valuations is that the Company fails to acknowledge about $100 million of additional savings created by each package put forth by the parties. *Id.* at ¶ 4. That amount excludes Scope concessions, on which the Company refuses to admit that *any* cost reductions can be realized.

Second, as detailed above, the Company has refused to share critical information and models with the APA. The Company knows that valuation is a critical roadblock in these negotiations and that the roadblock will never be overcome so long as Company refuses to disclose the bases for its positions. The parties cannot have a productive conversation about valuation because the Company refuses to share this information. American's obstinacy suggests that the Company is not truly interested in reaching consensus with the APA.

The Company's constantly changing valuation numbers have likewise impeded negotiations. Over the course of post-petition bargaining, for example, the Company has significantly revised its projection of headcount reduction associated with its Term Sheet, but has not provided any explanation for this change. The net result of these fluctuations has been a change of around 300 pilots from February 1, 2012, to the present, although the Company has made only minimal changes to its scheduling proposal that cannot account for this change. *See* Rosselot Decl. at ¶¶ 31-33. A difference of 300 pilots for a year has a huge impact on costs and productivity.

VI. The APA Had Good Cause For Refusing to Accept the Company's Term Sheet

The court must deny an application for rejection if the union has "good cause" for refusing to accept the debtor's proposed terms 11 U.S.C. § 1113(c)(2). Notably, the statute does not articulate or limit the circumstances that may constitute "good cause"; a union can have any number of legitimate reasons for refusing to accept a particular Section 1113 proposal. *Id.*

American concedes that a union has "good cause" to reject if the union has "offer[red]… alternatives focusing on the needs of the employer's reorganization" and compatible with a "successful reorganization." Debtors' Mem. at 94. Indeed, this Court has acknowledged that a union has "good cause" if it has offered "alternatives that would permit the debtor to reorganize." *Northwest*, 346 B.R. at 328. As part of American's burden of persuasion, then, the Company must prove that the alternatives offered by the APA would doom a successful reorganization. *Id.*; *Maxwell Newspapers*, 146 B.R. at 932 (holding that, once the union has produced evidence of its reasons for declining to accept the debtor's proposal, the debtor has the burden to prove that these reasons are inadequate).

The alternative offered by the union may take one of several forms:

- For example, the union may respond to a particular element of the debtor's proposal by offering an equally effective counterproposal on that term. If the debtor fails to adopt that specific counterproposal as part of its broader package of modifications, then the union has "good cause" to decline the debtor's proposal. *See In re Bruno's Supermarkets, LLC*, 09-00634-BGC-1, 2009 WL 1148369 (Bankr. N.D. Ala. Apr. 27, 2009) (denying a rejection application under the "good cause "standard because the debtor refused to adopt the union's equally effective counterproposal on a specific term).[38] Thus, in each area on which the APA has

[38] The court in *Bruno's Supermarkets* applied Second Circuit precedent in rejecting a debtor's Section 1113 application under the "good cause" standard. 2009 WL 1148369, at *16-19 (applying *In re Maxwell Newspapers, Inc.*, 981 F.2d 85 (2d Cir. 1992). The debtor had proposed to eliminate a successorship clause in the parties' agreement, offering "uncontroverted" evidence that the clause would lead to liquidation by preventing a sale. *Id.* The union countered with a proposal that would have made the collective bargaining agreement binding on a successor only if the successor chose not to negotiate a new deal with the union. *Id.* at 18.

made a counterproposal – scope, work rules, and the like – American has the burden to show that it could not adopt that counterproposal consistent with a successful reorganization.

- Relatedly, the union may make a comprehensive counterproposal that would permit the debtor to reorganize successfully. If the debtor continues to insist on its own proposal in light of this counter, then the union has good cause to reject. *See Carey Transp. Inc.,* 816 F.2d at 92 ("[A] union's counterproposal of an equally effective set of modifications might justify its refusal to accept management's proposal"). Thus, American has the burden to show that the APA's comprehensive proposal would not permit reorganization.

- Third, if the union has suggested an alternative business plan that would permit the debtor to reorganize without concessions as extensive as those entailed by the debtor's proposal, then the union has good cause to reject. Again, after the union has presented an alternative business plan, the debtor has the burden to show that the plan is incompatible with a successful reorganization.

In addition, a union has "good cause" to reject where, due to the debtor's use of inaccurate assumptions, the debtor's proposal will produce savings greater than those the debtor has claimed it needs. *See Delta*, 342 B.R. at 701 (denying an application under Section 1113 because the debtor's "cost savings will materially exceed the $8.9 million target" under the debtor's proposal). Here, if American's demands impose more than the $370 million in average annual reductions to American's pilot labor costs that the Company insists is necessary, then the APA has "good cause" to reject the Company's proposal.[39]

As demonstrated below, the APA had "good cause" to reject American's March 21 Term Sheet demands for at least four distinct and compelling reasons.

Finding that the counterproposal addressed the debtor's needs, the court ruled that the union had good cause to refuse the debtor's proposal. *Id.* at 19.

[39] To the extent that the debtors suggest that the Court's analysis under the "good cause" prong of Section 1113 is identical to the analysis under the necessity prong, that suggestion must be dismissed. *See* Debtors' Mem. at 93. As demonstrated above, numerous courts have held that a union has "good cause" to reject if the union has offered an alternative that is compatible with a successful reorganization – an inquiry that is independent of whether debtor's own proposal satisfies the separate necessity standard of Section 1113.

A. The APA's Comprehensive Proposal Would Have Closed the Pilot Labor Gap Between American and its Competitors While Providing American the Scope Flexibility and Productivity Enhancements it Claims to Need

As detailed in the Declarations of First Officer Roghair and Ms. Clark, the APA made a comprehensive counterproposal to American which was last amended on April 9, 2012. That proposal would have produced a net annual cost savings of $271 million, excluding any cost savings attributable to modifications to the pilot Scope clause. *See* Clark Decl. at ¶¶ 17-20. On Scope, the union agreed to give American substantial flexibility to both outsource regional flying and enter into codesharing agreements with domestic and international partners. *See* Roghair Decl. at ¶¶ 50-51. Meanwhile, the APA, along with American's unions, took the unprecedented step of offering to fly regional jets at rates based on those in place at small regional carriers like American Eagle. *See id.* at ¶ 60.

APA's comprehensive counterproposal is easily sufficient to "permit the debtor to reorganize," thereby giving the Union "good cause" to reject the debtor's more aggressive proposal. *Northwest*, 346 B.R. at 328. First, the proposal produces $271 million in annual average savings, about three quarters of the $370 million target that American created after filing for bankruptcy.[40] Through these savings, APA's proposal would entirely close the pilot labor cost gap, calculated by American at $260 million dollars. *See supra* at 11-13. Thus, the APA's proposal would give American a cost structure competitive with its peers. This is true even if one assumes that the costs of American's competitors will not naturally increase from the current status quo over time, and even if one assumes that APA's proposal will produce *no* savings from the easing of Scope restrictions.

[40] *See supra* 42-48 for a full argument that $370 million in annual cost reductions are not necessary for reorganization.

Although competitive pilot labor costs should be enough for American, the APA's proposal goes farther. The APA has offered extraordinary concessions on the Scope clause of the current collective bargaining agreement. These concessions match the terms in place at American's peers and would allow substantial flexibility in outsourcing and codesharing.

Although American has offered no evidence indicating that the APA's proposals are insufficient for reorganization, the Company may argue in its rebuttal case that the Union lacks "good cause" because it failed to fully satisfy the Company's $370 million "ask." But a union's "good cause" should not hinge on whether the union jumps to meet an arbitrary target that the debtor has set unilaterally. Rather, the APA has good cause to refuse the Company's demands because the Union's own proposal would "permit the debtor to reorganize" by putting American's pilot labor costs on par with the airline's peers. *Northwest*, 346 B.R. at 328.

B. The APA's Counterproposals on Scope and Sick Leave Would Have Fully Satisfied American's Needs, but the Company Refused to Accept Those Proposals

Although American refused to accept APA's comprehensive counterproposal, it could have at least accepted some of the Union's counterproposals on specific terms. In particular, the APA made counterproposals on Scope and sick leave that would have fully satisfied American's needs. Rather than adopt those proposals, the Company steadfastly maintained its own position. Consequently, the Union had "good cause" to reject.

1. Scope

On Scope, American claims that current contractual restrictions prevent the airline from expanding its network by outsourcing regional flying and entering into codeshare agreements with other airlines. The Company claims it needs this flexibility to expand its network in two ways: (1) by deploying outsourced regional jets on routes that are currently uneconomical to

operate with AA pilots, and (2) by entering into codeshare agreements [redacted]. *See, e.g.,* Newgren Decl. at ¶¶ 52-87. Notably, the Company has claimed that it intends to use Scope flexibility not to *replace* any work currently performed by AA pilots but rather to *supplement* the current network, thereby bringing additional traffic to the Company's "cornerstone" hubs. *See, e.g.,* Apr. 26 Tr. at 198:13-199:4 (Vahidi) (rejecting claims that the Company will use Scope flexibility to outsource flying as "a complete mischaracterization").

The APA's counterproposals fully satisfy the Company's goals while limiting the Company only from doing what it claims it has no intention to do: replacing flying currently done by American pilots. With respect to regional jets, the APA has first taken the unprecedented step of proposing that American pilots fly these aircraft at *the same or similar pay rates* as pilots at the regional airlines at which American would otherwise outsource. *See* Roghair Decl. at ¶ 60. That proposal, combined with American's current ability to purchase and operate any size aircraft with AA pilots, would remove the need for outsourcing by allowing the Company to operate large regional jets just as economically with its own pilots.[41] If that is not enough, the APA has also proposed allowing the Company to outsource more regional jets than the Company itself projects that American will need. American's projections call for 109 regional aircraft between 70 and 99 seats. *See* APA Exhibit 515. The APA's offer would allow the Company to outsource 150 aircraft in that range. *See* Eaton Decl. at ¶ 25. Those proposals

[41] Company witness Virasb Vahidi testified that regional carriers may be able to operate routes more cheaply for reasons other than their labor costs, namely more favorable aircraft financing agreements and lower maintenance costs. Apr. 25 Tr. at 295:13-301:8 (Vahidi). In fact, the Transport Workers Union has agreed to perform maintenance on regional aircraft at regional rates. Moreover, regional carriers now are not able to secure favorable leasing terms because their financial profiles are much weaker than American's will be when it emerges from this bankruptcy. American currently owns all of the regional jets on which it is outsourcing flying. *See* APA Exhibit 512.

are eminently reasonable, particularly when compared to the Company's more drastic demand to obtain the ability to outsource 305 of these aircraft.

With respect to codesharing, the APA has proposed to allow the Company to enter into the [redacted] codeshares that American claims to need. The APA has proposed conditions on those codeshares only to the extent needed to prevent the Company from using its codesharing discretion to *replace* flying currently performed by AA pilots – limits that will not impede reorganization in any way under the Company's claim that it will not engage in that form of replacement. *See id.* at ¶¶ 36-41. For example, under the APA's proposal, as long as American maintains its total number of departures out of JFK, it can enter into a codeshare [redacted]. *See id.* at ¶¶ 38-39. The APA has made similar proposals [redacted]. *See id.* at ¶¶ 40-41

The Company has refused to adopt the APA's proposals because it has insisted on securing flexibility *that it claims it will never use* to replace current flying. In the face of that unreasonable position, the APA has "good cause" to refuse to accept the Company's proposal until the Company either modifies its scope demand or admits that Scope flexibility will lead to lost flying and therefore credit savings from Scope towards the $370 million target.

2. Sick Leave

On sick leave, American complains that its pilot productivity has suffered because pilots take more sick leave than their peers at other airlines. The APA has offered a responsive counterproposal that fully addresses the issue by reducing sick usage in three ways. *See supra* at 24-25. First, the APA's proposal creates a sick leave sellback program that would incentivize pilots to build a large bank of unused sick leave and exchange a portion of that bank for cash. The Company originally put this proposal on the table, and the Company's own financial analyst

has admitted that it will decrease sick usage by 10%. *See Roghair* Decl. at ¶ 57. That alone would almost entirely meet American's stated goal of reducing current sick hours from 8.2% of paid hours to 7.2% of paid hours – the same goal the Company says will be achieved under its own more punitive proposal.

The APA's proposal would further decrease sick usage in two other ways. The APA's proposed "sequence protection" system would remove the incentive for pilots to call in sick when a flight has been cancelled. Again, American agrees that this proposal will significantly reduce sick usage. *See* Newgren Decl. at ¶¶ 101-102. Furthermore, the APA's proposed Preferential Bidding System will prevent pilots from being required to fly schedules that conflict with important personal obligations, thereby further reducing the incentive to call in sick to attend to those obligations. *See* Rosselot Decl. at ¶ 43.

American should have adopted the APA's proposal on sick leave. Instead, without justification, the Company has demanded a system that is all stick and no carrot. The Company proposes to dock pilots' pay while on sick leave by 40% in certain circumstances – and pay nothing at all to pilots on longer leave if the pilots do not obtain corroboration through American's outside vendor. American insists on this program even though the Company says that it will initially cause sick usage to *increase* rather than decrease. *See id.* at ¶ 39. Because American has refused to adopt the APA's less punitive and more effective counterproposal, the Union had good cause to reject the Company's demands. *See In re Bruno's Supermarkets*, 2009 WL 1148369.

C. American's Demands Produce More in Average Annual Savings and Revenue Enhancements Than American Says it Needs

The APA also had "good cause" to reject American's demands because the Company's proposal exceeds the Company's own target for labor cost savings. *See Delta*, 342 B.R. at 701.

First, *by American's own admission*, its March 21, 2012, proposal would have produced $377 million in average annual savings, excluding the Company's proposal on crew rest seats, which American had previously valued at $9 million annually. *See* Clark Decl. at ¶ 53. Those figures also exclude the Company's proposal on Scope, which American insists does not count towards the target.

In fact, this admitted undervaluation is only a small portion of the excess savings that will result from American's proposals. As demonstrated in the Declarations of Ms. Clark, Mr. Heppner and First Officer Rosselot, American has made a series of errors in valuing its demands. The most significant of these errors include (1) making unreasonable assumptions related to discount rate and medical utilization, leading to savings undervaluation of almost $30 million annually, and (2) using flawed scheduling and pricing models, leading to savings undervaluation of almost $20 million annually. *See supra* at 30-32.

As for revenue, American claims that it needs unlimited discretion to codeshare in order to generate [redacted] in incremental revenue as part of its business plan. In fact, although revenue resulting from codeshares is difficult to predict, American's own evidence suggests that its proposal will generate much more than [redacted] annually. Several of the Company's witnesses testified that American's proposed Scope concessions would likely lead to new or expanded codeshare agreements [redacted]. *See, e.g.*, Newgren Decl. at ¶ 72. Further, the Company acknowledges that a codeshare with each of these partners would produce significant revenue. *See, e.g.*, Debtors' Mem. at 17 (claiming that an expanded codeshare [redacted] "immediate, direct impact on revenue").

But American's projections indicate that the Company will achieve [redacted] According to Ms. Goulet, the

revenue projection in the current Restructuring Business Plan assumed no new codeshare agreement [redacted] *See* Apr. 24 Tr. at 225:2-24 (Goulet). If those additional codeshare arrangements materialize – and the Company has built part of its argument for Scope changes on the theory that they will – then American's proposal will produce significantly greater revenue enhancements than the Company's Business Plan requires.

D. A Merger With US Airways Would Facilitate A Successful Reorganization While Requiring Lesser Pilot Sacrifice

The APA has "good cause" to reject American's demands because the Union reasonably believes that consolidation with US Airways offers a better path forward for all stakeholders at less cost to employees. Consolidation can be accomplished now without pushing American's labor contracts below market. US Airways and the APA have agreed that, should the airline be successful in acquiring American, the new airline will implement market-based contract terms with the pilots. *See supra* at 18-19. The APA and US Airways have agreed to $240 million in annual average cost cuts and, in particular, a market-based approach to compensation, productivity, and Scope, among other areas. *Id.* The agreement was concluded in a matter of days, as were the similar deals between US Airways and American's other employee unions. *Id.* All three unions agree that consolidation with US Airways is the best path forward for American, and all three unions are willing to sacrifice to make consolidation a reality.

American's management admits that consolidation is inevitable, *see* Apr. 24 Tr. at 177:1-9 (Goulet), and American's top financial advisor, Mr. Resnick, testified that the Company will consider consolidation before it exits bankruptcy, Apr. 25 Tr. at 134:10-22 (Resnick). Thus, there can be no serious dispute that the Company's current business plan is a temporary placeholder while the Company develops its real long-term strategy. But the Company

nevertheless maintains that it must first extract its concession demands from the APA or abrogate the pilots' CBA, even though the Company knows that consolidation may lessen labor sacrifices. *See* Apr. 25 Tr. at 177:18-23 (Resnick). In the face of that unreasonable position, the APA is justified in insisting that the Company consider consolidation before implementing hundreds of millions of dollars in unneeded labor cuts.

VII. The Balance of the Equities Does Not Clearly Favor Rejection of APA's Contract

The Court must deny a Section 1113 application if the debtor has not proven that "the balance of the equities clearly favors rejection" of the collective bargaining agreement. 11 U.S.C. § 1113(c)(3). Because the legislators used the word "clearly" in Section 1113(c)(3), the debtor has a heightened burden of proof on this element of the statute. American must prove by "clear and convincing evidence" that the balance of the equities favors rejection of its agreement with the APA. *Walway*, 69 B.R. at 974 (indicating that the element must be proven by "clear and convincing evidence"); *K & B Mounting*, 50 B.R. at 467 (indicating that on this element "a preponderance of the evidence will not be sufficient.").

Although a number of factors may be considered in assessing the balance of the equities, two criteria are particularly important.[42] First, "the balance of the equities nearly always will tip in favor of the party that seeks to reach a compromise." *Royal Composing Room*, 848 F.2d at

[42] As a non-exclusive list of factors, courts may consider: (1) the likelihood and consequences of liquidation if rejection is not permitted; (2) the likely reduction in the value of creditors' claims if the bargaining agreement remains in force; (3) the likelihood and consequences of a strike if the bargaining agreement is voided; (4) the possibility and likely effect of any employee claims for breach of contract if rejection is approved; (5) the cost-spreading abilities of the various parties, taking into account the number of employees covered by the bargaining agreement and how various employees' wages and benefits compare to those of others in the industry; and (6) the good or bad faith of the parties in dealing with the debtor's financial dilemma. *Carey Transp.*, 816 F.2d at 93.

349. Thus, to prevail on its Motion, American must establish by clear and convincing evidence that it sought to compromise in negotiations with the APA over its contract proposal.

Second, the Court must focus on how the Debtors' requested concessions, in the context of its broader business plan, would "relate to the success of reorganization" and thereby impact stakeholders such as creditors, employees, and customers. *See Carey Transp.*, 816 F.2d at 92-93. *See also* Debtors' Mem. at 96 (analyzing the "balance of the equities" by discussing the impact of rejection on employees, creditors, and the "flying public"). American must prove by clear and convincing evidence that these stakeholders will be best served by a rejection of the APA's collective bargaining agreement.

As shown below, American has failed to meet its burden the "balance of the equities" requirement.

A. Consolidation With Another Airline Would Require Smaller Labor Costs While Leading to Better Value for Nearly All Stakeholders

The evidence is undisputed that American is at a severe competitive disadvantage because its network is significantly smaller than that of its two main competitors, Delta and United. *See, e.g.,* Kasper Decl. at ¶¶ 61-62. Delta combined with Northwest in 2008. United combined with Continental in 2010. As a direct result of those mergers, American went from having the largest network in the world to a distant third. Consequently, American has struggled in recent years while Delta and United thrived.

Nearly every analyst who has considered the issue has concluded that American's best path forward is to consolidate with another airline, most likely US Airways. American's own CEO, Tom Horton, has acknowledged that consolidation is inevitable. *See* Apr. 24 Tr. at 177:1-9 (Goulet). The Company's financial expert, Mr. Resnick, testified in court that American would

consider consolidation once it resolved its labor cost issues, presumably by prevailing on this Section 1113 application. Apr. 25 Tr. at 134:10-22 (Resnick).

Consolidation with US Airways would substantially mitigate American's draconian labor demands, thereby returning fair and productive labor relations to the airline. It would also be in the best interest of nearly all stakeholders, excluding current Company management. Consolidation would make "new American" the largest airline in the world, allowing it to compete effectively with Delta and United. Among the many benefits of consolidation articulated by the Company's own experts, new American's larger network would make it more attractive to business passengers and thereby allow it to achieve a higher fare premium and more revenue. *See* Apr. 23 Tr. at 171:22-172:10 (Kasper).

B. The Company's Insistence on Achieving Draconian Labor Cuts Through Section 1113 Before Consolidating Serves Only the Interests of Current Executives

American's pursuit of its unfounded and unnecessary rejection application at this time is not driven by regard for the best interest of all stakeholders in this bankruptcy. Rather, it is an obvious attempt to disadvantage employees while benefiting American's management. First, as Mr. Dichter admitted, the Company's executives believe they will have more bargaining power in negotiations with other airlines once they have slashed their labor costs to below-market levels. *See* Apr. 26 Tr. at 69:12-71:12 (Dichter). Second, American believes that under applicable precedent, the APA will have no entitlement to an unsecured claim against the estate if this Court approves the Company's rejection application. *See In re Northwest Airlines*, 366 B.R. 270, 277 (Bankr. S.D.N.Y. 2007).

The Company's strategy thus allows management to use the bankruptcy process as an entrenchment device.[43] American's executives have significant personal incentives for deferring a consolidation plan until after rejection of the Company's labor contracts. Management's enhanced bargaining power post-rejection will allow them to either resist a takeover altogether or, at the least, negotiate larger personal monetary payments in connection with a combination with another airline.[44] Neither outcome is in the best interest of other stakeholders.[45] Labor unions, creditors, and equity holders will all be better served by pursuit of a viable consolidation prospect without delay and on terms that do not disproportionately enrich current executives.

---

[43] In *Samuel M. Feinberg Testamentary Trust v. Carter*, 652 F. Supp. 1066 (S.D.N.Y. 1987), the Court highlighted the impropriety of the entrenchment motive in evaluating management's resistance to a potential takeover:

> For, if Icahn in fact had consummated his proposed takeover, a change in Goodrich management, including the board of directors, was possible. With such a turnover, board members would lose the benefits they receive as Goodrich directors. Not only did such directorships carry with them an intangible benefit of prestige, they included significant financial rewards as well. Each of the directors received more than $20,000 in annual salary, with Defendants Carter and Patrick Ross receiving more than $300,000, and Defendant Ong receiving more than $500,000. . . .

Id. at 1074.

[44] *See, e.g. International Insurance Co. v. Johns,* 874 F.2d 1447, 1459 (11th Cir. 1989) (indicating that "[b]ecause of the desire for entrenchment" takeover defenses warrant close scrutiny). The size of severance payments to top management has been extensively documented. *See, e.g.*, H.R. Rep. No. 111-236, at 7 (2009) (listing prominent CEOs receiving severance payments as high as $210M and $160M, even if the company's survival hinged on government largesse).

[45] *See, e.g., Norlin Corp. v. Rooney, Pace Inc.,* 744 F.2d 255, 265 (2d Cir. 1984) (finding potential breach of fiduciary duty when the Boards actions gave rise to a "strong inference that the purpose of the transaction is not to benefit the employees but rather to solidify management's control of the company")*; In re Ames Dept. Stores, Inc.*, 115 B.R. 34, 38 (Bankr. S.D.N.Y. 1990) ("[E]ntrenchment of management may not be in the best interests of the estate. . . .").

CONCLUSION

For the foregoing reasons, and based on the evidence that the APA will present in Court, the APA respectfully submits that the Debtors' motion must be denied at this time.

Respectfully submitted,

/s/ Edgar N. James

Edgar N. James (admitted *pro hac vice*)
Kathy L. Krieger (admitted *pro hac vice*)
David P. Dean (admitted *pro hac vice*)
Darin M. Dalmat (admitted *pro hac vice*)
Daniel M. Rosenthal (admitted *pro hac vice*)
JAMES & HOFFMAN, P.C.
1130 Connecticut Avenue, NW, Suite 950
Washington, DC 20036
Tel: (202) 496-0500
Facsimile: (202) 496-0555

Filiberto Agusti
Joshua R. Taylor (admitted *pro hac vice*)
STEPTOE & JOHNSON LLP
1330 Connecticut Avenue, NW
Washington, DC 20036
Tel: (202) 429-3000
Facsimile: (202) 429-3902

Charles R. Hairston (admitted *pro hac vice*)
Staff Attorney
ALLIED PILOTS ASSOCIATION
14600 Trinity Boulevard, Suite 500
Fort Worth, TX 76155-2512
Tel: (817) 302-2178
Facsimile: (817) 302-2187

Dated: May 11, 2012

Counsel for Allied Pilots Association

APA Exhibit 100a

Filiberto Agusti
Joshua R. Taylor (admitted *pro hac vice*)
STEPTOE & JOHNSON LLP
1330 Connecticut Avenue, NW
Washington, DC 20036
Tel: (202) 429-3000
Facsimile: (202) 429-3902

Edgar N. James (admitted *pro hac vice*)
Kathy L. Krieger (admitted *pro hac vice*)
David P. Dean (admitted *pro hac vice*)
Darin M. Dalmat (admitted *pro hac vice*)
Daniel M. Rosenthal (admitted *pro hac vice*)
JAMES & HOFFMAN, P.C.
1130 Connecticut Avenue, NW, Suite 950
Washington, DC 20036
Tel: (202) 496-0500
Facsimile: (202) 496-0555

Charles R. Hairston (admitted *pro hac vice*)
Staff Attorney
ALLIED PILOTS ASSOCIATION
14600 Trinity Boulevard, Suite 500
Fort Worth, TX 76155-2512
Tel: (817) 302-2178
Facsimile: (817) 302-2187

Counsel for Allied Pilots Association

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	:	Chapter 11
	:	
AMR CORPORATION, *et al.*,	:	Case No. 11-15463-SHL
	:	
Debtors.	:	(Jointly Administered)

UPDATED DECLARATION OF ANDREW YEARLEY IN OPPOSITION TO DEBTORS' MOTION TO REJECT APA'S COLLECTIVE BARGAINING AGREEMENT PURSUANT TO 11 U.S.C. § 1113(c)

Table of Contents

Exhibit List

I, Andrew Yearley, under penalty of perjury and in lieu of affidavit as permitted under 28 U.S.C. § 1746, declare and state as follows:

I. INTRODUCTION

1. I am a Managing Director of Lazard Frères & Co. LLC ("**Lazard**"), which maintains offices at 30 Rockefeller Plaza, New York, NY 10020. I also lead the firm's restructuring practice in North America and am a member of the firm's Investment Banking Committee.

2. Lazard is the US operating subsidiary of a preeminent international financial advisory and asset management firm. Lazard, together with its predecessors and affiliates, has been advising clients around the world for over 150 years. Lazard has dedicated professionals who provide advisory services to its clients. Lazard has extensive experience working with financially troubled companies in complex financial restructurings out-of-court and in Chapter 11 proceedings. Lazard and its principals have been involved as advisor to companies, as well as creditor, labor and equity constituencies and government agencies in many high-profile restructuring engagements. Since 1990, Lazard's professionals have been involved in over 250 restructurings, representing over $1 trillion in assets. Lazard also has extensive experience in the airline sector, having advised on some of the largest and most complicated strategic transactions in the industry.

3. Since joining Lazard in 1999, I have advised companies, as well as creditor, labor and equity constituencies and government agencies in numerous in-court and out-of-court restructurings, recapitalizations, and reorganizations, as well as capital raises, mergers and acquisitions. Prior to joining Lazard, I was a Vice President in Deutsche Banc Alex Brown's Restructuring Group and spent five years in the Restructuring and Reorganization Group at Ernst

& Young LLP. I began my career in 1989 at Chase Manhattan Bank in the Structured Finance Division, and spent two years in the Leveraged Transactions Group at BZW, at the time the investment banking arm of Barclays PLC. I have a Bachelors of Arts degree (Phi Beta Kappa) from Duke University and a Master of Business Administration degree (with honors) from Columbia University. My qualifications and experience are more fully summarized in my biography, attached hereto as **Appendix A**.

4. I have testified at trial, in writing, by deposition or by proffer in a wide range of Chapter 11 cases including Trump Entertainment Resorts, Inc., Wellman Inc., Washington Construction, Stone & Webster, Radnor Holdings, Plastech, NorthWestern Corporation, Delphi Corporation, National Steel, Huffy Corporation, Derby Cycle, Conseco and ACT Manufacturing. In addition, I was the designated expert in U.S. District Court for the Eastern District of Michigan in support of the labor and retiree medical agreement reached between the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (the "**UAW**") and Ford Motor Company in 2007.

5. My restructuring experience in the context of labor negotiations, litigations under Section 1113 of the Bankruptcy Code and pension-related matters includes advising the UAW in the structuring and negotiation of the VEBA trusts for General Motors Corporation ("**General Motors**"), Ford and Chrysler Corporation ("**Chrysler**"), advising the UAW VEBA trusts in the Chapter 11 bankruptcies of General Motors and Chrysler, advising the UAW in the Section 1113 litigations in the Delphi Corporation bankruptcy and advising National Steel and the Huffy Corporation in the distress termination of their respective qualified defined benefit pension plans. I also currently advise the National Association of Letter Carriers in their ongoing collective bargaining and restructuring negotiations with the United States Postal Service.

6. The Lazard team under my supervision includes seasoned industry bankers with over 30 years of airline sector banking experience, providing advice with regard to mergers and acquisitions, restructurings and capital raising transactions. Selected major transactions in which our airline industry team has been involved include advising Continental Airlines on its merger with United Airlines in 2010; advising the creditors' committee of Northwest Airlines during its Chapter 11 restructuring; advising the creditors' committee of Continental Airlines during its Chapter 11 restructuring; advising an unsecured creditor during the United Airlines restructuring; advising the Air Transportation and Stabilization Board on its investments in US Airways, ATA and Aloha Airlines and its approval of the US Airways merger with America West; advising American Airlines on its acquisition of TWA; advising Northwest Airlines on its proposed entrance to the Wings Alliance; advising United Airlines on the sale of a majority of its equity to its employees; advising US Airways on a sale of a minority interest to British Airways; advising Boeing on its acquisition of the defense business of Rockwell; Boeing's acquisition of McDonnell Douglas; the strategic alliance between Continental Airlines and Northwest Airlines; advising Piedmont Airlines on its sale to US Airways; advising Northwest Airlines on its acquisition of Republic Airlines; advising the Government of Australia on the privatization of Australian Airways and the sale of a minority interest of Qantas to British Airways and later its subsequent privatization; advising United Airlines on its recapitalization and special dividend through the sale of Hilton International, Westin Hotels and Hertz; the raising of equity capital by Volotea and Virgin America; Cerberus Capital Management's strategic investment in Air Canada and the securing of debtor in possession financing for US Airways. Members of Lazard's airline team have also testified before Congress on various business and financial issues facing the U.S. airline industry.

7. Lazard serves as financial advisor to the Allied Pilots Association (the "**APA**"). Lazard has been working with the APA since November 2011. Lazard was retained by the APA to conduct due diligence of AMR's business and operations, to provide advice with respect to restructuring alternatives for the Debtors (collectively, "**AMR**" or the "**Company**") and the implications of those alternatives on APA and to evaluate the impact and necessity of any proposals made by AMR to APA seeking labor concessions. Such work, among other things, requires Lazard to review AMR's historical and current financial performance and future projections, analyze AMR's business plan and supporting financial models and analyses, and assess the necessity of AMR's various proposals for labor cost relief.

8. In forming the opinions set forth in this Declaration, I have relied upon and/or considered the following: my (i) experience; (ii) review of AMR's business plan, projections, financial statements, reports and other information made available in connection with this Chapter 11 case; (iii) meetings and discussions with APA's leadership and Board; (iv) meetings and discussions with certain of AMR's management employees and advisors; (v) meetings and discussions with the members and advisors of the AMR Official Unsecured Creditors Committee (the "**Creditors' Committee**"); (vi) meetings and discussions with Lazard employees under my supervision; (vii) review of Wall Street research, rating agency reports, and various other third party analysis of the airline industry and AMR in particular; and (viii) review of the pleadings filed in this bankruptcy case.

9. **Summary of Opinions**: Based on the scope of work performed to date (as outlined in the preceding paragraph), I believe that the proposed contract modifications and the

$370 million in average[1] annual labor savings sought by the Debtors from the pilots represented by APA, as reflected in the Business Plan[2] and the 1113 proposal underlying the Debtors' Motion to Reject Collective Bargaining Agreements Pursuant to 11 U.S.C. §1113 (the "**Motion**") are not necessary and the APA has good cause to reject the 1113 proposal. The following is a summary of my reasoning and conclusions, which are detailed further in this Declaration:

- The Business Plan seeks labor concessions that are neither market-competitive nor necessary for AMR to reorganize and emerge with a healthy and competitive financial profile but, rather, are "backsolved" to make AMR the most profitable airline in the industry. Simply stated, rather than addressing its competitive and strategic disadvantages as a standalone airline, AMR is seeking to create a new competitive advantage for itself on the backs of labor by demanding new long-term collective bargaining agreements that, in the case of pilots, lock in unnecessarily deep labor concessions, including extensive cutbacks in contractual "scope" provisions.

[1] AMR's 1113 proposal for the APA is based on a six-year average (2012-2017) savings of $370 million but this number is misleading in two important ways: (1) a large component of the APA concessions relate to productivity gains and work rule changes which AMR projects will be realized over time and, therefore, while the six-year average savings from the APA concessions is targeted at $370 million, AMR projects that APA's concessions are actually worth $470 million by 2017 and (2) APA disputes many of AMR's valuation methods and conclusions and believes the alleged six-year savings of $370 million is significantly higher. *See* APA Exhibit 400a, Declaration of Neil Roghair ("**Roghair Decl.**") at ¶¶ 46-53, 56-57, 60, 61, 69, 71, 72, 80; APA Exhibit 200a, Declaration of Allison Clark ("**Clark Decl.**") at ¶ 4.

[2] [redacted]

- As evidence of AMR's tactics, just two months after its bankruptcy filing, the Company increased its allegedly "necessary" labor savings by almost 40%, from $800 million to nearly $1.1 billion.[3]

- The assertions of AMR's financial expert, David L. Resnick of Rothschild Inc. ("**Rothschild**"), that AMR's labor cost reductions are the "minimum necessary for a successful reorganization"[4] and for AMR to attract capital and have sufficient liquidity and financial flexibility are premised on incomplete and flawed analytics and as a result do not support the labor savings now sought in the Debtors' Motion to Reject Collective Bargaining Agreements Pursuant to 11 U.S.C. §1113 as it relates to the APA.

- AMR's 1113 proposal is in large part a function of the Company's plans to purchase over 460 mainline aircraft – the largest aircraft purchase in aviation history – on an accelerated timeframe. This re-fleeting plan, which entails the purchase of 35% more aircraft than is contained in the entire mainline fleet of US Airways, results in a massive and rapid increase in AMR's debt obligations. These fleet-related debt obligations limit AMR's free cash flow and negatively impact the Company's financial profile. APA and AMR's other unions are effectively being asked to subsidize this re-fleeting plan through unnecessarily deep labor concessions. Based on Lazard's work to date, it appears that AMR's experts did not consider alternative approaches to the nature, size or timing of the re-fleeting program. Further, the Company did not provide Lazard or APA with the relevant information needed to evaluate this major component of the Business Plan that purportedly requires the labor concessions demanded in the 1113 proposal. Despite repeated requests, and despite testimony suggesting that AMR's management prepared a detailed "business case" for the re-fleeting plan,[5] AMR and its experts have not provided Lazard with such documentation or any other supporting analysis of

---

[3] The Business Plan targets $1.5 billion of labor costs savings by 2017, of which an estimated $1.1 billion relates to concessions demanded of the APA, APFA and TWU. *See* AA Exs. 914 and 919 (APA), 1004 (APFA), 1140-1143 (TWU).

[4] Updated Declaration of David L. Resnick in Support of Debtors' Motion to Reject Collective Bargaining Agreements Pursuant to 11 U.S.C. § 1113 (the "**Resnick Declaration**") at ¶ 12.

[5] *See* 1113 Transcript (276:9 – 276:23) (Apr. 25, 2012) (Mr. Vahidi testifying "When we make a significant purchase and we have to go to our boards of directors to request authority to spend money for the purchase or to sign an agreement – even though in this specific case the deal was pre-financed by the manufacturer – we build what I would refer to as a "business case" for whether that project made sense, either based on the return on investment or return on the capital invested in the project. So, there was a business case developed and built as to why that – those aircraft agreements that were signed made economic sense."). No such "business case" has been shared with Lazard despite numerous requests, as is further discussed in paragraph 35 below.

the financial returns associated with the re-fleeting plan.

- APA's willingness to agree to meaningful and competitive labor and scope concessions that will facilitate a realistic, successful restructuring is demonstrated by the fact that APA negotiated and concluded an agreement on the terms of a new labor pact with US Airways, based on serious evaluation of the pros and cons of potential consolidation as a means of exiting Chapter 11. Importantly, the APA agreement with US Airways includes a mechanism whereby future pilot compensation, benefits and productivity will be indexed to AMR's closest competitors, Delta and United.

- The Motion is premature. AMR's rush to seek rejection of its labor agreements under Section 1113 and its refusal to consider alternatives (e.g., potential merger proposals) prior to such rejection belies its current financial picture. AMR is not in crisis. It has nearly $5 billion of cash, no DIP financing agreements that subject AMR to covenant or liquidity tests, and, according to its own expert, Mr. Resnick, will apparently not need exit financing or seek a revolving credit facility upon emergence from bankruptcy.[6] Further, Mr. Resnick is not taking a position at this time as to whether raising [redacted] is even required for AMR to exit bankruptcy.[7] Indeed, according to AMR's most recent financial update presentation to the Creditors' Committee, American is performing better than it has in recent history. With union leadership representing over 50,000 American Airlines employees having made a demonstrated commitment to competitive labor concessions (notwithstanding the lack of any near-term crisis), the Company cannot establish at this time that its own "standalone" 1113 proposal, which refuses to consider strategic alternatives and is premised on a top-down and unduly aggressive profit target, is either necessary or based on the most complete and reliable information available.

II. AMR'S BUSINESS PLAN RESULTS IN THE MOST PROFITABLE AIRLINE IN THE INDUSTRY BY USING LABOR COSTS AS THE "PLUG" TO ACHIEVE UNPRECEDENTED AND UNNECESSARY PROFIT MARGINS

10. AMR's court pleadings and Business Plan materials acknowledge its strategic challenges including a network whose size and reach put it at a competitive disadvantage relative

6 *See* 1113 Transcript (119:2 – 119:7) (Apr. 25, 2012); Resnick Declaration at ¶ 35.

7 *Id.* at ¶ 23.

to its largest major network carrier competitors – United and Delta.[8] As a result, AMR's share in most regions of the U.S. market, including its so-called "cornerstone" cities, has significantly eroded over the last decade as its key network carrier competitors have consolidated and extended their network and scale advantages. Equally troubling has been the steady defection of AMR's share of high-yield corporate customers and elite travelers to the superior networks of United and Delta – a development that has caused AMR, which once enjoyed a "premium" in relative RASM[9] to the rest of the industry, to now suffer from a RASM "discount." AMR's most recent strategy to arrest this decline – the so-called "Cornerstone Strategy" – has not, to date, shown obvious signs of success.[10]

11. AMR's Business Plan largely reflects the same (generally speaking, unsuccessful) "Cornerstone Strategy," paired with a historically unprecedented and costly aircraft purchase whose size and timing (as discussed below) has not been justified by any disclosed business case or other supporting financial analysis. AMR also proposes a package of take-it-or-leave-it labor concessions designed to "patch" AMR's lagging network using a mix of upgauged regional jets and hypothetical future domestic codeshare agreements and to impose unnecessarily extensive

---

[8] The Memorandum in Support of the Debtors' Motion to Reject the Collective Bargaining Agreements Pursuant to 11 U.S.C. § 1113 acknowledges AMR's scale and network problem. For example, it acknowledges AMR's inability to "grow the airline to be competitive" (Memorandum at 26) has been a crucial driver of its strategic problems and concedes that its network carrier competitors have "been able to use the increased network scale created by their mergers to maintain a healthy premium over fares charged by lower cost carriers [while] American's revenue premium . . . has shrunk dramatically" (Memorandum at 30).

[9] Revenue per available seat mile ("**RASM**") represents the revenue generated per fundamental "unit" of production (seat miles equals the number of seats available multiplied by the number of miles) for a passenger-carrying airline.

[10] The "Cornerstone Strategy," which was first unveiled by AMR three years ago, emphasizes a revenue turnaround through the maximization of market share among high-value corporate customers in five major markets – Chicago, Dallas, Los Angeles, Miami and New York.

modifications to the pilot contract – modifications that were determined on a "top down" basis with no relation to the market. To better understand this last point, it is useful to review my understanding of how the Business Plan was developed. In summary, the Business Plan was constructed as follows:

Step 1: Assume $1.0 Billion of Revenue Improvements by 2017[11]

- Begin with the Cornerstone Strategy, largely unchanged: The Business Plan relies on the Cornerstone Strategy, unmodified except for three network-related modifications: (1) expanded use of domestic codesharing with hypothetical future partners, (2) expanded use of joint business agreements with competitors and (3) re-gauging of AMR's fleet in order to better match AMR's capacity with demand. *See* Plan for Success at 27-38.

- Assume the terms, size and timing of the July 2011 aircraft purchase are unaltered and the re-fleeting proceeds as planned: In July 2011, AMR agreed to the largest aircraft purchase in aviation history, purchasing over 460 aircraft from both Boeing and Airbus at a total cost of over [redacted] over the next six years. Additionally, AMR plans to re-fleet its regional aircraft fleet at a cost of more than [redacted] over the same time period. Although I discuss in greater detail below the lack of business analysis or support that has been provided to explain the size and timing of this purchase, for now it is sufficient to note that the Business Plan assumes that the re-fleeting will result in both revenue and cost improvements for AMR. *See* Plan for Success at 37, 50.

- Add modest improvement in services: The Business Plan assumes AMR will make a number of improvements to its service offerings in order to make them market-competitive. These changes include installation of in-flight WiFi, entertainment-on-demand, mobile boarding passes and a variety of other improvements. *See id.* at 39.

[11] AMR's Plan for Success by Beverly Goulet (February 1, 2012) (AA Ex. 1505) (the "**Plan for Success**") at 40.

[12] [redacted]

Step 2: Assume $625 Million of Non-Labor In-Court Savings by 2017

- Use Chapter 11 to reduce non-labor costs: The Business Plan assumes that, during the pendency of the bankruptcy, AMR will use the tools of Chapter 11 to realize savings from (1) rejecting aircraft leases and/or restructuring aircraft finance debt, (2) renegotiating executory contracts with AMR's vendors and (3) rejecting and/or renegotiating leases at airports and elsewhere. *See id.* at 51.

[redacted]

12. In the Plan for Success, AMR states summarily that "[t]o generate competitive earnings, and otherwise execute our Business Plan, we need $3.1 billion in annual improvements by 2017." *Id.* at 52. Although the Plan for Success document does not explicitly explain the derivation of the $3.1 billion of "needed" annual improvements (and therefore does not explicitly explain the $1.1 billion of allegedly "necessary" savings from unionized labor), it was generally represented to our team by AMR management (both at the February 3 unveiling of the Business Plan in Fort Worth and at subsequent meetings between Lazard and AMR management) that this

annual improvement target was generally sized using a target EBITDAR Margin[13] of [redacted] by 2017.[14]

13. [redacted]

14. Mr. Resnick's conclusion that AMR's projected EBITDAR Margins under its Business Plan are reasonable relative to comparable airlines is based on flawed analyses and is not supportable. On its face, the Resnick Declaration simply presumes the 1113 proposal will be imposed by the Court and shows that the resultant profitability is better than the status quo. Indeed, as he candidly conceded in his live testimony, he did not attempt to test whether a more

[13] "**EBITDAR Margin**" is a financial metric that consists of the ratio of "EBITDAR" (Earnings Before Interest, Taxes, Depreciation, Amortization and Rent) to total revenue. EBITDAR is a common metric for measuring operating profitability in the airline industry.

[14] *See* 1113 Transcript (114:2-116:9) (Apr. 24, 2012) (Beverly Goulet describing the process by which the "top down" labor savings "need" was derived based on a profitability target).

[15] Resnick Decl. at Ex. 306A.

moderate savings number would be sufficient to return AMR to financial health.[16] Therefore, it is unclear how Mr. Resnick has any basis for describing the 1113 proposal as "necessary."

15. In my opinion, to support an asserted labor savings need that is truly "necessary," AMR must be targeting a profitability level that, among other things, is consistent with the norms of the U.S. airline industry. In this case, AMR has targeted an EBITDAR Margin of [redacted] by 2017. As **APA Exhibit 101** illustrates, in the post-9/11 environment, that level of profitability has never been achieved by a U.S. network carrier. Indeed, in only four distinct instances since 2001 has any major network carrier achieved EBITDAR Margins of [redacted] or higher. The average EBITDAR Margin for AMR's closest competitors – Delta, United and US Airways – over the last two years has been approximately 13%.

[redacted]

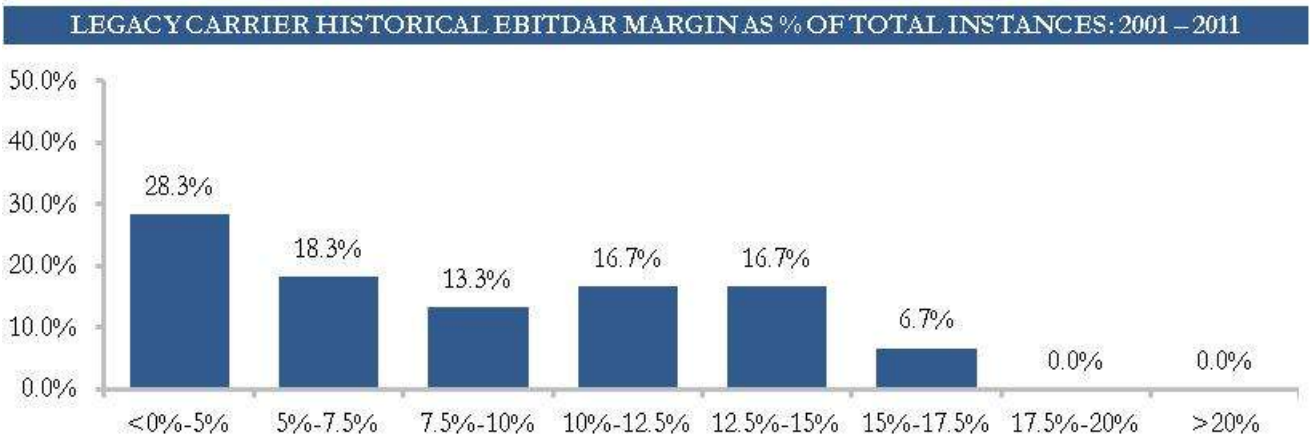
16. To provide a better sense for the EBITDAR Margin that better approximates "normalcy," Lazard has prepared **APA Exhibit 102**, a frequency histogram that shows various EBITDAR Margin ranges and the frequency that those ranges have been achieved by network carriers in the U.S. airline industry since 2001. [redacted]

[redacted]

[16] *See* 1113 Transcript (68:4 – 68:15) (Apr. 25, 2012) (Mr. Resnick conceding that he did not "select" or "recommend" AMR's labor savings target, nor did he "independently cost out what [other] labor cost reductions were available").

[redacted]

APA Exhibit 102: % Frequency of EBITDAR Margins (2001-2011)
U.S. Network Carriers*



Source: Public filings. Excludes one-time special items.
*U.S. network carriers include AMR, Delta, Northwest, United, Continental and US Airways.

17. In order for Mr. Resnick to assert that the EBITDAR Margins targeted by the Business Plan are "in-line with, or exceeded" by comparable airlines, Resnick Decl. at ¶ 27, Mr. Resnick chooses a "comparable" airline group that is, at best, misleading. To find airlines with projected 2013 EBITDAR Margins that "exceeded" AMR's projected 2013 EBITDAR Margin

[redacted]

[redacted]

under the 1113 proposal, Mr. Resnick stretches the universe of "comparables" to include the following companies:

- Alaska Airlines [redacted] Alaska operates in a niche regional market within the U.S. airline industry, with a small network largely focused on the Pacific Northwest and West Coast. This limited market is served from hubs in Seattle, Portland, Los Angeles and Anchorage. While Alaska offers "mainline" service (Boeing 737s, dual first/economy classes), it is a regional carrier in terms of its footprint. As such, it is not comparable to AMR, which is much larger and operates a nationwide network across the U.S. and internationally.

- Allegiant Airlines [redacted] Allegiant Air is a low-cost point-to-point carrier that offers scheduled and chartered air service. Its fleet consists entirely of older aircraft (MD-80s and 757-200s), purchased at lower cost than newer narrowbody aircraft. Allegiant focuses exclusively on leisure travelers, providing low frequency service from small cities with no connections or codeshares. Allegiant is wholly owned by Allegiant Travel Company, a leisure travel company. Its business model (low-cost scheduled and charter flights to leisure travelers) differs substantially from AMR, which serves large cities in a comprehensive network across the U.S. and internationally using a hub-and-spoke model, targeting high-value business customers – a very different market segment than Allegiant's.

- JetBlue Airlines [redacted] JetBlue is a low-cost carrier that primarily offers point-to-point service. Its aircraft fleet (consisting of Airbus A320s and Embraer 190s) offers a single service class, with leather seats and free inflight entertainment systems targeted at the leisure passenger. JetBlue's product and service offering (new planes, single cabin with high quality products and services), network (primarily point-to-point), and business model (limited fleet types, low-cost) are entirely different from AMR's traditional network carrier model.

- Spirit Airlines [redacted]: Spirit Airlines is an ultra low-cost carrier that targets non-corporate customers and unbundles components of air travel using a la carte pricing. Describing itself as a "frills for a fee" airline, Spirit charges passengers a fee for all services including baggage handling, telephone booking, premium seat or advance seat selection, food and beverages and other onboard items. In 2011, Spirit's average base fare was approximately $81.[19] Spirit's business model (single aircraft type, a la carte pricing, ultra-low base fares, primarily point-to-point, no alliances) is not simply different from AMR; it is entirely different from any other major U.S. airline in operation today.

[19] Spirit Airlines, Annual Report (Form 10-K), at 4 (Feb. 22, 2012).

For the reasons stated above, I believe that Alaska, Allegiant, JetBlue and Spirit – which together have total 2011 revenues that are less than half of AMR's 2011 revenues[20] – are not comparable airlines to AMR. Furthermore, it is important to note that until the filing of this Motion, there were generally only three airlines cited by AMR management as "comparable" airlines in the many presentations it regularly provided to Wall Street analysts pre-petition: Delta, United and US Airways.[21]

18. [redacted]

[20] 2011 revenues of Alaska ($4.3 billion), Allegiant ($779 million), JetBlue ($4.5 billion) and Spirit ($1.0 billion) total to $10.7 billion, which is 44.5% of AMR's 2011 revenues ($24.0 billion).

[21] *See, e.g.*, AMR Corp, "AMR Corporation Transformational Agreements Presentation" at 8 (Jul. 20, 2011) (comparing AMR fleet age to Delta, United and US Airways), AMR Corp., "Presentation to JPMorgan Aviation, Transportation & Defense Conference" at 13 (Mar. 22, 2011) (comparing AMR liquidity to Delta, United and US Airways), AMR Corp., "High Yield & Leveraged Finance Conference" at 13 (Mar. 1, 2011) (same), AMR Corp., "Bank of America Merrill Lynch Global Transportation Conference Presentation" at 36 (AMR CEO benchmarking unit costs to Continental (now United), Delta, Northwest (now Delta), United and US Airways) (Jun. 15, 2010), AMR Corp., "JPMorgan Aviation, Transportation & Defense Conference Presentation" at 35, 42 (then EVP Finance & Planning and CFO Tom Horton comparing AMR capacity and revenue to Continental (now United), Delta, Northwest (now Delta), United and US Airways) (Mar. 9, 2010), AMR Corp., "Next Generation Equity Research Airlines Conference Presentation" at 5 (Dec. 9, 2009).

[redacted]

[redacted]

[redacted]

[redacted]

---

[22] AMR has not been consistent in its public statements and pleadings as to whether it considers Southwest Airlines a "comparable" airline. Historically, AMR's public investor presentations have not included Southwest as a comparable. Ms. Goulet and Mr. Kasper, in their Declarations, describe Southwest as a "low cost carrier" (apparently non-comparable) that has transformed the modern U.S. airline industry at the expense of large network carriers such as AMR. *See* Declaration of Beverly K. Goulet in Support of Debtors' Motion to Reject Collective Bargaining Agreements Pursuant to 11 U.S.C. § 1113 at ¶ 13; Declaration of Daniel M. Kasper in Support of Debtors' Motion to Reject Collective Bargaining Agreements Pursuant to 11 U.S.C. § 1113 (the "**Kasper Declaration**") at ¶ 15. In his own Declaration, Mr. Resnick appears to consider Southwest a "comparable" airline to AMR, although in his in-court testimony, he described them as a "straddler" airline. *See* 1113 Transcript (178:4; 178:16) (Apr. 25, 2012).

III. AMR'S RAPIDLY CHANGING QUANTIFICATION OF ITS LABOR SAVINGS NEED AND ITS ASSERTED VALUATIONS OF APA'S COUNTERPROPOSALS ARE NOT CREDIBLE AND NOT CONSISTENT WITH "GOOD FAITH" BARGAINING

19. By way of background, since Lazard's retention by APA in November 2011, I have, with the help of my team, conducted due diligence on the history of negotiations between AMR and APA in the period leading up to AMR's Chapter 11 petition. After the 1113 proposal to APA was unveiled in early February, my team received regular updates from APA's Negotiating Team on the status of negotiations, including counterproposals and the valuation that each side's contract analysts assigned to the various items. I was also present at, and participated in, the negotiations between APA and US Airways that ultimately culminated in the agreement announced on April 20, 2012.

20. In my opinion, as an experienced restructuring banker who has advised unions in negotiations both inside and outside of Chapter 11, the fluctuating labor savings target that AMR has publicly asserted is "necessary" to return itself to competitiveness calls into question the veracity of the alleged "need" and creates a challenging negotiating dynamic, given "moving goal posts." For instance, in February 2011, in its 2010 10-K filing, AMR stated that it "estimates that American's labor cost disadvantage (the amount by which its labor costs exceed what such costs would be if they were determined based on the average of other network carrier labor contracts) is approximately $600 million per year."[23] A mere seven months later, on November 29, 2011 (the very day of the Chapter 11 petition) AMR's CEO Tom Horton stated to the press that "If you look at our labor costs and compare it roughly to the average of the other big legacy carriers, the difference between our contracts and theirs is about $800 million a

[23] AMR Corp., Annual Report (Form 10-K), at 29 (Feb. 16, 2011) (emphasis added).

year."[24] Two months after this statement, AMR's alleged savings "need" from its unions, as described in its 1113 proposal, had increased to $1.1 billion a year by 2017.

21. Not surprisingly, the APA Negotiating Committee has made minimal progress with AMR in the post-petition period as the Company's stated labor savings "need" has increased by nearly 40% (despite other cost-saving opportunities offered by Chapter 11) and the rationale for the change in AMR's demands is now tied to a management-derived profitability target. It is my understanding that post-petition labor negotiations have been further hampered by changing valuations of the parties' proposals. *See* Roghair Decl., ¶¶ 41-50. As one example, I have been informed by APA that, during its recent negotiations with AMR on the value of certain proposals, AMR's negotiating team has insisted on valuing certain contract modifications using a "weighted average cost of capital"[25] of 13.79%. *See* Clark Decl., ¶ 48. AMR's use of such a high WACC had the practical effect of attaching a much lower total value to concessions offered by APA, thereby creating an artificial justification for additional concessions in order to reach the $370 million "savings target" that AMR has set for APA. As the financial advisor to APA, I would first observe that such a high discount rate is not supportable.[26] In my team's own internal analyses, we have generally used a weighted average cost of capital for AMR, depending on the particular facts and market conditions at the time, of

---

[24] PBS Newshour, segment by Judy Woodruff (PBS television broadcast, November 29, 2011) (emphasis added).

[25] The "weighted average cost of capital" (or "**WACC**") is a calculation of a firm's cost of capital in which the costs of debt and equity are proportionately weighted to determine a blended required rate of return to use in order to discount cash flows.

[26] Among the many incorrect assumptions embedded in this alleged discount rate are (1) a risk-free rate of 4.1%, based on an "average" 10-year historical figure (this is over twice the current 10-Year Treasury Rate of 1.92%) and (2) an assumed cost of debt of 13.5% (this is also far too high – as discussed in Section IV, most airlines issue secured debt which would generally imply a cost of debt for AMR of between 4% and 8%).

between 8% and 10%.[27] AMR's own witness testifying in support of the Motion uses a weighted average cost of capital of 10.6% for valuation of AMR cash flows.[28] In my opinion, the fact that AMR's labor relations team has wasted negotiating capital on positions directly contradicted by AMR's own testifying economist in the Section 1113 litigation sheds light on why APA has so far been unable to reach consensual agreement with AMR management.

IV. THE CREDIT AND LEVERAGE METRICS, "ADDITIONAL FINANCIAL METRICS," AND FINANCIAL METRICS FOR PREVIOUS AIRLINE BANKRUPTCIES CITED BY MR. RESNICK DO NOT DEMONSTRATE THAT THE RELIEF REQUESTED BY THE MOTION IS "NECESSARY"

22. In addition to the estimated $1.1 billion of annual unionized labor savings that AMR claims to need by 2017 in order to meet target EBITDAR Margins, AMR also argues that it needs these labor concessions in order to attract capital and have sufficient liquidity and financial flexibility to operate after emergence. In the Resnick Declaration, Mr. Resnick introduces a number of financial metrics – all of which include the same non-comparable airlines used to skew Mr. Resnick's EBITDAR Margin analysis – to attempt to justify AMR's alleged labor savings need. Mr. Resnick only mentioned one of these metrics – liquidity[29] – in his in-court testimony. In my opinion, none of these financial metrics clearly demonstrates the supposed "necessity" of AMR's current 1113 proposal to the APA as further detailed below.

---

[27] Based on standard methodology for calculating WACC utilizing current 10-year Treasury yield of 1.92% and cost of debt of 4%-8%, which represents the likely range which American can raise secured financing. For comparison, in March 2012, United completed a financing secured by newer generation 737s (similar to the AMR aircraft on current order) and to-be-delivered 787s at a blended rate of ~4.5%. AMR's Business Plan itself assumes an 8% cost of secured debt for the financing of its widebody aircraft and the Company has no plans for unsecured debt financing.

[28] *See* Kasper Declaration at ¶ 34.

[29] *See* 1113 Transcript (31:21–37:2) (Apr. 25, 2012).

23. Credit Metrics and Leverage: Mr. Resnick states that "credit ratings are a key indicator used by the capital markets in assessing a company's overall financial and operating situation and to satisfy its future financial obligations." Resnick Decl. at ¶ 28. While this is certainly true as a general matter, this statement is misleading as applied to an airline. The reason for this is because, as Mr. Resnick himself acknowledges is true for AMR, most of the debt issued by major network carriers (and all of the debt AMR apparently plans to issue in the future[30]) is secured debt, backed by specific collateral (most commonly aircraft) with the credit quality of the debt tied far more to the quality and condition of the equipment than to a specific airline's financial condition. Indeed, Moody's Investor Service ("**Moody's**") own introduction to its airline rating methodology explicitly states that, in determining credit ratings, its focus is on unsecured debt:

> "Our objective is for users to be able to estimate the likely credit rating (senior unsecured rating for investment-grade issuers [and] Corporate Family rating for speculative-grade issuers . . .) for a passenger airline within two alpha-numeric rating notches".[31]

Since AMR has not issued straight unsecured bond debt in years,[32] and according to AMR and Mr. Resnick himself, *see* Resnick Decl. at ¶ 14, AMR has no intention to issue anything other than secured aircraft debt in the near future, it is not obvious, nor is it explained by Mr. Resnick, why the hypothetical ratings of Moody's or Standard & Poor's ("**S&P**") for unsecured AMR bond debt (or the criteria for determining them) is directly relevant to whether AMR's 1113 proposal is "necessary," whether considered alone or in comparison with potential alternatives.

---

30 *See* Resnick Decl. at ¶ 14.

31 Moody's Global Corporate Finance – Global Passenger Airlines Rating Methodology at 1 (Mar. 2009) ("**Moody's Airline Methodology**").

32 The 9.00% Senior Notes due 2012 were issued on July 29, 1992. This was AMR's last issuance of nonconvertible senior unsecured bond debt.

24. However, even assuming that rating agency criteria are directly relevant to whether AMR's 1113 proposal is "necessary", the Resnick Declaration does not apply them consistently or comprehensively. Moody's, for instance, lists eleven ratings criteria – each with a pre-determined weighting totaling to 100% – that it considers in determining the credit rating it would apply to a senior unsecured debt issuance by a passenger airline.[33] The substance of the metrics in the Resnick Declaration only reflects four of those eleven Moody's criteria – EBITDA Margin, Cash Liquidity, EBIT/Interest, Net Debt/EBITDAR – which collectively represent only 36% of the analytical weighting in Moody's methodology. *Id.* Moreover, the Resnick Declaration makes no attempt to tie AMR's pro forma performance under these four metrics to any hypothetical credit rating at all. Thus, it is unclear how Mr. Resnick's truncated analysis is relevant even to AMR's future credit rating; much less whether AMR's 1113 proposal is "necessary."[34]

25. Liquidity: The Resnick Declaration also contains an analysis that attempts to quantify AMR's projected liquidity (cash balance and projected revolver availability) as a percentage of revenues in 2013 and compares that ratio to the projected liquidity (as estimated by Wall Street analysts) of other asserted airline "comparables."[35] As before, this analysis includes

---

[33] Moody's Airline Methodology at 3.

[34] With respect to S&P, the relevance of Mr. Resnick's "credit rating metric" analysis to whether the 1113 proposal is "necessary" is even less clear. S&P's rating methodologies, as revised in recent years, are considerably broader and more holistic than Moody's and, although they do encompass financial metrics such as Debt/EBITDAR, they decline to assign a weight to this or any other metric, in favor of a comprehensive approach that emphasizes a wide range of qualitative and quantitative considerations. *See* Standard & Poor's Key Credit Factors: Criteria For Rating The Airline Industry (Oct. 22, 2010).

[35] It is worth noting that this approach to measuring "liquidity" deviates significantly from the approach used by Moody's, which instead measures liquidity as "cash and cash equivalents divided by gross unadjusted debt." Moody's Methodology at 10. Mr. Resnick does not explain

the same non-comparable airlines used by Rothschild in its other exhibits. This approach is curious since – only 13 months ago – current AMR CRO, Beverly Goulet, in a public presentation to Wall Street analysts on the very topic of "liquidity" in the airline industry described AMR's comparable companies as being Delta, United and US Airways.[36] Review of AMR's Investor Relations site reveals several other instances of Ms. Goulet describing Delta, United and US Airways as AMR's liquidity comparators.[37] Using this proper comparable company set shows that AMR's liquidity, as measured by Mr. Resnick pro forma for the 1113 proposal, is expected to be greater than all but one of these three competitors, *see* Resnick Decl. at Ex. 310A, and Mr. Resnick's analysis presumed that AMR does not raise a new revolving credit facility, which would further improve its liquidity.

26. In addition, in arriving at the conclusion that AMR's labor concessions are the minimum required to attain requisite levels of liquidity at exit, Mr. Resnick leaves open the question of the size of, or even the need for, a hypothetical [redacted] that could materially impact the amount of liquidity available to AMR.[38] Further, as noted earlier, Mr. Resnick, without explanation, assumes that AMR will not have access to a revolving credit

---

why the Moody's methodology that he appears to cite favorably in paragraphs 28 and 29 of his Declaration was disregarded altogether in paragraph 35 of his Declaration.

[36] "Presentation to JPMorgan Aviation, Transportation & Defense Conference" at 13 (March 22, 2011).

[37] *See, e.g.*, AMR Corp., "Presentation to JPMorgan Aviation, Transportation & Defense Conference" at 13 (Mar. 22, 2011) (Ms. Goulet comparing AMR liquidity to Delta, United and US Airways), AMR Corp., "High Yield & Leveraged Finance Conference" at 13 (Mar. 1, 2011) (same), AMR Corp., "Next Generation Equity Research Airlines Conference Presentation" at 5 (Dec. 9, 2009) (same).

[38] Mr. Resnick states that he is "presently not taking a position as to whether or not the [$1 billion rights offering described in the current Business Plan] is either required or sufficient for emergence." Resnick Decl. at ¶ 23.

facility upon emergence from bankruptcy – which could be a material additional source of liquidity to AMR. *See* Resnick Decl. at ¶ 35. Finally, the analysis in the Resnick Declaration makes no effort to compare alternatives or show AMR's pro forma 2013 liquidity for any labor savings scenarios other than AMR's own 1113 proposal including, for example, the agreed US Airways terms. For all of these reasons, the projected liquidity analysis is insufficient evidence of the supposed "necessity" of AMR's 1113 proposal.

27. Other "Additional Financial Metrics": The Resnick Declaration also includes discussion of three additional financial metrics – none of which is commonly used as a comparative measure by research analysts, Moody's or S&P. As such, I will not focus on these metrics other than to make a few brief comments as to why it is unreasonable for Mr. Resnick to use them to justify the 1113 proposal:

- [redacted]

- "Pre-Tax Income Margin": This metric is speculative at best at this stage in the Chapter 11 process. Among other things, this metric is measured after Depreciation & Amortization – a line item that cannot be quantified until closer to emergence after adjustments for, among other things, "fresh start" accounting under GAAP and a variety of restructuring decisions that AMR concedes have not yet been made, including decisions to reject or assume pre-petition aircraft financings as well as the interest costs associated with any new financings or leases.

39 [redacted]

- [redacted]

28. Other Airline Bankruptcies: Finally, the Resnick Declaration also attempts to justify the "necessity" of AMR's 1113 proposal by pointing the Court to the various financial metrics and ratios that were targeted by other U.S. network carriers in earlier Chapter 11 proceedings and noting that those targeted financial metrics were "generally consistent with those of AMR's Business Plan." Resnick Decl. at ¶ 41. I find this assertion unpersuasive. In the first place, it is important to remember the historical context of many of the airline bankruptcies that are cited by Mr. Resnick as "precedents" – most of them occurred post-9/11, an event that transformed the modern U.S. airline industry. At the time of those bankruptcies, it was not clear to most industry experts or financial advisors what profit targets were appropriate for major network carriers and airlines therefore often targeted historical margins from the 1990s – margins that have subsequently proven unachievable in the post-9/11 environment. Put simply, these so-called "precedents" are not truly precedents. In the second place, as I stated above and as AMR's own pleadings explicitly acknowledge, the U.S. airline industry has changed tremendously over the last decade as a result of, among other things, unprecedented consolidation. Since the dates that each of the plans of reorganization cited in the Resnick Declaration – US Airways I, UAL, Delta Air Lines, and Northwest Airlines – were confirmed, the industry has experienced no fewer than four transformative merger transactions – America West/US Airways, Delta/Northwest, United/Continental and Southwest/AirTran. For both of

these reasons, I believe it is much more accurate and analytically sound to judge whether a proposal under Section 1113 is "necessary" based on market conditions and on the financial performance of comparable companies as they exist today.

V. AS PROPOSED, AMR'S 1113 MOTION EFFECTIVELY REQUIRES LABOR TO SUBSIDIZE THE LARGEST AIRCRAFT PURCHASE IN U.S. AVIATION HISTORY – WITHOUT DEMONSTRATING TO STAKEHOLDERS THAT THE SIZE OR TIMING OF THAT PURCHASE IS "NECESSARY" OR OPTIMAL

29. In July 2011, just four months before its Chapter 11 filing, AMR announced the largest aircraft purchase in aviation history, including over 460 mainline aircraft from Boeing and Airbus at a cost of more than [redacted] in the next six years (and more thereafter). To put the size of this order in context, the total number of aircraft purchased would be [redacted] larger than the entire mainline fleet of US Airways, the next largest network carrier in the U.S. At the time of the announcement, AMR described the purchase to investors as game-changing and one that would "transform American's narrowbody fleet over five years."[40] Additionally, AMR plans to re-fleet its regional aircraft fleet at a cost of more than [redacted].[41] Post-petition, AMR management continues to describe this unprecedentedly large and rapid aircraft purchase to stakeholders (with minimal analytical support), as transformative and essential to the Business Plan. For instance, in the Plan for Success, the re-fleeting is depicted, rather summarily, by AMR as essential to its efforts to "Win the High Value Customer" and "Achieve Competitive Costs" through reduced fuel and maintenance costs. *Id.* at 37-38, 50.

---

40 Press Release, AMR Corporation Announces Largest Aircraft Order in History with Boeing and Airbus (July 20, 2011) at http://www.sec.gov/Archives/edgar/data/6201/000119312511191877/dex992.htm

41 [redacted]

30. The rapid (and so far unexplained) timeline for AMR's re-fleeting plan is a key driver of AMR's current 1113 proposal. Put simply, AMR's unions are being asked to help fund AMR's large and rapid re-fleeting plan through their labor concessions. [redacted] So framed, it should hardly be surprising that the APA and Lazard are focused on understanding whether the Boeing/Airbus purchase (and, equally importantly, the highly aggressive timing of the proposed deliveries) are well-considered – they are, in a sense, direct drivers of AMR's 1113 proposal.

[redacted]

[42] "Fleet-related costs" defined as mainline and regional aircraft and aircraft-related rent, capital expenditure and interest expense.

31. While I do not dispute that the introduction of new aircraft should generally result in reduced maintenance costs and improved fuel efficiency, the size, timing, and resultant financial impact of this massive and rapidly delivered aircraft order on AMR's liquidity, cash flow and financial metrics demands careful study and, at a minimum, an evaluation of potential alternatives. For instance, do high-value airline passengers care more about the age of a plane or in the age and condition of the interior and the breadth and quality of the amenities of that plane? Does it make sense for AMR to order current generation aircraft only to upgrade to "next generation" aircraft only a few years later? Would it make better sense to retrofit certain older planes in its fleet as an interim step to taking delivery of "next generation" aircraft? What would be the overall financial impact of a more gradual introduction of AMR's new fleet? Does the fleet order's projected return on investment exceed AMR's cost of capital and thus represent a positive net present value? None of these questions have been answered by AMR or its advisors despite repeated attempts to better understand the rationale for the order and the associated massive increase in aircraft debt.

32. Moreover, while it may be true that the accelerated purchase of new mainline aircraft will help AMR "win the high value customer," comparison with other U.S. network carriers suggests that the evidence for this view is mixed. For instance, as **APA Exhibit 105** illustrates, Delta Air Lines, which has been gaining market share from AMR for years – especially among "high value customers" – and has a higher RASM than AMR has a mainline fleet that is actually older than AMR's mainline fleet. Delta also recently announced the purchase and interior renovation of additional used MD-90s – a fact that begs the question of

whether airline customers really care about the age of a particular aircraft.[43] Moreover, as was demonstrated in the previous analysis of comparator EBITDAR Margins, even with this older fleet (and any fuel and maintenance inefficiencies that stem from them), Delta's profitability, without such a correspondingly large or accelerated aircraft order, is quite comparable to the projected profitability of AMR with its new aircraft.

APA Exhibit 105: U.S. Network Carrier Mainline Fleet Age in Years (2009-2011)

	2009A	2010A	2011A
AMR	15.0	15.0	15.0
Delta	15.6	15.7	16.1
United	11.1	12.0	12.4
US Airways	11.6	12.3	12.4

Source: Public filings.

33. On many occasions since the Chapter 11 petition, Lazard has requested analytics from AMR management that justify the re-fleeting plan. To date, Lazard has received minimal data and support. In addition, AMR's and its advisors' testimony on the subject of the re-fleeting plan has been high-level and summary. For instance, in his deposition, Mr. Resnick disclaimed any knowledge or independent review of this fundamental component of the Business Plan:

> Q: [D]id you ever see any kind of a business analysis that underlay or justified the proposed capital expenditures for re-fleeting?
> A: I can recall some presentations talking about the re-fleeting plan, but I can't personally recall something -- a presentation that looked at alternatives to what the company had agreed, although my team might have reviewed it as part of their diligence on the business plan.
> Q: But you have not been informed that that happened?
> A: I don't know.
>
> * * *
>
> Q: [D]o you have any understanding of whether the return on investment exceeds AMR's cost of capital?
> A: I believe the company has analyzed that for its fleet plan, but I cannot recall that analysis.

[43] Andrew Compart, "Delta Acquires Seven More MD-90s for Fleet Replacement Strategy," *Aviation Week* (Apr. 18, 2012).

Q: Would you expect them to have made that type of analysis in constructing a business plan?
A: In constructing a fleet plan, yes.
Q: But you have never seen it?
A: I have not seen it, but again, we have nine people on our team so they might have seen it as part of their diligence on a business plan.
Q: And has Rothschild itself conducted any analysis, to your knowledge, that supports the belief that this will have a positive return on investment?
A: You're referring to the fleet plan specifically with that question?
Q: Yes.
A: We have not conducted that analysis.

Resnick Dep. 47:4 – 50:11 (Apr. 13, 2012).

In his own deposition, Alexander Dichter of McKinsey dismissed the need for detailed review of this historically large aircraft purchase and accelerated six-year re-fleeting plan, indicating that it was justifiable based on "simple math":

Q: I want to talk about the re-fleeting plan of AMR. You indicate I think that you did review American's decision to invest in new aircraft?
A: That's correct.
Q: Can you tell us exactly the analysis that you performed
A: It was a very quick and simple analysis.

* * *

Q: Okay. And did you personally look at it?
A: I had a discussion with the team and talked through the numbers. I did not see any output.

* * *

Q: Are you here testifying and vouching for, if you will, all of the work that McKinsey did in connection with its engagement?
A: Yes. There are areas where we went very deep because it was necessary to go very deep in order to validate the plan. On other areas, the plan stood quite firmly on logic and what I would call simple math, which is just – I can walk you through that simple math if you would like.
Q: On the re-fleeting, did you have to go deep or did you do it on simple math?
A: Simple math.

Dichter Dep. 65:20 – 67:8 (Apr. 20, 2012).

34. Given the unprecedented size and cost of the re-fleeting program and its impact on the Business Plan (and, therefore, on the 1113 proposal), I have been surprised by AMR's and

its advisors' lack of responsiveness to my team's repeated requests for information and analysis concerning this program. For the reasons discussed above, shortly after being retained, the Lazard team identified the business and financial rationale for AMR's re-fleeting plan as one of the key areas of focus for its business diligence at AMR. On February 9, 2012, once the Business Plan was released and a diligence protocol agreed,[44] Lazard submitted its first diligence list to Rothschild. This list included questions on the size, nature and timing of aircraft purchases as well as a request for sensitivities of the Business Plan relating to aircraft purchases. The history of diligence requests, responses and the relative timing of the sharing of purportedly responsive material by AMR is more fully summarized in **Appendix B** of this Declaration.

35. In general, the substance of Lazard's diligence questions on AMR's re-fleeting have focused on two major avenues of inquiry:

Diligence Area	AMR Response	Current Status
Understanding the impact of the re-fleeting on AMR if the aircraft purchases were characterized as financed capital expenditures, instead of as aircraft leases. Since the Business Plan generally characterizes the new aircraft purchases as "leases," the request above would have allowed Lazard to understand two things: (1) the actual impact of the purchases on AMR future leverage (as opposed to making imprecise and general assumptions as to how those leases should be "capitalized") and (2) the effective cost to AMR of having shorter, 10-year leases instead of more standard 20- or 25-year leases that are more consistent with the average life of the aircraft.	On **March 7, 2012** (27 days after the request was submitted) AMR's advisors informed APA and Lazard that AMR had not performed such an illustrative analysis.	Lazard was subsequently orally informed by Rothschild that AMR was not planning to prepare this analysis and did not see utility in exploring the issue further.

[44] In general, it was agreed by all advisors that business diligence requests should be submitted through Rothschild, with subsequent responsive diligence material provided to union and Creditors' Committee advisors through the Intralinks electronic data room.

Diligence Area	AMR Response	Current Status
Receipt and review of all analyses (including management and board presentations) performed by AMR or its advisors that relate to the projected return on investment and net present value associated with all planned widebody and narrowbody aircraft purchases in the Business Plan.	On **April 25, 2012** (Day 3 of the Section 1113 trial and 76 days after Lazard's first re-fleeting diligence request), Rothschild posted to Intralinks a one-page document that purported to summarize the returns on investment the aircraft purchases. These return estimates were unhelpful because they were calculated inclusive of assumed labor savings from the 1113 proposal.	Lazard has requested supporting materials for the "one page" analysis, excluding the impact of Section 1113 labor savings, as well as presentations or Board materials used to support the re-fleeting decision. Notably, in the depositions of Mr. Dichter and the in-court testimony of Ms. Goulet and Mr. Vahidi it was represented that analyses similar to the ones requested by Lazard exist.[45] If so, it is unclear why AMR has not shared them.

36. By AMR's own admission, the re-fleeting plan is a key foundation of its Business Plan, a key use of operating cash flows during the projection period of the Business Plan and therefore a key driver of the 1113 proposal. Although it may be the case that this re-fleeting, its underlying economics, its planned timing and the analyses that support it are reasonable, my team and I have been provided insufficient information or analysis by AMR and its advisors to conclude that this is so. Absent a full vetting of the re-fleeting plan and consideration of fleet alternatives, the 1113 proposal is premature and should be rejected.

[45] *See* 1113 Transcript (134:16 – 134:17) (Apr. 24, 2012) (Ms. Goulet testifying that the purchase was "approved by our board of directors and they were provided with a financial analysis" of the re-fleeting plan – this analysis has not, to date, been shared with AMR's unions); Dichter Dep. 68:20 – 68:23 (Apr. 20, 2012) (Mr. Dichter describing having been shown "presentations" that analyzed the re-fleeting plan – none of which have, to date, been shared with AMR's unions); 1113 Transcript (276:9 – 276:23) (Apr. 25, 2012) (Mr. Vahidi testifying "When we make a significant purchase and we have to go to our boards of directors to request authority to spend money for the purchase or to sign an agreement – even though in this specific case the deal was pre-financed by the manufacturer – we build what I would refer to as a "business case" for whether that project made sense, either based on the return on investment or return on the capital invested in the project. So, there was a business case developed and built as to why that – those aircraft agreements that were signed made economic sense."); Resnick Dep. 47:9 – 47:13 (Apr. 13, 2012) (Mr. Resnick indicating he can "recall some presentations talking about the re-fleeting plan" but none that explored "alternatives" to the re-fleeting plan).

VI. THE APA HAS NEGOTIATED A CONSENSUAL LABOR AGREEMENT WITH US AIRWAYS THAT EVIDENCES ITS COMMITMENT TO SUPPORTING MARKET-BASED CONTRACT CONCESSIONS

37. I believe that the evidence shows that AMR's 1113 labor proposal was not developed based on the labor terms of AMR's most relevant competitors but rather derived from a target profitability level. The fact that this approach resulted in a significant increase of the alleged labor savings "need" from the one AMR had publicly described only days before its bankruptcy filing is further evidence of the lack of credibility of AMR's 1113 proposal.[46] For me, however, the most persuasive evidence that the relief sought in the Motion lacks credibility is the real-time "market test" of AMR's proposal that was provided by APA's arms-length negotiations with US Airways. I was present in Tempe, Arizona during the APA team's negotiations with US Airways and was struck by the ability of the APA and US Airways to consensually resolve all of the very same collective bargaining issues (scope, wages and benefits, pension, profit sharing, work rules, etc.) on which AMR management has consistently refused to compromise and now describes to the public and this Court as intractable. Notably, the APA agreement with US Airways includes a mechanism whereby future pilot productivity (after Year 3) and future pilot wages and benefits (after Year 5) will be indexed to AMR's closest competitors, Delta and United. In contrast, in post-petition negotiations between APA and American, I understand that the Company was unwilling to consider a much more limited

[46] A well-respected Wall Street analyst of the airline sector has been outspoken in his skepticism about AMR's "new" alleged labor savings need, its relation to the "market" and the propriety of any 1113 proposal that ignores the "market" and instead focuses on making AMR more profitable than its peers. *See* Jamie Baker, "AMR v4.0: Thoughts on 2013 EBITDAR Potential and Exit Multiples," J.P. Morgan (Dec. 15, 2011) ("What we do not envision is an AMR with margins superior to those of Delta and United, as some have suggested. Bankruptcy is not a means by which entities achieve economic superiority, rather it is a process designed to broadly achieve economic parity. Hence, we would strenuously disagree with any suggestion that AMR will emerge with meaningful, relative competitive benefits.") (emphasis in original)

version of indexing that would have tied hourly pay rates to the market. I believe this highlights both APA's willingness to accept "market" terms and AMR's lack of interest in "market" terms as a result of the negotiating leverage it believes it has over APA under Section 1113.

VII. THE MOTION IS PREMATURE AND AMR HAS SUFFICIENT TIME TO ENSURE IT HAS THE "RIGHT" BUSINESS PLAN AND IDENTIFIED THE TRULY "NECESSARY" LABOR SAVINGS NEED

38. Finally, I believe it is important to remember the bigger picture context of this Chapter 11 case and the current state of AMR's finances. Unlike most bankrupt network carriers of recent years, AMR does not face any sort of exigent circumstances that require an expedited Section 1113 process. AMR filed for Chapter 11 without a DIP facility and therefore is not governed by the standard financial covenants or tests that are typically contained in such agreements (and which often have driven the rapid pace of Section 1113 proceedings in other airline bankruptcies). On the contrary, AMR filed for bankruptcy with over $4 billion of cash – a balance that has grown since the petition date to nearly $5 billion. AMR management recently reassured the Creditors' Committee that AMR performance has been better than management's expectations. As a result, I believe that this Court should view the professed urgency of the Motion with healthy skepticism. In fact, AMR management has more than sufficient time to "get it right" – particularly given the well-publicized interest of US Airways (and possibly others) in merger-based business plans that may well generate materially better value for all AMR stakeholders, as well as the APA's commitment to market-based bargaining.

VIII. CONCLUSION

39. During the course of Lazard's engagement with APA, it has assisted APA in (1) evaluating AMR's Business Plan across a number of different financial metrics – both relative to the norms of the U.S. airline industry and against comparable U.S. network carriers, (2) its

negotiations with AMR and (3) the consideration of potential strategic alternatives for AMR. Having reviewed the Motion and the various AMR expert declarations that purport to support it, it is my judgment that the Motion does not satisfy the standards of Section 1113 of the Bankruptcy Code and seeks relief that is far beyond what is "necessary" for AMR to successfully reorganize and emerge from bankruptcy as a viable competitor. I believe that the Motion should be denied.

I declare under the penalty of perjury that the forgoing is true and correct to the best of my knowledge and upon information from documents I have reviewed, including those in my custody and control.

Executed this 10th day of May.

By: _____
Name: Andrew Yearley
Title: Managing Director
LAZARD FRÈRES & CO. LLC

Appendix A: Andrew Yearley - Biography

Mr. Yearley is a Managing Director and leads Lazard Frères & Company's Restructuring Group in North America. Mr. Yearley joined Lazard Frères in July 1999. Mr. Yearley has been practicing in the restructuring arena for over 18 years.

Prior to joining Lazard, Mr. Yearley was a Vice President in Deutsche Banc Alex Brown's Restructuring Group (originally BT Alex Brown). Before joining BT Alex. Brown, he spent five years in the Restructuring and Reorganization Group at Ernst & Young LLP as a senior consultant, manager, and senior manager. Mr. Yearley began his career in 1989 at the Chase Manhattan Bank in the Structured Finance Division, and spent two years as an Assistant Vice President in the Leveraged Transactions Group at BZW, the investment-banking arm of Barclays PLC. During these years, Mr. Yearley developed skills in credit analysis, financial modeling, and structuring loans. While at Chase, Mr. Yearley completed Chase's credit training program involving an intensive study of finance, accounting, valuation, and credit analysis.

Mr. Yearley has experience in a wide range of corporate finance activities including restructurings and reorganizations, mergers and acquisitions, and capital raising. Over the past 15 years, Mr. Yearley's work has focused entirely on working with companies and creditor groups involved in out-of-court and in-court restructurings. Mr. Yearley has provided investment banking services including advising and negotiating consensual restructurings, assisting companies in the sale of businesses or assets, and raising debt and equity capital. Mr. Yearley has been involved in a broad range of in-court and out-of court financial advisory assignments including representing Boston Chicken, Buster Brown Apparel, Conseco, Daewoo, Delphi Automotive, Derby Cycle, Fannie Mae, Finova, Loews Cineplex Entertainment, Masonite, McCrory Stores, Medical Resources, Meridian Automotive, NorthWestern Energy, Perini Corporation, Plastech Automotive, Rickels Home Centers, Shoney's, Sterling Chemical,

Stone & Webster, Inc., TI Automotive, Trism, TV Filme, USN Communications, Washington Group, and WLR Foods. In addition, Mr. Yearley advised Conseco Finance in its sale to Fortress Investments and G.E. Capital and National Steel in its sale to U.S. Steel, representing two of the largest cash bankruptcy sale transactions ever completed. Among other assignments, Mr. Yearley has represented the United Autoworkers in their negotiation with GM, Ford, and Chrysler in their respective restructuring efforts, the National Association of Letter Carriers in its restructuring discussions with the U.S. Postal Service, and the U.S. Treasury in its divestment of its investment in GM and Chrysler.

Mr. Yearley graduated with a B.A. in Political Science from Duke University *magna cum laude* in 1989 and received his M.B.A. from Columbia University with honors in 1999. He has been licensed by the NASD and New York Stock Exchange with a Series 7 General Securities license. Mr. Yearley has been a guest lecturer at the Columbia Business School and New York University's Stern School of Business teaching case studies on the topic of restructuring and is a frequent speaker at industry seminars and conferences.

Appendix B: History of Lazard Diligence Requests
AMR Re-Fleeting and Aircraft Purchases

Lazard Diligence Request		**Rothschild Response**		**Material Provided**		
Date	**Requested Item**	**Date**	**Response**	**Date**	**Item**	**Cum. Time Elapsed**
2/9/12	Seven-page general business diligence list e-mailed by A. Yearley (L) to D. Resnick (R) that included: • Questions pertaining to fleet strategy, including type, number and timing of new deliveries • A request for AMR's Business Plan model with aircraft purchases recharacterized as capital expenditures	**2/9/12** **2/13/12**	M. Chou (R) responds via e-mail, indicating that Rothschild will begin assembling the requested information M. Chou contacts A. Chang (L) for clarification on certain items			
2/16/12	B. Tisdell (L) contacts M. Chou via email for update on status and timing of 2/9/12 request	**2/16/12**	M. Chou responds indicating that other "priority" items designated by Lazard/APA (pertaining to scope-related diligence) will be given higher attention by AMR and its advisors			
2/17/12	Meeting between Lazard team and AMR management in Dallas, at which request for AMR's Business Plan model with aircraft purchases recharacterized as capital expenditures is reiterated as a "priority" item	**2/17/12**	B. Goulet (AMR) and team agree to investigate status of this request			

(L) = Lazard (R) = Rothschild

Lazard Diligence Request		**Rothschild Response**		**Material Provided**		
Date	**Requested Item**	**Date**	**Response**	**Date**	**Item**	**Cum. Time Elapsed**
2/22/12	A. Chang contacts M. Chou via email to again emphasize importance of recast Business Plan model	**2/23/12** **2/23/12**	M. Chou emails A. Chang seeking clarification on reason for request A. Chang replies to provide rationale for request			
				3/7/12	Item 25 of AMR First Supplemental Set of Responses advises that "American does not have documents regarding a 6-year model with new aircraft as capital expenditures instead of operating leases"	**27 days since first fleet request**
3/9/12	B. Tisdell phones J. Queen (R) to confirm that 3/7/12 response means that AMR does not intend to entertain the request. J. Queen indicates he will consult with AMR.	**3/13/12**	J. Queen confirms AMR is unwilling to comply with the request			
3/26/12	B. Tisdell emails M. Chou and J. Queen (copying counsel) APA Supplemental Diligence List, which includes requests for: "all analyses (including management and board presentations) that relate to the projected return	**3/26/12**	In follow-up phone conversation M. Chou indicates to B. Tisdell that responsive material exists (if not precisely in the form requested) and will be provided as soon as possible			

Lazard Diligence Request		Rothschild Response		Material Provided		
Date	**Requested Item**	**Date**	**Response**	**Date**	**Item**	**Cum. Time Elapsed**
	on investment associated with planned widebody and narrowbody aircraft purchases"					

(L) = Lazard (R) = Rothschild

4/4/12	B. Tisdell emails M. Chou and J. Queen (copying counsel) following up on status of the request		Tisdell indicating that "company is working to finalize its responses so hope to have something to you as soon as possible"			
4/10/12	B. Tisdell emails M. Chou and J. Queen (copying counsel) following up on status of request and noting the lack of responsiveness to all prior requests	**4/10/12**	M. Chou phones and emails B. Tisdell and indicates company will have a response soon			
				4/25/12 **(Day 3 of 1113 Trial)**	1-page document posted to Intralinks purporting to be responsive to fleet return on investment request, but improperly including the impact of Section 1113 savings	**76 days since first fleet request** **30 days since supp. fleet request**

(L) = Lazard	(R) = Rothschild

Appendix C: Materials Relied Upon

I have considered the following categories of documents in forming the conclusions and opinions contained in this declaration:

1. Public filings including SEC filings such as 10-K, 10-Q, 8-K filings and press releases
2. AMR Business Plan model and financial projections
3. AMR Investor Presentations on AMR's Investor Relations web site[47]
4. Wall Street research reports from financial institutions and research analysts
5. Disclosure Statements and Plans of Reorganization of other airline bankruptcies
6. Moody's: Global Passenger Airlines report (Mar. 2009)
7. S&P: Key Credit factors: Criteria For Rating The Airline Industry (Oct. 2010)
8. News articles
9. Other American Airlines and Allied Pilots Association § 1113 Declarations
10. American Airlines witness deposition and court testimony transcripts
11. Bloomberg

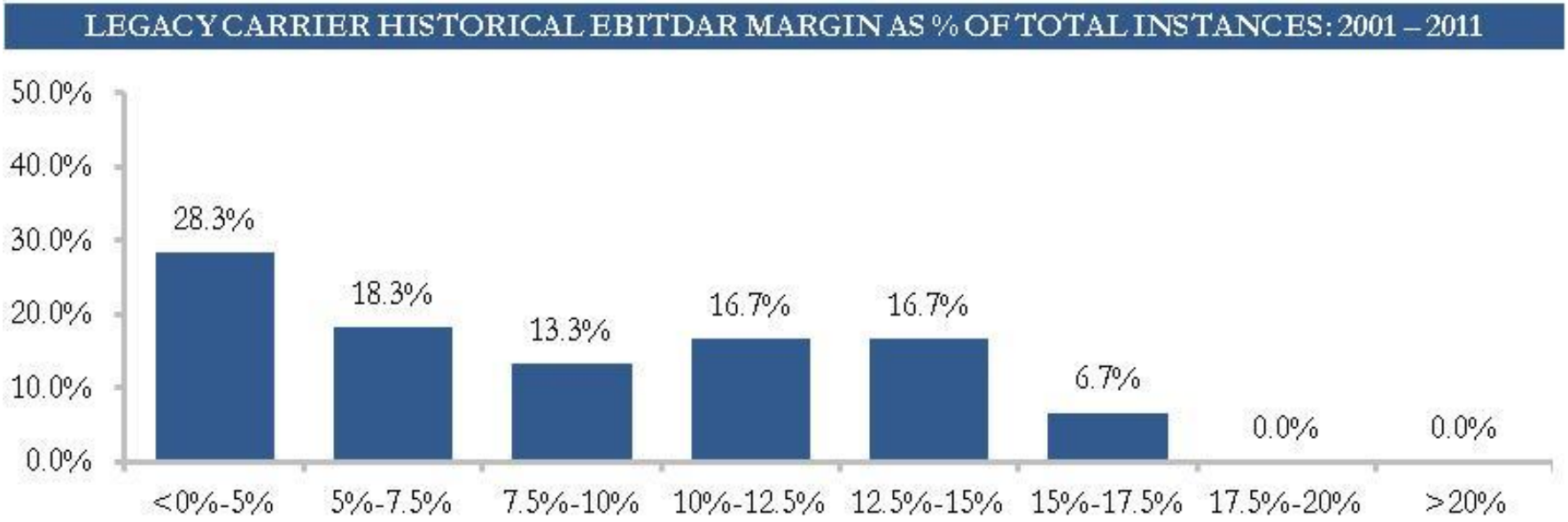
[47] Available at http://phx.corporate-ir.net/phoenix.zhtml?c=117098&p=irol-presentations

APA Exhibit 101

Entire Exhibit Under Seal

APA Exhibit 102

APA Exhibit 102: % Frequency of EBITDAR Margins (2001-2011)
U.S. Network Carriers



Source: Public filings. Excludes one-time special items.

*U.S. network carriers include AMR, Delta, Northwest, United, Continental and US Airways.

APA Exhibit 103

Entire Exhibit Under Seal

APA Exhibit 104

Entire Exhibit Under Seal

APA Exhibit 105

APA Exhibit 105: U.S. Network Carrier Mainline Fleet Age in Years (2009-2011)

	2009A	2010A	2011A
AMR	15.0	15.0	15.0
Delta	15.6	15.7	16.1
United	11.1	12.0	12.4
US Airways	11.6	12.3	12.4

Source: Public filings.

APA Exhibit 200a

Filiberto Agusti
Joshua R. Taylor (admitted *pro hac vice*)
STEPTOE & JOHNSON LLP
1330 Connecticut Avenue, NW
Washington, DC 20036
Tel: 202-429-3000
Facsimile: 202-429-3902

Edgar N. James (admitted *pro hac vice*)
Kathy L. Krieger (admitted *pro hac vice*)
David P. Dean (admitted *pro hac vice*)
Darin M. Dalmat (admitted *pro hac vice*)
Daniel M. Rosenthal (admitted *pro hac vice*)
JAMES & HOFFMAN, P.C.
1130 Connecticut Avenue, NW, Suite 950
Washington, DC 20036
Tel: 202-496-0500
Facsimile: 202-496-0555

Charles R. Hairston (admitted *pro hac vice*)
Staff Attorney
ALLIED PILOTS ASSOCIATION
14600 Trinity Boulevard, Suite 500
Fort Worth, TX 76155-2512
Tel: (817) 302-2178
Facsimile: (817) 302-2187

Counsel for Allied Pilots Association

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	:	Chapter 11
	:	
AMR CORPORATION, *et al.*,	:	Case No. 11-15463-SHL
	:	
Debtors.	:	(Jointly Administered)

UPDATED DECLARATION OF ALLISON CLARK IN OPPOSITION TO DEBTORS' MOTION TO REJECT APA'S COLLECTIVE BARGAINING AGREEMENT PURSUANT TO 11 U.S.C. § 1113(c)

Table of Contents

Exhibit List

No.	Exhibit Description
201	AA March 2012 Presentation to the Pension Benefit Guarantee Corporation
202	Annual Savings from AA and APA Proposals (Excluding Scope)
203	Data and Assumptions Used by the APA and AA
204	Valuation of Terms in APA's April 9, 2012 Proposal
205	The Segal Group's May 3, 2012 Savings Valuation of APA's Long Term Disability Counter Proposal as of February 8, 2012
206	American's Current Per Diem is the Worst Among Network Carriers
207	AA's Valuation of Annual Savings Under AA's Proposal
208	American Undervalues Its Proposals By $83 Million Annually, Excluding Scope
209	AA's $370 Million "Ask" Is Only A Small Slice of Contributions to Reorganization Demanded From Pilots
210	Comparison of AA Projections to Segal Projections Based on AA Term Sheet as of March 15, 2012 and APA Counterproposal as of March 21, 2012
211	WACC Update First Provided to APA in May 2011

I, ALLISON CLARK, hereby declare under penalty of perjury and state as follows:

I. INTRODUCTION TO THE DECLARANT

1. I am the Director of Industry Analysis for the Allied Pilots Association ("APA" or the "Association"). My business address is 14600 Trinity Boulevard, Suite 500, Fort Worth, TX 76155. I have served as Director for three years. In that position, I advise the Association's officers and staff on the economics of the airline industry, industry trends and corporate finance. I develop and apply financial models used by the APA to evaluate contract proposals in negotiations with American Airlines ("American" or the "Company"). These models are used for "valuation," the process of determining the incremental cost or savings associated with particular contract proposals. I also compare contract proposals to terms in place at other airlines.

2. From 2000 to 2004, I worked for American Airlines in Fort Worth, Texas, most recently as a senior financial analyst. In that role, I implemented models used to identify opportunities for increased efficiency related to staffing and productivity. I also participated in valuation of contract proposals resulting from negotiations with American's employees' unions. Since 2004, I have worked as a financial analyst at a corporate office of Countrywide Financial in Plano, Texas and as a financial consultant at the headquarters of 7-ELEVEN in Dallas, Texas. I graduated with a degree in Economics from Southern Methodist University in 2000. I later attained an MBA with a concentration in Finance from Southern Methodist University in 2008.

3. As APA's Director of Industry Analysis, I have been directly involved in negotiations between the Association and the Company. I have worked to value the contract proposals of both parties to the negotiations. This Declaration explains the results of that analysis. I detail my calculations and the data and assumptions I used. My investigation and

consideration of the issues in this matter is ongoing. Accordingly, my work is subject to revision based on the work I may complete in the future and further documents, data, testimony and other materials I may review. If called as a witness, I could and would testify competently to the material set forth in this declaration.

II. OVERVIEW OF ANALYSIS

4. In my work on this case, I have found the following:

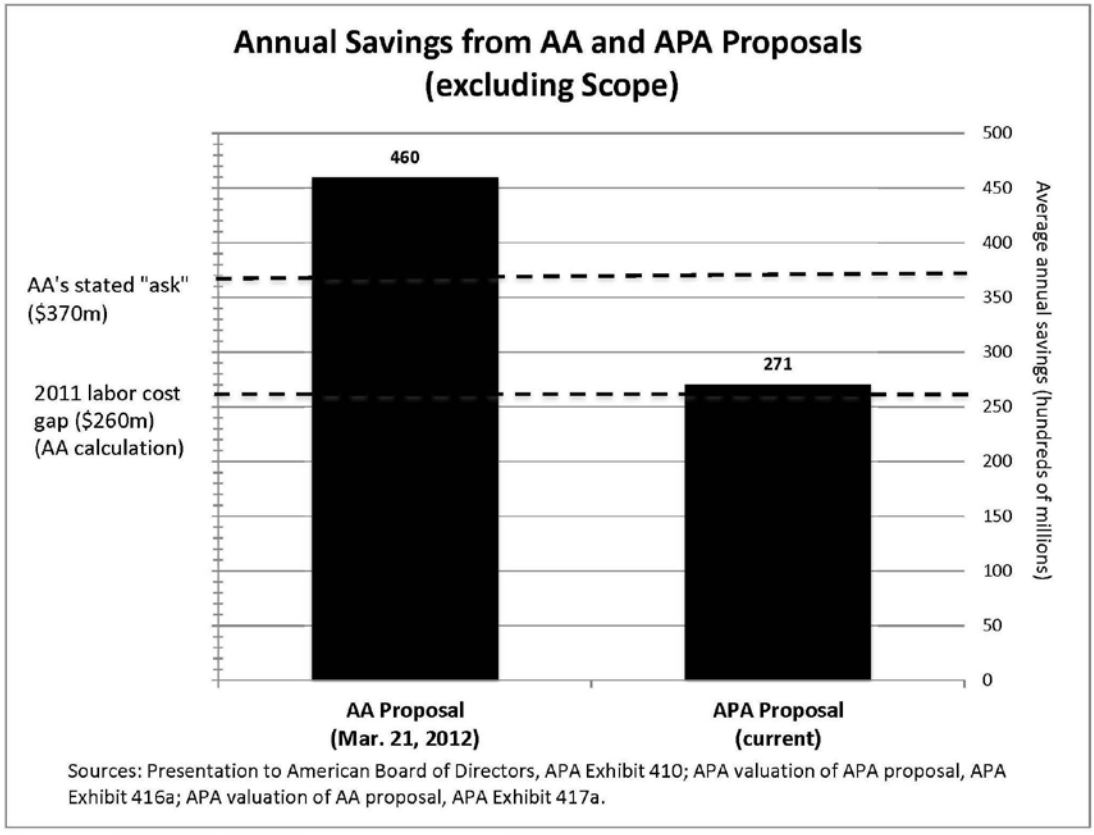
- First, based on my analysis of the most recent contract proposals presented by the APA to American, I conclude that those changes would produce approximately $271 million in average annual cost savings to American over the next six years. APA's proposal exceeds the gap in pilot labor costs between American and its competitors as calculated by the Company in a presentation to the Board of Directors in November 2011. That presentation is described in more detail in Neil Roghair's Declaration. *See* APA Exhibit 400a ("Roghair Decl."), ¶ 31. The Company reiterated that calculation in a March 2012 presentation to the Pension Benefit Guarantee Corporation.[1]
- Second, based on my analysis of the contract proposals presented by American to the APA as of March 27, 2012, I conclude that those changes, if implemented, would produce approximately $460 million in average annual savings to the Company over the next six years. This figure excludes American's Scope proposal, which will generate additional revenue enhancements and cost savings for the Company. The economic impact of American's Scope proposal is hard to quantify but is undeniably large.

[1] That presentation, APA Exhibit 201, was provided to APA through IntraLinks document 20.23.

- Third, American valued its own March 21, 2012 proposals at $377 million in average annual savings, even though the Company's target – which APA negotiators believe to exceed American's needs – is $370 million. American further admits that the cost of its proposals will rise to $451 million in the sixth year of the agreement. In truth, these calculations understate the magnitude of the concessions American seeks to acquire from the pilots.

5. My key findings are summarized in the chart below, APA Exhibit 202, which shows my calculation of the average annual cost savings generated by APA's proposal and the average annual cost savings generated by AA's proposal. For reference, I compare each of these figures to American's target for average annual cost savings and to the pilot labor cost gap as calculated by the Company.

APA Exhibit 202: Annual Savings from AA and APA Proposals (Excluding Scope)



6. The remainder of this Declaration is organized as follows. First, I detail the methods and sources I used to reach these findings. Second, I describe my work valuing APA's proposals and the result of that work. Third, I do the same for valuation of American's proposals.

III. METHODOLOGY, DATA AND ASSUMPTIONS

7. To value American's and APA's contract proposals, I used several mathematical models. A "model" is a set of calculations, usually embodied in a spreadsheet, that takes as "inputs" a variety of data and assumptions. The models then provide "outputs," including, ultimately, the cost or savings associated with contract proposals as compared to the status quo.

8. The accuracy of a valuation depends both on the quality of the underlying models and the validity of the inputs to those models. Of course, this sort of valuation is not an exact science. The precise economic impact of contract changes depends on countless circumstances and events, many of which cannot be foreseen with complete accuracy. Acknowledging this uncertainty, I believe that my valuations provide the best possible prediction of how APA's and American's proposals will affect American's pilot labor costs. I have worked to make the best calculations possible, using the best data, assumptions and models available.

9. In this section, I describe the data and assumptions I used as inputs. By way of summary, APA Exhibit 203, reproduced on the following page, compares the data and assumptions used by APA to those used by American. I then describe the models I used.

A. Data and Assumptions

10. In the models I've used in this case, an important input is data about the pilot workforce, such as seniority demographics. Most of this data comes **directly from the Company**. For example, inputs include the pilot seniority list, paid hours in the most recent

year, block hours flown in the most recent year, and so on.[2] I also utilized the Company's fleet plan.

11. In my work on this case, I applied an assumption called "volume adjustment" that projects future growth in the total number of block hours flown by the airline. Such growth affects the valuation of many contract proposals. The volume adjustment can also be broken down into international block hours and domestic block hours. In all cases, my assumptions related to "volume adjustment" are the **same assumptions that the Company uses**. I utilized their projections rather than doing a separate calculation.

APA Exhibit 203: Data and Assumptions Used by the APA and AA*

APA Data and Assumptions	
Volume Adjustment	Projected domestic and International growth from Company business plan
Seniority List	AA seniority list
Historical Paid Hours	Data from AA records of paid hours in past years
Fleet Delivery Schedule	Projected fleet delivery schedule from Company business plan
Average Retirement Age	Uses legal retirement age of 65
Weighted Average Cost of Capital	Used 8% to discount future cash flows
Sick Rate	Assume sick usage drops to AA targeted 7.2% after implementation of APA proposals

AA Data and Assumptions	
Volume Adjustment	(same as APA)
Seniority List	(same as APA)
Historical Paid Hours	(same as APA)
Fleet Delivery Schedule	(same as APA)
Average Retirement Age	Uses historical data despite change to legal retirement age
Weighted Average Cost of Capital	Used 13.79% to discount future cash flows
Sick Rate	Assume sick rate skyrockets to 9.2% of paid hours (the highest 12 month period over the last decade) due to AA's proposed changes to scheduling, then assumes sick usage drops to 7.2% due to implementation of sick substantiation program and elimination of rapid reaccrual program

*Gray shading indicates that the APA and AA used the same data and assumptions.

12. Other inputs include financial or economic assumptions. For example, to value some proposals, one must make an assumption about American's "Weighted Average Cost of

[2] "Block hours" are the time that a pilot spends in the aircraft from the time it leaves the gate at the departing airport to the time it arrives at the gate at the arriving airport.

Capital," discussed in more detail below and in the declaration of Andrew Yearley. *See* APA Exhibit 100 ("Yearley Decl.), ¶ 21.

13. In addition, some models require assumptions regarding how pilots will behave in the face of new working conditions. For example, a model might require an assumption of average amount of unscheduled hours of flying that pilots will voluntarily agree to fly. APA and the Company sometimes disagree on assumptions about pilot behavior, as explained in more detail in the Declaration of Lawrence Rosselot. *See* APA Exhibit 600 ("Rosselot Decl."), ¶¶ 39-42.

B. Models

14. Many of the valuations described in this Declaration are outputs of a model that my team and I refer to as the "Comprehensive Model." The Comprehensive Model is designed to provide a variety of outputs, including the number of pilots needed by American under a set of contract proposals, the average wage rate of those pilots, and, ultimately, the cost of the various proposals. The most significant inputs to the Comprehensive Model are the demographics of the pilot work force, the current and anticipated future makeup of American's aircraft fleet, and data and projections related to the productivity of AA pilots.

15. The Comprehensive Model was developed through collaboration with the Economic and Financial Analysis Department of the Air Line Pilots Association ("ALPA"), a union that currently represents more than 53,000 pilots at 37 airlines, including, among others, Delta, United, Continental, Hawaiian Airlines, Alaska Airlines and Federal Express. ALPA's Economic and Financial Analysis Department, led by David Krieger, has advised ALPA in dozens of negotiations and is widely respected in the industry. Mr. Krieger helped my team and I develop and refine the model.

16. My team has also developed separate models to determine the impact of work rules on productivity. These models are described in more detail in the declaration of my colleague, Larry Rosselot, an engineer and pilot who has worked closely with both APA negotiators and American officials on scheduling issues for over fifteen years. *See* Rosselot Decl. at ¶ 19.

IV. THE APA'S CONTRACT PROPOSALS WILL CLOSE THE GAP BETWEEN AMERICAN'S PILOT LABOR COSTS AND THAT OF AMERICAN'S PEERS, GENERATING $271 MILLION IN NON-SCOPE SAVINGS

17. The APA recognizes the need for changes to the 2003 collective bargaining agreement between the pilots and American. As detailed in the Declaration of Neil Roghair, the APA has thus made a comprehensive proposal to the Company for modifications to that agreement. The union's counterproposals would reduce the Company's labor costs by hundreds of millions of dollars while providing the productivity enhancements and scope flexibility the Company says it needs. The APA's proposal would make American's pilot contract competitive with its peers.

18. In this section, I describe key elements of the APA's proposal. The APA's last pre-hearing proposal was passed on April 9, 2012. That proposal contained only a handful of revisions from the proposal that APA had on the table as of March 27, 2012, the date American filed its application to reject the APA collective bargaining agreement. In this section, I discuss the APA's proposal as of the April 9 updates.

19. A table showing the valuation of terms in APA's April 9, 2012 Proposal is included the chart below, APA Exhibit 204. A more comprehensive spreadsheet with valuations is attached to Neil Roghair's Declaration as APA Exhibit 416a.

APA Exhibit 204: Valuation of Terms in APA's April 9, 2012 Proposal

APA's PROPOSALS PRODUCE $271 IN AVERAGE ANNUAL SAVINGS, EXCLUDING SCOPE

Cost savings		Cost increases	
Eliminate lineholder guarantee	$10	Paycheck processing	($2)
Eliminate night premium	$5	Per diem	($6)
Eliminate reserve guarantee for military	$2	Vacation	($12)
Work rules and sick	$67	Rigs	($3)
Rapid reaccrual	$3	Other	($1)
Supp CC	$13		
Check airmen	$3		
Crew rest seats	$16		
VC float	$2		
Distance learning	$2		
Unaugmented flying over 8 hours	$5		
Pension	$116		
Retiree medical	$25		
Active medical	$24		
Long term disability	$3		
TOTAL SAVINGS (non-scope)	$296	**TOTAL COSTS**	($24)
***TOTAL IMPACT (NON-SCOPE): $271 million annually**			

*Figures may not tie due to rounding.

Source: APA valuation of APA proposals, APA Exhibit 416a

20. As detailed below, APA's proposal would generate $271 million in savings for American, excluding APA's proposed changes to the pilot scope clause. Consequently, this proposal would entirely close the $260 million gap in pilot labor costs between American and its competitors as calculated by the Company and presented to the AMR Board of Directors in November 2011. *See* Roghair Decl. at ¶ 31.

A. Compensation: American's Proposals on Lineholder Guarantee and Night Premium Produce $15 Million in Average Annual Savings to the Company

21. The APA has made several proposals related to compensation. Here, I focus on the union's most significant compensation proposals, which would eliminate the "lineholder guarantee" and "night premium." In both cases, the APA has fully accepted the latest proposal

put forth by American. In the first case, however, the Company and the Union disagree on the valuation of the proposal.

22. ***Lineholder guarantee.*** "Lineholders" are pilots who bid on and receive a "line of flying" for a particular month. A "line of flying" is a collection of trips that the pilot is scheduled to fly that month. Active pilots are either "lineholders" or "reserves" in any given month; "reserves" are scheduled to be on call to fly on specified days.

23. Currently, lineholders are guaranteed to be paid for at least 64 hours of flying each month. The average "line" includes 76 hours of paid flying planned at the beginning of the month. However, a small fraction of pilots end up below the 64 hour minimum because of flight cancellations, missed connections, equipment issues, or weather and because they are unable to pick up additional flights.

24. American has proposed to eliminate the lineholder guarantee, and the APA has accepted that proposal. I calculated the value of this concession to be $10 million per year. To arrive at that figure, I used data from the Company to determine how much American actually paid pilots due to the lineholder guarantee over the last two years. After using this data to compute a yearly average, I applied two adjustments: First, I applied a volume adjustment, which increased the total savings due to projected growth in the airline. Second, I applied an offsetting reduction to avoid double counting guarantee hours already included in the headcount savings from APA's work rules proposals.

25. The Company has valued the proposal at only $6 million, based on a set of data that is different from APA's data. This is surprising because APA's data was pulled directly

from pilot activity records maintained by the Company itself.[3] My team has tried to verify American's data and has not been able to do so. American has provided no explanation for the discrepancy.

26. ***Night Premiums.*** Today, pilots are paid a premium above the ordinary hourly rate to fly between 11:00 PM and 5:59 AM.[4] The premium is $5.00 per hour for captains and $3.40 for first officers. American and the APA have agreed to eliminate night premiums, and both parties agree that the change will produce $5 million in average annual savings over the next six years.

B. Benefits: APA's Benefits Proposals Produce $168 Million in Average Annual Savings to the Company

27. Nearly half of the savings generated by APA's proposal arise from proposed changes to pilot benefits – pension, medical and disability – which have, outside of productivity, been the Company's greatest focus in cutting costs. In these areas, APA has offered extraordinary concessions, in many cases nearly matching the proposal put forth by American. Together, these proposals would generate $168 million in average annual savings for the Company.

28. Unfortunately, American has refused to employ reasonable assumptions in calculating the savings generated by these proposals, leading them to undervalue the savings generated by APA's proposals by tens of millions of dollars. These assumptions are described in more detail in the declaration of Chris Heppner. *See* APA Exhibit 300 ("Heppner Decl.").

---

[3] APA and the Company both retrieve and archive data from the flight operations system which has information on flights, schedules and pilot activity.

[4] Night premium is calculated using the time zone of the pilot's "home base." Each pilot has a designated home base, in most cases an airport close to where the pilot lives, which is used for bidding and other purposes.

29. ***Pension.*** The APA's pension proposal will save $116 million per year. The APA's proposal is to freeze the defined benefit pension plan while augmenting the Company's contribution to the defined contribution pension plan by three percentage points.

30. ***Active medical.*** The APA proposes to increase pilots' contribution to the medical plan cost share to 17%. According to the calculation of APA's outside actuarial consultant, The Segal Company, the APA's proposal will produce $24 million in average annual saving. *See* APA Exhibit 306.[5] The Company undervalues the proposal because it makes the unjustifiable assumption that increased cost to pilots will not cause a decrease in utilization of medical services. *See generally* APA Exhibit 300 ("Heppner Decl.").

31. ***Retiree medical.*** Similarly, the APA proposes to increase retired pilots' contribution to the retiree medical plan cost share to 25%, similar to the system currently in place for management. This proposal will generate $25 million in average annual savings. The Company assumed an unreasonable discount rate and thereby undervalued the proposal. *See* APA Exhibit 306; Heppner Decl.

32. ***Long term disability.*** APA has also made proposals related to long term disability leave. Segal has valued our proposal at $3 million in average annual savings. *See* APA Exhibit 205.

[5] Segal's calculation was based in part on headcount figures provided by the Company on February 1, 2012. The Company has since revised those numbers several times as it has disclosed that its proposal will produce greater headcount savings than previously projected. *See* Rosselot Decl. at ¶¶ 31-33. Using the Company's latest version of its headcount projections, the APA's proposal will produce $23 million in average annual savings, and the Company's proposal will produce $40 million Segal's updated calculations are attached as Exhibit 210.

C. Work Rules and Sick Leave: American's Proposals Produce $67 Million in Average Annual Savings to the Company

33. The APA's proposals on work rules and sick leave are described in detail in the declarations of Neil Roghair and Lawrence Rosselot. *See* Roghair Decl. at ¶¶ 57, 71-76. These proposals aim to meet APA's and the Company's shared goal of increasing pilot productivity to the top of the industry.

34. Critically, the Union has agreed to implement a Preferential Bidding System ("PBS"), which would substantially increase productivity for reasons described in the declaration of Lawrence Rosselot. *See* Rosselot Decl. at ¶¶ 10, 22-23. The APA has also made many other proposals that would lead American's pilots to fly many more hours per month, thereby allowing the Company to accomplish the same amount of flying with fewer pilots. For example, APA's proposal would allow the Company to create monthly schedules with more flying time and would further allow pilots to voluntarily agree to pick up even more flying.

35. The APA has developed highly sophisticated models to assess scheduling and sick leave proposals. *See* Rosselot Decl. at ¶¶ 18-19. These models predict that APA's proposals on scheduling and sick leave will produce $70 million in average annual savings while leading American pilots to fly 59 hours per month, placing American at the top of its competitors.[6] The Company continues to use outdated models that use erroneous assumptions to value the APA's proposals at only $11 million for work rules and $11 million for sick leave. *See* APA Exhibit 418.

[6] The $70 million includes $3 million for the APA's proposal on rapid reaccrual, described in the Declaration of Lawrence Rosselot. *See* Rosselot Decl. at ¶ 44.

D. Other Savings

36. APA has proposed several other items that would produce significant savings for the Company. In all, these items would generate $43 million in average annual savings to American.[7]

37. ***Crew rest seats.*** As the Company has explained in bargaining, the current contract imposes a cost on the Company of lost revenue by allotting first class seats to pilots for "crew rest." Federal regulations mandate that airlines provide opportunities for pilots to rest on long flights. Under the most recent contract, the Company allocates first class seats for resting pilots. American and the APA have both agreed to eliminate that practice and instead allow pilots to rest in either business class or in separate crew rest facilities, called "pods," which are built into aircraft. The details of APA's and AA's proposals differ because we disagree on the adequacy of "pods" in specified aircraft.

38. APA's proposal will produce $16 million in average annual savings by reducing the cost of lost revenue associated with the current contract.[8]

39. Prior to filing for bankruptcy, American had calculated its crew rest seat proposal to produce savings of $9 million in each of the four years of that agreement. *See* APA Exhibit 406. But American's method of calculation was invalid for two reasons. First, American ignored growth of the airline. As American flies more routes, more first class seats become

[7] This figure includes savings generated by APA's proposals on premium pay, reserve guarantee for military, eliminate SLT crew base, crew rest seats, check airmen, vacation float, distance learning, unaugmented flying over eight hours and electronic copies of agreement.

[8] To calculate this, I started with the Company's pre-petition calculation that the same proposal would generate $5.4 million per year specifically on the Boeing 777-200 aircraft. I extrapolated from this to the other applicable aircraft, the 777-300 and the 787, but offset some of this cost with the depreciation expense on the "pod" installation. I believe this is the most conservative savings calculation to use for this proposal.

available as a result of eliminating the crew rest provision of the contract. American should have accounted for this planned growth in valuing its proposal. Second, and relatedly, American projects growth in international flights to outstrip growth in domestic flights. First class seats on international flights generate more revenue than first class seats on domestic flights, further increasing the value of the proposal.

40. American has not pulled its proposal on crew rest seats since filing for bankruptcy. Now, however, American no longer values its proposal at $9 million. Rather, American's spreadsheet gives its proposal no value at all – zero dollars. American claims that its proposal will not generate savings but will instead increase revenue.

41. I find American's reversal puzzling. Given that these real contractual concessions inarguably have the effect of improving cash flow by enhancing revenue, APA believe there is no logical reason it should not receive "credit" in negotiations for these concessions. It is especially hard to understand why American refuses to acknowledge that its current practice imposes costs by effectively requiring the Company to purchase first class seats to provide to pilots. Moreover, I have reviewed the declarations and testimony of witnesses provided by American to explain the Company's revenue projections, including Beverley Goulet and Alexander Dichter. None of these witnesses testified that American accounted for changes to crew rest seats in determining the revenue impact of American's proposal.

42. ***St. Louis crew base.*** Supplement CC was added to the contract in conjunction with the integration of former TWA pilots into the AA pilot work force after the two airlines merged in 2001. As part of Supplement CC, the Company is obligated to maintain a pilot base in St. Louis, one of TWA's former hubs. The Company claims that retention of the St. Louis base is inefficient and costly.

43. The Company and APA have agreed, through counsel, that all issues regarding the effect of the closing of the St. Louis crew base on Supplement CC will be resolved by a panel of three nationally recognized neutral arbitrators. The parties now agree that the proposal will generate $13 million annually in savings, after American found that it had initially undervalued the proposal by $2 million.

44. ***Scope.*** APA has offered significant concessions on Scope, as detailed in the Declarations of Neil Roghair and James Eaton. *See* Roghair Decl. at ¶¶ 46-51. APA Exhibit 500 ("Eaton Decl."), ¶¶ 21-22, 25, 29. These moves will provide American substantial flexibility to outsource flying on regional jets and codeshare with other airlines. American insists that these concessions will generate no cost reductions for the Company. This issue is discussed in more detail in paragraphs 62-69 below.

E. Cost Increases

45. In addition to the substantial cost savings offered by the APA, the Union is also proposing a handful of select contractual improvements. In light of the aforementioned concessions, these proposals would improve pilot quality of life while still enabling AA to achieve industry-competitive pilot costs. In one case, American has used an unwarranted economic assumption in order to claim that APA's proposal is more costly to the Company than it is.

46. ***Paycheck processing.*** Today, pilots are paid most of their monthly earnings on the twenty-fifth day of the month *following* the work they are being paid for. APA has not proposed to change this. However, pilots can receive an "advance" of $1000 on the fifteenth of the month for which they are being paid.

47. APA is proposing to change this system in two ways. First, APA's proposal would move the "advance" date five days earlier to the tenth of the month. Second, APA would

increase the maximum "advance" to $3000. Although this proposal does not affect a pilot's compensation – only the timing of that compensation – it imposes a cost on the Company in lost ability to invest or otherwise use capital before it is paid to pilots. APA calculates that cost to be $2 million.

48. In order to calculate the cost of the proposal, one must make an assumption about the "Weighted Average Cost of Capital" or "WACC," a kind of discount rate. A higher WACC will tend to make the proposal seem more expensive, while a lower WACC will make the proposal seem less expensive. In valuing APA's proposal, the Company assumed an unusually high WACC of 13.79%. The assumptions behind that figure are shown in APA Exhibit 211, which was provided to the APA by American. As explained in the Declaration of Andrew Yearley, those assumptions are unreasonable, and the resulting WACC is artificially high and unjustifiable. *See* Yearley Decl. at ¶ 20. As a consequence, American wrongly contends that the proposal will cost $3.5 million per year.

49. ***Others: Per diem and vacation.*** AA's current *per diem* system is the worst in the industry for pilots.[9] AA pays domestic pilots a per diem of $1.85 per hour, and pays international pilots a per diem of $2.00 per hour. APA proposes to phase-in improvements in per diem, generating increased costs of $6 million annually. Similarly, the current vacation accrual system in place at American lags the industry. The APA is proposing to make phased-in improvements to American's vacation program that would make the Company's system competitive with those of its peers.

[9] APA Exhibit 206 demonstrates that the current per diem for American pilots is the worst in the industry.

F. Information Sharing Regarding Valuation of APA's Proposals

50. American has created valuations of APA's proposals, which the Company has occasionally shared the union. *See, e.g.*, APA Exhibit 418. Unfortunately, the Company has taken the position that, as a general matter, it has no obligation to share information regarding its assessment of the APA's proposals. This has been communicated to me countless times at the table and in writing, as described in the Declaration of Neil Roghair. *See* Roghair Decl. at ¶¶ 96-99.

51. As a result, we have only very limited knowledge of the savings the Company expects to be produced by our proposals. For example, the Company gave APA negotiators a comprehensive list of valuations on March 5, 2012, but I am not aware of any such list passed since then, although several proposals have changed.

V. AMERICAN'S CONTRACT PROPOSALS LEAD TO $460 MILLION IN SAVINGS – OR $90 MILLION MORE THAN AMERICAN ACKNOWLEDGES

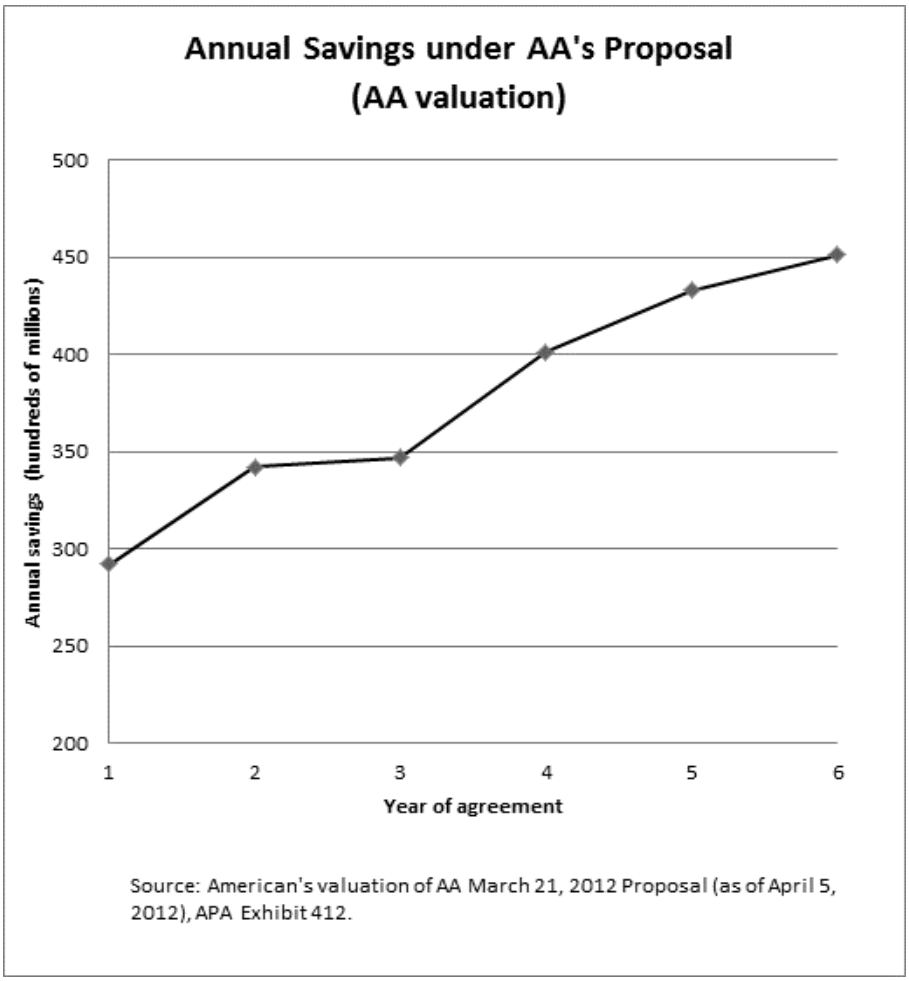
52. I am responsible for valuing American's contract proposals as well as APA's. In this Declaration, I focus on the proposal American had on the table as of March 27, 2012, the day American filed its application to reject its collective bargaining agreements with the APA.[10] The most recent proposal as of that date is reflected in a term sheet provided to the APA on March 21, 2012. American has also shared spreadsheets describing its valuation of its proposals.

53. According to the valuation spreadsheet posted on IntraLinks after March 27, American calculates its March 21 proposals to generate an average of $377 million in average annual savings over the next six years. *See* APA Exhibit 412. The savings associated with the proposal, however, rise sharply between the first and sixth years of the agreement; by

[10] The value of American's post-application proposal is similar, though less, than the valuation of the proposal it had on the table as of March 27. According to American's calculation, the later proposal produces $7 million less in average annual savings.

American's calculation, the proposal will generate $451 million in savings in year six. The chart below, APA Exhibit 207, shows AA's valuation of its own proposals over time. Strikingly, American's proposals are structured to generate escalating cost savings for the Company even though the Company has previously informed its Board of Directors that it predicts the pilot labor costs of American's competitors to *increase* over time. *See* APA Exhibit 410.

APA Exhibit 207: AA's Valuation of Annual Savings Under AA's Proposal



54. In some cases, I advised APA negotiators to accept the valuations offered by the Company. I believe that some of the valuations provided by the Company are likely accurate, at least approximately. This is particularly the case because between February 1, 2012 and March 21, 2012, American changed several of its valuations after admitting errors in the Company's

models, data, and assumptions. Some of those changes are described in the Declaration of Neil Roghair. *See* Roghair Decl. at ¶¶ 41-50.

55. Unfortunately, AA's valuations of the Company's proposals continue to include several significant errors. Those errors are summarized in the following table, APA Exhibit 208, and described in more detail below.[11] I focus in this section on proposals related to compensation, benefits, work rules and sick leave, crew rest seats and scope.

APA Exhibit 208:

AMERICAN UNDERVALUES ITS PROPOSALS BY $83 MILLION ANNUALLY, EXCLUDING SCOPE

Term	APA Valuation (annual avg.)	AA Valuation (annual avg.)	AA Undervaluation
Crew Rest Seats	$24	$0	$24
Retiree Medical	$58	$38	$19
Schedule Max/Work rules and Incidental Sick Policy	$117	$100	$17
Active Medical	$39	$28	$11
Eliminate Lineholder Guarantee	$9	$6	$3
Retirement Benefit Plan, Hard Freeze w/ 13.5% DC	$122	$117	$6
Other*	$91	$88	$3
Total:**	**$460**	**$377**	**$83**

*Other includes Vacation Float, Distance Learning, LTD , Supp CC, Combine Domestic and International Operation, Pay Groupings, B Plan Litigation Avoidance, Cap VC @ 35 days, Eliminate Reserve Guarantee for Military, Eliminate Letter TT and JJ , Eliminate Int'l Premium and Modify to Pay Only Int'l Hours Flown, Electronic copies of Agreement, Premium Pay Changes, Assign FO to Open FB or FC Position on Same Sequence, Fatigue, TUL Pilots, Eliminate Premium for RAPS >7, Check Airman, Brake Release Agreements, Hotels, Eliminate Night Premium , Pay Greater of Schedule or Actual by sequence.
**Figures may not add up due to rounding.

Source: American's Valuation of AA March 21, 2012 Proposal (as of April 5, 2012), APA Exhibit 412; APA Valuation of AA's March 21, 2012 Proposal, APA Exhibit 417a

A. Compensation: AA Undervalues Its Proposal on Lineholder Guarantee by $3 Million Annually

56. As described above in paragraphs 22-25, American and the APA have agreed to eliminate the lineholder guarantee, but American undervalues the proposal by $3 million because

[11] The chart shows that American has overvalued its proposals by $83 million based on the Company's admission that its proposals will produce $377 million in average annual savings. When measured against the $370 million target, there is an overvaluation of $90 million.

it has failed to use the most valid available data. American and the APA do not differ significantly on valuation of the Company's remaining compensation proposals.

B. Benefits: AA Undervalues Its Proposals on Benefits by Almost $40 Million Annually

57. American's proposals on benefits will produce $231 million in average annual savings. American's errors in valuing benefits are described above in paragraphs 27-31 and in the Declaration of Chris Heppner. *See generally* Heppner Decl. As a result of these errors, American undervalues its proposals on active and retiree medical and pension by $36 million.

C. Work Rules and Sick Leave: American Undervalues Its Proposals by $17 Million Annually

58. American's model fails to fully capture the impact of the Company's proposals on work rules and sick, thereby undervaluing its proposals by $17 million in average annual savings to the Company.

59. The Declaration of Lawrence Rosselot explains in detail the numerous errors made by the Company in valuing these proposals. Those errors include using an outdated model incompatible with a PBS system and making an unwarranted assumption that sick leave will skyrocket in the wake of the Company's proposal. *See* Rosselot Decl. at ¶¶ 21-27, 39-40.

D. Crew Rest Seats: American Refuses to Credit Pilots With A Reduction in the Cost Associated With Current Crew Rest Practice, Ignoring $24 Million in Average Annual Savings

60. As detailed in paragraphs 37-40 above, American is proposing to eliminate the requirement that the Company allocate first class seats to resting pilots on long flights. I have calculated the value of this proposal at $24 million per year. To calculate this, I used the same methodology described above, with certain adjustments because American's proposal is more severe than the APA's.

61. American previously admitted that its proposal would generate $9 million in annual cost savings by allowing the Company to sell first class seats to other passengers. Post-petition, American refuses to associate any amount of economic impact with its proposal and instead creates an artificial distinction between cost savings and revenue enhancements. For reasons described in paragraphs 37-41 above, that distinction is untenable.

E. Scope: American Assigns No Value to Scope Modifications, But These Proposals Will Generate Enormous Revenue and Impose At Least $21 Million Annually in Lost Pilot Wages and Benefits

62. James Eaton and Neil Roghair provide extensive detail in their declarations on the pilot Scope clause, a critical component of our collective bargaining agreement. *See generally* Eaton Decl. *See also* Roghair Decl. at ¶¶ 46-47. The Company implausibly claims that the enormous new outsourcing and codesharing flexibility included in its proposal will lead to *no* lost work for pilots and *no* savings for the Company. Consequently, the Company has refused to acknowledge scope concessions as a contribution towards its $370 million cost savings target.

63. Nevertheless, the Company has admitted that its requested Scope concessions will lead directly to an increase of revenue of [redacted] million from codesharing. The Company's proposals will also generate substantial revenue through outsourcing of regional flying.

64. As to the cost saving associated with its proposal on Scope, American is correct to suggest that it is difficult to calculate the cost impact of increased outsourcing and codesharing. One reason why this is the case is that, although the Company has projected a certain amount of outsourcing and codesharing in its business plan, it has not been fully transparent about how many and which routes will be added or replaced. For example, when I reviewed the testimony of Beverley Goulet and Visrab Vahidi, members of American's senior leadership team, I was struck by the inconsistency in their descriptions of the codesharing projections made by the

Company. While Ms. Goulet testified that the Company's business plan accounts for additional codesharing with [redacted] Mr. Vahidi testified that the plan also incorporates expanded codesharing with [redacted]

65. Second, while American plans to outsource a great deal of flying to regional carriers, the Company has not disclosed the details of any possible outsourcing agreements, making it impossible to precisely quantify the cost savings associated with such an agreement.

66. Nevertheless, although it is hard to estimate the economic impact of American's proposal, that economic impact is undeniably real. Using the most conservative assumptions possible, I estimated that the Company's scope demands will lead to $131 million in lost wages and benefits for American pilots as the Company outsources flying to regional carriers – totally exclusive of any flying that the Company may outsource through codesharing.

67. A comparison of American's network plan for 2017 with the routes flown by American pilots in 2011 indicates tha [redacted] Consequently, I believe that, absent the ability to outsource these routes to large regional jets, American would continue to fly them, presumably in a more efficient small narrowbody jet acquired by the Company in the coming years. This provides a basis for a conservative estimate of lost flying for American pilots through the Company's demanded Scope concessions concerning large regional jets. A more sophisticated analysis might well reveal that American

will withdraw from many more routes, for similar reasons, particularly if the Company does not fully realize the revenue goals in its business plan.[12]

68. To arrive at the $131 million, I first calculated that approximately 112,500 aircraft block hours will be lost in 2017 as a result of American's decision not to use AA pilots to fly the routes identified as described above. I then assumed that AA would phase in this outsourcing between 2014 and 2017, resulting in 268,000 lost aircraft block hours during those years. Because these routes are currently flown using aircraft manned with two pilots, this corresponds to approximately 536,000 *pilot* block hours. I next calculated that this elimination of block hours would allow the Company to reduce its headcount by 313 pilots by 2017. Finally, I converted this into a monetary value of lost wages and benefits for American pilots. The total was approximately $131 million, all occurring from 2014 to 2017. Averaging this over the six year period of American's proposal yields a yearly figure of approximately $21 million per year.[13]

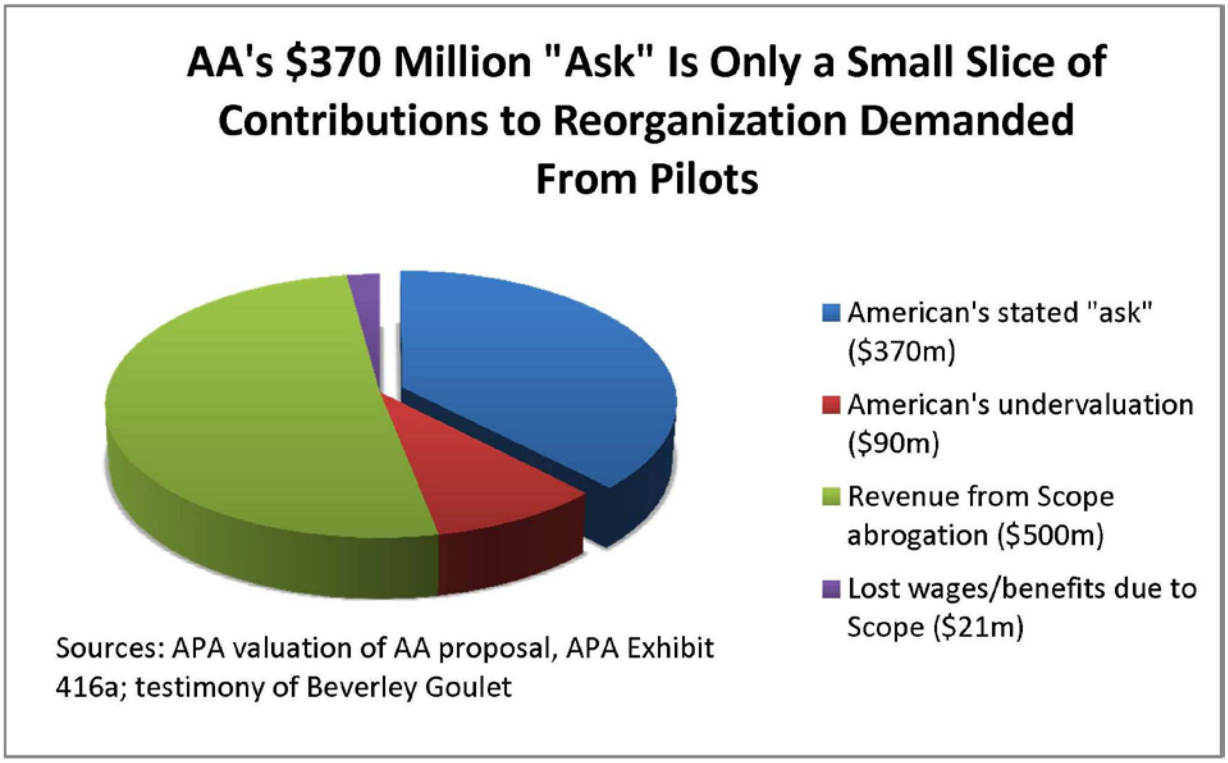
69. When considering American's Scope proposal in conjunction with its undervaluation of the other elements of its proposal, it becomes clear that the $370 million "ask" described by American is only a small portion of the contributions that pilots are being asked to make to American's reorganization. In the pie chart below, APA Exhibit 209, I have shown the

[12] AA is currently flying many routes that fail to make an adequate return on investment on an individual route basis but which make positive contributions to the network as a whole by feeding passengers onto other AA flights. Absent achieving its full goals for increased revenue, AA will be incentivized to outsource many or all of these routes to either a codeshare partner or a commuter carrier utilizing a large regional jet, resulting in greater loss of flying for AA pilots. One may conclude that AA is not planning to simply re-deploy replaced mainline jets to new mainline route [redacted]

[13] To translate lost block hours to cost, I assumed that pilots fly approximately 720 hours per year given proposed productivity improvements; used the proposed rates for 12 year small narrow body captains and first officers; and added a variable benefits cost of 18.5% and $15,000 of fixed benefits expenses for each pilot job lost.

"ask" alongside the other sacrifices that pilots are being asked to make. The chart assumes that revenue gained through abrogation of the pilots' Scope clause will reach $500 million per year. This is a conservative estimate because, as I heard Beverley Goulet testify in court, a "substantial majority" of American's $1 billion revenue target comes from pilot contributions through Scope concessions.

APA Exhibit 209:



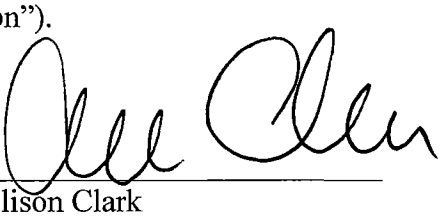
V. CONCLUSION

70. The APA's proposals fully close the pilot labor cost gap identified by the Company and provide a positive path forward for the airline. American's proposals vastly overshoot that target and produce far more in benefit to the airline – and pain to pilots – than the Company admits.

DECLARATION PURSUANT TO 28 U.S.C. § 1746

I declare, under penalty of perjury, that the foregoing is true and correct based on my personal knowledge and on information from the business records that are within the custody and control of the Allied Pilots Association ("APA" or "Association").

May 8, 2012
Date

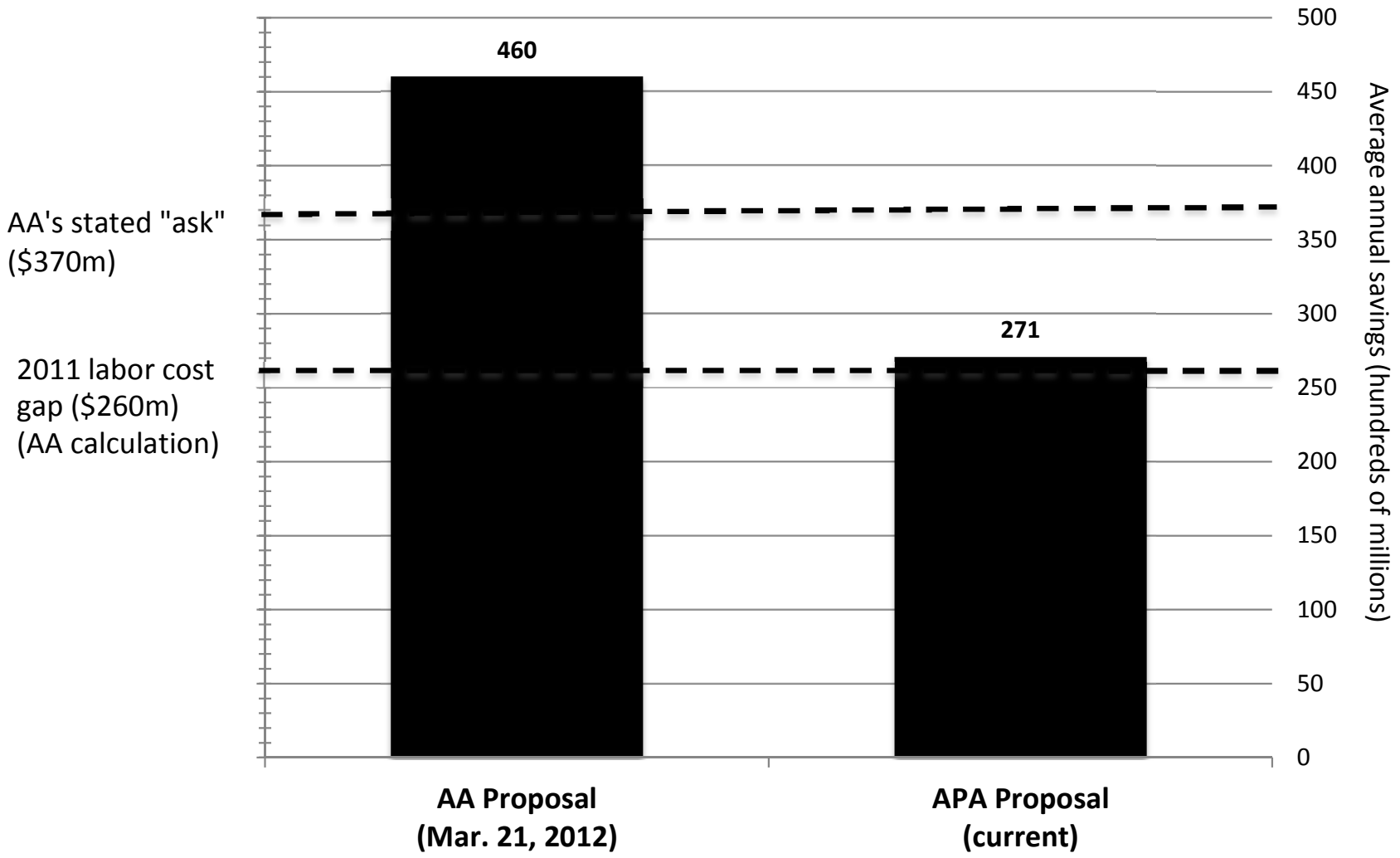

Allison Clark

APA Exhibit 201

Entire Exhibit Under Seal

APA Exhibit 202

Annual Savings from AA and APA Proposals (excluding Scope)



Sources: Presentation to American Board of Directors, APA Exhibit 410; APA valuation of APA proposal, APA Exhibit 416a; APA valuation of AA proposal, APA Exhibit 417a.

APA Exhibit 203

APA Exhibit 203: Data and Assumptions Used by the APA and AA*

APA Data and Assumptions	
Volume Adjustment	Projected domestic and International growth from Company business plan
Seniority List	AA seniority list
Historical Paid Hours	Data from AA records of paid hours in past years
Fleet Delivery Schedule	Projected fleet delivery schedule from Company business plan
Average Retirement Age	Uses legal retirement age of 65
Weighted Average Cost of Capital	Used 8% to discount future cash flows
Sick Rate	Assume sick usage drops to AA targeted 7.2% after implementation of APA proposals

AA Data and Assumptions	
Volume Adjustment	(same as APA)
Seniority List	(same as APA)
Historical Paid Hours	(same as APA)
Fleet Delivery Schedule	(same as APA)
Average Retirement Age	Uses historical data despite change to legal retirement age
Weighted Average Cost of Capital	Used 13.79% to discount future cash flows
Sick Rate	Assume sick rate skyrockets to 9.2% of paid hours (the highest 12 month period over the last decade) due to AA's proposed changes to scheduling, then assumes sick usage drops to 7.2% due to implementation of sick substantiation program and elimination of rapid reaccrual program

*Gray shading indicates that the APA and AA used the same data and assumptions.

APA Exhibit 204

APA's PROPOSALS PRODUCE $271 IN AVERAGE ANNUAL SAVINGS, EXCLUDING SCOPE

Cost savings		Cost increases	
Eliminate lineholder guarantee	$10	Paycheck processing	($2)
Eliminate night premium	$5	Per diem	($6)
Eliminate reserve guarantee for military	$2	Vacation	($12)
Work rules and sick	$67	Rigs	($3)
Rapid reaccrual	$3	Other	($1)
Supp CC	$13		
Check airmen	$3		
Crew rest seats	$16		
VC float	$2		
Distance learning	$2		
Unaugmented flying over 8 hours	$5		
Pension	$116		
Retiree medical	$25		
Active medical	$24		
Long term disability	$3		
TOTAL SAVINGS (non-scope)	$296	**TOTAL COSTS**	($24)

***TOTAL IMPACT (NON-SCOPE): $271 million annually**

*Figures may not tie due to rounding.

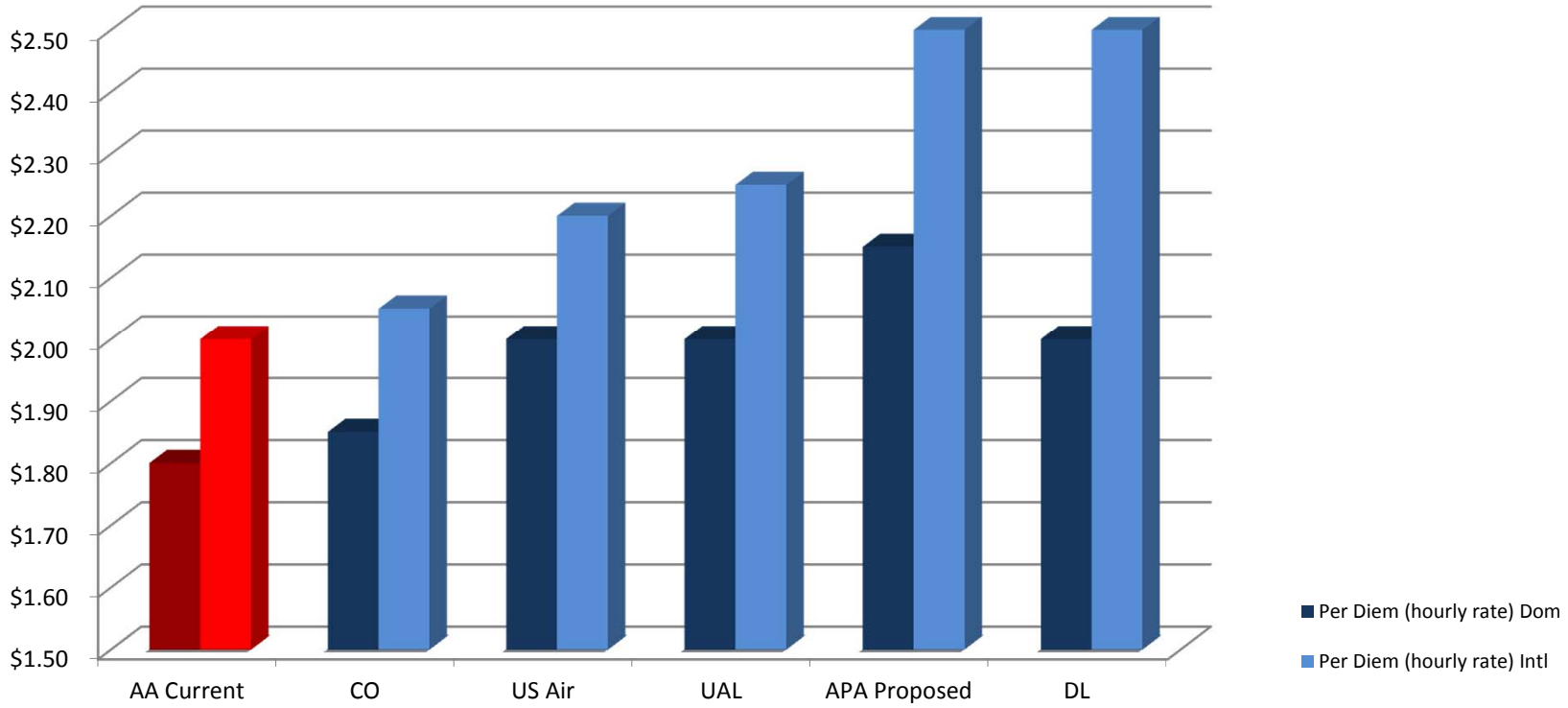
Source: APA valuation of APA proposals, APA Exhibit 416a

APA Exhibit 205

Entire Exhibit Under Seal

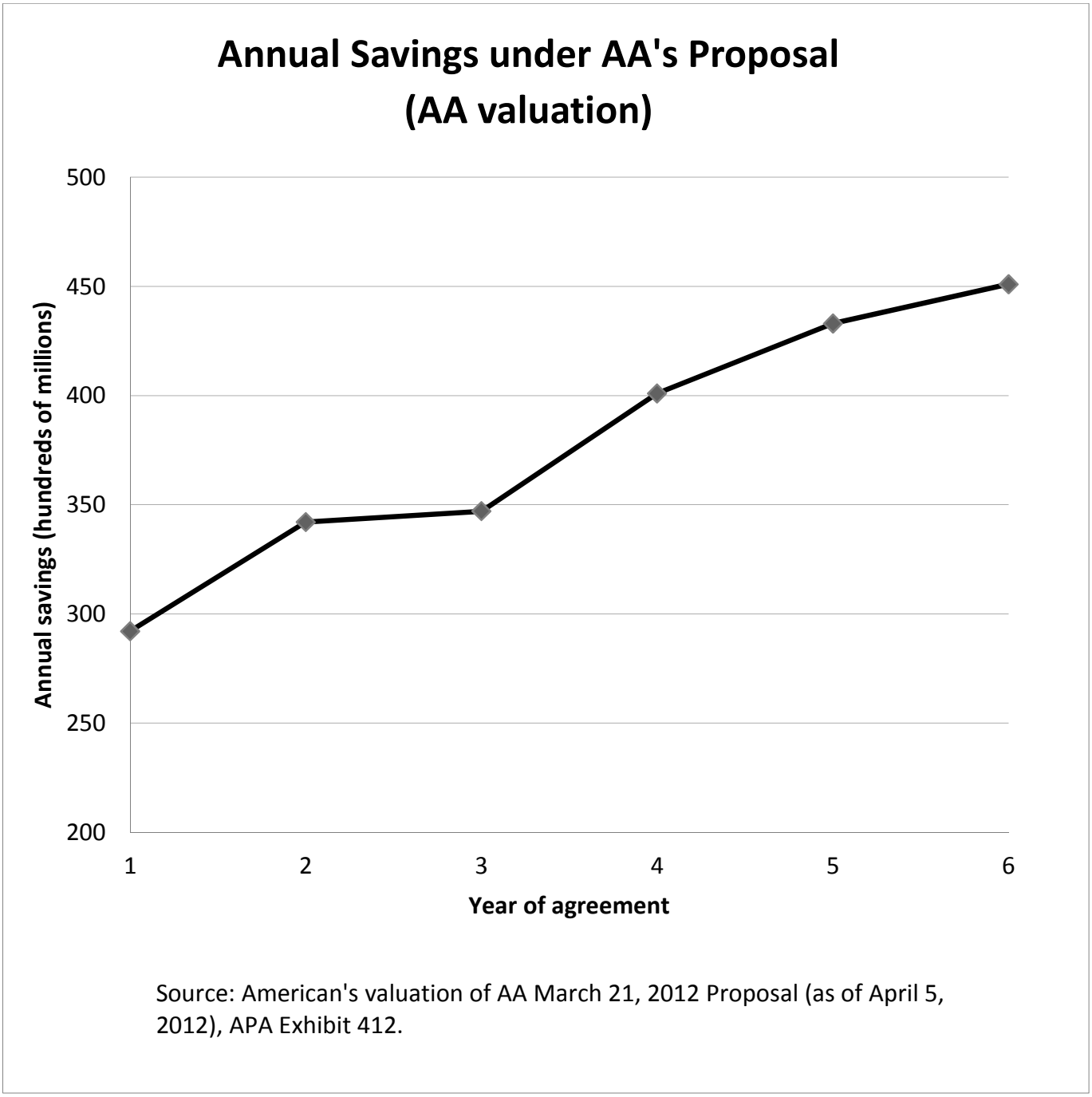
APA Exhibit 206

American's Current Per Diem is the Worst Among Network Carriers



Sources: APA-April 9 proposal, DL-Section 5.B, US Air-Section 5.(B).1.18(E).1., Letter 93, UAL-Section 4-A-1, 22-C-1, CO-Section 5. Part 2.A., AA-Section 7.B.1, Supp.I Section 5.A.1

APA Exhibit 207



Source: American's valuation of AA March 21, 2012 Proposal (as of April 5, 2012), APA Exhibit 412.

APA Exhibit 208

AMERICAN UNDERVALUES ITS PROPOSALS BY $83 MILLION ANNUALLY, EXCLUDING SCOPE

Term	APA Valuation (annual avg.)	AA Valuation (annual avg.)	AA Undervaluation
Crew Rest Seats	$24	$0	$24
Retiree Medical	$58	$38	$19
Schedule Max/Work rules and Incidental Sick Policy	$117	$100	$17
Active Medical	$39	$28	$11
Eliminate Lineholder Guarantee	$9	$6	$3
Retirement Benefit Plan, Hard Freeze w/ 13.5% DC	$122	$117	$6
Other*	$91	$88	$3
Total:**	**$460**	**$377**	**$83**

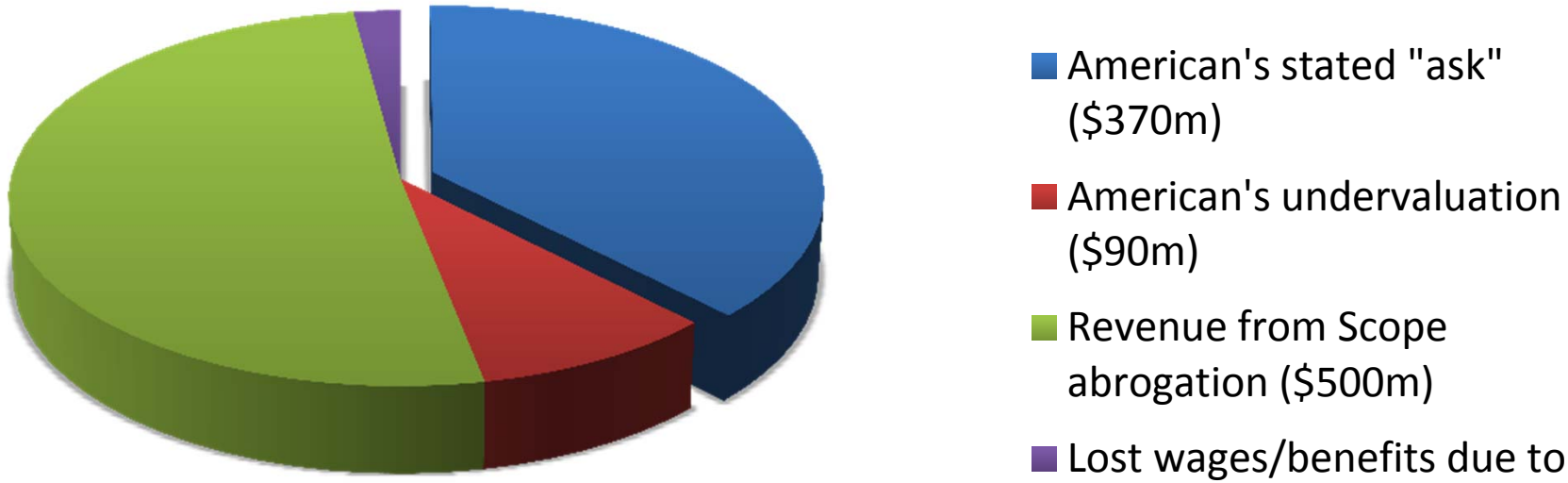
*Other includes Vacation Float, Distance Learning, LTD , Supp CC, Combine Domestic and International Operation, Pay Groupings, B Plan Litigation Avoidance, Cap VC @ 35 days, Eliminate Reserve Guarantee for Military, Eliminate Letter TT and JJ , Eliminate Int'l Premium and Modify to Pay Only Int'l Hours Flown, Electronic copies of Agreement, Premium Pay Changes, Assign FO to Open FB or FC Position on Same Sequence, Fatigue, TUL Pilots, Eliminate Premium for RAPS >7, Check Airman, Brake Release Agreements, Hotels, Eliminate Night Premium , Pay Greater of Schedule or Actual by sequence.

**Figures may not add up due to rounding.

Source: American's Valuation of AA March 21, 2012 Proposal (as of April 5, 2012), APA Exhibit 412; APA Valuation of AA's March 21, 2012 Proposal, APA Exhibit 417a

APA Exhibit 209

AA's $370 Million "Ask" Is Only a Small Slice of Contributions to Reorganization Demanded From Pilots



Sources: APA valuation of AA proposal, APA Exhibit 416a; testimony of Beverley Goulet

APA Exhibit 210

Exhibit I

Comparison of AA Projections to Segal Projections

Based on AA Term Sheet as of March 15, 2012

Projections Effective January 1, 2012 - Assumes Projected Headcount

Baseline Projection

Year	AA - Projections				Segal				Difference - Dollars			Difference - Percent			
	Net Benefit Cost	Pilot Contribs	Contribs as % of Net Benefit Cost	Net Cost	Net Benefit Cost	Pilot Contribs	Contribs as % of Net Benefit Cost	Net Cost	Net Benefit Cost	Pilot Contribs	Net Cost	Net Benefit Cost	Pilot Contribs	Net Cost	Projected Pilots
2011 Current Year	$ 94.3	$ 12.3	13.0%	$ 82.0	$ 94.3	$ 12.3	13.0%	$ 82.0	$ -	$ -	$ -	0.0%	0.0%	0.0%	7,824
2012	$ 97.0	$ 12.2	12.6%	$ 84.8	$ 97.0	$ 12.2	12.6%	$ 84.8	$ -	$ -	$ -	0.0%	0.0%	0.0%	7,538
2013	$ 98.6	$ 12.0	12.2%	$ 86.6	$ 98.6	$ 12.0	12.2%	$ 86.6	$ -	$ -	$ -	0.0%	0.0%	0.0%	7,183
2014	$ 111.5	$ 13.0	11.7%	$ 98.5	$ 111.5	$ 13.0	11.7%	$ 98.5	$ -	$ -	$ -	0.0%	0.0%	0.0%	7,610
2015	$ 124.9	$ 14.1	11.3%	$ 110.8	$ 124.9	$ 14.1	11.3%	$ 110.8	$ -	$ -	$ -	0.0%	0.0%	0.0%	7,982
2016	$ 141.0	$ 15.4	10.9%	$ 125.6	$ 141.0	$ 15.4	10.9%	$ 125.6	$ -	$ -	$ -	0.0%	0.0%	0.0%	8,440
2017	$ 155.1	$ 16.4	10.6%	$ 138.7	$ 155.1	$ 16.4	10.6%	$ 138.7	$ -	$ -	$ -	0.0%	0.0%	0.0%	8,694
Total 2012-2017	$ 728.1	$ 83.1	11.4%	$ 645.0	$ 728.1	$ 83.1	11.4%	$ 645.0	$ -	$ -	$ -	0.0%	0.0%	0.0%	

AA Proposal

	AA - Projections				Segal				Difference - Dollars			Difference - Percent			
	Net Benefit Cost	Pilot Contribs	Contribs as % of Net Benefit Cost	Net Cost	Net Benefit Cost	Pilot Contribs	Contribs as % of Net Benefit Cost	Net Cost	Net Benefit Cost	Pilot Contribs	Net Cost	Net Benefit Cost	Pilot Contribs	Net Cost	Projected Pilots
2011 Current Year	94.3	12.3	13.0%	82.0	94.3	12.3	13.0%	82.0	$ -	$ -	$ -	0.0%	0.0%	0.0%	7,824
2012	91.9	26.8	29.2%	65.1	84.0	25.7	30.6%	58.3	$ (7.9)	$ (1.1)	$ (6.8)	-8.6%	-4.1%	-10.4%	7,538
2013	90.4	26.5	29.3%	63.9	82.4	25.4	30.8%	57.0	$ (8.0)	$ (1.1)	$ (6.9)	-8.8%	-4.2%	-10.8%	7,183
2014	102.0	30.0	29.4%	72.0	93.0	28.7	30.9%	64.3	$ (9.0)	$ (1.3)	$ (7.7)	-8.8%	-4.3%	-10.7%	7,610
2015	114.0	33.6	29.5%	80.4	103.9	32.2	31.0%	71.7	$ (10.1)	$ (1.4)	$ (8.7)	-8.9%	-4.2%	-10.8%	7,982
2016	128.5	37.9	29.5%	90.6	117.1	36.3	31.0%	80.8	$ (11.4)	$ (1.6)	$ (9.8)	-8.9%	-4.2%	-10.8%	8,440
2017	141.3	41.7	29.5%	99.6	128.8	39.9	31.0%	88.9	$ (12.5)	$ (1.8)	$ (10.7)	-8.8%	-4.3%	-10.7%	8,694
Total 2012-2017	$ 668.1	196.5	29.4%	$ 471.6	$ 609.2	188.2	30.9%	$ 421.0	$ (58.9)	$ (8.3)	$ (50.6)	-8.8%	-4.2%	-10.7%	

Value of Changes

	AA - Projections			Segal		
	Benefit Changes	Pilot Contribs	Total	Benefit Changes	Pilot Contribs	Total
2011 Current Year	-	-	-	-	-	-
2012	(5.1)	(14.6)	(19.7)	(13.0)	(13.5)	(26.5)
2013	(8.2)	(14.5)	(22.7)	(16.2)	(13.4)	(29.6)
2014	(9.5)	(17.0)	(26.5)	(18.5)	(15.7)	(34.2)
2015	(10.9)	(19.5)	(30.4)	(21.0)	(18.1)	(39.1)
2016	(12.5)	(22.5)	(35.0)	(23.9)	(20.9)	(44.8)
2017	(13.8)	(25.3)	(39.1)	(26.3)	(23.5)	(49.8)
Total 2012-2017	$ (60.0)	$ (113.4)	$ (173.4)	$ (118.9)	$ (105.1)	$ (224.0)

Note: Some numbers may not add due to rounding. All figures shown in millions.
Net Benefit Cost does not include member out-of-pocket sharing.

Exhibit II-A

Comparison of AA Projections to Segal Projections

Based on APA CounterProposal as of March 21, 2012 - Assumes Projected Headcount

New Standard and New Core Plans Effective January 1, 2013, New Value Plan Effective January 1, 2012

17% Pilot Contribution Across Standard and Core Plans

Baseline Projection

Year	AA - Projections				Segal				Difference - Dollars			Difference - Percent			
	Net Benefit Cost	Pilot Contribs	Contribs as % of Net Benefit Cost	Net Cost	Net Benefit Cost	Pilot Contribs	Contribs as % of Net Benefit Cost	Net Cost	Net Benefit Cost	Pilot Contribs	Net Cost	Net Benefit Cost	Pilot Contribs	Net Cost	Projected Pilots
2011 Current Year	$ 94.3	$ 12.3	13.0%	$ 82.0	$ 94.3	$ 12.3	13.0%	$ 82.0	$ -	$ -	$ -	0.0%	0.0%	0.0%	7,824
2012	$ 97.0	$ 12.2	12.6%	$ 84.8	$ 97.0	$ 12.2	12.6%	$ 84.8	$ -	$ -	$ -	0.0%	0.0%	0.0%	7,538
2013	$ 98.6	$ 12.0	12.2%	$ 86.6	$ 98.6	$ 12.0	12.2%	$ 86.6	$ -	$ -	$ -	0.0%	0.0%	0.0%	7,183
2014	$ 111.5	$ 13.0	11.7%	$ 98.5	$ 111.5	$ 13.0	11.7%	$ 98.5	$ -	$ -	$ -	0.0%	0.0%	0.0%	7,610
2015	$ 124.9	$ 14.1	11.3%	$ 110.8	$ 124.9	$ 14.1	11.3%	$ 110.8	$ -	$ -	$ -	0.0%	0.0%	0.0%	7,982
2016	$ 141.0	$ 15.4	10.9%	$ 125.6	$ 141.0	$ 15.4	10.9%	$ 125.6	$ -	$ -	$ -	0.0%	0.0%	0.0%	8,440
2017	$ 155.1	$ 16.4	10.6%	$ 138.7	$ 155.1	$ 16.4	10.6%	$ 138.7	$ -	$ -	$ -	0.0%	0.0%	0.0%	8,694
Total 2012-2017	$ 728.1	$ 83.1	11.4%	$ 645.0	$ 728.1	$ 83.1	11.4%	$ 645.0	$ -	$ -	$ -	0.0%	0.0%	0.0%	

AA Proposal

	AA - Projections				APA Counter Proposal				Difference - Dollars			Difference - Percent			
	Net Benefit Cost	Pilot Contribs	Contribs as % of Net Benefit Cost	Net Cost	Net Benefit Cost	Pilot Contribs	Contribs as % of Net Benefit Cost	Net Cost	Net Benefit Cost	Pilot Contribs	Net Cost	Net Benefit Cost	Pilot Contribs	Net Cost	Projected Pilots
2011 Current Year	94.3	12.3	13.0%	82.0	94.3	12.3	13.0%	82.0	$ -	$ -	$ -	0.0%	0.0%	0.0%	7,824
2012	91.9	26.8	29.2%	65.1	98.3	17.3	17.6%	81.0	$ 6.4	$ (9.5)	$ 15.9	7.0%	-35.4%	24.4%	7,538
2013	90.4	26.5	29.3%	63.9	91.1	24.5	26.9%	66.6	$ 0.7	$ (2.0)	$ 2.7	0.8%	-7.5%	4.2%	7,183
2014	102.0	30.0	29.4%	72.0	102.8	27.7	26.9%	75.1	$ 0.8	$ (2.3)	$ 3.1	0.8%	-7.7%	4.3%	7,610
2015	114.0	33.6	29.5%	80.4	114.9	31.0	27.0%	83.9	$ 0.9	$ (2.6)	$ 3.5	0.8%	-7.7%	4.4%	7,982
2016	128.5	37.9	29.5%	90.6	129.4	35.0	27.0%	94.4	$ 0.9	$ (2.9)	$ 3.8	0.7%	-7.7%	4.2%	8,440
2017	141.3	41.7	29.5%	99.6	142.2	38.5	27.1%	103.7	$ 0.9	$ (3.2)	$ 4.1	0.6%	-7.7%	4.1%	8,694
Total 2012-2017	$ 668.1	$ 196.5	29.4%	$ 471.6	$ 678.7	$ 174.0	25.6%	$ 504.7	$ 10.6	$ (22.5)	$ 33.1	1.6%	-11.5%	7.0%	

Value of Changes

	AA - Projections			Segal		
	Benefit Changes	Pilot Contribs	Total	Benefit Changes	Pilot Contribs	Total
2011 Current Year	-	-	-	-	-	-
2012	(5.1)	(14.6)	(19.7)	1.3	(5.1)	(3.8)
2013	(8.2)	(14.5)	(22.7)	(7.5)	(12.5)	(20.0)
2014	(9.5)	(17.0)	(26.5)	(8.7)	(14.7)	(23.4)
2015	(10.9)	(19.5)	(30.4)	(10.0)	(16.9)	(26.9)
2016	(12.5)	(22.5)	(35.0)	(11.6)	(19.6)	(31.2)
2017	(13.8)	(25.3)	(39.1)	(12.9)	(22.1)	(35.0)
Total 2012-2017	$ (60.0)	$ (113.4)	$ (173.4)	$ (49.4)	$ (90.9)	$ (140.3)

Note: Some numbers may not add due to rounding. All figures shown in millions.
Net Benefit Cost does not include member out-of-pocket sharing.

APA Exhibit 211

WACC Update for APA

WACC = (R_d * D/V) + (R_e * E/V)

Assumptions:

Risk Free Rate (R_f)	4.1%	10-year T-Bond historical annual average (10 yrs)
Market Return (R_m)	11.9%	S&P 500 Avg annual return 1926-2010
Cost of Debt (D_p)	13.5%	Implied cost of debt based on 5 year credit default swap spreads
Tax Rate (t)	0.0%	
Beta	1.47	Based on monthly returns vs. S&P 500 over a 5-year period
Capital Structure Ratio (Debt / Equity)	86% / 14%	Capital Structure as of 3/31/2011

Calculations:

R_d = (1-t) * D_p	=	(1-0)	*	13.5%			=	13.5%
R_e = R_f + B(R_m - R_f)	=	4.1%	+	1.471	*	(11.9% - 4.1%)	=	15.6%
WACC = (R_d * D/V) + (R_e * E/V)	=	(13.5%	*	86%)	+	(15.55% * 14%)	=	13.79%

APA Exhibit 300

Filiberto Agusti
Joshua R. Taylor (admitted *pro hac vice*)
STEPTOE & JOHNSON LLP
1330 Connecticut Avenue, NW
Washington, DC 20036
Tel: 202-429-3000
Facsimile: 202-429-3902

Edgar N. James (admitted *pro hac vice*)
Kathy L. Krieger (admitted *pro hac vice*)
David P. Dean (admitted *pro hac vice*)
Darin M. Dalmat (admitted *pro hac vice*)
Daniel M. Rosenthal (admitted *pro hac vice*)
JAMES & HOFFMAN, P.C.
1130 Connecticut Avenue, NW, Suite 950
Washington, DC 20036
Tel: 202-496-0500
Facsimile: 202-496-0555

Charles R. Hairston (admitted *pro hac vice*)
Staff Attorney
ALLIED PILOTS ASSOCIATION
14600 Trinity Boulevard, Suite 500
Fort Worth, TX 76155-2512
Tel: (817) 302-2178
Facsimile: (817) 302-2187

Counsel for Allied Pilots Association

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	:	Chapter 11
	:	
AMR CORPORATION, *et al.*,	:	Case No. 11-15463-SHL
	:	
Debtors.	:	(Jointly Administered)

DECLARATION OF CHRISTOPHER D. HEPPNER IN OPPOSITION TO DEBTORS' MOTION TO REJECT APA'S COLLECTIVE BARGAINING AGREEMENT PURSUANT TO 11 U.S.C. § 1113(c)

Table of Contents

Exhibit List

No.	Exhibit Description
301	American Airlines, Inc. 2011 Postretirement Welfare Plan ASC 715 Valuation
302	Retiree Medical and Life Plans (Active Pilots Only) at 5.00% Discount Rate
303	Summary of Company's Proposed Changes to the Active Medical Plan
304	Comparison of AA Projections to Segal Projections: Based on AA Term Sheet as of March 15, 2012
305	APA Active Medical and Retiree Medical March 21, 2012 Proposal
306	Comparison of AA Projections to Segal Projections: Based on APA Counter Proposal as of March 21, 2012
307	APA Active Medical and Retiree Medical February 13, 2012 Proposal

I. IDENTIFICATION OF DECLARANT

I, CHRISTOPHER D. HEPPNER, hereby declare under penalty of perjury that the following is true and correct:

1. I am currently a Vice President and Health Actuary for The Segal Company ("Segal"), practicing out of Segal's Chicago office. Segal is headquartered in New York City and has 22 offices throughout the United States and Canada. Today, Segal provides employee benefits and human resource consulting to just over 2,500 clients that serve three distinct markets – private sector, public sector and multiemployer – with services, staff and expertise available to consult on the full range of health and welfare, retirement and human resource-related issues in each of these markets. Segal has more than 1000 employees companywide; the total number of credentialed actuaries is approximately 150. More information about Segal can be found at www.segalco.com.

2. I have worked for Segal since 2002 and have been a Vice President in charge of Segal's Midwest Health Practice since 2005. Prior to joining Segal in 2002, I worked for a major health insurance company conducting individual health insurance pricing and plan design analysis.

3. As manager of Segal's Midwest Health Practice, I oversee the work for corporate, public sector and multiemployer (employer and union-sponsored) health plans in one phase or another including plan design and actuarial analysis.

4. I received a Bachelor of Science in Business Administration from the University of Illinois in 1991 and I am an Associate of the Society of Actuaries (SOA) and a Member of the American Academy of Actuaries. The SOA is the largest actuarial professional organization in the world with a membership of approximately 18,000. Among other things, applicants for the

position of Associate of the SOA must successfully pass a number of exams before being granted admission. The American Academy of Actuaries is a professional organization of actuaries which functions as the voice of the profession on public policy and professionalism issues.

5. I have previously testified as an expert witness in federal court. In *Bailey v. AK Steel Corporation*, 2008 WL 495569 (S.D. Ohio 2008), I testified as an expert regarding the actuarial issues involved in the case, including the appropriateness of the discount rate used to value the terms of the proposed settlement.

II. INTRODUCTION

6. Segal was retained by James & Hoffman, P.C., counsel to the Allied Pilots Association ("APA"), in connection with the AMR Chapter 11 Bankruptcy Case, Case No. 11-15463.

7. Prior to this engagement, Segal was engaged with APA to evaluate the savings claimed on the American Airlines ("AA" or "the Company") pilot "Term Sheet" and APA's counter-proposals. The focus of our analysis was on the savings for Pilot active medical, retiree medical and long-term disability. The Term Sheet savings are reflected in the McMenamy Declaration (AA 700) at ¶ 22.

8. As part of the process of evaluating the proposal, it was necessary to receive detailed information from the Company. To obtain information from the Company, access was granted to the IntraLinks website set up by the Company. Among the items received were the back up to the calculations that the Company and its consultants did for Pilot active medical, retiree medical and long-term disability. Segal did not audit the data, and relied upon the data to be accurate as provided.

III. DISCUSSION

9. In evaluating the analysis on the Company's proposals, Segal concluded that the calculations and the assumptions used by the Company and their consultants were reasonable and appropriate, with two exceptions. One exception was in connection with the valuation of the retiree medical proposal and the other exception was in connection with the valuation of the active medical proposal.

10. The issue with the Company's retiree medical calculation is the discount rate selected by American Airlines for purposes of valuing the benefit reductions. American Airlines selected a discount rate of 8.25%. This 8.25% rate is higher than where discount rates for retiree medical valuations typically fall for measuring liabilities that are largely unfunded. The accepted practice is to use a rate that approximates the return of a high-quality bond portfolio that matches the liability cash flow. This would currently yield a discount rate of approximately 5%. Such a rate would also be more consistent with the 5.7% rate the Company used to value the same postretirement welfare benefits for accounting purposes in accordance with FASB ASC 715. *See* APA Exhibit 301. If a 5.0% discount rate were utilized, the economic cost impact would be increased by approximately 44.2%, or $106.1 million ($346.1 million – $240 million), over the projection period of 2012 – 2017. *See* APA Exhibit 302.

11. The issue with the Company's proposed changes to the active medical plan is the value of the plan design savings. These proposed changes are summarized in APA Exhibit 303. Specifically, the Company did not account for changes in utilization of the active medical benefit when it calculated the savings for their proposed changes. Since the proposed changes increase employee cost-share, through the use of higher deductibles, co-pays, and out-of-pocket limits, a decrease in utilization should have been included in the Company's model to reflect

corresponding changes in employee behavior. The net cost effect of the Company's failure to factor in a decrease in utilization can be seen in APA Exhibit 304, which illustrates the difference between the two models and shows additional savings of $52.5 million for the projection period of 2012 – 2017 if utilization is included in the model.

12. We also evaluated APA's March 21, 2012 counter-proposal on active medical. The counter-proposal is shown in APA 305. In evaluating APA's counter-proposal, we utilized the Company's assumptions and methods, except that we included utilization changes for the reasons set out in paragraph 11 above. The valuations for the APA counter-proposal are reflected in APA Exhibit 306 and indicate a cost-savings to the Company, when compared to current book, of $145.5 million over the 2012 – 2017 projection period.

13. We also evaluated APA's most recent counter-proposal dated February 13, 2012 on future retiree medical and life. The counter-proposal is shown in APA Exhibit 307. In evaluating the counter-proposal, we again utilized the Company's assumptions and methods, except that we used a 5% discount rate for the reasons set out in paragraph 10 above. The valuations for the APA counter-proposal are reflected in APA Exhibit 302 and indicate a cost-savings to the Company, when compared to current book, of $149.3 million over the 2012 – 2017 projection period.

Declaration Pursuant to 28 U.S.C. § 1746

I hereby declare under penalty of perjury that the foregoing is true to the best of my knowledge and belief.

Dated: 5/4/2012

Christopher D. Heppner

APA Exhibit 301

Entire Exhibit Under Seal

APA Exhibit 302

Retiree Medical and Life Plans (Active Pilots Only) at 5.00% Discount Rate

	Economic cost per year of service	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Total
Number of Actives								
Number of existing actives		7,758	7,647	7,435	7,199	6,828	6,423	
Number of new actives		-	66	786	1,453	1,749	2,511	
Total actives		7,758	7,713	8,221	8,652	8,577	8,934	
Current Plan								
Current actives	$ 7,589	58.9	58.0	56.4	54.6	51.8	48.7	
New actives	$ 2,679	0.0	0.2	2.1	3.9	4.7	6.7	
Total economic cost (millions)		**58.9**	**58.2**	**58.5**	**58.5**	**56.5**	**55.5**	**346.1**
Term Sheet								
Current actives	$ -	0.0	0.0	0.0	0.0	0.0	0.0	
New actives	$ -	0.0	0.0	0.0	0.0	0.0	0.0	
Total economic cost (millions)		**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	
Savings (millions)		*58.9*	*58.2*	*58.5*	*58.5*	*56.5*	*55.5*	*346.1*
APA Proposal								
Current actives	$ 4,306	33.4	32.9	32.0	31.0	29.4	27.7	
New actives	$ 1,589	0.0	0.1	1.2	2.3	2.8	4.0	
Total economic cost (millions)		**33.4**	**33.0**	**33.3**	**33.3**	**32.2**	**31.6**	**196.8**
Savings (millions)		*25.5*	*25.2*	*25.3*	*25.2*	*24.3*	*23.8*	*149.3*

The total economic cost, over six years, based on the company assumptions is $240 million, as shown on their term sheet.

Note: Some numbers may not add due to rounding.

APA Exhibit 303

	Current Benefits					March 15 proposal		
	Value Plus	**Std Opt 1**	**Std Opt 2**	**Std Opt 3**	**Std Opt 4**	**Value**	**Standard**	**Core**
Deductible								
in-network	$100 pp	$150/$400	$250/$750	$500/$1,350	$1,000/$3,000	$300/$900*	$1,000/$3,000	$2,000/$4,000
out of network	$750 pp	$150/$400	$250/$750	$500/$1,350	$1,000/$3,000	$1,500/$4,500*	$3,000/$9,000	$4,000/$8,000
HRA							$500/$1,000**	
Coinsurance								
in-network	80%	80%	80%	80%	80%	80%	80%	70%
out of network	65%	80%	80%	80%	80%	50%	50%	50%
Out of Pocket Max								
in-network	$1,750 pp	$1,000 pp	$1,500 pp	$2,000 pp	$2,500 pp	$2,750/$8,250	$4,000/$12,000	$6,000/$12,000
out of network	Unlimited	$1,000 pp	$1,500 pp	$2,000 pp	$2,500 pp	Unlimited	Unlimited	$12,000/$24,000
deductible counts?	No	No	No	No	No	No	No	Yes
Emergency Room	ded/coin	ded/coin	ded/coin	ded/coin	ded/coin	$100 copay after ded/coin	$100 copay after ded/coin	ded/coin
Office Visit								
PCP	$20	80%	80%	80%	80%	$20	$30	70%
SCP	$40	80%	80%	80%	80%	$40	50%	50%
Retail Generic	$10			80%		$10	80% ($20/$40)	70%
Retail Brand	70% ($20/$75)			80%		70% ($20/$75)	70% ($30/$100)	50%
Mail Generic	80% ($0/$80)			$25		80% ($0/$80)	80% ($10/$80)	70%
Mail Brand	70% ($40/$150)			75% ($0/$150)		70% ($40/$150)	70% ($60/$200)	50%
deductible applies	No			Yes		No	No	Yes

*Increases $50 single/$150 family per year through 2016 (ultimate deductible of $500 single, $1,500 family).
**HRA funded by Company in first year only, then is conditional upon Company financial status.
Doc Number 5250091V1

APA Exhibit 304

Entire Exhibit Under Seal

APA Exhibit 305

APA Proposal

APA Proposal **Date: 03/21/2012** **Time:**

Subject: Active Medical and Retiree Medical	**Version:**
Proposal Reference(s): APA - 11/09/11, 02/13/12; AA 2/1/12, 3/15/12	
Contract Reference(s): Supplement K	

Medical –

- Fixed cost sharing of 17% of pilot benefits and expenses.
- Transition to Four-Tier structure for all medical plans as follows:
  - Pilot – 1.0 multiplier
  - Pilot and Spouse – 2.3 multiplier
  - Pilot and Children – 1.8 multiplier
  - Pilot and Family – 3.1 multiplier

- 2 Plans
  - Standard Plan (contractual)
    - Default plan
  - HDHP Core Plan with Health Savings Account (HSA)
    - Contributions as follows:
      - Pilot – $25.00
      - Pilot and Spouse – 2.3 multiplier ($57.50)
      - Pilot and Children – 1.8 multiplier ($45.00)
      - Pilot and Family – 3.1 multiplier ($77.50)

- Open enrollment commences with DOS.
- Year-over-year premium increases limited to 10%, or the actual rate of medical inflation, whichever is less
- The Company agrees to share medical inflation calculation and data no later than 30 days prior to the beginning of the annual enrollment process and the Association has the right to object to any change in the methodology of the determination of medical inflation as is current practice

APA Proposal

- Deductibles / Coinsurance / Out of Pocket maximums
  - Standard Plan
    - Deductible: In-Network: $300/$800 (Sgl/Fam)
      - Out-Network: $600/$1,600 (Sgl/Fam)
    - Coinsurance: In: 20%
      Out: 40%
    - Out of Pocket: In: $2,000/$3,250 (Sgl/Fam)
      Out: $5,000/$8,000 (Sgl/Fam)
  - HDHP Core Plan
    - Deductible: In-Network: $1,500/$3,000 (Sgl/Fam)
      - Out-Network: $3,000/$6,000 (Sgl/Fam)
    - Coinsurance: In: 20%
      Out: 40%
    - Out of Pocket: In: $4,000/$8,000 (Sgl/Fam)
      Out: $8,000/$16,000 (Sgl/Fam)
- Plan Changes: Mutual agreement using a process similar to the one in Supp F(4)
  - Company must make APA aware of changes required by law
  - All other changes must be made by mutual agreement

- Pharmacy:
  - Standard Plan
    - Retail (up to 30 day supply):
      - Generic: 20% ($0/$40)
      - Brand (no generic available): 20% ($20/$75)
      - Brand (generic available): 20%
    - Mail Order (up to 90 day supply):
      - Generic: $25 or actual cost whichever is less
      - Brand (no generic available): 25% up to $150
      - Brand (generic available): $25 plus cost difference
  - HDHP Core Plan
    - Retail and mail order Rx subject to deductibles and coinsurance.

APA Exhibit 306

Entire Exhibit Under Seal

APA Exhibit 307

APA Proposal

APA Proposal **Date: 02/13/2012** **Time:**

Subject: Active Medical and Retiree Medical	**Version:**
Proposal Reference(s): APA - 11/09/11	
Contract Reference(s): Supplement K	

Medical –

- Fixed cost sharing of 17% (benefits and expenses)
- Transition to Four-Tier structure for all medical plans as follows,
  - Pilot
  - Pilot and Spouse
  - Pilot and Children
  - Pilot and Family

- 2 Plans
  - Standard Plan (contractual)
    - Default plan
  - HDHP Core Plan with Health Savings Account (HSA)
    - No monthly premium for the HDHP Core Plan

- Adjustments commence with the 2013 calendar year.
- Year-over-year premium increases limited to 10%, or the actual rate of medical inflation, whichever is less
- The Company agrees to share medical inflation calculation and data no later than 30 days prior to the beginning of the annual enrollment process and the Association has the right to object to any change in the methodology of the determination of medical inflation as is current practice

APA Proposal

- Deductibles / Coinsurance / Out of Pocket maximums
  - Standard Plan
    - Deductible: In-Network: $300/$800 (Sgl/Fam)
      - Out-Network: $600/$1,600 (Sgl/Fam)
    - Coinsurance: In: 20%
      Out: 40%
    - Out of Pocket: In: $2,000/$3,250 (Sgl/Fam)
      Out: $5,000/$8,000 (Sgl/Fam)
  - HDHP Core Plan
    - Deductible: In-Network: $1,500/$3,000 (Sgl/Fam)
      - Out-Network: $3,000/$6,000 (Sgl/Fam)
    - Coinsurance: In: 20%
      Out: 40%
    - Out of Pocket: In: $4,000/$8,000 (Sgl/Fam)
      Out: $8,000/$16,000 (Sgl/Fam)
- Plan Changes: Mutual agreement using a process similar to the one in Supp F(4)
  - Company must make APA aware of changes required by law
  - All other changes must be made by mutual agreement

- Pharmacy:
  - Standard Plan
    - Retail (up to 30 day supply):
      - Generic: 20% ($0/$40)
      - Brand (no generic available): 20% ($20/$75)
      - Brand (generic available): 20%
    - Mail Order (up to 90 day supply):
      - Generic: $25 or actual cost whichever is less
      - Brand (no generic available): 25% up to $150
      - Brand (generic available): $25 plus cost difference
  - HDHP Core Plan
    - Retail and mail order Rx subject to deductibles and coinsurance.

APA Proposal

Retiree Medical

- Pre-'83 hires – no change

• All others transition to Management Plan with cost-sharing set at 25%

Note: Assumes Access only to post-65 medical coverage, except for pre-'83 hires

• Plan changes can be made by mutual agreement using a process similar to the one in Supp F(4)

- Company must make APA aware of changes required by law

All other changes must be made my mutual agreement

Intent is to honor May 23, 2003 letter from Burdette to Darrah codifying no changes to retiree medical plans.

- Company agrees to share plan actuarial data annually and the Accounting Standard Codification ASC715 report or its replacement.
- Company agrees to provide APA with the annual cost information used to determine contributions and retiree contributions no later than 30 day prior to the beginning of the annual enrollment period
- Prior to ratification, parties will identify and agree to the costs included in the overall calculations
- The costs included in the overall calculations cannot be changed without mutual agreement between the parties

APA Exhibit 308

APA EXHIBIT 308

The following documents were considered in forming the conclusions and opinions contained in the May 4, 2012, declaration of Christopher D. Heppner (APA Exhibit 300):

1. Company Term Sheet as of February 1, 2012.pdf (IntraLinks No. 22.6)

2. American Airlines Section 1113(c) Proposal to the Allied Pilots Association Valuation Model (IntraLinks No. 22.12)

3. Pilot_Active Medical Financial Projections(96717300_1) (IntraLinks No. 22.13)

4. Active Medical Aggregate Financial Projections(96717330_1) (IntraLinks No. 22.14)

5. Active Medical Analysis Assumptions (96717207_1).pdf (IntraLinks No. 22.15)

6. APA Economic Cost for DBP and Post Retirement Medical and Life(96733968_1).pdf (IntraLinks No. 22.18)

7. 2011 Active Pilot Census Data for Retiree Medical and Life Economic Cost Analysis(96733906_1) (IntraLinks No. 22.20)

8. 20120222 American Airlines Responses to APA Email Request (Segal) on 2-13-12.pdf (IntraLinks No. 22.28)

9. 20120229 APA-Lazard Request (2_13_12) - AA Preliminary Responses to High Priority Questions.pdf (IntraLinks No. 22.38)

10. Estimated January 1, 2012 FT & TNC Summary_2.pdf (IntraLinks No. 22.41)

11. Attachment+D+-+Pilots+Active+Medical+and+Life+AMENDED+3+14+2012.pdf (IntraLinks No. 22.52)

12. AA AMENDED Plans Pilot 3.16.2012 (IntraLinks No. 22.55)

13. Attachment D - Pilots Active Medical and Life AMENDED 3 15 2012.pdf (IntraLinks No. 22.60)

14. 20120321_Company Term Sheet_1113.pdf (IntraLinks No. 22.64)

15. Working Version - Valuation model March 21, 2012 Proposal to APA (IntraLinks No. 22.72)

16. ASC 715 AMR – Retiree Medical 2011 Report (IntraLinks No. 27.7)

17. 2010 APBO split_2011 NPBC split_40-yr projection.pdf (IntraLinks No. 27.21)

APA Exhibit 309

Entire Exhibit Under Seal

APA Exhibit 310

Entire Exhibit Under Seal

APA Exhibit 400a

Filiberto Agusti
Joshua R. Taylor (admitted *pro hac vice*)
STEPTOE & JOHNSON LLP
1330 Connecticut Avenue, NW
Washington, DC 20036
Tel: 202-429-3000
Facsimile: 202-429-3902

Edgar N. James (admitted *pro hac vice*)
Kathy L. Krieger (admitted *pro hac vice*)
David P. Dean (admitted *pro hac vice*)
Darin M. Dalmat (admitted *pro hac vice*)
Daniel M. Rosenthal (admitted *pro hac vice*)
JAMES & HOFFMAN, P.C.
1130 Connecticut Avenue, NW, Suite 950
Washington, DC 20036
Tel: 202-496-0500
Facsimile: 202-496-0555

Charles R. Hairston (admitted *pro hac vice*)
Staff Attorney
ALLIED PILOTS ASSOCIATION
14600 Trinity Boulevard, Suite 500
Fort Worth, TX 76155-2512
Tel: (817) 302-2178
Facsimile: (817) 302-2187

Counsel for Allied Pilots Association

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	:	Chapter 11
	:	
AMR CORPORATION, *et al.*,	:	Case No. 11-15463-SHL
	:	
Debtors.	:	(Jointly Administered)

UPDATED DECLARATION OF NEIL ROGHAIR IN OPPOSITION TO DEBTORS' MOTION TO REJECT APA'S COLLECTIVE BARGAINING AGREEMENT PURSUANT TO 11 U.S.C. § 1113(c)

Table of Contents

Exhibit List

No.	Exhibit Description
401	Proportion of Concessions in 2003 By Workgroup
402	Excerpt from AMR's 2003 10-K filing with the SEC
403	1993 Pay Rates under 1991 Collective Bargaining Agreement Between APA and American
404	July 21, 2006 Letter from Mark Burdette to Ralph Hunter
405	'AMR in Stalemate in Bid for $800 Million Labor Savings' September 29, 2011 Bloomberg News Article
406	American Valuation of AA Proposal (October 6, 2011)
407	October 2011 Presentation to the American Board of Directors Regarding Pilot Agreement
408	American Valuation of AA Option A Proposal (November 14, 2011)
409	American Valuation of AA Option B Proposal (November 14, 2011)
410	November 2011 Financial and Strategic Update to American Board of Directors
411	November 15, 2011 Letter from APA Leadership to Gerard Arpey
412	American's Valuation of AA March 21, 2012 Proposal (As of April 5, 2012)
413	American's Pre-Petition and Post-Petition Concession Targets
414	April 9, 2012 APA Scope Proposal
415a	Updated Additional APA Counterproposals
416a	APA's Updated Valuation of APA's Post-Petition Proposal
417a	APA's Updated Valuation of AA's Post-Petition Proposal
418	AA's Valuation of APA's Post-Petition Proposal
419	Department of Labor ARB Decision in *Furland v. American Airlines*
420	Harris Award on New Sick Policy (January 26, 2007)
421	Bloch Award on Revised 30-Day Sick Policy (May 13, 2009)
422	Goldstein Award on Frequent and Pattern Sickness (March 17, 2010)
423	March 22, 2012 Meeting Notes
424	February 6, 2012 American Airlines Presentation on Healthcare Marketplace
425	American Labor Cost Model (November 2011)
426	Labor Cost Gap Assessment in November 2011 Financial and Strategic Update
427	April 10, 2012 Email exchange between David Dean and Neal Mollen
428	APA Data Request – April 13, 2012
429	Additional American Response to Various Items in APA Data Requests/Assertions Dated "April 13, 2003"
430	American Response to Lazard Data Request (March 30, 2012)
431	April 23, 2012 Preliminary Draft of Business Plan Initiatives (BPM 3.0)
432	APA and US Airways Conditional Labor and Plan of Reorganization Agreement (*confidential*)

I, NEIL ROGHAIR, under penalty of perjury, declare the following to be true and correct based on my personal knowledge and on information from the business records of the Allied Pilots Association ("APA" or "Association") within my custody and control.

I. Identification of Declarant

1. I have been a pilot employed by American Airlines, Inc. ("American" or the "Company") since February 1, 1999. I served 24 years in the Air Force, where I was a Major prior to my employment at American. In 2003, I was recalled to active duty as a Lt. Colonel during the Iraq war where I served as a commander in Baghdad and took part in the first and second Battles of Fallujah and An-Najaf. I returned to American in 2007.

2. I am a member of APA, the collective bargaining representative for the approximately 10,000 pilots employed by American. I joined the APA Negotiating Committee in October 2009 and have served as Chair of that Committee since March 2010. In my capacity as Chair of the Negotiating Committee, I serve as APA's lead negotiator in discussions with American regarding the re-negotiation of the most recent Collective Bargaining Agreement and all associated Supplements and Letters between the Company and the pilots (collectively, the "2003-2008 CBA"). *See* AA Exhibit 901.

3. I make this declaration in opposition to the motion by AMR Corporation and American (collectively, the "Debtors") to reject, among other agreements, the 2003-2008 CBA between American and APA. I would be competent to testify to these matters as a witness if called to do so.

II. Introduction

4. This declaration describes: (a) the sacrifices that pilots have made to ensure the survival of American; (b) the seven-fold difference between the concessions American thought it

needed on the eve of bankruptcy in order to be a successful company and the concessions it seeks through this motion; (c) American's post-petition refusal to negotiate over its cost target or to engage in meaningful bargaining at all with the pilots, despite our repeated willingness to make reasonable counterproposals that meet the Company's articulated needs; (d) the Company's failure to provide certain key information that is critical to our ability to evaluate its proposals; and (e) the pilots' recent negotiations with US Airways, which show that we are able to conclude a labor agreement quickly with a negotiating partner who is willing to accept market-based proposals.

III. American's Pilots Currently Work Under Terms that Were Negotiated As Part of A 2003 Out-of-Court Restructuring

5. American and APA last concluded a collective bargaining agreement in 2003, and the terms of that agreement continue to be in place today. The 2003 negotiations came on the heels of two events that deeply impacted American's operation. The first was AMR's acquisition of the assets of Trans World Airlines, Inc. ("TWA") in January 2001. As part of that acquisition, American negotiated a TWA Transition Agreement in July 2001 with APA, which significantly expanded the pilots' contractual protections against being furloughed.

6. The second major event that led to our 2003 negotiations was the terrorist attacks of September 11, 2001. Those tragic events shocked the employees and management of American both on a personal level and on an economic level. Their consequences quickly rippled throughout the airline industry.

7. Invoking the *force majeur* exception to the furlough protection provision of the then-existing CBA, American began furloughing pilots at the rate of approximately 100 per

month beginning October 1, 2001. Over the course of the next several years, the Company ultimately furloughed over 2,900 pilots – over 20% of the active pilot group.

8. American suffered over $2 billion in losses in 2002, AA Ex. 104, and saw its competitors, United and US Airways, file for bankruptcy that year. Consequently, in early 2003, American's management approached each of its unions and sought concessions in an amount that it thought was sufficient to restructure and avoid bankruptcy.

9. APA concluded a concessionary agreement with American in a matter of weeks, as did the other unions that represented American employees. Together, American sought and achieved at least $1.6 billion in annual concessions from all unionized employees. When the contributions of all American's workers are included, the Company's employees gave up $1.8 billion annually.

10. According to its SEC filings, American allocated those concessions as follows:

APA Exhibit 401: Proportion of Concessions in 2003 By Workgroup (dollars in millions)

Labor Group	Annual Concessions	Share of Total Cost Cuts	Share of Workforce by Count	Share of Workforce by Cost	2003 Labor Costs	Jan 2003 Headcount
Pilots	$660	36.67%	12.54%	28.39%	$2,134	12,012
Flight attendants	$340	18.89%	22.01%	17.01%	$1,279	21,091
TWU – mechanics	$330	18.33%	16.97%	18.77%	$1,411	16,263
TWU – fleet service	$260	14.44%	17.05%	13.85%	$1,041	16,338
TWU – other	$30	1.67%	2.60%	2.30%	$173	2,492
Agents and Reps	$80	4.44%	16.44%	9.82%	$738	15,754
Management and Support	$100	5.56%	12.38%	9.86%	$741	11,860
Total	$1,800	100.00%	100.00%	100.00%	$7,517	95,810

Sources: AMR's 2003 10-K filing with the SEC, an excerpt of which is attached hereto as APA Exhibit 402; Supplement D to the 2003-2008 CBA.

11. As the table above shows, the pilots' concessions were disproportionate to their share of the workforce and of American's labor costs. In contrast, the non-union workers, including management, agents, and representatives, contributed well below their proportional share of those concessions.

12. The pilots were willing to give those concessions in order to avert bankruptcy because we wanted to do what we could to save the Company. American set the $660 million target in annual savings, and we gave the Company what it requested. As a result of those concessions, pilots suffered a 23% pay cut across the board. In fact, numerous pilots suffered effective pay cuts between 40% and 50% because American downsized its fleet and many pilots were required to fly smaller aircraft, resulting in lower pay rates for their flying.

13. The inequities between pilots' and management's 2003 concessions continue to the present, both because of the nature of the pilot labor agreement and because of management's subsequent behavior.

14. First, APA agreed to a five-year contract, which became terminable in 2008. As explained in more detail below, the parties have been renegotiating that contract through the auspices of the National Mediation Board ("NMB") since 2006. As a result, the Railway Labor Act ("RLA") has required us to continue working under the terms and conditions established by the 2003-2008 CBA since that agreement became effective on May 1, 2003. In other words, American's pilots work today under disproportionately high concessions and have done so throughout the last nine years. In fact, American pilots today work for the same pay rates that they earned in 1993, measured in nominal dollars. A true and correct copy of excerpts from the collective bargaining agreement in effect during 1993 is attached hereto as APA Exhibit 403.

15. Second, American's former CEO, Donald Carty, acted quickly after the 2003 concessions to try to "make his managers whole." On April 15, 2003, the very day that the pilots ratified their concessionary agreement, the Company filed statements with the SEC that revealed that senior AMR management had amended the Supplemental Executive Retirement Program ("SERP") a few months earlier in order to protect the pensions of more than 40 AMR executives in the event of a bankruptcy filing. The APFA and TWU also ratified their agreements; however, following the April 15th disclosure, they announced that they would send out the concessionary agreements for a second, and presumably doomed, vote.

16. On April 23, 2003, Congressional mediators convened a meeting between the senior executives of American/AMR and the three unions. This meeting led to the resignation of Mr. Carty and the elevation of Gerard Arpey as his successor. The unions and Company

executives also negotiated an Annual Incentive Plan ("AIP"), which included a provision governing Management Incentive Programs limiting executive cash compensation. In return, APFA and TWU withdrew their proposals for a second vote.

17. Soon after becoming CEO, Mr. Arpey created a process known as the Performance Leadership Initiative ("PLI") and, as part of that process, retained Bain Consulting to work with the unions on a variety of projects. The pilots, principally through Larry Rosselot and Mickey Mellerski, worked with Bain and various American employees through most of 2005 to agree on a methodology to value the pilot contract in order to avoid the kinds of protracted valuation disputes that had marred the 2003 negotiations. In addition, the parties compared the pilots' 2003-2008 CBA with other pilot contracts and determined that pilot productivity needed to be addressed.

18. In order to sensitize the pilots to the competitive landscape, APA began in December 2005 a series of base meetings, known within APA as "road shows," to explain how the 2003-2008 CBA compared to other pilots' contracts in the industry on a number of metrics, principally productivity. In January, APA sent a DVD presentation to every APA-represented pilot that explained the challenges facing the Company and the pilots, and APA began to educate its members about measures that would increase productivity.

19. In mid-January 2006, American announced that it would likely pay out close to $100 million in cash compensation to a small group of executives pursuant to a Performance Unit Plan ("PUP"). The PUP payments were based on a formula that measured relative stock performance over a three year period. While many of the airline comparators were in bankruptcy, AMR lost over $2.9 billion between 2003 and 2006. AA Ex. 104. Given that the PUP payments would have violated the AIP, APA invoked the dispute resolution procedures and

submitted the dispute to arbitration. In the face of an adverse draft decision, American changed the method of payment in order to comply with the AIP limitations, but this second dispute over executive compensation fed a toxic relationship between the union leadership and AMR executives for the next several years. While the numbers have gone down dramatically in recent years as AMR's stock price faltered, these payments are made each April and now total $359 million in the aggregate.

IV. American's Pre-Petition Proposals Sought Only $55 Million in Annual Pilot Concessions, Which American Thought Sufficient to Make it Competitive by 2014

20. The 2003-2008 CBA included an "Early Opener" clause which provided that either party could initiate negotiations after May 1, 2006, by serving a notice of intended change to the collective bargaining under Section 6 of the RLA. *See* 2003-2008 CBA, § 26(D). American served a Section 6 notice on July 21, 2006. Letter from Mark Burdette to Ralph Hunter, July 21, 2006, attached as APA Exhibit 404. The parties subsequently met for negotiations beginning on November 7, 2006.

21. Direct negotiations between the parties continued through 2007 but did not result in agreement. Accordingly, in January 2008, APA applied for mediation services with the NMB. On February 19, 2008, APA withdrew its request for mediation when the union and American agreed to a four-week period of discussions facilitated by the NMB outside the formal Section 5 process. After those informal facilitated discussions failed to produce adequate progress, APA once again requested Section 5 mediation on April 10, 2008. That mediation began on May 6, 2008 and continues to the present.

22. In July 2010, a new team of elected officers took over at APA. Captain Dave Bates was installed as President and immediately started working to change the confrontational

relationship between APA and the Company. Over the next several months, APA worked diligently to reach agreements with American and adopted new approaches to enable it to do so promptly. These new approaches included the retention of the Economic & Financial Analysis Department ("E&FA") of the Air Line Pilots Association ("ALPA"), which has considerable expertise in airline industry economics, and a willingness to consider management's priorities that APA had previously been unwilling to entertain. Those priorities included certain work rules that would increase pilot productivity including increases to the number of hours that the Company could schedule in a month and the elimination of the guarantee for most pilots to receive pay for at least a fixed number of hours per month (the "lineholder guarantee").

23. Jeff Brundage, American's Senior Vice President of Human Relations who had ultimate responsibility over labor relations at American, announced in a bargaining session early in August 2011 that APA urgently needed to conclude a comprehensive agreement with the Company, otherwise American would be required to take one of three "alternate paths": dramatic downsizing of the airline; merger with another carrier, most likely US Airways; or restructuring through the Chapter 11 bankruptcy process. Although we had offered significant concessions on numerous work rules by August 2011, at that time the pilots were still expecting to offset those concessions by building pay increases into the new agreement in order to keep up with industry standards.

24. Later that month, however, on August 25, 2011, Mr. Brundage made clear that American would be seeking an agreement that, as a whole, would be concessionary. During that meeting, he wrote a check-mark on the board and told us that American needed pilots' labor cost to go down until 2013, when the first aircraft from American's July 2011 fleet order would start to arrive; American was prepared to give pilots overall increases thereafter.

25. In light of his previous announcement regarding the alternate paths of downsizing, merger, or bankruptcy, the other APA negotiators and I understood Mr. Brundage to mean that American had crafted the proposals it made between August 25, 2011, and the final pre-petition negotiating session on November 14, 2011, to attain the concessions it needed to avoid bankruptcy and the other alternatives.

26. Throughout negotiating sessions beginning in late 2010 and continuing through the fall of 2011, American's negotiators discussed the "labor cost gap" between American and its competitors. At first, during the sessions in late 2010, American – through Dennis Newgren, the Company's Managing Director of Employee Relations and the principal negotiator for the pilot group, and Michael Burtzlaff from the finance department – informed us that American had $600 million more than its competitors in annual labor costs, $230 million of which was attributable to the pilots. Later, in the fall of 2011, American's negotiators told us that the labor cost gap was actually $800 million, $260 million of which was attributable to the pilots. Consistent with these discussions, American reported to the news media in September 2011 that its total labor cost gap was $800 million per year. A true and correct copy of one such report is attached hereto as APA Exhibit 405. Based on explanations from American's negotiators, I understood the Company to have intended its proposals during this time period, from August 2011 through November 2011, to be aimed at closing the gap in the labor expenses between American and its competitors.

27. On October 6, 2011, American finally presented a proposal that included pay rates and other compensation terms. Along with this proposal, Mr. Burtzlaff presented APA with the Company's calculations of the financial impact to American of its most recent comprehensive proposal to APA. A true and correct copy of that analysis is attached hereto as APA Exhibit

406.[1] As can be seen in APA Exhibit 406, American estimated that its October 2011 comprehensive proposal, if accepted by APA, would result in $55 million in annual average pilot labor cost reductions to the Company over the course of five years.

28. Although we were not privy to these materials at the time, as part of its 1113 application, American has since provided us with a presentation made to its Board of Directors in October 2011. A true and correct copy of that presentation is attached hereto as APA Exhibit 407. According to that presentation, if APA accepted American's October 2011 proposals, American would have a pilot labor cost advantage over Delta by 2013. *Id.* at 33. The same presentation also noted that the scope relief American was seeking from the pilots would generate "[u]p to [redacted] of annual value with the ability to expand domestic codeshare with [redacted]" and "up to hundreds of millions annually" from expanded outsourcing of regional jets. *Id.* at 34.

29. By October 28, 2011, APA had reached 41 Agreements in Principle with American on specific terms of an overall agreement.[2] On November 11, 2011, APA made a

[1] Negotiators for both sides sometimes refer to these sorts of calculations as "costing," "priceouts," or "valuation" of proposals.

[2] An Agreement in Principle is a document initialed by negotiators by both sides that sets forth the elements of agreement with respect to a particular term. Sometimes those Agreements in Principle incorporate actual contract language and sometimes they simply identify the substance of the term, with the understanding that the parties will develop contractual language later on. Either way, once the parties commit to an Agreement in Principle with respect to a particular term, we end discussion of that term and move on to other terms.

In addition to these 41 Agreements in Principle, we had also reached less formal agreement with American on several additional terms, including domestic and international per diems; maintaining the then-effective Defined Benefit Pension Plan and Supplement B, which ensured that pilots hired before a certain date could not have their pension benefits reduced; substantially maintaining the then-effective Defined Contribution Pension Plan; a flying scheduling system that was based on the then-effective system with certain modifications; certain

comprehensive proposal, which incorporated all of these Agreements in Principle and all other items of agreement. *See* AA Exhibit 907. Our November 11 proposal addressed all aspects of the contract, and gave concessions on nearly every work rule, including areas that American's negotiators had explained were key to the Company's ability to avoid bankruptcy, such as relaxations to restrictions in the pilots' scope clause. [redacted][3] In all, by APA's calculations, our final pre-petition proposal, if accepted by American, would have saved the Company $50 million a year in changes to scheduling and work rules alone – proposals that APA anticipated would allow the Company to fly the same number of hours with 1,100 fewer pilots – and an additional $59 million per year in changes to pensions and medical benefits. To keep up with industry standards, APA also proposed pay increases, which would have offset these savings to the Company.

30. On November 11, 2011, American informed union negotiators that it would spend the weekend creating its last, best proposal. That proposal, which American presented on

---

duty ratios in guarantee ("RIGs"), which govern in part the number of work hours credited to pilots; contributions to medical plans, such that active pilots would pay 15% of costs for their company-provided medical plan and retired employees would pay 25% of costs for their plan, except that pilots covered by Supplement B would pay none of the costs; certain terms on scope, including the retention of the then-effective definition of "commuter air carriers" and the so-called "international baseline," which required American pilots to fly a minimum number of international block hours.

[3] This proposal would also have eliminated Section 1.H, established domestic block hour protection, and incorporated certain successorship provisions.

November 14, included two options: "Option A" and "Option B." *See* AA Exhibit 908. After APA received these proposals, Allison Clark, APA's Director of Industry Analysis, asked American for its analysis of the cost impact of these proposals. American did not provide those analyses at any time prior to its bankruptcy filing. Instead, American provided those analyses only on February 7, 2012, in response to the APFA's information request. True and correct copies of American's analyses of the cost impact of its November 14, 2011, proposals are attached hereto as APA Exhibits 408 and 409. They show that American estimated that its November 14, 2011, proposals to APA would generate average annual cost savings to the Company of $55 million and $47 million, respectively, for Options A and B.

31. Sometime in November 2011, American's Board of Directors received a presentation on a Financial and Strategic Update. Although we were not privy to that presentation at the time, American provided the unions with a copy of it as part of the Section 1113 process. A true and correct copy of that presentation is attached hereto as APA Exhibit 410. According to that presentation, American's overall labor costs for all employee groups were approximately $625 million per year more than its competitors, Delta, United, and US Airways. *Id.* at 43-44. American attributed $260 million of that annual labor cost gap to costs associated with the pilots. *Id.* at 44. According to the presentation, if American were able to achieve its November 2011 proposals to APA, it would be able to close the pilot labor cost gap by 2014. *Id.* at 50.

32. After receiving the Company's November 14, 2011 proposals, the APA Board of Directors voted 17-1 to communicate to AMR leadership the union's continuing commitment to a cooperation towards a "mutually beneficial agreement" reached "through good-faith bargaining." The union stated that it remained "ready and willing to discuss creative solutions

that address our respective parties' concerns so that we may promptly conclude these talks." *See* Letter from APA Leadership to Gerard Arpey, November 15, 2011, attached as APA Exhibit 411.

33. However, the Company declined APA's requests to continue negotiations.

34. Fourteen days after receiving APA's letter, American filed for bankruptcy.

V. American Has Refused to Negotiate Over Its Post-Petition Concession Target, A Seven-Fold Increase Over Its Pre-Petition Target, and Has Manufactured Valuation Disputes in Order to Avoid Engaging in Genuine Bargaining Over Specific Terms

A. American Has Made a Take-It-Or-Leave-It Demand for $370 Million in Annual Concessions

35. American first presented its 1113(c) proposal to the unions in a meeting at the Company's headquarters on February 1, 2012, opened by AMR CEO Tom Horton.[4] After additional presentations by AMR Chief Restructuring Officer Beverly Goulet and AMR Senior Vice President of Human Resources Jeff Brundage, the meeting broke out into negotiations between each individual union and the Company's counterpart negotiator. Mr. Newgren, the Company's pilot negotiator, then met with APA.

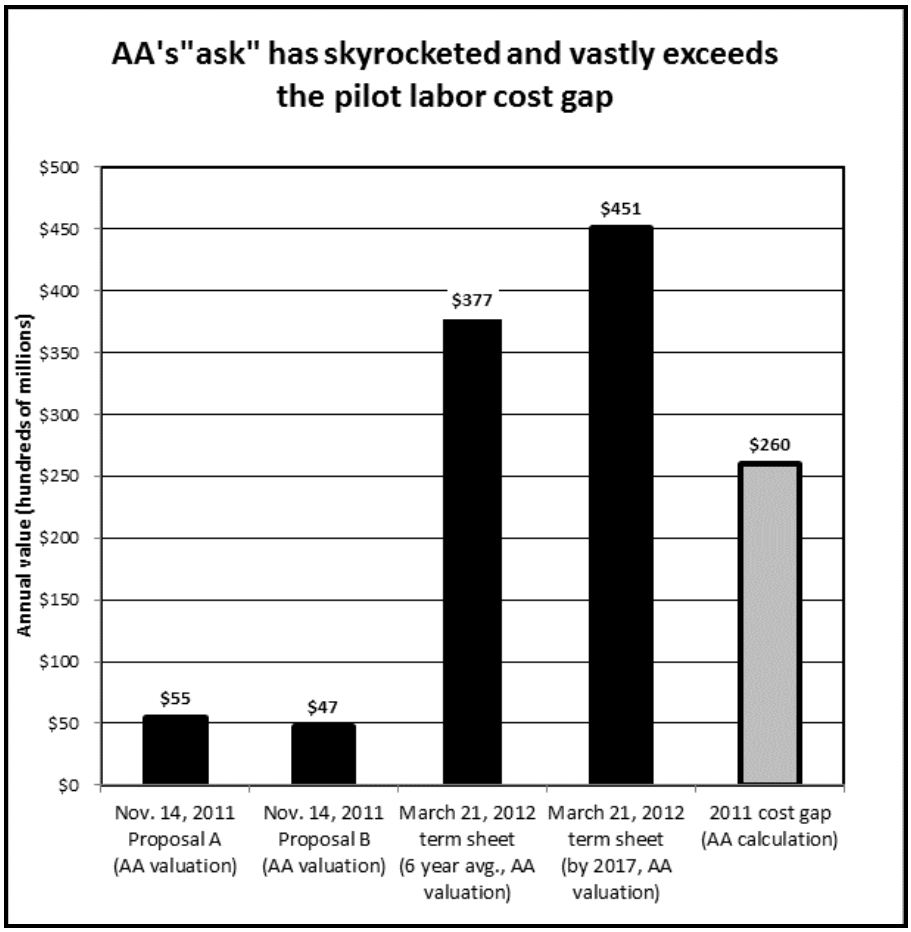
36. During that meeting, Mr. Newgren passed out the Company's 1113(c) term sheet and indicated that American would seek an average annual cost reduction from the pilots of $370 million.[5] This average was based on annual concessions that ranged from $270 million in 2012

[4] The APA contends that 11 U.S.C. § 1113 cannot authorize the Debtors to reject the collective bargaining agreement between the APA and the Company because the vast majority of the terms of that agreement expired in May 2008. Without waiving that position, we refer to the Company's post-petition proposals as its "1113(c) proposals" because that is how the Company describes them.

[5] As of April 5, 2012, American's own financial analysts, however, calculated that its March 21, 2012, proposal would generate $377 million in average annual savings for the

to $470 million in 2017. In other words, as depicted below, American's post-petition proposals sought ***more than seven times*** the amount of concessions (exclusive of changes to pilots' scope protections) than its pre-petition proposals had sought just two and a half months before.

APA Exhibit 413: American's Pre-Petition and Post-Petition Concession Targets



Sources: American's valuation of its November 14, proposals, APA Exhibits 408-409; American's valuation of its March 21, 2012, proposals, APA Exhibit 412; November 2011 presentation to American's Board of Directors, APA Exhibit 410.

37. APA has held a number of negotiating sessions with American since its February 1, 2012, announcement of its 1113(c) term sheet. On February 7, 2012, in the first session

---

Company. A true and correct copy of American's April 5, 2012, analysis is attached hereto as APA Exhibit 412.

following the announcement of the term sheet, Mr. Newgren informed APA negotiators that the $370 million target in annual average concessions from the pilots was "tied to the Company's business plan and APA had to negotiate to that 'target.'" Mr. Newgren then suggested that if American could not achieve that particular level of cost reductions, it would be unable to execute its business plan or emerge from bankruptcy.

38. Tom Reinert, American's outside labor counsel who participated in the post-bankruptcy negotiations with APA, expressed a similar sentiment in a subsequent session on February 21, 2012, when he noted that American's business plan required $370 million in average annual concessions from APA and American "didn't see that number changing."

39. Whenever Mr. Newgren, Mr. Reinert, or any other Company representative discussed the basis for this "target," they explained that the number came from the business plan. At one point, I indicated that the target appeared arbitrary. Still, we never received any explanation for this target other than that it was a product of the business plan. No one from American, however, has ever explained whether, in the course of formulating this target, the Company ever considered alternative restructuring plans that would have required fewer concessions from labor generally or from the pilots specifically.

40. Accordingly, consistent with Mr. Newgren's and Mr. Reinert's statements, American has insisted throughout the course of its post-petition negotiations on its $370 million targeted annual cost reductions and has never shown any willingness to negotiate over that target.

B. When American Realized that its Proposals Generated More Savings than It Needed, It Failed to Bargain in Good Faith Over How to Allocate the Surplus

41. From time to time after making its initial February 1, 2012, proposal, American realized – sometimes at APA's prompting – that its term sheet would generate substantially more savings than the $370 million annual target it claimed to need. American's negotiators responded to those realizations simply by making unilateral changes to its February 1, 2012, term sheet in order to recalibrate the Company's proposals to the target.

42. For example, on February 10, 2012, Mr. Burtzlaff and Mark Moesner, analysts with American's finance department, admitted that their initial valuations of the Company proposals had errors and the proposals regarding pay banding and sick leave would actually generate $22 million in average annual cost savings for the Company *more* than American had originally thought. On March 15, 2012, American agreed that its proposals to eliminate international override pay and to increase the ability to float accrued vacation would generate $3 million and $2 million *more*, respectively, in annual concessions than it had originally thought. On March 21, 2012, American found yet more undervaluations – its proposal to eliminate Supplement CC, regarding protections for former TWA pilots at St. Louis, would generate an additional $2 million annual cost savings for the Company and its proposal to change the Long-Term Disability benefit would generate an additional $4 million in annual savings for the Company. Finally, on March 26, 2012, American disclosed that its proposals regarding preferential bidding on schedules would generate $8 million more in annual cost savings than it had initially given APA credit for.[6]

[6] Allison Clark describes the substance of these and other disputes over the valuation of the parties' proposals in more detail in her accompanying declaration. *See* APA Exhibit 200, Declaration of Allison Clark ("Clark Decl.").

43. Cumulatively, the valuation errors that American has admitted thus far amount to an additional $41 million in annual concessions over and above the $370 million annual cost reduction target established by American and would also result in the elimination of approximately 300 more pilot jobs than American had initially thought. American made no attempt to bargain with APA about how to account for the $41 million in surplus savings. Instead, it adjusted several of its proposals on its own accord in order to tether its overall package to the $370 million target. Specifically, American unilaterally modified its proposals on first-year pay, international override pay, check airmen pay, and vacation accrual during sick leave.

44. In his declaration, Mr. Newgren claims that American has modified several of its proposals in its original February 1, 2012, term sheet, in response to APA's counterproposals. AA Exhibit 900 ("Newgren Decl."), ¶ 38. He lists several specific examples of modifications that purportedly responded to APA's criticisms and counterproposals in paragraph 40 of his declaration. *See* Newgren Decl., ¶ 40. For the reasons explained above, those statements are not accurate. American did not modify those proposals in response to APA counterproposals and criticisms; it modified them unilaterally, on its own accord, in order to stick to the $370 million annual cost reduction target it had developed, regardless of whether APA agreed with the particular package of terms that purportedly achieved that target.

45. Unfortunately, our disputes with American about how to value their proposals and our counterproposals extended far beyond the $41 million in surplus savings that American has acknowledged. I discuss some of the additional disputes over valuation below, *see infra* at 17-35, and Allison Clark discusses them at more length in her accompanying declaration.

C. American Has Refused to Consider Pilots' Concessions in Their Scope Protections As Contributions to Its Reorganization Effort and, Consequently, Prevented Real Bargaining Over These Critical Terms

46. The scope section of the 2003-2008 CBA protects the right of pilots employed by American to fly planes operated by or for American. It does so by limiting American's ability to outsource flying to small "commuter air carriers" and to implement "codesharing agreements" in which the Company markets other carriers' flying as its own by placing its designator code on flights flown by other airlines. These contractual protections against outsourcing are important to pilots because they prevent American from reducing the size of its pilot work force by delegating flying to other carriers. Without contractual scope protections against outsourcing, many active pilots at American would likely be furloughed.

47. Under the 2003-2008 CBA, American is allowed to outsource hundreds of 50-seat jets and up to 90 70-seat aircraft. It is also allowed to maintain robust domestic codesharing agreements with Alaska Airlines and Hawaiian Airlines, as well as to enter new codesharing agreements subject to industry standard job protections. *See also* APA Exhibit 500, Declaration of James Eaton ("Eaton Decl."), ¶¶ 6-14, 30-32.

48. As discussed above, [redacted]. *See supra* at 11.

49. Post-petition, APA has gone much further and made two proposals that would grant American significant concessions with respect to both its ability to enter into codesharing agreements and its ability to outsource regional jets.

50. On February 15, 2012, APA negotiators proposed several changes to the current CBA's scope provision, which went far beyond any proposal APA had made pre-petition.

APA's proposal would allow new codesharing with [redacted] It also would have allowed American to transfer 47 regional jets that are restricted under the terms of the 2003-2008 CBA (the CRJ 700's) among commuter carriers, whether or not American owns those carriers, and to transfer and replace an additional 43 restricted propeller-driven aircraft (the ATR72's). *Id.*

51. Indeed, APA has recently gone much further and, on April 9, 2012, offered additional concessions that would relax restrictions under the 2003-2008 CBA on outsourced commuter flying. A true and correct copy of that proposal is attached hereto as APA Exhibit 414. These concessions would bring American's scope clause fully in line with industry standards. Specifically, APA's current proposal would allow American to outsource up to 534 regional feed aircraft, including 193 aircraft configured with 70 seats. It would do so by (1) allowing American to outsource 150 regional jet aircraft configured at 51-70 seats as long as the Company adds approximately 103 aircraft with 71-110 seats at the mainline; (2) allowing American to transfer 43 propeller-driven 70-seat aircraft among any regional carrier and, when appropriate, to replace them with more modern propeller aircraft as long as the replacements are configured at 70 seats; (3) allowing American to replace 47 currently-restricted aircraft with modern aircraft not subject to those restrictions; and (4) allowing American to outsource additional 50-seat regional flying up to a total number of outsourced regional aircraft totaling 110% of American's narrowbody fleet.

52. According to the presentation American made to its Board of Directors in November 2011, APA's April 9, 2012, proposal should be worth hundreds of millions of dollars

– [redacted] and millions per year more from the right to outsource regional jets. Nonetheless, American has refused to assign these concessions any monetary value in determining whether APA has reached the $370 million "target" established by the Company or, more generally, in determining whether these concessions by APA should be credited as contributions toward the Company's reorganization efforts.

53. Instead, on February 21, 2012, counsel for American, Mr. Reinert, explained that American's position is that its proposals for relief from current contractual scope restrictions would enhance revenue without decreasing labor costs and, therefore, the Company would not credit APA with any monetary value for those concessions. He did acknowledge, however, that if scope concessions were to result in pilot furloughs, or other direct impacts on pilots that would reduce the Company's pilot labor costs, "the Company could see where APA had a case" for counting those concessions toward the target American had established for pilot contributions toward reorganization.

D. APA and American Have Reached Agreement on Several Terms, but Where the Parties Disagree Is Primarily Because American Has Manufactured Valuation Disputes in Order to Avoid Engaging in Real Bargaining

54. APA has presented numerous counterproposals to American since receiving American's initial 1113(c) Term Sheet on February 1, 2012. Several of APA's counterproposals appear in AA Exhibit 916, an attachment to the declaration of American's witness, Dennis Newgren. Since American filed its Section 1113 application on March 27, 2012, APA has continued to make counterproposals to American, including on the important issues of scope, sick leave, and compensation and work rules. I attach hereto as APA Exhibit 415 true and correct copies of those proposals.

55. As discussed in more detail below, APA and American have reached agreement on many terms. However, we also remain divided on many terms, primarily because American refuses to assign reasonable value to APA's counterproposals. I attach hereto as APA Exhibits 416-418 true and correct copies of the spreadsheets prepared by the parties that show how we value our respective proposals.[7] While Ms. Clark describes the parties' disputes in more detail in her declaration, I discuss some key differences in the parties' valuations below.

i. Sick Leave

56. American's Proposals: American's sick leave proposals, Newgren Decl., ¶¶ 157-73, are predicated on the notion that American's pilots cannot be trusted to determine when they are medically unfit to fly. The Department of Labor has squarely rejected that premise, and three separate labor arbitrators have ruled that the disciplinary provisions of the 2003-2008 CBA provide American with sufficient procedures to ferret out potential misuses of sick leave. Copies of the decisions in those cases are attached hereto as APA Exhibits 419-422. Specifically, American wants to dock pilots 40% of their base pay if they are sick more than twice per year or for any period longer than 36 hours, up to the first seven days of sickness. Thereafter, American would not pay any sick time if American's chosen outside vendor is unwilling to corroborate the pilot's illness. American believes that its proposals will generate $38 million in savings for the Company each year. *See* APA Exhibit 412.

57. APA's Position: APA is willing to agree to a medical verification program. But it strongly believes that American's proposal goes way too far and would pressure pilots to fly when they are not fit to do so – a result that would not be good for the flying public, the pilots or

[7] APA Exhibit 416 is APA's valuation of its own proposals. APA Exhibit 417 is APA's valuation of American's proposals. APA Exhibit 418 is American's valuation of APA's proposals. And APA Exhibit 412 is American's valuation of its own proposals.

flight attendants, or the Company's bottom line. Accordingly, APA has proposed a verification program that would apply to pilots who have used thirty consecutive days of sick time. Those pilots would be required to provide verification of their illness, either from the applicable Chief Pilot or from the pilot's own doctor who would coordinate with American's in-house doctors with whom the pilots already have a relationship. APA has also proposed a sick leave sellback program, also known as a wellness incentive program, under which a pilot could "sell" up to 60 hours of sick time for pay if he had accrued more than 1,000 hours of sick time and up to 30 hours of sick time for pay if he had accrued less than 1,000 hours of sick time. Although it now resists this sellback proposal, American is the party who initially raised the idea during pre-petition negotiations. In fact, in October 2011, American's financial analyst, Mr. Burtzlaff, estimated that the sellback program alone would reduce pilots' usage of sick leave by 10%. *See* APA Exhibit 406. Overall, based in part on American's pre-petition calculations, APA believes that our sick leave proposals, combined with our scheduling and work rule proposals, would reduce the rate at which pilots use sick leave from approximately 8.2% to 7.2%, together, resulting in an average annual savings to the Company of tens of millions of dollars per year. *See* APA Exhibit 416. American, on the other hand, believes that our proposals are worth only $11 million per year in savings to the Company. See APA Exhibit 418. Because American's valuations are based on unreasonable assumptions about pilot behavior, *see* APA Exhibit 600, Declaration of LawrenceRosselot ("Rosselot Decl."), ¶¶ 38-44, this dispute is one of American's own making and seems clearly intended to impose a punitive sick leave policy on the pilots while steadfastly refusing to entertain reasonable alternatives that we've put on the table. That take-it-or-leave-it approach to bargaining does not show good faith.

ii. Scope

58. American's Proposal: All of American's post-petition proposals seek unrestricted domestic codesharing. Its March 21 proposal seeks the right to outsource substantial numbers of regional jets configured between 50 and 88 seats; specifically, it seeks the right to outsource the greater of 255 such aircraft or 50% of the number of mainline aircraft (currently over 600). Its April 19 proposal goes further and seeks the right to outsource regional jets configured with 88 seats or less, up to 70% of the number of mainline aircraft. These proposals would essentially allow American to outsource large portions of its flying. They suggest that American wants the right to retreat from the business of operating its own flights and move toward the business of a virtual ticketing agency that simply directs passengers to other airlines. What is worse, American steadfastly refuses to assign any value to the scope concessions it seeks. *See supra* at 17-20.

59. APA's Position: As shown above, APA's most recent scope proposal has two primary components. First, it addresses several of American's requests regarding codesharing. Specifically, it would allow American to enter into domestic codesharing agreements with [redacted] Second, it addresses American's stated need to outsource additional regional flying by allowing it to outsource up to 536 regional feed aircraft, as described above. These proposals are fully in line with standards in the industry, whereas American's proposals go far beyond what can be justified by those standards. *See* Eaton Decl., ¶¶ 16-45.

60. In addition to these proposals, on March 22, 2012, APA, APFA, and TWU approached the Company to offer to fly large regional jets with greater than 50 seats at the mainline at market rates with a competitive cost structure. At the meeting, I explained to the Company that the three unions believed this proposal would be an opportunity for the restructured company to reduce overhead and redundancy and the enormous inefficiencies associated with maintaining separate management structures at American Eagle and the mainline. I also noted that there would be a cost savings for the Company because the large RJs would be flown at entry level pay rates at the mainline as opposed to the higher rates required by the very senior pilot workforce at Eagle. I emphasized that the unions would like to engage in further discussions regarding ways to structure this flying that would be beneficial for all three unions and for the Company. A true and correct copy of the notes from this meeting is attached hereto as APA Exhibit 423. American has yet to make a counter to this proposal.

iii. Medical and Retirement Benefits

61. ***Medical Benefits:*** The parties' proposals regarding medical benefits for active and retired pilots differ substantially with respect to major features of medical coverage, such as deductibles, co-insurance requirements, and out of pocket maximums. We have been unable to agree thus far because we strongly disagree on the savings that our respective proposals would generate for the Company. Based on consultation with outside actuaries, APA believes that American's proposals would result in $97 million in annual concessions from the pilots, whereas the Company undervalues the concessions its proposals would extract from the pilots by $30 million per year.

62. The parties differ so widely on the valuation of American's proposals because they have dramatically different assumptions about how those proposals would affect pilots' use

of medical benefits. The Company's own Director of Benefits Strategy, Ms. Tricia Herschell, has long maintained that increased employee cost-share, through higher deductibles and out-of-pocket expenses, will reduce pilots' use of medical benefits by promoting "consumer-based employee behavior when using healthcare services." A true and correct copy of Ms. Herschell's presentation is attached hereto as APA Exhibit 424. Despite Ms. Herschell's candid and accurate assessment, the Company has thus far refused to factor in a utilization reduction in determining the cost savings for their active medical proposal. APA's proposals, on the other hand, do factor in the effect on the rate of utilization of medical benefits. Christopher Heppner from the Segal Company describes our proposals and the valuation differences between the parties in more detail in his accompanying declaration.

63. ***Pensions:*** As American correctly notes, APA is working with American, the UCC, and the PBGC in an effort to freeze the pilots' defined benefit plans. Newgren Decl., ¶¶ 177-84. The pilots' defined benefit plan contains a lump sum option, which American and others believe may cause "a run on the bank" when American exits bankruptcy. Newgren Decl., ¶ 178. APA has been working with various government agencies to determine how to deal with the lump sum option if it is the factor determining whether the plan can be preserved or must be terminated. American has asserted, and APA has reason to believe, that approximately 3,800 pilots would be worse off were the plan to be terminated, an option that American has left on the table to date.

iv. <u>Compensation</u>

64. American has proposed several changes to the way that pilots are compensated. As shown below, APA has been willing to give American concessions on several elements of this package of proposals, including by limiting its pay increases and giving up pay premiums

and guarantees long enjoyed by American's pilots. On other issues, such as sequence protection and distance learning, the parties are close to agreement on the core issues, but American has apparently used its Chapter 11 filing as an opportunity to seek onerous terms for pilots that are not justified either by industry standards or by American's valuations.

65. ***Pay Increases:*** APA has agreed to the 1.5% increases in pilots' wage rates proposed by American as a baseline for the first three years of a new agreement, but has proposed that those increases be indexed to average pay rates in the industry.[8] *See* Newgren Decl., ¶ 98. American agreed to indexing pre-petition, but has since abandoned that component of its rate proposal.

66. ***Lineholder Guarantee:*** APA has agreed to eliminate the minimum guarantee for lineholders, which provided under the 2003-2008 CBA that most pilots receive pay for a minimum of 64 hours per month even if a pilot flew fewer hours in the month. *See* Newgren Decl., ¶¶ 104-105.

67. ***Other Pay Premiums and Guarantees:*** APA has agreed to eliminate the pay premiums for night flying and the guaranteed pay for pilots who take four days or less of military leave. *See* Newgren Decl., ¶¶ 108, 112.

68. ***Sequence Protection:*** On November 11, 2011, the parties reached agreement regarding sequence protection after four months of intense negotiations over contractual language for this term. Post-petition, APA has proposed sequence protection consistent with that agreement, the substance of which is described in Mr. Newgren's declaration. *See* Newgren Decl., ¶¶ 101-03. In essence, under this proposal, American would pay pilots for sequences that

[8] The APA has proposed a three-year contract term and therefore has not specified increases beyond three years.

are cancelled for reasons beyond their control, and American would retain the right to reschedule those pilots to another sequence. American's right to reschedule such pilots was limited, however, to the period of time from the cancellation through the daily period for scheduling open time coverage on any day of the originally scheduled flying window, extended by an additional four hours or the end of the calendar day, whichever is greater.[9] Mr. Newgren, however, does not fully describe American's post-petition proposal. Under American's proposal, such pilots would have to be on call as reserves for full days throughout that window, whereas under the parties' previous Agreement in Principle they would be available for reassignment only for a short window immediately after the cancellation or during the daily open time coverage period, which normally runs from noon to approximately 5:00 pm in a given day. As a result, American's proposal seeks the right to keep pilots whose flights were cancelled on reserve throughout the day, requiring them to stay alert and in flight-ready condition for far longer than American had agreed to in November 2011. American has failed to explain why it needs this additional prerogative and has also failed to explain how much savings it believes it can achieve from this additional prerogative.

69. ***Distance Learning:*** APA and American agree in general on the benefits of distance learning. APA proposes that American pay pilots at a rate of one-half their normal rate of pay for time spent on distance learning, whereas American proposes that it pay pilots at one-third their normal rate of pay for such time. *See* Newgren Decl., ¶ 114. American believes its proposal will save it an average of $2 million per year, and APA believes that its proposal achieves the same savings. *See* APA Exhibits 412, 416.

[9] "Open time" is flight time that is not covered by pilots who have bid for specific monthly lines of flying.

70. ***Compensable Hours:*** American has proposed to change the way compensable pilot hours are determined, so that it would pay pilots based on the scheduled or actual time of *sequences* rather than *legs*. APA disagrees with this change because the proposal is not supported by the standard in the industry: only United currently has a comparable provision.

v. Scheduling and Productivity-Related Work Rules

71. As with American's compensation proposals, APA has agreed to several of American's work rule proposals in whole or in part. Here, however, the parties' valuation disputes are severe. APA believes that its proposals will generate an average of $67 million per year in savings for the Company, whereas American believes that those proposals will generate only $11 million per year in savings. On the other hand, APA believes that American's proposals would generate average savings of $117 million per year, whereas American believes that its proposals would generate $100 million annually. American has steadfastly refused to adopt a reasonable approach to valuing our work rule proposals, apparently in an effort to avoid negotiating over those proposals at all.

72. ***Preferential Bidding:*** Despite years of resisting the idea, APA has agreed in principle to American's proposal regarding a "Preferential Bidding System." This proposal would allow American to schedule pilots in a way that automatically avoids scheduling conflicts, while respecting to the extent possible pilots' preferred schedules. *See* Newgren Decl., ¶¶ 116-120. The parties disagree, however, on the amount of cost savings that this proposal would generate for American. *See* Rosselot Decl., ¶¶ 34-37. Pre-petition, American valued the savings from a Preferential Bidding System at $18 million per year. A true and correct copy of that valuation is attached hereto as APA Exhibit 425. Now, American values APA's entire set of

proposals for changes to work rules at only $11 million per year, even though we've offered massive productivity concessions in addition to preferential bidding.

73. ***Maximum Monthly Schedules:*** Prior to American's bankruptcy filing, APA proposed that American abandon the current "hard" monthly cap of 78 hours of scheduled flying in favor of a more flexible system based on monthly average line value. We felt that this proposal would benefit both pilots and the Company by allowing pilots to work more time when they wanted to and the Company to schedule additional flying when it needed to. Our post-petition proposal reflects these same principles, which the Company has also adopted. We differ, however, on the details. To understand those differences, I have to explain four concepts: the monthly average line value, the rolling average line value, the line construction window, and the individual maximum. The monthly average line value represents the average of all hours of flying American would be permitted to schedule for all pilots in a given month. The rolling average line value represents the average of the monthly line values that American has actually scheduled for the twelve months preceding the month at issue. The line construction window adds additional flexibility around a monthly average line value by allowing American to schedule any particular pilot above or below the monthly average line value by a set amount. And the individual maximum reflects a cap on a pilot's ability to voluntarily fly additional hours in a particular month, based on the rolling average of that pilot's actual flying.

74. Using these concepts, APA has proposed that pilots flying the aircraft in American's current fleet could be scheduled with a monthly average line value between 72 and 81 hours, subject to a rolling average line value between 74 and 79 hours. APA also proposes a line construction window of seven hours over or under the monthly average line value. Under APA's proposal, in any given month an individual pilot may voluntarily fly all the way up to the

flying limits under the Federal Aviation Regulations ("FARs"), as long as the rolling average of his or her actual flying does not exceed 90 hours.[10] So, **in months with lots of passenger demand, under APA's proposal, American could schedule a pilot up to 88 hours in a month, and a pilot could voluntarily fly up to 100 hours in a month as long as he does not go over a 90 hour monthly rolling average of actual flying.**

75. American's proposal would allow a monthly average line value between 70 and 87 hours, with a line construction window between 3 and 7 hours. But it would have no rolling average for scheduling and would permit an individual voluntarily to add flying time up to the 100-hour limit under the FARs. *See* Newgren Decl., ¶ 123. So, under American's proposal, the Company **could schedule individual pilots up to 94 hours per month, every month, as long as the average for all pilots does not exceed 87 hours**.

76. As American's expert witness, Jerrold Glass, shows in his declaration, Continental's maximum schedule is 87.5 hours per month, Delta's is 89.5, United's is 89 for widebody aircraft and 95 for narrowbody aircraft, US Airways East's is 85, 90, or 95 depending on the position, and US Airways West's is 92 hours per month. *See* Glass Decl., ¶ 113. Delta has monthly and rolling averages, like APA's proposal, but the rest of the airlines have hard caps. APA's proposal is in line with these standards.

---

[10] For pilots flying smaller aircraft with 120-130 seats, which are not currently in American's fleet but on order to arrive by mid-2013, the APA has proposed a monthly average line value of 72-83 hours, a rolling average line value of 74-80 hours, a line construction window of plus or minus 7 hours, and an individual maximum up to 100 hours per month and 1,000 hours per year, the legally permissible maximums under the FARs. For smaller aircraft, configured with 70-110 seats, the APA's proposal would permit a monthly average line value of 76-88 hours, a rolling average line value of 78-86 hours, a line construction window of plus or minus 4 hours, and an individual maximum up to the FARs.

77. ***Check Airmen:*** APA proposes to allow American to schedule Check Airmen to work up to 17 days each month, with the opportunity to work an additional two days per month for a maximum of 19 days per month if the Check Airman wishes to do so. American's proposal would allow the Company to schedule Check Airmen up to 18 days per month, with the same option to pick up two additional days if the Check Airman so wishes. *See* Newgren Decl., ¶ 125.

78. The parties reached an Agreement in Principle on September 2, 2011, regarding the amount that Check Airmen can "fly the line," that is, fly regularly scheduled trips. Under the terms of that Agreement in Principle, which APA has proposed post-petition, Check Airmen could maintain their proficiency to "fly the line" through one of two options: either by flying two months as a line pilot (up to 140 credited hours over that period) or by flying four days per month throughout the year (up to 100 credited hours throughout the year). American's proposal includes the option to fly four days per month, but would reduce the other option from two months of line flying to just one. *See* Newgren Decl., ¶ 128.

79. The parties are close to agreement on the value of both parties' Check Airmen proposals. APA values its proposal at $3 million in saving to the Company while American values the pilots' proposal at $2 million in annual savings. Both parties agree that the Company's proposal would generate $5 million in average annual savings.

80. ***Training Flexibility:*** American has refused to assign any value to its proposals around training flexibility, *see* Newgren Decl., ¶¶ 129-30; accordingly, APA believes that agreeing to those proposals would not contribute to the cost savings that American claims to need.

81. ***Ratios in Guarantee:*** Pre-petition, APA reached agreements with American on the ratios in guarantee ("rigs").[11] APA's post-petition proposal is identical to the pre-petition agreement it reached with American. Under our proposal, (1) American would pay its pilots for one minute of flight time pay for every two minutes of any actual, scheduled, or rescheduled on-duty time (this is called Duty Period time or "E-Time," because of the applicable provision of the contract); (2) American would pay its pilots a minimum of one minute of pay for every 3 ¼ minutes the pilot spends away from his home base (Time Away from Base or "F-Time"); and (3) American would pay a minimum day of three hours and fifteen minutes and an average day of five hours (when there is a two-leg sequence in a single day) or five hours and twenty minutes (when there is a three-leg sequence in a single day or a multi-day sequence) ("G-Time").

82. ***Reserves:*** APA has agreed to American's proposals to assign unscheduled open time in order to match reserve pilots' available days and to assign reserves by priority value and reserves flying on days off. *See* Newgren Decl., ¶¶ 144-46.

83. ***Contractual Months*:** APA has also agreed to American's proposals regarding the revisions to the contractual months of April and June. *See* Newgren Decl., ¶¶ 148.

vi. <u>Other</u>

84. ***Fatigue:*** Although Mr. Newgren does not discuss this proposal in his declaration, American has also proposed to eliminate the pay protection for reserve pilots who report too fatigued to fly. By American's own calculations, this proposal will generate only $100,000 in annual savings for the Company. The significance for the pilots of this proposal, however, goes

[11] Rigs force the company to schedule pilots efficiently. Absent rigs, American could, for example, schedule a pilot to fly from Dallas to Austin on Monday morning, a one hour and 10 minute flight, and schedule him to return the next afternoon. The pilot would earn two hours and 20 minutes of pay but would effectively be gone for two days.

far beyond this minimal savings, because pilots have a legal obligation under the FARs not to fly when they are too fatigued to do so safely. We believe that American's proposal would pressure pilots to fly when they are too tired to do so consistent with their legal obligations. That pressure, which potentially compromises the safety of American's customers for so little economic gain, surely is not necessary for American's ability to reorganize.

85. ***Furloughs:*** American proposes to eliminate two limited forms of furlough protections. First, it wants to eliminate the ability of a senior pilot to show solidarity to his or her co-pilots by volunteering for a furlough that otherwise would befall a more junior pilot. Second, even though the 2003-2008 CBA allows American to furlough approximately 2,000 pilots, the Company wants the ability to furlough an unlimited number of pilots. Newgren Decl., ¶¶ 155-56.[12] By its own calculations, these proposals would save the Company only an average of $300,000 per year. *See* APA Exhibit 412. According to American, all of those projected savings would derive from the first proposal to eliminate pilots' right to "stand in stead"; the right to furlough an unlimited number of pilots adds nothing to American's bottom line. Because the elimination of these protections would threaten pilots' solidarity and job security without providing American any appreciable savings, we do not see how they are necessary to the Company's reorganization.

86. ***Brake Release:*** The "brake release agreement" under the most recent CBA is comparable to an agreement on when pilots clock in and clock out for the purpose of determining

[12] American purports to justify the need for the right to furlough an unlimited number of pilots based on the possibility of an "unforeseen catastrophic event[] such as the September 11 terrorist attacks." Newgren Decl., ¶ 156. That purported justification makes no sense because American was able to furlough as many pilots it wanted under the *force majeur* exception to furlough protection, and following September 11 it did in fact furlough approximately 2,900 pilots. *See supra* at 2-3.

compensable hours. Under the current "brake release agreement," American generally pays pilots starting from the time that the aircraft is ready to depart, even if the pilot has not yet released the brakes and started to move the plane. This agreement reflects the common sense notion that the pilot is "on duty" and performing compensable work from at least the time that the aircraft is ready to depart. Indeed, the FARs make pilots legally responsible for responding to any incidents or emergencies that may occur from that point in time.

87. Under the brake release agreement, American also pays pilots starting from the time of three types of delays: those caused by air traffic control, ramp congestion, or de-icing (whether it occurs at the gate or, as required by some airport authorities, away from the gate). The rationale for these provisions is much the same. While the aircraft is delayed for reasons beyond the pilot's control, the pilot is on duty in the cabin and bears responsibility for any incidents that may occur. By any normal definition of the term, the pilot is performing work at that point in time.

88. American, however, wants to make pilot work non-compensable if pilots perform it during delays for ramp congestion or de-icing on the gate. Newgren Decl., ¶ 111. There is little justification for this proposal, either in reason or in economics: by American's own calculations, this proposal will save the Company only $1 million per year on average. *See* APA Exhibit 412.

89. ***Former TWA Pilots:*** American and APA, through counsel, have agreed to resolve disputes regarding minimum staffing requirements in St. Louis for former TWA pilots through interest arbitration.

90. ***Crew Rest Seats:*** Regarding American's proposal on crew rest seats, Newgren Decl., ¶¶ 152-53, American has refused to assign any value to this proposal; accordingly, APA

believes that agreeing to this proposal would not contribute to the cost savings that American claims to need. *See* Clark Decl., ¶¶ 37-41.

VI. American Has Failed to Provide Key Information that is Critical to Enable APA to Evaluate its Proposals

91. In her declaration, Denise Lynn, Vice President of Employee Relations for American, recounts in detail the information that American provided to APA and the other unions in support of its application to reject our collective bargaining agreements. *See* AA Exhibit 1000. Ms. Lynn's declaration, however, skips over key areas of information that the Company failed to provide APA or the other unions, including information relating to (a) analyses of mergers or other forms of consolidation related to the Company's restructuring plans; (b) American's valuation of counterproposals submitted by APA; (c) financial analyses relating to American's July 2011 fleet order; and (d) an accounting of the non-labor cost reductions American planned to achieve in bankruptcy. I discuss these in more detail below.

A. Failure to Provide Information Relating to Consolidation

92. In response to a request for information by the APFA, American posted on the Intralinks website a document titled, Labor Cost Gap Assessment in November 2011 Financial and Strategic Update (#26.3.2.), a true and correct copy of which is attached hereto as APA Exhibit 426.

93. The APFA had requested "[a]nalyses and/or presentations regarding any potential merger initiatives undertaken by the Company within the last 2 years." *Id.* The Company responded to that request as follows: "We do not believe that information is reasonably necessary for the union to evaluate the Company's proposals."

94. At my request, on April 10, 2012, David Dean, counsel for APA, wrote counsel for American to clarify the Company's response. A true and correct copy of that correspondence is attached hereto as APA Exhibit 427. Specifically, Mr. Dean informed Mr. Mollen that he understood the Company's response in Intralinks document 21.59 to mean that the Company "did not undertake any analyses of potential mergers as part of developing the business plan underlying its current labor proposals," and he asked Mr. Mollen to confirm his understanding. *Id.* Mr. Dean further stated that "[i]f that is not correct, I'd like to request any such analyses or presentations, and I will arrange for Neil Roghair to make the same request across the negotiating table." Later that day, Mr. Mollen responded that "[y]our understanding is correct; no such analyses were done." *Id.*

B. Failure to Provide Meaningful Information Relating to American's July 2011 Fleet Order

95. APA's financial advisor, Lazard Freres & Co., LLC ("Lazard") has made repeated requests for financial information from American relating to the Company's July 2011 fleet order. As described in the declaration of Andrew Yearley, a Managing Director with Lazard, American's re-fleeting plan is a key driver of its post-petition proposals and financial information relating to that plan is therefore essential to evaluate the Company's Section 1113 proposals. *See* APA Exhibit 100, Declaration of Andrew Yearley ("Yearley Decl."), ¶¶ 29-32. Despite having made repeated requests for such information, American has failed to provide this critical information. *See* Yearley Decl., ¶¶ 33-36 & Appendix B thereto.

C. Failure to Provide Information Relating to American's Valuation of APA Counterproposals

96. As discussed above and in more detail in Allison Clark's declaration, American and APA have devoted a tremendous amount of time in negotiations since February 1, 2012,

discussing disputes between the parties over how to calculate the cost savings that their respective proposals would generate for the Company. In order to attempt to evaluate the factual differences between the parties' positions on how much cost savings their respective proposals would yield, APA made several requests for information relating to the cost and behavioral assumptions that underlay the valuation of several proposals.

97. APA submitted the most recent of such requests to American on April 13, 2012, and a true and correct copy of that request is attached hereto as APA Exhibit 428.

98. American responded to that request about a week later, and a true and correct copy of its April 21, 2012, response is attached hereto as APA Exhibit 429.

99. American's response refused to provide any information relating to American's valuation of APA's counterproposals. For example, American refused to provide the information APA requested regarding APA's counterproposals on scheduling.

D. Failure to Provide Information Relating to an Accounting of the Non-Labor Savings American Planned to Achieve in Bankruptcy

100. Lazard also requested that American provide it with a "detailed breakdown of the cost savings for AA in AMR's plan for 2017 totaled and broken down into the following categories. Show detailed elements of each category: (a) Labor; (b) Aircraft operating efficiencies associated with a changed fleet mix; (c) Restructuring items other than 3a & 3b such as renegotiation of fleet terms, facilities, vendors, professional fees, debt restructuring, vendor freeze, promotions, and other." A true and correct copy of the Company's response to that request, which quotes the request, is attached hereto as APA Exhibit 430.

101. American posted its response to that request on Intralinks on April 25, 2012. The response to that request states, in full, "Please see document 25.55 'BPM 3.0 Savings Summary

(4-22-12)' for the AA cost savings detail." *Id.* A true and correct copy of that document is attached hereto as APA Exhibit 431.

102. That document designates broad categories of cost savings that American plans to achieve from its suppliers, vendors, and professionals through restructuring. But it does not specify the depth of the cuts from those non-labor creditors, either individually or on average across all such creditors.

VII. Because the Management of USAir Negotiated in Good Faith With an Eye Toward Market-Based Terms, APA Was Able to Achieve a Contingent Labor Agreement with That Airline in Just Over One Week

103. Over the course of several days in April 2012, APA was able to enter into a Conditional Labor And Plan Of Reorganization Agreement ("Plan Support Agreement") in which APA expressed its opinion that a US Airways Plan of Reorganization ("POR") "would enhance the prospects of the reorganized Debtors and enhance recoveries for unsecured creditors." A true and correct copy of that Plan Support Agreement is attached hereto as APA Exhibit 432. Accordingly, US Airways and APA negotiated the terms that would modify the 2003-2008 CBA and create a new CBA with a six year term in the event of a US Airways POR.

104. In the Plan Support Agreement, APA agreed to $240 million in annual concessions through changes to benefits and through productivity improvements that both parties believe would put APA at competitive market rates vis-à-vis the pilots at the remaining legacy carriers. APA also committed to a tight time line within which to create a new CBA pursuant to the requirements of the Plan Support Agreement in which the parties agreed to submit valuation disputes to an expedited arbitral process and interest arbitration, if necessary, to resolve substantive terms.

105. The pay increases in the Plan Support Agreement mirror American's Section 1113 Term Sheet of February 1, 2012; however, pay increases over those amounts "are acceptable to US Airways so long as they are offset by additional cost concessions." APA Exhibit 432 at 4.

106. APA also negotiated competitive scope terms and agreed that the AA code may be placed on US Airways flights on the date of the POR. Following the date of the POR, the parties agreed to negotiate a transition planning agreement on how the two air carriers will be integrated. APA also agreed to file a single carrier application within six months of the POR or as soon as the facts support the NMB's legal criteria for determining when a single transportation system exists. If APA becomes the collective bargaining representative for the pilots at the two carriers following an NMB determination that a single transportation system exists, it has agreed to negotiate a single collective bargaining agreement that would become effective once an integrated seniority integration has been implemented.[13]

[13] The McCaskill-Bond Amendment to the Federal Aviation Act, 49 U.S.C. § 42112, provides that an arbitrator will resolve the seniority integration in the event of a dispute.

DECLARATION PURSUANT TO 28 U.S.C. § 1746

I declare that the foregoing is true and correct based on my personal knowledge and on information from the business records of the Allied Pilots Association ("APA" or "Association") within my custody and control.

Date: 5/6/12

Neil Roghair

APA Exhibit 401

APA Exhibit 401: Proportion of Concessions in 2003 By Workgroup (dollars in millions)

Labor Group	Annual Concessions	Share of Total Cost Cuts	Share of Workforce by Count	Share of Workforce by Cost	2003 Labor Costs	Jan 2003 Headcount
Pilots	$660	36.67%	12.54%	28.39%	$2,134	12,012
Flight attendants	$340	18.89%	22.01%	17.01%	$1,279	21,091
TWU – mechanics	$330	18.33%	16.97%	18.77%	$1,411	16,263
TWU – fleet service	$260	14.44%	17.05%	13.85%	$1,041	16,338
TWU – other	$30	1.67%	2.60%	2.30%	$173	2,492
Agents and Reps	$80	4.44%	16.44%	9.82%	$738	15,754
Management and Support	$100	5.56%	12.38%	9.86%	$741	11,860
Total	$1,800	100.00%	100.00%	100.00%	$7,517	95,810

Sources: AMR's 2003 10-K filing with the SEC, an excerpt of which is attached hereto as APA Exhibit 402; Supplement D to the 2003-2008 CBA.

APA Exhibit 402

Excerpts from AMR Corp. 2003 10-K.

AMR CORP (AMR)

10-K

Annual report pursuant to section 13 and 15(d)
Filed on 04/15/2003
Filed Period 12/31/2002

THOMSON REUTERS ACCELUS™

THOMSON REUTERS

- Following the terrorist attacks of September 11, 2001, in the third quarter of 2001 the Company reduced its operating schedule to approximately 80 percent of the schedule it flew prior to September 11, 2001. In connection with this schedule reduction, the Company eliminated approximately 20,000 jobs. However, beginning in the fourth quarter of 2001, in response to increasing demand, the Company began increasing its operating schedule from the significantly reduced schedule it flew immediately following the events of September 11, 2001. The trend towards increasing demand abated in the second quarter of 2002.

- In response to the lingering effects of the terrorist attacks and the continuing economic downturn, on August 13, 2002, the Company announced a series of initiatives to reduce its costs, reduce capacity, simplify its aircraft fleet, and enhance productivity. These initiatives included, among other things, the de-peaking of the Company's Dallas/Fort Worth International Airport hub (following the de-peaking of its Chicago hub), gradually phasing out operation of its Fokker aircraft fleet, and reducing capacity in the fourth quarter of 2002. In addition, the Company eliminated an additional 7,000 jobs to better align its workforce with the planned capacity reductions, fleet simplification and hub restructuring.

Despite the Company's on-going efforts to reduce its costs, the Company faces increased costs attributable to factors largely beyond its control, including:

- Escalating fuel prices, which show no immediate signs of decreasing, in part due to the war in Iraq and domestic turmoil in Venezuela, Nigeria or other oil producing regions. American's average cost per gallon of fuel has risen from 66.5 cents in February 2002 to 91.0 cents in February 2003.

- After the terrorists attacks of September 11, 2001 and continuing to the present, aviation insurers have significantly reduced the amount of insurance coverage available to commercial air carriers for liability to persons (other than employees or passengers) for claims resulting from acts of terrorism, war or similar events (war-risk coverage). At the same time, the insurance carriers significantly increased the premiums for such limited coverage, as well as for aviation insurance in general. However, the U.S. government has provided commercial war-risk insurance until June 13, 2003 covering losses to employees, passengers, third parties and aircraft. The Company believes this insurance coverage will be extended beyond June 13, 2003 because the Homeland Security Act provides for this insurance to remain in place until August 31, 2003. In addition, the Secretary of Transportation may extend the policy until December 31, 2003, at his discretion.

- The Company has borne significantly increased security costs, mainly due to security measures imposed by the U.S. government following the terrorist attacks of September 11, 2001.

- On April 11-12, 2003, the Senate and House agreed to aviation-related assistance provisions in supplemental appropriations legislation to fund the war in Iraq. The legislation is expected to be signed by President Bush on April 14, 2003. The new law would authorize payment of (i) $100 million to compensate air carriers for the direct costs associated with the strengthening of flight deck doors and locks and (ii) $2.3 billion to reimburse air carriers for increased security costs which shall be distributed in proportion to amounts each has paid or collected as of the date of enactment in passenger security and air carrier security fees to the Transportation Security Administration. In addition, the new law would suspend the collection of the passenger security fee from June 1, 2003 until October 1, 2003, and extend war-risk insurance through September 30, 2004. The Company is not able to estimate its portion of this compensation at this time.

The net effect of all of the above factors is that the Company's recent financial results are unsustainable. Given the severity of the Company's financial situation and the Company's belief that a permanent shift has occurred in the airline revenue environment, the Company continues to review its business model, particularly with a view towards identifying significant cost reductions. The Company believes that it must quickly reduce its annual operating costs by at least $4 billion in order to become competitive and sustain its operations. The Company has made progress in identifying more than $2 billion in annual operating cost reductions via initiatives involving: (i) scheduling efficiencies, including de-peaking certain of its hubs as referred to above, (ii) fleet simplification, (iii) streamlined customer interaction, (iv) distribution modifications, (v) in-flight product changes, (vi) operational changes and (vii) headquarters/administration efficiencies. Even with these initiatives, however, a large shortfall of approximately $2 billion remains between identified annual cost reductions and needed cost reductions.

Labor Agreements

In February 2003, American asked its labor leaders and other employees for approximately $1.8 billion in permanent, annual savings through a combination of changes in wages, benefits and work rules. The requested $1.8 billion in savings is divided by work group as follows: $660 million—pilots, $620 million—Transportation Workers Union (TWU) represented employees, $340 million—flight attendants, $100 million—management and support staff, and $80 million—agents and representatives. On March 31, 2003, the Company reached agreements with the leaders of the three major unions representing American employees (the Labor Agreements) and announced changes in pay plans and benefits for non-unionized employees (including officers and other management) which will meet the targeted contributions. Of the approximately $1.8 billion in savings, approximately $1.0 billion are to be accomplished through wage and benefit reductions while the remaining approximately $.8 billion would be accomplished through changes in work rules which would result in additional job reductions. Wage reductions became effective on April 1, 2003 for officers and will become effective on May 1, 2003 for all other employees. Reductions related to benefits and work rule changes will be phased in over time. In connection with the changes in wages, benefits and work rules, the Labor Agreements provide for the issuance of approximately 38 million shares of AMR stock in the form of stock options which will generally vest over a three year period (see Note 11 to the consolidated financial statements for additional information). Although these Labor Agreements enabled the Company to avoid an immediate filing of a petition for relief under Chapter 11 of the U.S. Bankruptcy Code (a Chapter 11 filing), these Labor Agreements must still be ratified by the unions' memberships. At the time of the filing of this Form 10-K, the unions have put the Labor Agreements out for a ratification vote. It is anticipated that the official results of the voting will be formally announced on April 15, 2003. A group of pilots filed a lawsuit on April 14, 2003 contesting the union ratification process. The U.S. District Court in Fort Worth, Texas denied the request for a temporary restraining order. Failure of one or more of the unions to ratify its Labor Agreement would likely lead the Company to initiate a Chapter 11 filing.

In addition, the Company continues to negotiate concessions from its vendors, lessors and suppliers; however, the Company cannot reliably predict whether it will obtain the necessary concessions or for what amount. In return for concessions, the Company plans to deliver shares of AMR common stock to its vendors, lessors and other creditors.

Even if the Labor Agreements are ratified and the Company obtains concessions from its vendors, lessors and suppliers, the Company may nonetheless need to initiate a Chapter 11 filing because its financial condition will remain weak and its prospects uncertain. The fragility of the Company's financial condition is further illustrated by the going concern opinion of the Company's independent auditors (see page 47). Other negative factors include but are not limited to, the failure of the U. S. economy to soon begin a recovery, a prolonged war in Iraq, another terrorist attack, the failure of the Company to satisfy the liquidity requirement in certain of its credit agreements, or the inability of the Company to access the capital markets for additional financing.

B. Other Events

While the Company was still recovering from the terrorist attacks of September 11, 2001, American Airlines flight 587 crashed on November 12, 2001, shortly after take-off from John F. Kennedy International Airport en route to Santo Domingo in the Dominican Republic. In addition to the loss of all lives on board the aircraft, there were several fatalities and injuries to persons on the ground as well as property damage. The National Transportation Safety Board is currently investigating the accident and a cause has yet to be determined. As a result of the accident, claims have been filed against American. It is anticipated that these claims will be covered under American's insurance policy.

C. Competition

The domestic airline industry is fiercely competitive. Currently, any air carrier deemed fit by the U.S. Department of Transportation (DOT) is free to operate scheduled passenger service between any two points within the U.S. and its possessions. On most of its domestic non-stop routes, the Company faces competing service from at least one, and sometimes more than one, major domestic airline including: Alaska Airlines, America West Airlines, Continental Airlines (Continental), Delta, Northwest Airlines (Northwest), Southwest Airlines, United and US Airways, and their affiliated regional carriers. Competition is even greater between cities that require a connection, where all nine major airlines may compete via their respective hubs. The Company also competes with national, regional, all-cargo and charter carriers and, particularly on shorter segments, ground transportation. On all of its routes, pricing decisions are affected, in large part, by competition from other airlines. On over 80 percent of its domestic routes, the Company competes with airlines that have cost structures significantly lower than the Company's and can therefore operate profitably at lower fare levels.

The airline industry is characterized by substantial price competition. Fare discounting by competitors has historically had a negative effect on the Company's financial results because the Company is generally required to match competitors' fares to maintain passenger traffic. During recent years, a number of new LCCs have entered the domestic market and several major airlines, including the Company, implemented efforts to lower their cost structures. In addition, several air carriers have sought to reorganize under Chapter 11 of the United States Bankruptcy Code, including United and US Airways. (Effective March 31, 2003, US Airways emerged from its Chapter 11 restructuring.) Successful completion of such reorganizations has resulted or would result in significantly lower operating costs for the reorganized carriers derived from labor, supply, and financing contracts renegotiated under the protection of the Bankruptcy Code. Historically, air carriers involved in reorganizations have undertaken substantial fare discounting in order to maintain cash flows and enhance customer loyalty. Further fare reductions, domestic and international, may occur in the future. If fare reductions are not offset by increases in passenger traffic, changes in the mix of traffic that improve yields and/or cost reductions, the Company's operating results will be further negatively impacted. As discussed in Part A of Item 1, the Company has stated that its survival cannot be assured until labor and other costs are lowered significantly. See also Part E of Item 1.

Most major air carriers have developed hub-and-spoke systems and schedule patterns in an effort to maximize the revenue potential of their service. American operates five hubs: Dallas/Fort Worth (DFW), Chicago O'Hare, Miami, St. Louis and San Juan, Puerto Rico. Delta Air Lines (Delta) and United Air Lines (United) also have hub operations at DFW and Chicago O'Hare, respectively.

The American Eagle carriers increase the number of markets the Company serves by providing connections to American at American's hubs and certain other major airports. The American Eagle carriers serve smaller markets through Boston, DFW, Chicago, Miami, San Juan, Los Angeles, Raleigh Durham and New York's LaGuardia and John F. Kennedy International Airports. The AmericanConnection carriers provide connecting service to American through St. Louis. American's competitors also own or have marketing agreements with regional carriers which provide similar services at their major hubs.

In addition to its extensive domestic service, the Company provides international service to the Caribbean, the Bahamas, Canada, Latin America, Europe and the Pacific. The Company's operating revenues from foreign operations were approximately 28 percent of the Company's total operating revenues in 2002 and 2001 and 30 percent of the Company's total operating revenues in 2000. Additional information about the Company's foreign operations is included in Note 16 to the consolidated financial statements.

The majority of the tickets for travel on American and American Eagle are sold by travel agents. On March 18, 2002, American announced that it would no longer pay base commissions on tickets issued by travel agents in the United States, Puerto Rico, and Canada. As discussed in Item 3 Legal Proceedings, the Company is subject to legal challenges related to these changes. Previously, domestic travel agents generally received a base commission of five percent of the price of the tickets they sold, capped at a maximum of $20 for a domestic roundtrip itinerary and $100 for an international roundtrip itinerary. American continues, however, to pay certain commissions to travel agents in connection with special revenue programs. American believes that other carriers also no longer pay base commissions on tickets issued by travel agents but pay certain commissions in connection with their own special revenue programs. Accordingly, airlines compete not only with respect to the price of the tickets sold but also with respect to the amount of special revenue program commissions paid.

changes in wages, benefits and work rules. On March 31, 2003, the Company reached agreements with the leaders of the three major unions representing American employees and announced changes in pay plans and benefits for non-unionized employees (including officers and other management) which will meet the targeted contributions. Of the approximately $1.8 billion in savings, approximately $1.0 billion are to be accomplished through wage and benefit reductions while the remaining approximately $.8 billion would be accomplished through changes in work rules which would result in additional job reductions. Wage reductions became effective on April 1, 2003 for officers and will become effective on May 1, 2003 for all other employees. Reductions related to benefits and work rule changes will be phased in over time. In connection with the changes in wages, benefits and work rules, the Labor Agreements provide for the issuance of approximately 38 million shares of AMR stock in the form of stock options which will generally vest over a three year period (see Note 11 to the consolidated financial statements for additional information). Although these Labor Agreements enabled the Company to avoid an immediate filing of a petition for relief under Chapter 11 of the U.S. Bankruptcy Code (a Chapter 11 filing), these Labor Agreements must still be ratified by the unions' memberships. At the time of the filing of this Form 10-K, the unions have put the Labor Agreements out for a ratification vote. It is anticipated that the official results of the voting will be formally announced on April 15, 2003. A group of pilots filed a lawsuit on April 14, 2003 contesting the union ratification process. The U.S. District Court in Fort Worth, Texas denied the request for a temporary restraining order. Failure of one or more of the unions to ratify its Labor Agreement would likely lead the Company to initiate a Chapter 11 filing. See Labor Agreements in Part A of Item 1 for a discussion of other factors that may adversely affect the Company.

The majority of the Company's employees are represented by labor unions and covered by collective bargaining agreements. The Company's relations with such labor organizations are governed by the Railway Labor Act. Under this act, the collective bargaining agreements among the Company and these organizations generally do not expire but instead become amendable as of a stated date. If either party wishes to modify the terms of any such agreement, it must notify the other party in the manner described in the agreement. After receipt of such notice, the parties must meet for direct negotiations, and if no agreement is reached, either party may request the National Mediation Board (NMB) to appoint a federal mediator. If no agreement is reached in mediation, the NMB may declare at some time that an impasse exists, and if an impasse is declared, the NMB proffers binding arbitration to the parties. Either party may decline to submit to arbitration. If arbitration is rejected by either party, a 30-day "cooling off" period commences. During that period (or after), a Presidential Emergency Board (PEB) may be established, which examines the parties' positions and recommends a solution. The PEB process lasts for 30 days and is followed by a "cooling off" period of 30 days. At the end of a "cooling off" period, unless an agreement is reached or action is taken by Congress, the labor organization may strike and the airline may resort to "self-help", including the imposition of any or all of its proposed amendments and the hiring of workers to replace strikers.

American reached a new contract with the Association of Professional Flight Attendants (APFA) during 2001. The new contract becomes amendable on November 30, 2004.

American reached new agreements with the TWU during 2001 concerning the eight employee groups represented by the TWU. The new agreements become amendable on March 1, 2004.

The APA agreement became amendable August 31, 2001.

However, if the Labor Agreements discussed above and in Part A of Item 1 are ratified, the new APFA, TWU and APA agreements will not become amendable until 2009.

A provision in the scope clause of American's current contract with the APA limits the number of available seat miles (ASMs) and block hours that may be flown under American's marketing code (AA) by American's regional carrier partners when American pilots are on furlough (the ASM cap). To ensure that American remained in compliance with the ASM cap, American and American Eagle took several steps in 2002 to reduce the number of ASMs flown by American's commuter air carriers. As one of those measures, AMR Eagle signed a letter of intent to sell Executive Airlines, its San Juan-based subsidiary. In December 2002, American and the APA began discussions on the contract limitations found in the scope clause. The APA agreed that American would have temporary relief from compliance with the ASM cap while those discussions continued. That relief, coupled with other actions taken by American and American Eagle, will enable American Eagle to defer the sale until later in 2003.

Another provision in the current APA contract limits to 67 the total number of regional jets with more than 44 seats that can be flown under the AA code by American's regional carrier partners. As AMR Eagle continues to accept previously-ordered Bombardier and Embraer regional jets this cap would be reached in early 2003. To ensure that American remains in compliance with the 67-aircraft cap, AMR Eagle has reached an agreement to dispose of 14 Embraer ERJ-145 aircraft from its fleet. The Company expects that these aircraft will be acquired by Trans States Airlines, an AmericanConnection carrier, which will operate these aircraft under the Trans States Airlines marketing code (AX) at its St. Louis hub.

If the Labor Agreement reached with the APA on March 31, 2003 is ratified, the provisions in the APA contract described in the immediately preceding two paragraphs will be modified to give the Company more flexibility with its American Eagle operations.

The Air Line Pilots Association (ALPA), which represents American Eagle pilots, reached agreement with American Eagle effective September 1, 1997, to have all of the pilots of the Eagle carriers covered by a single collective bargaining agreement. This agreement lasts until October 31, 2013. The agreement provides to the parties the right to seek limited changes in 2000, 2004, 2008 and 2012. If the parties are unable to agree on the limited changes, they also agreed that the issues would be resolved by interest arbitration, without the exercise of self-help (such as a strike). ALPA and American Eagle negotiated a tentative agreement in 2000, but that agreement failed in ratification. Thereafter, the parties participated in interest arbitration. The interest arbitration panel determined the limited changes which should be made and these changes were appropriately effected.

The Association of Flight Attendants (AFA), which represents the flight attendants of the Eagle carriers, reached agreement with American Eagle effective March 2, 1998, to have all flight attendants of the American Eagle carriers covered by a single contract. The agreement became amendable on September 2, 2001. However, the parties agreed to commence negotiations over amendments to the agreement in March 2001. The parties are still engaged in direct negotiations. The other union employees at the American Eagle carriers are covered by separate agreements with the TWU which were effective April 28, 1998, and are amendable April 28, 2003. American Eagle and the TWU have already commenced negotiations.

The non-union employees formerly with TWA LLC have largely been integrated into the Company's work force. The integration of unionized employees from TWA LLC who had to be integrated into unionized groups at American has been more complex. The Company first engaged facilitators to work with American's and TWA LLC's unions in attempting to reach integration agreements acceptable to all unions from both carriers. Unfortunately, those discussions were unable to produce agreements acceptable to the relevant unions at both carriers. American thereafter had separate discussions with the unions at American. It reached integration agreements with the APA (with respect to pilot integration) and the APFA (with respect to flight attendant integration). American and the TWU participated in arbitration, which process resolved certain unionized ground employee integration issues in late February and early March 2002. In early April, 2002, the NMB declared American and TWA LLC a single carrier for labor relations purposes and designated American's incumbent unions as the collective bargaining representatives of the relevant work groups at both American and TWA LLC. Since American's unions thereafter represented the relevant employees at both carriers, the integration mechanisms reached with the unions at American could then begin to be applied. The integration of the unionized work groups is occurring in accordance with those mechanisms.

F. Fuel

The Company's operations are significantly affected by the availability and price of jet fuel. The Company's fuel costs and consumption for the years 2000 through 2002 were:

Year	Gallons Consumed (in millions)	Total Cost (in millions)	Average Cost Per Gallon (in cents)	Percent of AMR's Operating Expenses
2000	3,197	2,495	78.1	13.6
2001	3,461	2,888*	81.4*	13.5
2002	3,345	2,562*	76.2*	12.4

* The amounts for 2002 and 2001 reflect the January 1, 2001 adoption of Statement of Financial Accounting Standards No. 133, "Accounting for Derivative Instruments and Hedging Activities" (SFAS 133); the 2000 amounts do not. See a further discussion of the impact of SFAS 133 to the Company in Note 9 to the consolidated financial statements.

The impact of fuel price changes on the Company and its competitors is dependent upon various factors, including hedging strategies. The Company has a fuel hedging program in which it enters into jet fuel, heating oil and crude swap and option contracts to protect against increases in jet fuel prices, which has had the effect of reducing the Company's average cost per gallon. During 2002, 2001 and 2000, the Company's fuel hedging program reduced the Company's fuel expense by approximately $4 million, $29 million and $545 million, respectively. To reduce the impact of potential fuel price increases in 2003, as of December 31, 2002, the Company had hedged approximately 32 percent of its estimated 2003 fuel requirements. Based on projected fuel usage, the Company estimates that a 10 percent increase in the price per gallon of fuel as of December 31, 2002 would result in an increase to aircraft fuel expense of approximately $205 million in 2003, net of fuel hedge instruments outstanding at December 31, 2002. The decline in the Company's credit rating, as discussed in Liquidity and Capital Resources of Item 7, has limited its ability to enter into certain types of fuel hedge contracts. A further deterioration of its credit rating or liquidity position may negatively affect the Company's ability to hedge fuel in the future. Due to the competitive nature of the airline industry, in the event of continuing increases in the price of jet fuel, there can be no assurance that the Company will be able to pass on increased fuel prices to its customers by increasing its fares. Likewise, any potential benefit of lower fuel prices may be offset by increased fare competition and lower revenues for all air carriers.

While the Company does not currently anticipate a significant reduction in fuel availability, dependency on foreign imports of crude oil and the possibility of changes in government policy on jet fuel production, transportation and marketing make it impossible to predict the future availability of jet fuel. In the event there is an outbreak of hostilities or other conflicts in oil producing areas or elsewhere, such as the war in Iraq or domestic turmoil, as recently seen in Venezuela and Nigeria, there could be reductions in the production and/or importation of crude oil and/or significant increases in the cost of fuel. If there were major reductions in the availability of jet fuel or significant increases in its cost, the Company's business, as well as that of the entire industry, would be adversely affected.

Additional information regarding the Company's fuel program is included in Item 7(A)—Quantitative and Qualitative Disclosures about Market Risk and in Note 9 to the consolidated financial statements.

G. Frequent Flyer Program

American established the AAdvantage frequent flyer program (AAdvantage) to develop passenger loyalty by offering awards to travelers for their continued patronage. AAdvantage members earn mileage credits for flights on American, American Eagle and certain other participating airlines, or by using services of other program participants, including bank credit card issuers, hotels and car rental and phone service companies. American sells mileage credits and related services to the other companies participating in the program. American reserves the right to change the AAdvantage program rules, regulations, travel awards and special offers at any time without notice. American may initiate changes impacting, for example, participant affiliations, rules for earning mileage credit, mileage levels and awards, limited seating for travel awards, and the features of special offers. American reserves the right to end the AAdvantage program with six months' notice.

Mileage credits can be redeemed for free, discounted or upgraded travel on American, American Eagle or participating airlines, or for other travel industry awards. Once a member accrues sufficient mileage for an award, the member may request an award certificate from American. Award certificates may be redeemed up to one year after issuance. Most travel awards are subject to capacity controlled seating. Miles do not expire, provided a customer has any type of qualifying activity at least once every 36 months.

American uses the incremental cost method to account for the portion of its frequent flyer liability incurred when AAdvantage members earn mileage credits by flying on American or American Eagle. American's frequent flyer liability is accrued each time a member accumulates sufficient mileage in his or her account to claim the lowest level of free travel award (25,000 miles) and such award is expected to be used for free travel. American includes fuel, food, and reservations/ticketing costs, but not a contribution to overhead or profit, in the calculation of incremental cost. These estimates are generally updated based upon the Company's 12-month historical average of such costs. The cost for fuel is estimated based on total fuel consumption tracked by various categories of markets, with an amount allocated to each passenger. Food costs are tracked by market category, with an amount allocated to each passenger. Reservation/ticketing costs are based on the total number of passengers, including those traveling on free awards, divided into American's total expense for these costs.

Revenue earned from selling AAdvantage miles to other companies participating in American's frequent flyer program is recognized in two components. The first component represents the revenue for air transportation sold and is valued at current market rates. This revenue is deferred and recognized over the period the mileage is expected to be used, which is currently estimated to be 28 months. The second revenue component, representing the marketing products sold and administrative costs associated with operating the AAdvantage program, is recognized immediately.

At December 31, 2002 and 2001, American estimated that approximately 9.3 million and 8.7 million free travel awards, respectively, were expected to be redeemed for free travel on American and American Eagle. In making the estimate of free travel awards, American has excluded mileage in inactive accounts, mileage related to accounts that have not yet reached the lowest level of free travel award, and mileage in active accounts that have reached the lowest level of free travel award but which are not expected to ever be redeemed for free travel on American. The resulting liability was approximately $1.2 billion and $1.1 billion, representing 16.2 percent and 14.9 percent of AMR's total current liabilities, at December 31, 2002 and 2001, respectively.

The number of free travel awards used for travel on American and American Eagle in 2002 was 3.5 million, representing approximately 8.1 percent of passengers boarded. Comparatively, the number of free travel awards used for travel on American and American Eagle (excluding TWA LLC) was 2.7 million in 2001 and 2.8 million in 2000, representing approximately 7.4 percent of total passengers boarded in 2001 and 7 percent in 2000 (excluding TWA LLC). The Company believes displacement of revenue passengers is minimal given the Company's load factors, its ability to manage frequent flyer seat inventory, and the relatively low ratio of free award usage to total passengers boarded.

H. Other Matters

Seasonality and Other Factors The Company's results of operations for any interim period are not necessarily indicative of those for the entire year, since the air transportation business is subject to seasonal fluctuations.

The results of operations in the air transportation business have also significantly fluctuated in the past in response to general economic conditions. In addition, fears of terrorism or war, fare initiatives, fluctuations in fuel prices, labor actions and other factors could impact this seasonal pattern. Unaudited quarterly financial data for the two-year period ended December 31, 2002 is included in Note 18 to the consolidated financial statements.

No material part of the business of AMR and its subsidiaries is dependent upon a single customer or very few customers. Consequently, the loss of the Company's largest few customers would not have a materially adverse effect upon the Company.

Insurance The Company carries insurance for public liability, passenger liability, property damage and all-risk coverage for damage to its aircraft, in amounts which, in the opinion of management, are adequate.

As a result of the September 11, 2001 events, aviation insurers have significantly reduced the amount of insurance coverage available to commercial air carriers for liability to persons other than employees or passengers for claims resulting from acts of terrorism, war or similar events (war-risk coverage). At the same time, they significantly increased the premiums for such coverage as well as for aviation insurance in general.

The U.S. government has provided commercial war-risk insurance for U.S. based airlines until June 13, 2003 covering losses to employees, passengers, third parties and aircraft. The Company believes this insurance coverage will be extended beyond June 13, 2003 because the Homeland Security Act provides for this insurance to remain in place until August 31, 2003. In addition, the Secretary of Transportation may extend the policy until December 31, 2003, at his discretion. See Part A of Item 1 for a discussion of recent legislation which would provide for the extension of war-risk insurance through September 30, 2004.

In the event the commercial insurance carriers further reduce the amount of insurance coverage available to the Company or significantly increase the cost of aviation insurance, or if the Government fails to renew the war-risk insurance that it provides, the Company's operations and/or financial position and results of operations would be materially adversely affected.

Other Government Matters In time of war or during an unlimited national emergency or civil defense emergency, American and other air carriers can be required to provide airlift services to the Air Mobility Command under the Civil Reserve Air Fleet program (CRAF). The Air Mobility Command, which runs CRAF, has activated stage one of CRAF as part of the U.S. government's build-up for military action in Iraq and has notified American that it requires five airplanes including three 777s and two 767-300s with crews. American has been planning for the potential activation of stage one of CRAF and is having no problems meeting its current CRAF obligations. If the Air Mobility Command activates stage two of CRAF, American will be obligated to provide up to 18 additional aircraft. In the event the Company has to provide a substantial amount of additional services, its operations could be adversely impacted.

Available Information The Company makes its annual report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, and amendments to reports filed or furnished pursuant to Section 13(a) or 15(d) of the Securities and Exchange Act of 1934 available free of charge on its website, www.amrcorp.com, as soon as reasonably practicable after such reports are electronically filed with the Securities and Exchange Commission.

1 On April 9, 2001, TWA LLC (a wholly owned subsidiary of American) purchased substantially all of the assets and assumed certain liabilities of Trans World Airlines, Inc. (TWA). Accordingly, the 2001 financial information above includes the operating results of TWA LLC since the date of acquisition. See a further discussion of the TWA acquisition in Note 17 to the consolidated financial statements.

Liquidity and Capital Resources

In response to the September 11, 2001 terrorist attacks, the Company initiated the following measures: reduced capacity by approximately 20 percent, grounded aircraft and deferred certain aircraft deliveries to future years, significantly reduced capital spending, closed facilities, reduced its workforce (see Note 3 to the consolidated financial statements for additional information) and implemented numerous other cost reduction initiatives.

In 2002, given, among other things: (i) the steep fall-off in demand for air travel, particularly business travel, caused by the continuing weakness of the U.S. economy, (ii) reduced pricing power, resulting mainly from greater cost sensitivity on the part of travelers, especially business travelers, and increasing competition from low cost carriers, and (iii) the residual effects of September 11, the Company announced a series of initiatives to further reduce its costs, simplify its aircraft fleet, and enhance productivity. These initiatives included, among other things, de-peaking of the Company's Dallas/Fort Worth International Airport hub (following the de-peaking of its Chicago hub); gradually phasing out operation of its Fokker aircraft fleet; and reducing capacity in the fourth quarter of 2002. In addition, the Company reduced its workforce to better align its workforce with the planned capacity reductions, fleet simplification, and hub restructurings. Despite the Company's on-going efforts to reduce its costs, many of its costs are attributable to factors largely beyond the Company's control, including (i) escalating fuel prices, (ii) increased insurance costs and (iii) increased security costs.

As discussed in Part A of Item 1, the Company's recent financial results are unsustainable. Given the severity of the Company's financial situation and the Company's belief that a permanent shift has occurred in the airline revenue environment, the Company continues to review its business model, particularly with a view towards identifying significant cost reductions. The Company believes that it must quickly reduce its annual operating costs by at least $4 billion in order to become competitive and sustain its operations. The Company has made progress in identifying more than $2 billion in annual operating cost reductions via initiatives involving: (i) scheduling efficiencies, including de-peaking certain of its hubs as referred to above, (ii) fleet simplification, (iii) streamlined customer interaction, (iv) distribution modifications, (v) in-flight product changes, (vi) operational changes and (vii) headquarters/ administration efficiencies. Even with these initiatives, however, a large shortfall of approximately $2 billion remains between identified annual cost reductions and needed cost reductions.

In February 2003, American asked its labor leaders and other employees for approximately $1.8 billion in permanent, annual savings through a combination of changes in wages, benefits and work rules. The requested $1.8 billion in savings is divided by work group as follows: $660 million—pilots, $620 million—Transportation Workers Union (TWU) represented employees, $340 million—flight attendants, $100 million—management and support staff, and $80 million—agents and representatives. On March 31, 2003, the Company reached agreements with the leaders of the three major unions representing American employees (the Labor Agreements) and announced changes in pay plans and benefits for non-unionized employees (including officers and other management) which will meet the targeted contributions. Of the approximately $1.8 billion in savings, approximately $1.0 billion are to be accomplished through wage and benefit reductions while the remaining approximately $.8 billion would be accomplished through changes in work rules which would result in additional job reductions. Wage reductions became effective on April 1, 2003 for officers and will become effective on May 1, 2003 for all other employees. Reductions related to benefits and work rule changes will be phased in over time. In connection with the changes in wages, benefits and work rules, the Labor Agreements provide for the issuance of approximately 38 million shares of AMR stock in the form of stock options which will generally vest over a three year period (see Note 11 to the consolidated financial statements for additional information). Although these Labor Agreements enabled the Company to avoid an immediate filing of a petition for relief under Chapter 11 of the U.S. Bankruptcy Code (a Chapter 11 filing), these Labor Agreements must still be ratified by the unions' memberships. At the time of the filing of this Form 10-K, the unions have put the Labor Agreements out for a ratification vote. It is anticipated that the official results of the voting will be formally announced on April 15, 2003. A group of pilots filed a lawsuit on April 14, 2003 contesting the union ratification process. The U.S. District Court in Fort Worth, Texas denied the request for a temporary restraining order. Failure of one or more of the unions to ratify its Labor Agreement would likely lead the Company to initiate a Chapter 11 filing.

In addition, the Company continues to negotiate concessions from its vendors, lessors and suppliers; however, the Company cannot reliably predict whether it will obtain the necessary concessions or for what amount. In return for concessions, the Company plans to deliver shares of AMR common stock to its vendors, lessors and other creditors.

Even if the Labor Agreements are ratified and the Company obtains concessions from its vendors, lessors and suppliers, the Company may nonetheless need to initiate a Chapter 11 filing because its financial condition will remain weak and its prospects uncertain. The fragility of the Company's financial condition is further illustrated by the going concern opinion of the Company's independent auditors (see page 47). Other negative factors include but are not limited to, the failure of the U. S. economy to soon begin a recovery, a prolonged war in Iraq, another terrorist attack, the failure of the Company to satisfy the liquidity requirement in certain of its credit agreements, or the inability of the Company to access the capital markets for additional financing.

During 2001 and 2002, the Company raised approximately $8.3 billion of funding to finance capital commitments and to fund operating losses. The Company expects that it will continue to need to raise significant additional financing in the near future to cover its liquidity needs, until such time as the cost initiatives discussed in the previous paragraphs become effective and the Company returns to profitability. The Company had approximately $2.0 billion in unrestricted cash and short-term investments as of December 31, 2002. The Company also had available possible future financing sources, including, but not limited to: (i) a limited amount of additional secured aircraft debt (as of December 31, 2002, the Company had Section 1110 eligible unencumbered aircraft with an estimated market value of approximately $670 million), (ii) sale-leaseback transactions of owned property, including aircraft and real estate, (iii) securitization of future operating receipts, and (iv) the potential sale of certain non-core assets (including the Company's interests in AMR Investments, as discussed in Item 1 and Worldspan, a computer reservations systems partnership). However, these financing sources may not be available to the Company in

New Accounting Pronouncements In June 2002, the Financial Accounting Standards Board issued Statements of Financial Accounting Standards No. 146, "Accounting for Costs Associated with Exit or Disposal Activities" (SFAS 146). SFAS 146 requires that a liability for a cost associated with an exit or disposal activity be recognized when the liability is incurred, and establishes that fair value is the objective for initial measurement of the liability. Prior to SFAS 146, a liability for costs associated with an exit or disposal activity was recognized as of the date of the commitment to an exit plan. The provisions of SFAS 146 are effective for exit or disposal activities that are initiated after December 31, 2002. The adoption of SFAS 146 will affect the timing and recognition of certain costs associated with future exit or disposal activities.

In November 2002, the Financial Accounting Standards Board issued Financial Accounting Standards Board Interpretation No. 45, "Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others" (Interpretation 45). Interpretation 45 requires disclosures in interim and annual financial statements about obligations under certain guarantees issued by the Company. Furthermore, it requires recognition at the beginning of a guarantee of a liability for the fair value of the obligation undertaken in issuing the guarantee, with limited exceptions. The disclosure requirements are effective for this filing and are included in Note 6 to the consolidated financial statements. The initial recognition and initial measurement provisions are only applicable on a prospective basis for guarantees issued or modified after December 31, 2002.

In January 2003, the Financial Accounting Standards Board issued Financial Accounting Standards Board Interpretation No. 46, "Consolidation of Variable Interest Entities" (Interpretation 46). Interpretation 46 addresses consolidation of variable interest entities, as defined, previously generally referred to as special purpose entities, to which the usual condition for consolidation described in Accounting Research Bulletin No. 51, "Consolidated Financial Statements" does not apply. It requires the primary beneficiary of a variable interest entity to include the assets, liabilities, and results of the activities of the variable interest entity in its consolidated financial statements, as well as disclosure of information about the assets and liabilities, and the nature, purpose and activities of consolidated variable interest entities. In addition, Interpretation 46 requires disclosure of information about the nature, purpose and activities of unconsolidated variable interest entities in which the Company holds a significant variable interest. The provisions of Interpretation 46 are effective immediately for any variable interest entities acquired after January 31, 2003 and effective beginning in the third quarter of 2003 for all variable interest entities acquired before February 1, 2003. The Company is currently evaluating the impact of Interpretation 46.

In June 2002, the Financial Accounting Standards Board (FASB) issued Statement of Financial Accounting Standards 145, "Rescission of FASB Statements No. 4, 44, and 64, Amendment of FASB Statement No. 13, and Technical Corrections" (SFAS 145). SFAS 145 rescinds FASB Statement No. 4, "Reporting Gains and Losses from Extinguishment of Debt" (SFAS 4), an amendment of that Statement, FASB Statement No. 64, "Extinguishments of Debt Made to Satisfy Sinking-Fund Requirements" and FASB Statement No. 44, "Accounting for Intangible Assets of Motor Carriers". SFAS 145 amends FASB Statement No. 13, "Accounting for Leases" (SFAS 13), to eliminate an inconsistency between the required accounting for sale-leaseback transactions and the required accounting for certain lease modifications that have economic effects that are similar to sale-leaseback transactions and other related pronouncements that make various technical corrections, clarify meanings, or describe their applicability under changed conditions. The provisions of SFAS 145 related to the rescission of SFAS 4 are effective for fiscal years beginning after May 15, 2002. Any gain or loss on extinguishment of debt that was classified as an extraordinary item in prior periods that does not meet the criteria in FASB Opinion 30 for classification as an extraordinary item must be reclassified. The provisions of SFAS 145 related to SFAS 13 are effective for transactions occurring after May 15, 2002. All other provisions SFAS 145 are effective for financial statements issued on or after May 15, 2002. SFAS 145 had no impact on the Company during 2002.

Forward-Looking Information

The preceding discussions under Business, Properties, Legal Proceedings and Management's Discussion and Analysis of Financial Condition and Results of Operations contain various forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended, which represent the Company's expectations or beliefs concerning future events. When used in this document and in documents incorporated herein by reference, the words "expects," "plans," "anticipates," "believes," and similar expressions are intended to identify forward-looking statements. Forward-looking statements include, without limitation, the Company's expectations concerning operations and financial conditions, including changes in capacity, revenues and costs, expectations as to future financing needs, overall economic conditions and plans and objectives for future operations, the impact of the events of September 11, 2001 and the impact of the results of operations for the past two years on the Company and the sufficiency of the Company's financial resources to absorb that impact. Other forward-looking statements include statements which do not relate solely to historical facts, such as, without limitation, statements which discuss the possible future effects of current known trends or uncertainties, or which indicate that the future effects of known trends or uncertainties cannot be predicted, guaranteed or assured. All forward-looking statements in this report are based upon information available to the Company on the date of this report. The Company undertakes no obligation to publicly update or revise any forward-looking statement, whether as a result of new information, future events or otherwise. Forward-looking statements are subject to a number of factors that could cause actual results to differ materially from our expectations. The following risk factors, in addition to other possible risk factors not listed, could cause the Company's actual results to differ materially from those expressed in forward-looking statements:

Labor Cost Reduction; Uncertainty of Future Collective Bargaining Agreements and Events The future of the Company cannot be assured until, among other things, ways are found to significantly reduce its labor and other costs. As discussed more fully in Part A of Item 1 ("Labor Agreements"), the Company reached agreements with the leaders of the three major unions representing American employees (the Labor Agreements) and announced changes in pay plans and benefits for non-unionized employees (including officers and other management) which will significantly reduce its labor costs. Although these Labor Agreements enabled the Company to avoid an immediate filing of a petition for relief under Chapter 11 of the U.S. Bankruptcy Code (a Chapter 11 filing), these Labor Agreements must still be ratified by the unions' memberships. At the time of the filing of this Form 10-K, the unions have put the Labor Agreements out for a ratification vote. It is anticipated that the official results of the voting will be formally announced on April 15, 2003. A group of pilots filed a lawsuit on April 14, 2003 contesting the union ratification process. The U.S. District Court in Fort Worth, Texas denied the request for a temporary restraining order. Failure of one or more of the unions to ratify its Labor Agreement would likely lead the Company to initiate a Chapter 11 filing. See Part A of Item 1 for a discussion of other factors that may adversely affect the Company.

	2002	2001	2000
Net Earnings (Loss), as reported	$(3,511)	$(1,762)	$ 813
Add: Stock-based employee compensation expense included in reported net earnings (loss), net of tax	5	14	32
Deduct: Total stock-based employee compensation expense determined under fair value based methods for all awards, net of tax	(36)	(31)	(39)
Pro forma net earnings (loss)	$(3,542)	$(1,779)	$ 806
Earnings (loss) per share:			
Basic—as reported	$(22.57)	$(11.43)	$5.43
Basic—pro forma	$(22.77)	$(11.54)	$5.38
Diluted—as reported	$(22.57)	$(11.43)	$5.03
Diluted—pro forma	$(22.77)	$(11.54)	$4.98

1. Summary of Accounting Policies (Continued)

New Accounting Pronouncements In June 2002, the Financial Accounting Standards Board issued Statements of Financial Accounting Standards No. 146, "Accounting for Costs Associated with Exit or Disposal Activities" (SFAS 146). SFAS 146 requires that a liability for a cost associated with an exit or disposal activity be recognized when the liability is incurred, and establishes that fair value is the objective for initial measurement of the liability. Prior to SFAS 146, a liability for costs associated with an exit or disposal activity was recognized as of the date of the commitment to an exit plan. The provisions of SFAS 146 are effective for exit or disposal activities that are initiated after December 31, 2002. The adoption of SFAS 146 will affect the timing and recognition of certain costs associated with future exit or disposal activities.

In November 2002, the Financial Accounting Standards Board issued Financial Accounting Standards Board Interpretation No. 45, "Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others" (Interpretation 45). Interpretation 45 requires disclosures in interim and annual financial statements about obligations under certain guarantees issued by the Company. Furthermore, it requires recognition at the beginning of a guarantee of a liability for the fair value of the obligation undertaken in issuing the guarantee, with limited exceptions including: 1) a parent's guarantee of a subsidiary's debt to a third party, and 2) a subsidiary's guarantee of the debt owed to a third party by either its parent or another subsidiary of that parent. The disclosure requirements are effective for this filing and are included in Note 6 to the consolidated financial statements. The initial recognition and initial measurement provisions are only applicable on a prospective basis for guarantees issued or modified after December 31, 2002.

In January 2003, the Financial Accounting Standards Board issued Financial Accounting Standards Board Interpretation No. 46, "Consolidation of Variable Interest Entities" (Interpretation 46). Interpretation 46 addresses consolidation of variable interest entities, as defined, previously generally referred to as special purpose entities, to which the usual condition for consolidation described in Accounting Research Bulletin No. 51, "Consolidated Financial Statements" does not apply. It requires the primary beneficiary of a variable interest entity to include the assets, liabilities, and results of the activities of the variable interest entity in its consolidated financial statements, as well as disclosure of information about the assets and liabilities, and the nature, purpose and activities of consolidated variable interest entities. In addition, Interpretation 46 requires disclosure of information about the nature, purpose and activities of unconsolidated variable interest entities in which the Company holds a significant variable interest. The provisions of Interpretation 46 are effective immediately for any variable interest entities acquired after January 31, 2003 and effective beginning in the third quarter of 2003 for all variable interest entities acquired before February 1, 2003. The Company is currently evaluating the impact of Interpretation 46.

In June 2002, the Financial Accounting Standards Board (FASB) issued Statement of Financial Accounting Standards 145, "Rescission of FASB Statements No. 4, 44, and 64, Amendment of FASB Statement No. 13, and Technical Corrections" (SFAS 145). SFAS 145 rescinds FASB Statement No. 4, "Reporting Gains and Losses from Extinguishment of Debt" (SFAS 4), and an amendment of that Statement, FASB Statement No. 64, "Extinguishments of Debt Made to Satisfy Sinking-Fund Requirements" and FASB Statement No. 44, "Accounting for Intangible Assets of Motor Carriers". SFAS 145 amends FASB Statement No. 13, "Accounting for Leases" (SFAS 13), to eliminate an inconsistency between the required accounting for sale-leaseback transactions and the required accounting for certain lease modifications that have economic effects that are similar to sale-leaseback transactions and other related pronouncements that make various technical corrections, clarify meanings, or describe their applicability under changed conditions. The provisions of SFAS 145 related to the rescission of SFAS 4 are effective for fiscal years beginning after May 15, 2002. Any gain or loss on extinguishment of debt that was classified as an extraordinary item in prior periods that does not meet the criteria in FASB Opinion 30 for classification as an extraordinary item must be reclassified. The provisions of SFAS 145 related to SFAS 13 are effective for transactions occurring after May 15, 2002. All other provisions SFAS 145 are effective for financial statements issued on or after May 15, 2002. SFAS 145 had no impact on the Company during 2002.

2. Recent Events and Liquidity

The Company's recent financial results are unsustainable. Given the severity of the Company's financial situation and the Company's belief that a permanent shift has occurred in the airline revenue environment, the Company continues to review its business model, particularly with a view towards identifying significant cost reductions. The Company believes that it must quickly reduce its annual operating costs by at least $4 billion in order to become competitive and sustain its operations. The Company has made progress in identifying more than $2 billion in annual operating cost reductions via initiatives involving: (i) scheduling efficiencies, including de-peaking certain of its hubs as referred to above, (ii) fleet simplification, (iii) streamlined customer

interaction, (iv) distribution modifications, (v) in-flight product changes, (vi) operational changes and (vii) headquarters/administration efficiencies. Even with these initiatives, however, a large shortfall of approximately $2 billion remains between identified annual cost reductions and needed cost reductions.

In February 2003, American asked its labor leaders and other employees for approximately $1.8 billion in permanent, annual savings through a combination of changes in wages, benefits and work rules. The requested $1.8 billion in savings is divided by work group as follows: $660 million—pilots, $620 million—Transportation Workers Union (TWU) represented employees, $340 million—flight attendants, $100 million—management and support staff, and $80 million—agents and representatives. On March 31, 2003, the Company reached agreements with the leaders of the three major unions representing American employees (the Labor Agreements) and announced changes in pay plans and benefits for non-unionized employees (including officers and other management) which will meet the targeted contributions. Of the approximately $1.8 billion in savings, approximately $1.0 billion are to be accomplished through wage and benefit reductions while the remaining approximately $.8 billion would be accomplished through changes in work rules which would result in additional job reductions. Wage reductions became effective on April 1, 2003 for officers and will become effective on May 1, 2003 for all other employees. Reductions related to benefits and work rule changes will be phased in over time. In connection with the changes in wages, benefits and work rules, the Labor Agreements provide for the issuance of approximately 38 million shares of AMR stock in the form of stock options which will generally vest over a three year period (see Note 11 for additional information). Although these Labor Agreements enabled the Company to avoid an immediate filing of a petition for relief under Chapter 11 of the U.S. Bankruptcy Code (a Chapter 11 filing), these Labor Agreements must still be ratified by the unions' memberships. At the time of the filing of this Form 10-K, the unions have put the Labor Agreements out for a ratification vote. It is anticipated that the official results of the voting will be formally announced on April 15, 2003. A group of pilots filed a lawsuit on April 14, 2003 contesting the union ratification process. The U.S. District Court in Fort Worth, Texas denied the request for a temporary restraining order. Failure of one or more of the unions to ratify its Labor Agreement would likely lead the Company to initiate a Chapter 11 filing.

In addition, the Company continues to negotiate concessions from its vendors, lessors and suppliers; however, the Company cannot reliably predict whether it will obtain the necessary concessions or for what amount. In return for concessions, the Company plans to deliver shares of AMR common stock to its vendors, lessors and other creditors.

Even if the Labor Agreements are ratified and the Company obtains concessions from its vendors, lessors and suppliers, the Company may nonetheless need to initiate a Chapter 11 filing because its financial condition will remain weak and its prospects uncertain. Other negative factors include but are not limited to, the failure of the U. S. economy to soon begin a recovery, a prolonged war in Iraq, another terrorist attack, the failure of the Company to satisfy the liquidity requirement in certain of its credit agreements (see Note 8), or the inability of the Company to access the capital markets for additional financing.

---

3. Special charges and U.S. Government grant

In 2002, the Company announced a series of initiatives to reduce its costs, reduce capacity, simplify its aircraft fleet, and enhance productivity. These initiatives include, among other things, de-peaking of the Company's Dallas/Fort Worth International Airport hub (following the de-peaking of its Chicago hub); gradually phasing out operation of its Fokker aircraft fleet; and reducing capacity in the fourth quarter of 2002. In addition, the Company announced that it would reduce an estimated 7,000 jobs by March 2003 to realign its workforce with the planned capacity reductions, fleet simplification, and hub restructurings. As a result of these initiatives, the Company recorded special charges in the third quarter of 2002, as discussed below.

On September 11, 2001, two American Airlines aircraft were hijacked and destroyed in terrorist attacks on The World Trade Center in New York City and the Pentagon in northern Virginia. On the same day, two United Air Lines aircraft were also hijacked and used in terrorist attacks. In addition to the loss of life on board the aircraft, these attacks resulted in untold deaths and injuries to persons on the ground and massive property damage. In response to those terrorist attacks, the Federal Aviation Administration issued a federal ground stop order on September 11, 2001, prohibiting all flights to, from, and within the United States. Airports did not reopen until September 13, 2001 (except for Washington Reagan Airport, which was partially reopened on October 4, 2001). The Company was able to operate only a portion of its scheduled flights for several days thereafter. When flights were permitted to resume, passenger traffic and yields on the Company's flights were significantly lower than prior to the attacks. As a result, the Company reduced its operating schedule to approximately 80 percent of the schedule it flew prior to September 11, 2001. In addition, as a result of its schedule reduction and the sharp fall off in passenger traffic, the Company eliminated approximately 20,000 jobs.

On September 22, 2001, President Bush signed into law the Air Transportation Safety and System Stabilization Act (the Act). Under the airline compensation provisions of the Act, each U.S. airline and air cargo carrier was entitled to receive the lesser of: (i) its direct and incremental losses for the period September 11, 2001 to December 31, 2001 or (ii) its proportional available seat mile allocation of $5 billion in compensation available under the Act. The Company received a total of $866 million from the U.S. Government under the Act. For the years ended December 31, 2002 and 2001, the Company recognized approximately $10 million and $856 million, respectively, as compensation under the Act, which is included in U.S. Government grant on the accompanying consolidated statements of operations.

In addition, the Act provides for compensation to individual claimants who were physically injured or killed as a result of the terrorist attacks of September 11, 2001. Furthermore, the Act provides that, notwithstanding any other provision of law, liability for all claims, whether compensatory or punitive, arising from the terrorist-related events of September 11, 2001 against any air carrier shall not exceed the liability coverage maintained by the air carrier. Based upon estimates provided by the Company's insurance providers, the Company recorded a liability of approximately $2.3 billion for claims arising from the events of September 11, 2001, after considering the liability protections provided for by the Act. In addition, the Company recorded a receivable for the same amount which the Company expects to recover from its insurance carriers as claims are resolved. This insurance receivable and liability are classified as Other assets and Other liabilities and deferred credits on the accompanying consolidated balance sheets, respectively, and are based on reserves established by the Company's insurance carriers. These estimates may be revised as additional information becomes available concerning the expected claims. One of the Company's insurance carriers has entered rehabilitation, a voluntary reorganization process. The carrier provides approximately five percent of the Company's coverage related to the events of September 11, 2001 as well as other covered items. This results in approximately $110 million in receivables, net of reserves, from the insurance carrier as of December 31, 2002. The Company expects to recover the net receivable via the rehabilitation process or other means available.

APA Exhibit 403

PAY GUIDE (EFFECTIVE 3/2/91)
(1/2 DAY, 1/2 NIGHT)

CAPTAIN RATES

SENIORITY	747SP	MD11	DC10-30	DC10-10	A300	767-300	767-2ER	767	757	727-200B	727-223	727-100	MD80	737-300	737-200	F100
2	$172.91	$171.99	$163.78	$159.76	$151.69	$151.69	$150.22	$148.72	$147.19	$137.46	$137.09	$136.60	$136.60	$127.95	$127.39	$126.94
3	$174.31	$173.38	$165.11	$161.05	$152.92	$152.92	$151.44	$149.93	$148.38	$138.58	$138.20	$137.71	$137.71	$128.98	$128.42	$127.97
4	$175.71	$174.78	$166.44	$162.35	$154.15	$154.15	$152.66	$151.13	$149.57	$139.69	$139.31	$138.82	$138.82	$130.02	$129.46	$129.00
5	$177.12	$176.17	$167.76	$163.64	$155.38	$155.38	$153.87	$152.34	$150.77	$140.81	$140.42	$139.93	$139.93	$131.06	$130.49	$130.03
6	$178.52	$177.56	$169.09	$164.94	$156.61	$156.61	$155.09	$153.54	$151.96	$141.92	$141.53	$141.03	$141.03	$132.10	$131.52	$131.05
7	$179.92	$178.96	$170.42	$166.23	$157.84	$157.84	$156.31	$154.75	$153.15	$143.04	$142.64	$142.14	$142.14	$133.13	$132.56	$132.08
8	$181.32	$180.35	$171.75	$167.53	$159.07	$159.07	$157.53	$155.96	$154.35	$144.15	$143.75	$143.25	$143.25	$134.17	$133.59	$133.11
9	$182.72	$181.75	$173.08	$168.82	$160.30	$160.30	$158.75	$157.16	$155.54	$145.27	$144.87	$144.36	$144.36	$135.21	$134.62	$134.14
10	$184.13	$183.14	$174.40	$170.12	$161.53	$161.53	$159.96	$158.37	$156.73	$146.38	$145.98	$145.46	$145.46	$136.25	$135.65	$135.17
11	$185.53	$184.54	$175.73	$171.41	$162.76	$162.76	$161.18	$159.57	$157.93	$147.50	$147.09	$146.57	$146.57	$137.28	$136.69	$136.20
12	$186.93	$185.93	$177.06	$172.71	$163.99	$163.99	$162.40	$160.78	$159.12	$148.61	$148.20	$147.68	$147.68	$138.32	$137.72	$137.23

FIRST OFFICER RATES

SENIORITY	747SP	MD11	DC10-30	DC10-10	A300	767-300	767-2ER	767	757	727-200B	727-223	727-100	MD80	737-300	737-200	F100
2	$63.98	$63.63	$60.60	$59.11	$56.13	$56.13	$55.58	$55.03	$54.46	$50.86	$50.72	$50.54	$50.54	$47.34	$47.13	$46.97
3	$71.47	$71.09	$67.69	$66.03	$62.70	$62.70	$62.09	$61.47	$60.84	$56.82	$56.66	$56.46	$56.46	$52.88	$52.65	$52.47
4	$77.31	$76.90	$73.23	$71.43	$67.83	$67.83	$67.17	$66.50	$65.81	$61.46	$61.30	$61.08	$61.08	$57.21	$56.96	$56.76
5	$86.79	$86.32	$82.20	$80.18	$76.14	$76.14	$75.40	$74.65	$73.88	$69.00	$68.81	$68.57	$68.57	$64.22	$63.94	$63.71
6	$112.47	$111.87	$106.53	$103.91	$98.66	$98.66	$97.71	$96.73	$95.73	$89.41	$89.16	$88.85	$88.85	$83.22	$82.86	$82.56
7	$115.15	$114.53	$109.07	$106.39	$101.02	$101.02	$100.04	$99.04	$98.02	$91.54	$91.29	$90.97	$90.97	$85.21	$84.84	$84.53
8	$117.86	$117.23	$111.64	$108.89	$103.40	$103.40	$102.39	$101.37	$100.33	$93.70	$93.44	$93.11	$93.11	$87.21	$86.83	$86.52
9	$121.51	$120.86	$115.10	$112.27	$106.60	$106.60	$105.57	$104.51	$103.43	$96.60	$96.34	$96.00	$96.00	$89.91	$89.52	$89.20
10	$124.29	$123.62	$117.72	$114.83	$109.03	$109.03	$107.98	$106.90	$105.79	$98.81	$98.53	$98.19	$98.19	$91.97	$91.57	$91.24
11	$126.16	$125.48	$119.50	$116.56	$110.68	$110.68	$109.60	$108.51	$107.39	$100.30	$100.02	$99.67	$99.67	$93.35	$92.95	$92.62
12	$127.11	$126.43	$120.40	$117.44	$111.51	$111.51	$110.43	$109.33	$108.20	$101.05	$100.78	$100.42	$100.42	$94.06	$93.65	$93.32

FLIGHT OFFICER RATES

SENIORITY	747SP	MD11	DC10-30	DC10-10	A300	767-300	767-2ER	767	757	727-200B	727-223	727-100	MD80	737-300	737-200	F100
2	$50.14		$47.50	$46.33						$39.86	$39.76	$39.61				
3	$59.27		$56.14	$54.76						$47.12	$46.99	$46.82				
4	$68.53		$64.91	$63.32						$54.48	$54.33	$54.14				
5	$74.39		$70.46	$68.73						$59.14	$58.98	$58.77				
6	$99.97		$94.69	$92.37						$79.48	$79.26	$78.98				
7	$102.55		$97.14	$94.75						$81.53	$81.31	$81.02				
8	$105.17		$99.61	$97.17						$83.61	$83.38	$83.08				
9	$107.81		$102.11	$99.61						$85.71	$85.47	$85.17				
10	$109.55		$103.77	$101.22						$87.10	$86.86	$86.55				
11	$110.39		$104.56	$101.99						$87.76	$87.52	$87.21				
12	$112.16		$106.24	$103.63						$89.17	$88.92	$88.61				

NOTES: Does not include international override pay.
This table is for guidance only. The Agreement itself is the final authority.

PAY GUIDE (EFFECTIVE 8/31/91)
(½ DAY, ½ NIGHT)

CAPTAIN RATES

SENIORITY	747SP	MD11	DC10-30	DC10-10	A300	767-300	767-2ER	767	757	727-200B	727-223	727-100	MD80	737-300	737-200	F100
2	$179.83	$178.87	$170.33	$166.15	$157.76	$157.76	$156.23	$154.67	$153.07	$142.96	$142.57	$142.07	$142.07	$133.06	$132.49	$132.02
3	$181.28	$180.32	$171.71	$167.49	$159.04	$159.04	$157.50	$155.92	$154.31	$144.12	$143.72	$143.22	$143.22	$134.14	$133.56	$133.09
4	$182.74	$181.77	$173.09	$168.84	$160.32	$160.32	$158.76	$157.18	$155.56	$145.28	$144.88	$144.37	$144.37	$135.22	$134.64	$134.16
5	$184.20	$183.22	$174.47	$170.19	$161.60	$161.60	$160.03	$158.43	$156.80	$146.44	$146.04	$145.52	$145.52	$136.30	$135.71	$135.23
6	$185.66	$184.67	$175.86	$171.54	$162.87	$162.87	$161.30	$159.69	$158.04	$147.60	$147.19	$146.68	$146.68	$137.38	$136.78	$136.30
7	$187.12	$186.12	$177.25	$172.88	$164.15	$164.15	$162.56	$160.94	$159.28	$148.76	$148.35	$147.83	$147.83	$138.46	$137.86	$137.37
8	$188.57	$187.57	$178.62	$174.23	$165.43	$165.43	$163.83	$162.19	$160.52	$149.92	$149.49	$148.98	$148.98	$139.54	$138.93	$138.44
9	$190.03	$189.02	$180.00	$175.58	$166.71	$166.71	$165.10	$163.45	$161.76	$151.08	$150.66	$150.13	$150.13	$140.62	$140.01	$139.51
10	$191.49	$190.47	$181.38	$176.92	$167.99	$167.99	$166.36	$164.70	$163.00	$152.24	$151.82	$151.27	$151.27	$141.70	$141.08	$140.58
11	$192.95	$191.92	$182.76	$178.27	$169.27	$169.27	$167.63	$165.96	$164.24	$153.40	$152.97	$152.44	$152.44	$142.77	$142.15	$141.65
12	$194.41	$193.37	$184.14	$179.62	$170.55	$170.55	$168.90	$167.21	$165.48	$154.55	$154.13	$153.59	$153.59	$143.85	$143.23	$142.72

FIRST OFFICER RATES

SENIORITY	747SP	MD11	DC10-30	DC10-10	A300	767-300	767-2ER	767	757	727-200B	727-223	727-100	MD80	737-300	737-200	F100
2	$66.54	$66.18	$63.02	$61.47	$58.37	$58.37	$57.80	$57.23	$56.64	$52.90	$52.75	$52.57	$52.57	$49.23	$49.02	$48.85
3	$74.33	$73.93	$70.40	$68.67	$65.21	$65.21	$64.57	$63.93	$63.27	$59.09	$58.93	$58.72	$58.72	$55.00	$54.76	$54.57
4	$80.41	$79.98	$76.16	$74.29	$70.54	$70.54	$69.86	$69.16	$68.44	$63.92	$63.75	$63.52	$63.52	$59.50	$59.24	$59.03
5	$90.26	$89.78	$85.49	$83.39	$79.18	$79.18	$78.41	$77.63	$76.83	$71.76	$71.56	$71.31	$71.31	$66.79	$66.50	$66.26
6	$116.97	$116.34	$110.79	$108.07	$102.61	$102.61	$101.62	$100.60	$99.56	$92.99	$92.73	$92.41	$92.41	$86.55	$86.17	$85.87
7	$119.75	$119.11	$113.43	$110.64	$105.06	$105.06	$104.04	$103.00	$101.94	$95.21	$94.94	$94.61	$94.61	$88.61	$88.23	$87.92
8	$122.57	$121.92	$116.10	$113.25	$107.53	$107.53	$106.49	$105.43	$104.34	$97.45	$97.18	$96.84	$96.84	$90.70	$90.31	$89.98
9	$126.37	$125.70	$119.70	$116.76	$110.86	$110.86	$109.79	$108.69	$107.57	$100.47	$100.19	$99.84	$99.84	$93.51	$93.10	$92.77
10	$129.26	$128.57	$122.43	$119.42	$113.39	$113.39	$112.29	$111.17	$110.03	$102.76	$102.48	$102.12	$102.12	$95.64	$95.23	$94.89
11	$131.21	$130.50	$124.28	$121.22	$115.10	$115.10	$113.99	$112.85	$111.69	$104.31	$104.02	$103.66	$103.66	$97.09	$96.67	$96.32
12	$132.20	$131.49	$125.22	$122.14	$115.97	$115.97	$114.85	$113.70	$112.53	$105.10	$104.81	$104.44	$104.44	$97.82	$97.40	$97.05

FLIGHT OFFICER RATES

SENIORITY	747SP	MD11	DC10-30	DC10-10	A300	767-300	767-2ER	767	757	727-200B	727-223	727-100	MD80	737-300	737-200	F100
2	$52.15		$49.40	$48.18						$41.46	$41.34	$41.20				
3	$61.64		$58.38	$56.95						$49.00	$48.87	$48.69				
4	$71.27		$67.51	$65.85						$56.66	$56.50	$56.31				
5	$77.36		$73.28	$71.48						$61.50	$61.34	$61.12				
6	$103.97		$98.48	$96.06						$82.66	$82.43	$82.14				
7	$106.66		$101.03	$98.54						$84.79	$84.56	$84.26				
8	$109.37		$103.60	$101.05						$86.95	$86.71	$86.41				
9	$112.12		$106.20	$103.59						$89.14	$88.89	$88.58				
10	$113.94		$107.92	$105.27						$90.58	$90.33	$90.01				
11	$114.80		$108.74	$106.07						$91.27	$91.02	$90.70				
12	$116.64		$110.49	$107.77						$92.73	$92.48	$92.15				

NOTES: Does not include international override pay.
This table is for guidance only. The Agreement itself is the final authority.

Supp. CC - 3

PAY GUIDE (EFFECTIVE 8/31/92)
(½ DAY, ½ NIGHT)

CAPTAIN RATES

SENIORITY	747SP	MD11	DC10-30	DC10-10	A300	767-300	767-2ER	767	757	727-200B	727-223	727-100	MD80	737-300	737-200	F100
2	$187.02	$186.02	$177.13	$172.79	$164.07	$164.07	$162.48	$160.86	$159.20	$148.68	$148.27	$147.75	$147.75	$138.39	$137.79	$137.30
3	$188.54	$187.53	$178.58	$174.19	$165.40	$165.40	$163.80	$162.16	$160.49	$149.89	$149.47	$148.95	$148.95	$139.51	$138.90	$138.41
4	$190.05	$189.04	$180.02	$175.59	$166.73	$166.73	$165.11	$163.47	$161.78	$151.09	$150.69	$150.15	$150.15	$140.63	$140.02	$139.52
5	$191.57	$190.55	$181.44	$177.00	$168.06	$168.06	$166.43	$164.77	$163.07	$152.30	$151.89	$151.34	$151.34	$141.75	$141.14	$140.64
6	$193.09	$192.05	$182.89	$178.40	$169.39	$169.39	$167.75	$166.07	$164.36	$153.50	$153.08	$152.54	$152.54	$142.87	$142.25	$141.75
7	$194.60	$193.56	$184.33	$179.80	$170.72	$170.72	$169.06	$167.38	$165.65	$154.71	$154.28	$153.74	$153.74	$144.00	$143.37	$142.86
8	$196.12	$195.07	$185.76	$181.20	$172.05	$172.05	$170.38	$168.68	$166.94	$155.91	$155.48	$154.94	$154.94	$145.12	$144.49	$143.98
9	$197.63	$196.58	$187.20	$182.60	$173.38	$173.38	$171.70	$169.99	$168.23	$157.12	$156.70	$156.14	$156.14	$146.24	$145.61	$145.09
10	$199.15	$198.09	$188.64	$184.00	$174.71	$174.71	$173.02	$171.29	$169.52	$158.33	$157.89	$157.33	$157.33	$147.36	$146.72	$146.20
11	$200.67	$199.59	$190.07	$185.40	$176.04	$176.04	$174.33	$172.60	$170.81	$159.53	$159.09	$158.53	$158.53	$148.48	$147.84	$147.31
12	$202.18	$201.10	$191.51	$186.80	$177.37	$177.37	$175.65	$173.90	$172.10	$160.74	$160.29	$159.73	$159.73	$149.61	$148.96	$148.43

FIRST OFFICER RATES

SENIORITY	747SP	MD11	DC10-30	DC10-10	A300	767-300	767-2ER	767	757	727-200B	727-223	727-100	MD80	737-300	737-200	F100
2	$69.20	$68.83	$65.54	$63.93	$60.71	$60.71	$60.12	$59.52	$58.90	$55.01	$54.86	$54.67	$54.67	$51.20	$50.98	$50.80
3	$77.30	$76.89	$73.22	$71.42	$67.81	$67.81	$67.16	$66.49	$65.80	$61.45	$61.28	$61.07	$61.07	$57.20	$56.95	$56.75
4	$83.62	$83.18	$79.21	$77.26	$73.36	$73.36	$72.65	$71.92	$71.18	$66.48	$66.30	$66.06	$66.06	$61.88	$61.61	$61.39
5	$93.87	$93.37	$88.91	$86.73	$82.35	$82.35	$81.55	$80.74	$79.90	$74.63	$74.42	$74.16	$74.16	$69.46	$69.16	$68.91
6	$121.64	$120.99	$115.22	$112.39	$106.72	$106.72	$105.68	$104.63	$103.55	$96.71	$96.44	$96.10	$96.10	$90.01	$89.62	$89.30
7	$124.55	$123.88	$117.97	$115.07	$109.26	$109.26	$108.20	$107.12	$106.02	$99.01	$98.74	$98.39	$98.39	$92.16	$91.76	$91.43
8	$127.48	$126.80	$120.75	$117.78	$111.83	$111.83	$110.75	$109.64	$108.51	$101.34	$101.06	$100.71	$100.71	$94.33	$93.92	$93.58
9	$131.43	$130.72	$124.49	$121.43	$115.30	$115.30	$114.18	$113.04	$111.87	$104.48	$104.20	$103.83	$103.83	$97.25	$96.83	$96.48
10	$134.43	$133.71	$127.33	$124.20	$117.93	$117.93	$116.79	$115.62	$114.43	$106.87	$106.57	$106.20	$106.20	$99.47	$99.04	$98.69
11	$136.45	$135.72	$129.25	$126.07	$119.71	$119.71	$118.55	$117.36	$116.15	$108.48	$108.18	$107.80	$107.80	$100.98	$100.53	$100.17
12	$137.48	$136.75	$130.23	$127.03	$120.61	$120.61	$119.44	$118.25	$117.03	$109.30	$109.00	$108.62	$108.62	$101.73	$101.29	$100.93

FLIGHT OFFICER RATES

SENIORITY	747SP	MD11	DC10-30	DC10-10	A300	767-300	767-2ER	767	757	727-200B	727-223	727-100	MD80	737-300	737-200	F100
2	$54.24		$51.37	$50.11						$43.12	$43.00	$42.85				
3	$64.10		$60.72	$59.23						$50.96	$50.82	$50.64				
4	$74.12		$70.21	$68.48						$58.93	$58.77	$58.56				
5	$80.46		$76.21	$74.34						$63.97	$63.79	$63.56				
6	$108.13		$102.42	$99.90						$85.96	$85.72	$85.42				
7	$110.92		$105.07	$102.48						$88.18	$87.94	$87.63				
8	$113.75		$107.74	$105.10						$90.43	$90.18	$89.87				
9	$116.60		$110.45	$107.73						$92.70	$92.45	$92.12				
10	$118.49		$112.24	$109.48						$94.20	$93.94	$93.61				
11	$119.40		$113.09	$110.31						$94.92	$94.66	$94.33				
12	$121.31		$114.90	$112.08						$96.44	$96.18	$95.84				

NOTES: Does not include international override pay.
This table is for guidance only. The Agreement itself is the final authority.

Supp. CC - 3

PAY GUIDE (EFFECTIVE 8/31/93)
(‡ DAY, ‡ NIGHT)

CAPTAIN RATES

SENIORITY	747SP	MD11	DC10-30	DC10-10	A300	767-300	767-ER	767	757	727-200A	727-223	727-100	MD80	737-300	737-200	F100
2	$194.50	$193.47	$184.23	$179.70	$170.63	$170.63	$168.98	$167.29	$165.56	$154.63	$154.20	$153.66	$153.66	$143.92	$143.30	$142.79
3	$196.08	$195.03	$185.72	$181.16	$172.01	$172.01	$170.35	$168.65	$166.91	$155.88	$155.45	$154.91	$154.91	$145.09	$144.46	$143.95
4	$197.65	$196.60	$187.22	$182.62	$173.40	$173.40	$171.72	$170.00	$168.25	$157.14	$156.71	$156.15	$156.15	$146.25	$145.62	$145.10
5	$199.23	$198.17	$188.71	$184.08	$174.78	$174.78	$173.09	$171.36	$169.59	$158.39	$157.96	$157.40	$157.40	$147.42	$146.78	$146.26
6	$200.81	$199.74	$190.21	$185.53	$176.17	$176.17	$174.46	$172.72	$170.93	$159.64	$159.20	$158.64	$158.64	$148.58	$147.95	$147.42
7	$202.39	$201.30	$191.70	$186.99	$177.55	$177.55	$175.83	$174.07	$172.28	$160.90	$160.45	$158.89	$158.89	$149.76	$149.11	$148.58
8	$203.96	$202.87	$193.19	$188.45	$178.93	$178.93	$177.20	$175.43	$173.62	$162.16	$161.70	$161.14	$161.14	$150.92	$150.27	$149.73
9	$205.54	$204.45	$194.68	$189.90	$180.32	$180.32	$178.57	$176.79	$174.96	$163.40	$162.96	$162.38	$162.38	$152.08	$151.43	$150.89
10	$207.11	$206.02	$196.18	$191.35	$181.70	$181.70	$179.94	$178.14	$176.30	$164.66	$164.20	$163.63	$163.63	$153.26	$152.59	$152.05
11	$208.68	$207.58	$197.67	$192.82	$183.08	$183.08	$181.31	$179.49	$177.65	$165.92	$165.46	$164.87	$164.87	$154.42	$153.75	$153.21
12	$210.27	$209.15	$199.17	$194.28	$184.47	$184.47	$182.68	$180.86	$178.99	$167.17	$166.70	$166.12	$166.12	$155.59	$154.92	$154.37

FIRST OFFICER RATES

SENIORITY	747SP	MD11	DC10-30	DC10-10	A300	767-300	767-ER	767	757	727-200A	727-223	727-100	MD80	737-300	737-200	F100
2	$71.97	$71.58	$68.17	$66.49	$63.13	$63.13	$62.53	$61.90	$61.26	$57.21	$57.05	$56.85	$56.85	$53.25	$53.02	$52.83
3	$80.30	$79.86	$76.15	$74.28	$70.53	$70.53	$69.85	$69.15	$68.43	$63.92	$63.74	$63.51	$63.51	$59.49	$59.23	$59.02
4	$86.96	$86.50	$82.38	$80.35	$76.38	$76.38	$75.56	$74.80	$74.03	$69.14	$68.95	$68.71	$68.71	$64.35	$64.07	$63.85
5	$97.62	$97.10	$92.47	$90.20	$85.64	$85.64	$84.81	$83.97	$83.10	$77.61	$77.40	$77.13	$77.13	$72.24	$71.92	$71.67
6	$125.51	$125.04	$119.03	$116.08	$110.98	$110.98	$109.91	$108.81	$107.68	$100.58	$100.30	$99.95	$99.95	$93.61	$93.21	$92.87
7	$129.53	$128.83	$122.69	$119.67	$113.63	$113.63	$112.53	$111.41	$110.26	$102.98	$102.69	$102.33	$102.33	$95.84	$95.43	$95.09
8	$132.58	$131.87	$125.57	$122.50	$116.31	$116.31	$115.18	$114.03	$112.85	$105.40	$105.10	$104.74	$104.74	$98.10	$97.67	$97.33
9	$136.68	$135.96	$129.47	$126.29	$119.91	$119.91	$118.76	$117.56	$116.34	$108.66	$108.37	$107.98	$107.98	$101.14	$100.70	$100.33
10	$139.80	$139.06	$132.42	$129.17	$122.65	$122.65	$121.46	$120.25	$119.00	$111.14	$110.83	$110.45	$110.45	$103.46	$103.00	$102.63
11	$141.91	$141.15	$134.42	$131.12	$124.50	$124.50	$123.29	$122.06	$120.79	$112.82	$112.51	$112.11	$112.11	$105.01	$104.55	$104.18
12	$142.98	$142.22	$135.43	$132.11	$125.44	$125.44	$124.22	$122.98	$121.71	$113.67	$113.36	$112.96	$112.96	$105.80	$105.34	$104.97

FLIGHT OFFICER RATES

SENIORITY	747SP	MD11	DC10-30	DC10-10	A300	767-300	767-ER	767	757	727-200A	727-223	727-100	MD80	737-300	737-200	F100
2	$56.41		$53.43	$52.11						$44.84	$44.72	$44.56				
3	$66.67		$63.15	$61.59						$53.00	$52.85	$52.67				
4	$77.09		$73.02	$71.22						$61.28	$61.11	$60.90				
5	$83.68		$79.26	$77.31						$66.53	$66.34	$66.11				
6	$112.45		$106.52	$103.90						$89.41	$89.15	$88.84				
7	$115.36		$109.27	$106.58						$91.72	$91.46	$91.14				
8	$118.30		$112.05	$109.30						$94.05	$93.79	$93.46				
9	$121.27		$114.87	$112.04						$96.41	$96.14	$95.81				
10	$123.23		$116.73	$113.86						$97.97	$97.70	$97.36				
11	$124.17		$117.62	$114.73						$98.72	$98.45	$98.10				
12	$126.16		$119.50	$116.57						$100.30	$100.02	$99.67				

NOTES: Does not include international override pay.
This table is for guidance only. The Agreement itself is the final authority.

APA Exhibit 404

AmericanAirlines®

July 21, 2006

Captain Ralph Hunter, President
Allied Pilots Association
15600 Trinity Blvd. Suite 500
Ft. Worth, TX 76155

Dear Ralph:

In accordance with Section 26. D. of the Collective Bargaining Agreement between American Airlines and the Allied Pilot's Association, and Section 6, Title 1, of the Railway Labor Act, as amended, this will serve as the Company's notice that we wish to exercise our rights to commence negotiations to make changes in rates of pay, rules and working conditions for flight deck crewmembers covered by the current Agreement.

Over the last several years, we have jointly worked to understand the issues confronting our company, our pilots, and the industry. We wish to continue to employ a problem solving approach in these negotiations, as we work toward a goal of fostering the long term best interests of American and all its employees.

Denny Newgren, Managing Director, Employee Relations, will lead the Company negotiating team and serve as Chief Spokesman for the Company.

Sincerely,

Mark Burdette
Vice President,
Employee Relations

APA Exhibit 405

MARKET SNAPSHOT

U.S.	EUROPE	ASIA		
DOW		13,057.00	-149.55	-1.13%
S&P 500		1,370.33	-21.24	-1.53%
NASDAQ		2,967.71	-56.59	-1.87%

NEW INSIGHTS DAILY Bloomberg VIEW

20 +0.27% EUR-USD 1.3100 -0.4011% Nasdaq 2,967.71 -1.87% Dow 13,057.00 -1.13% S&P 500 1,370.33 -1.53% FTSE 100 5,655.06 -1.93% STOXX

Our Company | Professional | Anywhere | Register | Sign In

Search News, Quotes and Opinion

AMR in Stalemate in Bid for $800 Million Labor Savings

By Mary Schlangenstein - Sep 29, 2011 10:57 AM ET

0 COMMENTS Q QUEUE

AMR Corp. (AMR)'s American Airlines, saddled with the U.S. industry's highest labor costs, now faces contract negotiations stalled so badly that federal mediators have walked away from the talks.

A stalemate with three unions is thwarting American's bid to chop what it says is an $800 million-a-year disadvantage to rivals in labor expenses. Pilots say "considerable gaps"remain as they meet with executives at a rural Texas resort this week to assess what to do next in bargaining that began in 2006.

Unions for the pilots, flight attendants and ground workers want to recoup at least part of the $1.6 billion in annual concessions made to avert bankruptcy in 2003. Fort Worth, Texas-based AMR seeks productivity gains to cut labor bills that are helping drag it to a fourth straight annual loss.

"Not only do they need to be able to exact some cost savings out of labor agreements, but they need certainty to navigate what's ahead," said Brian Nelson, president of equity research at Valuentum Securities Inc. in Chicago. "While they do have a large cash position, their cash-flow generation is faltering. I would put labor near the top of the priority list."

AMR will be alone among peers with a 2011 loss and won't post a profit in 2012, based on analysts' estimates compiled by Bloomberg. Its labor spending last year equaled 30.9 percent of sales, the most among the six largest U.S. airlines, according to data compiled by Bloomberg.

Union Template?

"The breakthrough would be if you got the pilots to do some concessions," said Henry Oechler, an attorney with Chadbourne & Parke LLP in New York who has handled airline labor issues. "That could serve as a template for the other unions."

By law, airline contracts don't expire, so existing pay scales and work rules stay in place pending a new accord. American has flown for years under terms it wants to change while working on deals with three unions whose members make up 73 percent of employees at the third-largest U.S. carrier.

A National Mediation Board mediator recessed talks last month between American and the union for 11,000 mechanics over a lack of progress and didn't set new sessions, after a similar outcome for baggage handlers in July. An April NMB session ended with no dates for more talks with 17,000 attendants.

More Stories

Zuckerberg Facebook IPO to Make Him Richer Than Ballmer
Q

Samsung's New Galaxy S Phone Raises Heat on Apple Iphone
Q

Mitt Romney's Bigotry Needs No Spokesman
Q

Yankees' Rivera Tears Knee Ligament During Batting Practice
Q

Rate These Stories More News »

Advertisement

Most Popular Stories

Zuckerberg Facebook IPO to Make Him Richer Than Ballmer
Q

American and its pilots have been on their own for talks since October, when the NMB abandoned those negotiations.

'Very Challenging'

"As tough as 2011 has been, 2012 is shaping up to be another very challenging year," Jeff Brundage, American's senior vice president for employee relations, said in an e-mail before he and Vice President Mark Burdette gathered this week with pilot leaders at Rough Creek Lodge & Resort in Glen Rose,Texas.

While Brundage said American was "working as quickly as possible with our unions," the Allied Pilots Association said it didn't see any agreement soon.

"We've got considerable gaps between our positions on some of the big areas," Sam Mayer, a union spokesman, said in an interview. "I don't think either side has an expectation of getting there in one week, but we'll have a better idea if both sides think they have a way to bridge the gaps."

A contract with American's 8,700 active pilots can't come too soon for the airline, which hasn't posted an annual profit since 2007 and saw competitors return to profit in 2010.

Stock Performance

AMR is the worst performer on the 10-carrier Bloomberg U.S. Airlines Index in 2011, tumbling 55 percent before today. The shares closed yesterday at $3.52, compared with $24.69 when talks started with pilots on Sept. 20, 2006.

Most American rivals were in bankruptcy then or had exited within 12 months. Avoiding Chapter 11 meant American couldn't chop costs in court protection. Then it missed out on consolidation such as last year's United Airlines-Continental Airlines merger, which created the world's biggest airline.

AMR should end 2012 with $4.4 billion in liquidity, "so no financial risk" now, Dan McKenzie, a Rodman & Renshaw analyst in Chicago, said in a report yesterday. "But the margin for error continues to narrow."

Through 2015, AMR has $6.37 billion due in principal payments on long-term debt, spokesman Sean Collins said.

Adding to the urgency for a pilot accord is the fact that American has ordered hundreds of Boeing Co. (BA) and Airbus SAS jets it can't fly until new pay scales are negotiated, said Hunter Keay, an analyst at New York-based Wolfe Trahan & Co. who rates AMR as "underperform." McKenzie recommends holding the stock.

NMB's Role

The National Mediation Board declined to comment on the status of American's labor talks. With the freeze, American isn't getting its sought-after savings, and its work groups don't have payback for the 2003 concessions or the required federal clearance to move toward a strike.

"We might be sitting on the sidelines for quite some time," said Sidney Jimenez, president of Transport Workers Union Local 568 in Florida, which represents workers such as baggage handlers.

Employers in U.S. Added Fewer Jobs Than Forecast in April
Q
Updated 4 minutes ago

Pythons Swallow Whole Deer in Florida, $6 Million Tab
Q

U.S. Payrolls Probably Picked Up
Q

Krugman Wishes He Were Wrong Amid EU Austerity Backlash
Q

More Most Popular Stories »

Sponsored Links

Dividend Paying Stocks
Access America's Largest Dividend Paying Stocks in 1 ETF-Learn More.
www.WisdomTree.com/Dividend-Paying

Travel Agent Degree
Learn travel agent skills with a Master's in Tourism Admin! Info.
Nearyou.GWU.edu/GraduateGW

Merrill Lynch FAs
Achieve Your Career Goals And Join Our Team. Apply Today.
facareers.ml.com/MerrillLynch
AdChoices

Job Search Post a Job »

Sales Consultants
Sonic Automotive - Buena Park, CA

automotive sales
infiniti of tucson - Tucson, AZ

Auto Sales Manager
Bertera Chevrolet - Palmer, MA

Automotive Sales / Sales Representative /...
Rusty Eck Ford - Wichita, KS

Automotive Sales Management / Sales Manager /...
Rusty Eck Ford - Wichita, KS

Search All Jobs jobs by indeed
job title or company location Go

Advertisements
LEARN
Ameritrade

American has reached agreements with each work group on numerous contract provisions. The unresolved issues are those that often require the most negotiating time, including compensation and retirement.

Laura Glading, president of the Association of Professional Flight Attendants, said it was "baffling" that American hasn't concluded agreements with its biggest unions.

"All three groups are offering them some increased productivity and efficiency," Glading said in an interview."Yet you still don't do what you need to do to close the deals."

To contact the reporter on this story: Mary Schlangenstein in Dallas at maryc.s@bloomberg.net

To contact the editor responsible for this story: Ed Dufner at edufner@bloomberg.net

More News: U.S. · Transportation

0 COMMENTS Q QUEUE

Login

ADD NEW COMMENT

Type your comment here.

Bloomberg moderates all comments. Comments that are abusive or off-topic will not be posted to the site. Excessively long comments may be moderated as well. Bloomberg cannot facilitate requests to remove comments or explain individual moderation decisions.

SHOWING 0 COMMENTS ON AMR in Stalemate in Bid for $800 Million Labor Savings

Videos you may like:


Qantas CEO Speaks on Budget Alliance


Charlie Rose: Bob Crandall on Airline Industry


April 20 Neidl on Possible AMR Bid by U.S. Airways

by Taboola

Sponsored links

10 Stocks to Hold Forever
Buy them, forget about them, and never sell them.
www.StreetAuthority.com

Dental Hygienist Program
Become a Dental Hygienist. Find a Program Near You Now!
DentalHygieneCareerDirectory.Com

Homeland Security Career
Get Trained - Security, Detective Police, Patrol, Corrections & More!
ICDCCollege.edu

AdChoices

Sponsored Links
Subscribe Now & Get Your Free Issue of Bloomberg Markets Magazine

RELATED BLOOMBERG SITES

Bloomberg Businessweek
Bloomberg Markets Magazine
Bloomberg Institute
Bloomberg Open Symbology
ブルームバーグ(日本語)
Bloomberg Link
会社概要(日本語)
Bloomberg Blog
关于彭博中国
Bloomberg Press

BLOOMBERG PREMIUM SERVICES

Bloomberg Briefs
Bloomberg New Energy Finance
Bloomberg Government
Bloomberg Sports
Bloomberg Law
Bloomberg BNA

MOBILE APPS

Bloomberg
Bloomberg Radio+
Bloomberg TV+
Bloomberg Businessweek+

©2012 BLOOMBERG L.P. ALL RIGHTS RESERVED.

Jobs by Indeed | Rate this Page | Made in NYC | Ad Choices

Q
What is the queue?
More »Items In Your queue
This is your Bloomberg Queue
The queue will help you find news, save stories for later and take them with you
Learn MoreClose
More »New Suggestions

APA Exhibit 406

AA Comprehensive Proposal #2 Priceout - 10/6/2011

	Pilot Cost B/(W) $MM						
	Year 1	Year 2	Year 3	Year 4	Steady State	5 Year Average	Notes
COST	0						
Structural + Lump Increases	($53)	($45)	($56)	($68)	($51)	($55)	3.2% DOS Mix, 1.0% structural Y2-Y4; Intl Prem included in rates
First Dollar Profit Sharing	($5)	($5)	($5)	($5)	($5)	($5)	Assume $500MM in profit every 3 years, elimination of AIP
Paycheck Process - Annuitized @ 13.8%	($4)	($4)	($4)	($4)	($4)	($4)	Annuitized value of NPV from cash loss
Per Diem Increase (funded by Night Premium)	($4)	($4)	($7)	($7)	($7)	($6)	Shift Night pay to International per diem for tax arbitrage; increase again in 2014. Rates DOS = $2.00/$2.25, DOS+2 = $2.15/$2.50
IT costs	($4)	($1)	($1)	($1)	($1)	($2)	Development and maintenance of new systems (high level estimate)
Misc Admin Items	($2)	($2)	($2)	($2)	($2)	($2)	Mostly due to minor duty rig adjustments (calendar day > duty days, scheduled sits > 2 hrs), uniforms, and parking.
Subtotal	**($71)**	**($60)**	**($75)**	**($87)**	**($69)**	**($72)**	
SAVINGS							
Workrule Changes	$0	$11	$45	$64	$83	$41	Includes elimination of most conflicts, higher scheduling and voluntary maximums, sequence protection, new reserve system, reduction in reserve available days, premium pay options, and more.
Crew Rest Seats	$9	$9	$9	$9	$9	$9	From RM. Based on revised Avg rev/seat methodology
Active Medical	$5	$9	$12	$17	$19	$12	Plan design changes and higher employee contributions phased in over time
Shift Intl Premium into Rates	$20	$21	$21	$21	$21	$21	Amount included in pay line above
A Plan Choice	$2	$2	$2	$2	$2	$2	Estimate based on split between 5 year NPV of $11MM split evenly between years
New Hire DC Pension - Annuitized @ 13.8%	$15	$15	$15	$15	$15	$15	New Hire graded DC--Year 1=0%; Year 2-8=12%; +1% each year, max 16%
Retiree Medical - Annuitized @ 13.8%	$8	$8	$8	$8	$8	$8	Access only to post 65 supplement. Future retirees pay active rates for pre-65 coverage. New hires will have access only to pre-65 coverage.
Redeploy Night Premium	$4	$4	$4	$4	$4	$4	
Distance Learning	($1)	($1)	($1)	($0)	($0)	($1)	Assumes 2 days for transition training, and 2 days for recurrent training. Savings from T&I, TWU instructors and potentially some productivity.
Sick	$10	$10	$10	$10	$10	$10	Assume 10% SK reduction with incentive system and SK non-pensionable
LTD	$7	$7	$7	$7	$7	$7	Include income offsets, but increase max LTD payout
Subtotal	**$78**	**$93**	**$132**	**$155**	**$177**	**$127**	
Pilot Cost Impact B/(W)	**$7**	**$33**	**$57**	**$69**	**$109**	**$55**	
CASH IMPACT	**($28)**	**$16**	**$38**	**$49**	**$90**	**$33**	
5 Year Total (Y1-Y4 + SS) Impact					**$274**		

APA Exhibit 407

Entire Exhibit Under Seal

APA Exhibit 408

Entire Exhibit Under Seal

APA Exhibit 409

Entire Exhibit Under Seal

APA Exhibit 410

Entire Exhibit Under Seal

APA Exhibit 411

APA ALLIED PILOTS ASSOCIATION

O'Connell Building • 14600 Trinity Boulevard, Suite 500 • Fort Worth, TX 76155-2512 • 817.302.2272 • www.alliedpilots.org

November 15, 2011

Mr. Gerard Arpey
Chairman and CEO
American Airlines, Inc.
P.O. Box 619616 MD 5621
DFW Airport, Texas 75261-9616

RE: Next Steps

Dear Mr. Arpey,

As you know, our respective negotiating teams have invested a great deal of time and effort during the past several months in an effort to reach a new APA-AA collective bargaining agreement.

APA leadership shares your desire to conclude negotiations expeditiously and we remain focused on reaching an agreement that is good for our pilots and good for the airline. To that end, we have consistently expressed our desire to see the company succeed and have demonstrated our willingness to adopt contractual solutions that represent departures from longstanding tradition. Although management's most recent proposal does not sufficiently address our pilots' most critical negotiating priorities, we are nevertheless committed to reaching a mutually beneficial agreement through good-faith bargaining at the earliest opportunity.

We remain ready and willing to discuss creative solutions that address our respective parties' concerns so that we may promptly conclude these talks.

Captain David J. Bates
President

First Officer Anthony R. Chapman
Vice President

First Officer Scott Shankland
Secretary-Treasurer

Captain Stephen Bacon
BOS Domicile Chairman

First Officer Steve Conlon
LAX Domicile Chairman

Captain Mike McClellan
ORD Domicile Chairman

First Officer James Dillard
BOS Domicile Vice Chairman

Captain Randy LeRuth
LAX Domicile Vice Chairman

Captain Kevin Elmore
ORD Domicile Vice Chairman

Captain Rusty McDaniels
DFW Domicile Chairman

Captain Pete Oborski
LGA Domicile Chairman

Captain Stephen Roach
SFO Domicile Chairman

First Officer Russ Moore
DFW Domicile Vice Chairman

Captain William Boyd
SFO Domicile Vice Chairman

Captain William Gary
DCA Domicile Chairman

Captain Scott Iovine
MIA Domicile Chairman

Captain Doug Gabel
STL Domicile Chairman

First Officer Michael King
DCA Domicile Vice Chairman

Captain Ivan Rivera
MIA Domicile Vice Chairman

First Officer Keith Bounds
STL Domicile Vice Chairman

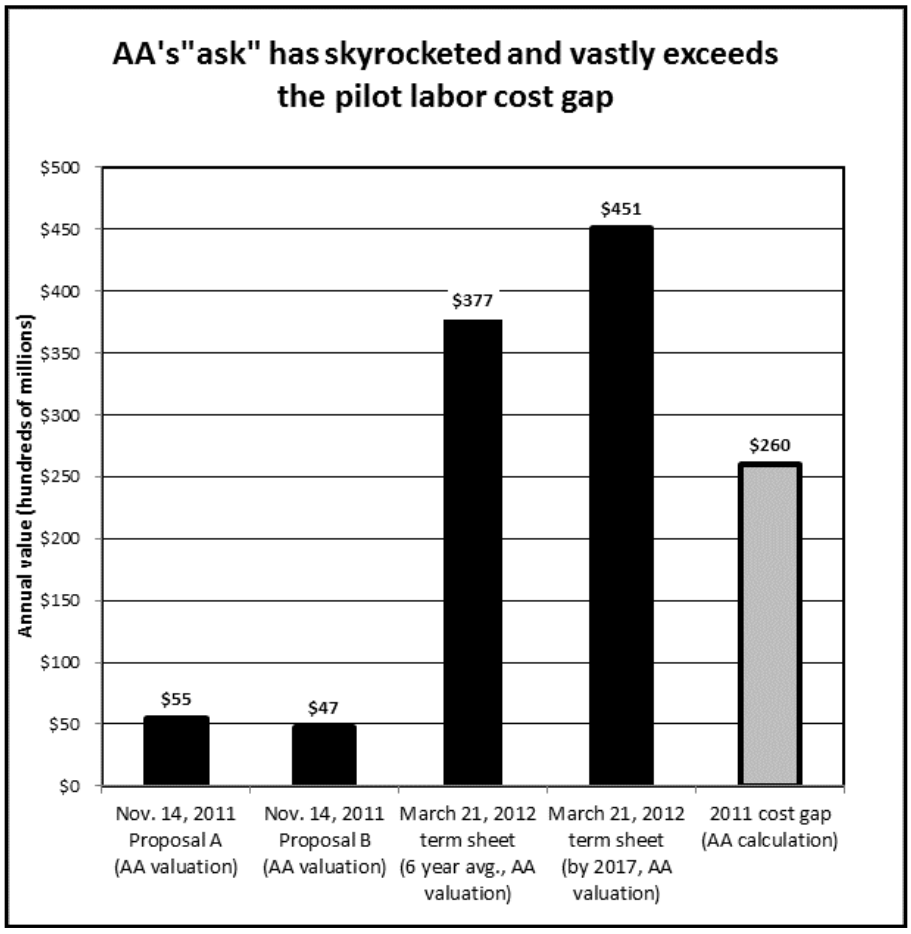
APA Exhibit 412

Company Valuation of 1113(c) Proposal - March 27, 2012

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 1-6 Average
Compensation							
Pay Groupings	1	6	14	15	14	16	11
Eliminate Intl Premiums	11	11	12	13	14	15	13
Eliminate Lineholder Guarantee	6	6	6	6	7	7	6
Pay Greater of Schedule or Actual by sequence	9	9	9	9	10	10	9
Brake Release Agreements	1	1	1	1	1	2	1
Eliminate Night Premium	4	4	4	5	5	6	5
Letter TT - Furlough SIS	2	0	0	0	0	0	0
Premium Pay	0	0	0	0	0	0	0
Eliminate Reserve Guarantee for Military	3	2	2	2	2	2	2
Subtotal	38	39	48	52	54	57	48
Workrules							
Schedule Max/Work rules	8	46	43	81	95	102	62
Sick Policy	39	45	25	32	42	46	38
Eliminate Supp CC SLT job provisions	12	12	12	13	14	14	13
Check Airman	4	4	5	6	6	6	5
Combine Domestic and International Operation	0	0	6	6	6	6	4
Hotels	1	4	4	4	4	4	4
Cap VC @ 35 days	0	1	1	2	3	4	2
Vacation Float	0	0	3	3	3	3	2
Distance Learning	0	2	2	3	3	3	2
Assign FO to Open FB or FC Position on Same Sequence	1	1	1	1	1	1	1
Eliminate Premium for RAPS >7	1	1	0	1	1	1	1
TUL Pilots	1	1	1	1	1	1	1
Fatigue	0	0	0	0	0	0	0
Electronic copies of Agreement	0	0	0	0	0	0	0
Subtotal	67	116	103	152	178	191	134
Benefits							
Retirement Benefit Plan	114	113	120	118	118	117	117
B Plan Litigation Avoidance	1	1	0	0	0	0	0
Retiree Medical	40	38	39	39	38	36	38
Active Medical	20	23	26	30	34	38	28
LTD	13	12	11	10	10	11	11
Subtotal	187	187	196	197	201	203	195
Total Savings	**292**	**342**	**347**	**401**	**433**	**451**	**377**

APA Exhibit 413

APA Exhibit 413: American's Pre-Petition and Post-Petition Concession Targets



Sources: American's valuation of its November 14, proposals, APA Exhibits 408-409; American's valuation of its March 21, 2012, proposals, APA Exhibit 412; November 2011 presentation to American's Board of Directors, APA Exhibit 410.

APA Exhibit 414

Changes to Section 1.D.

- To allow transfer of 43 ATR 72's among commuter carriers.
- Allow the 43 ATR72's to be replaced with comparable equipment (such as the Q-400) subject to a 70 seat configuration limit and the new Section 1.C.1.a. (1) This would allow the company to replace the ATRs with Q-400s.

Changes to Section 1.D.5.

- Regional affiliates may fly up to 150 jets configured between 51 and 70 seats and ≤ 80,500 lbs. as stated below.
  - Starting with 47 CRJ-700 jets at AE
  - Incrementally on a one for one basis:
    - For each 71-110 seat jet aircraft in service at the mainline the Company may operate an additional 51-70 seat jet ≤ 80,500 lbs at a regional affiliate above the existing 47, up to a total of 150 jets (including the 47 CRJ-700 jets currently operated).
    - No limit on the number of 71-110 seat jets at the mainline.

APA Examples

Date	Jets (71-110 seats) flown by APA Pilots	Jets (51-70 seats) allowed at Regional Affiliate
06/01/12	0	47
06/01/13	10	47 + 10
06/01/14	30	47 + 30
06/01/15	60	47 + 60
06/01/16	90	47 + 90
06/01/17	80	47 + 80

APA Exhibit 415a

APA Proposal

APA Proposal **Date: 03/21/2012** **Time:**

Subject: Active Medical ~~and Retiree Medical~~	**Version:**
Proposal Reference(s): APA - 11/09/11, 02/13/12; AA 2/1/12, 3/15/12	
Contract Reference(s): Supplement K	

Medical –

- Fixed cost sharing of 17% of pilot benefits and expenses.
- Transition to Four-Tier structure for all medical plans as follows:
  - Pilot – 1.0 multiplier
  - Pilot and Spouse – 2.3 multiplier
  - Pilot and Children – 1.8 multiplier
  - Pilot and Family – 3.1 multiplier

- 2 Plans
  - Standard Plan (contractual)
    - Default plan
  - HDHP Core Plan with Health Savings Account (HSA)
    - Contributions as follows:
      - Pilot – $25.00
      - Pilot and Spouse – 2.3 multiplier ($57.50)
      - Pilot and Children – 1.8 multiplier ($45.00)
      - Pilot and Family – 3.1 multiplier ($77.50)

- Open enrollment commences with DOS.
- Year-over-year premium increases limited to 10%, or the actual rate of medical inflation, whichever is less
- The Company agrees to share medical inflation calculation and data no later than 30 days prior to the beginning of the annual enrollment process and the Association has the right to object to any change in the methodology of the determination of medical inflation as is current practice

APA Proposal

- Deductibles / Coinsurance / Out of Pocket maximums
  - Standard Plan
    - Deductible: In-Network: $300/$800 (Sgl/Fam)
      - Out-Network: $600/$1,600 (Sgl/Fam)
    - Coinsurance: In: 20%
      Out: 40%
    - Out of Pocket: In: $2,000/$3,250 (Sgl/Fam)
      Out: $5,000/$8,000 (Sgl/Fam)
  - HDHP Core Plan
    - Deductible: In-Network: $1,500/$3,000 (Sgl/Fam)
      - Out-Network: $3,000/$6,000 (Sgl/Fam)
    - Coinsurance: In: 20%
      Out: 40%
    - Out of Pocket: In: $4,000/$8,000 (Sgl/Fam)
      Out: $8,000/$16,000 (Sgl/Fam)
- Plan Changes: Mutual agreement using a process similar to the one in Supp F(4)
  - Company must make APA aware of changes required by law
  - All other changes must be made by mutual agreement

- Pharmacy:
  - Standard Plan
    - Retail (up to 30 day supply):
      - Generic: 20% ($0/$40)
      - Brand (no generic available): 20% ($20/$75)
      - Brand (generic available): 20%
    - Mail Order (up to 90 day supply):
      - Generic: $25 or actual cost whichever is less
      - Brand (no generic available): 25% up to $150
      - Brand (generic available): $25 plus cost difference

  - HDHP Core Plan
    - Retail and mail order Rx subject to deductibles and coinsurance.

APA Proposal

APA Proposal **Date: 04/2/2012** **Time:**

Subject: Sick Leave	**Version:**
Proposal Reference(s): APA – 10/23/2007, 8/12/2008, 3/31/2009, 3/1/2009, 11/7/2011; 2/10/2012; AA – 7/21/2008, 3/4/2009, 2/2/2011, 3/1/2011, 11/4/2011; 2/01/2012	
Contract Reference(s): Section 10	

Sick Accrual:

- Maintain current book

Rapid Reaccrual:

- Amend. Pilot to rapid reaccrue until accrual reaches the number of sick hours used during sick event triggering rapid reaccrual (example: pilot uses 300 hours of sick leave and becomes eligible for rapid reaccrual. Pilot will stay on rapid reaccrual until they accrue 300 hours of sick leave. If pilot has another sick event which would trigger rapid reaccrual (while in rapid reaccrual), that sick event will also qualify)

Sick Leave Sellback / Wellness Incentive:

- Individual pay incentive >1000 – up to 60 hours pay (non-pensionable); <1000 – up to 30 hours pay (non-pensionable).

Long Term Sick Cap:

- Maintain current book.

APA Proposal

Partial Sequence Test:

- Parties commit to a partial sequence test program to begin within six (6) months of D.O.S.

New Hire Sick Bank:

Upon completion of initial IOE, pilots in their first year of service shall have access to a negative sick leave bank of 60 hours.

Conversion of Sick Bank to Retiree Medical Upon Retirement:

A pilot may convert sick time to retiree medical coverage upon retirement at the following conversion rate:
Employee Only: 12 hours per month
Employee + Spouse 15 hours per month
Employee + Child 13 hours per month
Employee + Family 16 hours per month

Sick Verification / Proof of Illness:

- Applies to pilots on the sick list who have exhausted thirty (30) consecutive calendar days of sick time.
- Defined as thirty (30) consecutive days from the first day of paid sick removal without having performed flight duty or training for the Company; and Reserve pilots will be considered as having reached the thirty (30) day point if they have not subsequently cleared the sick list within the thirty (30) days following the first day of paid sick removal and are either sick or sick if needed at

APA Proposal

the thirty (30) day point.

- For pilots who are on the paid sick list and have used thirty (30) consecutive calendar days of paid sick time: 1.

  If the Chief Pilot is aware and confirms the legitimacy of the pilot's use of sick time, then no further inquiry is necessary at that point and pay for the use of sick time continues. The Chief Pilot may supply AMR Medical with a return to work date estimate.

- If the Chief Pilot is unaware of the reason why the pilot used his sick time, then the Chief Pilot will advise the Domicile Representatives of same and the Chief Pilot may contact the pilot in question and ask the pilot to explain his use of thirty (30) consecutive days of paid sick for the single event in question. If the Chief Pilot is satisfied with the pilot's explanation, then no further inquiry is necessary at that point and pay for the use of sick time continues.

- In the event the Chief Pilot does not contact the pilot or is unsatisfied with the pilot's explanation as referenced immediately above, then the Chief Pilot will send a notification letter to the pilot's last known address, via Fed Ex (or comparable service), notifying the pilot that the Company will seek verification of the pilot's use of thirty (30) days of paid sick.

  a. The Chief Pilot will send a copy of all notification letters to the local domicile representatives via electronic mail and APA Legal via electronic mail or fax (817-302-2187).

- The notification letter will explain that without Sufficient Medical Documentation the continuation of paid sick is at risk. The point

APA Proposal

that the continuation of pilot's paid sick will be at risk is the date the notification letter's proof of delivery indicates delivery was made to the last known address of the pilot.

- The notification letter will specify that the pilot has to choose among the following three options:
    i. Option One: the pilot may clear the sick list within twenty-four (24) hours of proof of delivery of the notification letter to the pilot's last known address provided he does not return to the paid sick list before serving as a pilot; or
    ii. Option Two: within ten (10) business days from proof of delivery of the notification letter to the pilot's last known address, the pilot may send to AMR Medical via telecopy (or other agreed upon methodologies) Sufficient Medical Documentation; or
    iii. Option Three: in the event the pilot does not choose Option One or Option Two as noted above, then a § 21 hearing will take place with the Chief Pilot and union representative(s) to explain his lack of or refusal to provide Sufficient Medical Documentation to AMR Medical.
- In the event the pilot selects Option One and clears the sick list, then no further inquiry will take place regarding the paid sick leave in question.
- In the event the pilot chooses Option Two and provides AMR Medical with Sufficient Medical Documentation then no further

APA Proposal

inquiry will take place at that point and pay for the use of sick time will continue.

- In the event that the pilot chooses Option Two and fails to provide Sufficient Medical Documentation then upon the pilot's request, the Director of AMR Medical and a physician from Virtual Flight Surgeons (or its successor) ("VFS") will confer regarding what additional documentation may be necessary and the pilot will have ten (10) business days (after VFS and the Director of AMR Medical confer) to provide same.

Sufficient Medical Documentation:

- **Definition**. The term Sufficient Medical Documentation means medical documentation that: (a) relates exclusively to the condition(s) that gave rise to the pilot's use of the thirty (30) days of paid sick time at issue and it does not relate to any other medical condition(s) that the pilot has or used to have; and (b) may address up to five areas: diagnosis, prognosis, treatment including medications, expected return to work date, and results of diagnostic testing. The five areas are defined below:

  (i) Diagnosis – the pilot's medical condition as determined by the pilot's health care provider;

  (ii) Prognosis – the pilot's chance of recovery from the medical condition;

  (iii) Treatment including medications – the treatment that the pilot's health care provider recommends and a list of the medications that the pilot's health care provider has prescribed to the pilot;

APA Proposal

(iv) Expected return to work date – the estimated date that the pilot's health care provider and/or trained aerospace medicine physician/Senior Aviation Medical Examiner estimates that the pilot will be both fit for duty and in compliance with FAA medical certification regulations and policies; and

(v) Results of diagnostic testing – constitutes the pilot's health care provider and/or trained aerospace medicine physician/Senior Aviation Medical Examiner's documented information and the conclusions reached in connection with the medical testing performed on the pilot.

The parties agree that not all five (5) areas may be necessary. For example, in the event of a broken bone, X-rays and an estimated return date may be sufficient.

Changes to Section 1.D.

- To allow transfer of 43 ATR 72's among commuter carriers.
- Allow the 43 ATR72's to be replaced with comparable equipment (such as the Q-400) subject to a 70 seat configuration limit and the new Section 1.C.1.a. (1) This would allow the company to replace the ATRs with Q-400s.

Changes to Section 1.D.5.

- Regional affiliates may fly up to 150 jets configured between 51 and 70 seats and ≤ 80,500 lbs. as stated below.
  - Starting with 47 CRJ-700 jets at AE
  - Incrementally on a one for one basis:
    - For each 71-110 seat jet aircraft in service at the mainline the Company may operate an additional 51-70 seat jet ≤ 80,500 lbs at a regional affiliate above the existing 47, up to a total of 150 jets (including the 47 CRJ-700 jets currently operated).
    - No limit on the number of 71-110 seat jets at the mainline.

APA Examples

Date	Jets (71-110 seats) flown by APA Pilots	Jets (51-70 seats) allowed at Regional Affiliate
06/01/12	0	47
06/01/13	10	47 + 10
06/01/14	30	47 + 30
06/01/15	60	47 + 60
06/01/16	90	47 + 90
06/01/17	80	47 + 80

APA Group 1 & 2 Compensation and Work Rule Proposal

Group 1 & 2 Aircraft

- Group 1 – E170/5, CRJ-700, CRJ-900, Mitsubishi MRJ70, Suhkoi Superjet 100 (75 seat version)
- Group 2 – E190/5, A318, Boeing 737-600, Bombardier CS100, CRJ1000, MitsubishiMRJ90, Suhkoi Superjet 100 (100 seat version), B717

Group 1 & 2 Aircraft Compensation

	First Officers		Captains	
Seniority	Group 1	Group 2	Group 1	Group 2
2	$40.00	$43.00	$84.23	$92.84
3	$42.00	$48.00	$85.07	$93.76
4	$45.00	$50.75	$85.92	$94.67
5	$48.00	$54.45	$86.76	$95.59
6	$54.00	$62.16	$87.61	$96.50
7	$60.00	$65.90	$88.45	$97.42
8	$71.04	$76.91	$94.30	$108.33
9	$73.25	$79.30	$110.14	$119.25
10	$74.92	$81.11	$110.99	$120.16
11	$76.05	$82.33	$111.83	$121.08
12	$76.62	$82.95	$112.68	$121.99

- Minimum annual pay raises of 1.5% or industry average, whichever is higher.
- Methodology for industry-averaging to be discussed

Group 1 & 2 Aircraft

- Work Rules
  - Rigs: Current book
  - Increased Line Builds
    - Maximum number of days worked (away from base) - 18
    - ALV – 76-88 (maximum value of the average of all regular lines, by three-part bid status (Seat/Equip/Division) for a bid month)
    - RALV – 78-86 (based on a rolling twelve month look back of any three part bid status)
    - LCW - ± 4
    - IMAX – FARs

APA Exhibit 416a

APA Priceout of APA Proposals

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 1-6 Average
Compensation							
Eliminate Lineholder Guarantee	10	9	9	10	10	10	10
Per Diem	(4)	(4)	(7)	(7)	(8)	(8)	(6)
Eliminate Night Premium	4	4	4	5	5	6	5
Pay Check Process	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Premium Pay Changes	0	0	0	0	0	0	0
Eliminate Reserve Guarantee for Military	3	2	2	2	2	2	2
Subtotal	11	9	5	7	7	8	8
Workrules							
Schedule Max/Work rules + Sick Cashout Program	21	67	80	78	80	78	67
Amend Rapid Reaccrual (paid hours component only)	3	3	3	3	3	3	3
1:2 for Scheduled Sits > 2 Hours	(1)	(1)	(1)	(1)	(1)	(1)	(1)
1:3.25 for Calendar Days > Duty Periods	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Eliminate SLT Crew Base	12	12	12	13	14	14	13
Check Airman	2	2	3	3	3	3	3
Deadhead cost for Transoceanic, Deep South America, Hawaii	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Crew Rest Seats	6	9	14	18	22	26	16
VC Accrual	0	(3)	(12)	(22)	(17)	(15)	(12)
Increase VC float to all but one week	0	0	3	3	3	3	2
Distance Learning	2	2	2	2	2	2	2
Unaugmented flying over 8 hours	5	5	5	5	5	5	5
Moving Expenses	(0)	(0)	(0)	(0)	(0)	(0)	(0)
Uniforms	(0)	(0)	(0)	(0)	(0)	(0)	(0)
Electronic copies of Agreement	0	0	0	0	0	0	0
Subtotal	46	93	106	99	111	115	95
Benefits							
Retirement Benefit Plan, Hard Freeze w/ 14% DC	116	116	116	116	116	116	116
Retiree Medical (Segal Priceout w/5% discount rate)	26	25	25	25	24	24	25
Active Medical (Segal Priceout)	4	21	25	29	31	36	24
LTD (Segal Priceout)	3	3	3	3	4	4	3
Subtotal	148	165	169	173	176	179	168
Scope							
Scope Proposals	0	0	0	0	0	0	0
Subtotal	0	0	0	0	0	0	0
Total Savings	**206**	**268**	**280**	**279**	**293**	**302**	**271**

APA Exhibit 417a

APA Priceout of AA Proposals

APA Valuation

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 1-6 Average
Compensation							
Pay Groupings	1	6	13	16	15	16	11
Eliminate Int'l Premium and Modify to Pay Only Int'l Hours Flown	11	11	12	13	14	15	13
Eliminate Lineholder Guarantee	10	8	8	9	9	10	9
Pay Greater of Schedule or Actual by sequence	9	10	10	10	12	10	10
Brake Release Agreements	1	1	1	1	1	1	1
Eliminate Night Premium	4	4	4	5	5	6	5
Eliminate Letter TT and JJ	2	0	0	0	0	0	0
Premium Pay Changes	0	0	0	0	0	0	0
Eliminate Reserve Guarantee for Military	3	2	2	2	2	2	2
Subtotal	41	42	50	56	58	60	51
Workrules							
Schedule Max/Work rules and Incidental Sick Policy	37	113	137	134	145	137	117
Eliminate SLT Crew Base	12	12	12	13	14	14	13
Check Airman	4	4	5	6	6	6	5
Crew Rest Seats	14	17	22	26	30	34	24
Combine Domestic and International Operation	0	0	6	6	6	7	4
Hotels	1	4	4	4	4	4	4
Cap VC @ 35 days	0	1	1	2	3	4	2
Increase VC Float	0	0	3	3	3	3	2
Distance Learning	3	3	3	3	3	3	3
Assign FO to Open FB or FC Position on Same Sequence	1	1	1	1	1	1	1
Substitution of Equipment	1	1	1	1	1	1	1
Eliminate Premium for RAPS >7	1	1	0	1	1	1	1
TUL Pilots	1	1	1	1	1	1	1
Fatigue (docking Rsv Guarantee for Fatigue Calls)	0	0	0	0	0	0	0
Electronic copies of Agreement	0	0	0	0	0	0	0
Subtotal	74	157	196	201	218	216	177
Benefits							
Retirement Benefit Plan, Hard Freeze w/ 13.5% DC	122	122	122	122	122	122	122
B Plan Litigation Avoidance	1	1	0	0	0	0	0
Retiree Medical (Segal Priceout)	59	58	59	59	57	56	58
Active Medical (Segal Priceout)	27	31	37	42	45	51	39
LTD (Segal Priceout)	12	12	12	13	13	14	13
Subtotal	221	224	229	235	237	242	231
Scope							
Scope Proposals (valuations in-progress)	0	0	0	0	0	0	0
Subtotal	0	0	0	0	0	0	0
Total Savings	**336**	**423**	**475**	**492**	**513**	**517**	**460**

APA Exhibit 418

	APA PROPOSALS			
Valuation of APA and Company Proposals, 3/5/2012	**APA Valuation Year 1-6 Avg**	**Company Valuation Year 1-6 Avg**	**APA Valuation H/(L) vs Company**	**Notes**
Compensation				
Pay Changes	0	(16)	16	APA assumes that new aircraft would enter service at higher base rates than AA has assumed in its base case
Equipment Groupings	NP	NP		
Eliminate Intl Premiums	0	0	0	
Eliminate Lineholder Guarantee	6	6	0	
Pay Greater of Schedule or Actual by sequence	NP	NP		
Brake Release Agreements	NP	NP		
Eliminate Night Premium	4	4	0	
Eliminate Letters JJ(4)/TT - Furlough Issues	NP	NP		
Premium Pay changes				
Paycheck Process	0	(4)	4	APA did not value in their priceout
TAFB Changes	(5)	(6)	1	
Eliminate Reserve Guarantee for Military	2	2	0	
Subtotal - Compensation	7	(14)	20	
Workrules				
Schedule Max/Work rules	60	11	49	APA is using their savings projections from November (without growth metrics) as a placeholder
Sick Policy	38	11	27	APA took the company's sick valuation and subtracted the savings associated with paying sick at 60%, then added APA's valuation of Rapid Reaccrual. No cost was assumed for the incentive system. No adjustments made to the productivity line.
Eliminate Supp CC SLT job provisions	18	12	7	APA adding savings for FOs. Company valuation accounted for FO savings, but not TAFB/Hotel for FO
Check Airman	2	2	0	
Deadhead cost for Transoceanic, Deep South, Hawaii	(1)	(1)	0	Company copied APA's valuation as placeholder
Crew Rest Seats	5	Rev	5	Company does not assign target credit to revenue items
Combine Domestic and International Operation	NP	NP		
Hotels	NP	NP		
Changes to DOTC				
Changes to Reserve				
17.P Failure to Qualify				
Training Flexibility				
VC Accrual	(20)	(16)	(4)	
Increase VC Float to all but one week	8	0	8	APA assumed all pilots would float one additional week of VC. Company assumed that VC float would be neutral given other workrule changes that would reduce pilot time off
Eliminate VC Accrual for LT Sick & cap VC @ 35 days	NP	NP		
Distance Learning	2	1	1	Likely differences in assumptions
Assign FO to Open FB or FC Position on Same Sequence	NP	NP		
Eliminate Premium for RAPS >7	NP	NP		
TUL Pilots	0	0	0	
1:2 for scheduled sits > 2 hrs	0	(1)	1	APA did not value in their priceout
1:3.25 for Calendar Days vs Duty Days	0	(2)	2	APA did not value in their priceout
Moving Expenses	0	(0)	0	APA did not value in their priceout
Uniforms	0	(0)	0	APA did not value in their priceout
Reserve Recurrent Training on DFP	0	(1)	1	APA did not value in their priceout
Fatigue	NP	NP		
Unaugmented Flying over 8 hours	5	0	5	Company values this item within workrule savings as an offset to APA's proposed increase in duty rigs
Electronic copies of Agreement	0	0	0	
Subtotal - Workrules	118	15	102	
Total Before Benefits	**124**	**2**	**123**	
Benefits				
Retirement Benefit Plan	122	117	5	Company valuation preliminary
Eliminate B Fund	0	0	0	APA valuing. Company assigned no value towards target
Retiree Medical	25	15	10	APA using 5% discount rate vs. 8.25% for Company
Active Medical (dental?)	8	8	0	
Dental	0	(1)	1	APA did not value in their priceout
LTD	5	6	(1)	
Subtotal - Benefits	160	144	16	
Scope		Rev		Company does not assign target credit to revenue items
Total Savings	**285**	**146**	**138**	
Var to $370MM Target	**85**	**224**		

Note: APA Proposal for Pay excludes any additional cost exposure due to industry averaging each 1% increase above 1.5% adds about $20MM to the 6 year cost

APA Exhibit 419

U.S. Department of Labor
Administrative Review Board
200 Constitution Avenue, N.W.
Washington, D.C. 20210

In the Matter of:

THEODORE FURLAND,

COMPLAINANT,

v.

AMERICAN AIRLINES, INC.,

RESPONDENT.

ARB CASE NOS. 09-102
10-130

ALJ CASE NO. 2008-AIR-011

DATE: July 27, 2011

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Appearances:

For the Complainant:
Darin M. Dalmat, Esq., *James & Hoffman, P.C.*, Washington, District of Columbia

For the Respondent:
Donn C. Meindertsma, Esq., *Conner & Winters, LLP*, Washington, District of Columbia

Before: E. Cooper Brown, *Deputy Chief Administrative Appeals Judge;* Joanne Royce, *Administrative Appeals Judge;* Lisa Wilson Edwards, *Administrative Appeals Judge*

FINAL DECISION AND ORDER

Theodore Furland filed a complaint alleging that his employer, American Airlines, Inc., retaliated against him in violation of the whistleblower protection provisions of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21), 49 U.S.C.A. § 42121 (West 2007) and its implementing regulations, 29 C.F.R. Part 1979 (2010). On May 21, 2009, a Department of Labor Administrative Law Judge (ALJ) concluded in a Recommended Decision and Order (R. D. & O.) that American Airlines violated AIR 21 when it changed Furland's paid sick leave to unpaid sick leave and docked his pay. The ALJ awarded Furland $915.64 plus

interest. The ALJ subsequently awarded costs and attorney's fees. For the following reasons, we affirm the ALJ's R. D. & O. and order the recommended relief.

BACKGROUND[1]

A. *Events Leading to Furland's Reduction in Pay for Use of Sick Leave*

American Airlines hired Furland as a pilot in 1985 and promoted him to captain in 1992. R. D. & O. at 8, *see also* Resp. Exh. 4 ¶ 2. Prior to 2007, American had never provided him with any formal written discipline, nor had it ever fined him or docked his pay. R. D. & O. at 8.

1. May 18, 2007 meeting between Furland and Hynes

On April 16, 2007, Chief Pilot Hynes sent a letter to Furland requesting a meeting to discuss Furland's sick leave use. R. D. & O. at 4; JX 4. Hynes and Furland met on May 18, 2007, and during the meeting Hynes warned Furland that his sick leave use had been excessive. R. D. & O. at 4. Furland testified that while Hynes told him that he needed Furland to "come to work" because the company needed all its pilots, Furland stated that Hynes did not inform him that future sick leave requests would require "written medical documentation from Furland in order to substantiate the occasions of paid sick leave at issue." *Id.*; s*ee also* Hearing Transcript (Tr.) at 28, 32 (Furland). Hynes testified that he "d[id] not recall" telling Furland at the May 18 meeting that future sick leave requests required medical documentation. Tr. at 312 (Hynes).

2. Furland's sick leave on June 27, 2007

On June 27, 2007, Furland was scheduled to fly from New York, to Miami, to San Juan, and then back to Miami. R. D. & O. at 1. He suffered gastrointestinal effects from airline food during the flight from New York to Miami. *Id.* He reported that he would not be able to fly on to San Juan and back to Miami. *Id.* The crew scheduling staff at Dallas/Ft. Worth rescheduled Furland's scheduled sequences with another pilot and told Furland that he was free to go home. *Id.* at 4-5. After recuperating at home that evening, Furland felt well enough to report to work the following morning. *Id.* at 1. Furland took sick leave for the missed time on June 27, 2007, and received full pay for the time. *Id.*

3. June 28, 2007 letter from American Airlines to Furland

On June 28, 2007, Hynes wrote a letter to Furland referencing a May 18, 2007 meeting that Furland had attended, at Hynes' request, at which Hynes had warned Furland that his use of sick leave had been excessive. R. D. & O. at 4; JX 7. Prior to this meeting American Airlines had never asked Furland for medical documentation or any explanation for his use of sick leave. Nor had any company official ever questioned his use of sick leave. R. D. & O. at 4. The letter

[1] The Background Statement summarizes the ALJ's findings of fact. For a more detailed discussion of the facts of this case see the ALJ's R. D. & O. at pages 3-9.

stated that during the meeting Furland was notified that American Airlines would be observing his attendance, and that he should expect that it would require him to provide medical verification to substantiate future absences attributed to illness or injury. JX 7. The letter requested a medical note supporting the June 27th sick leave and advised Furland that if he did not provide a doctor's note, he could be subjected to corrective action including reversal of his paid sick leave to unpaid. *Id.*

Although Hynes' letter stated that Furland had been informed at the meeting in May that he would be expected to provide medical verification in the future should he wish to take sick leave, the ALJ found that in fact Hynes did not inform Furland of this requirement at the May meeting. R. D. & O. at 7. Nor did Hynes instruct Furland at the meeting that he could receive paid sick leave only if he provided medical documentation. *Id.* at 4. Furthermore, the ALJ found that American Airlines did not give Furland any indication prior to his receipt of the June 28th letter that he would be required in the future to see a doctor when and if he became sick. *Id. at* 7; *see also supra* at 2.

4. July 9, 2007 Union Letter regarding Furland

On July 9, 2007, a representative of Furland's union sent a letter to American Airlines on Furland's behalf protesting the request for a medical note for taking sick leave on June 27, 2007. R. D. & O. at 5; JX 8. The letter asserted that the request for documentation was harassment and constituted unlawful "pilot pushing," i.e., pressuring a pilot to fly when unfit in violation of the Federal Aviation Regulations (FARs). *Id.* The letter further stated that American had not told Furland that he would be under observation or that he would be required to provide medical documentation for sick leave use. JX 8.

5. Furland's August 27, 2007 meeting with Union and Company

On August 27, 2007, Furland and his union representatives met with Captain Brian Fields, representing American Airlines, to discuss Furland's sick leave use on June 27, 2007, and Furland's failure to provide medical documentation for the sick leave taken on that date. R. D. & O. at 5; *see* JX 10. Fields stressed that Furland called in sick after American Airlines warned him against calling in sick. R. D. & O. at 5. Furland's union representative argued that American Airlines' demand for medical documentation pressured Furland to fly when he was sick, in violation of his legal obligations under the FARs. *Id.* After the meeting, American Airlines informed Furland that it would dock his pay $915.64, representing the amount that it had previously paid him as sick leave compensation. *Id.* at 2, 5.

American Airlines deducted the amount it had paid Furland for the June 27th sick leave from his September 25, 2007 paycheck. *Id.* at 2.

B. *Administrative Proceedings*

Furland filed his AIR 21 complaint with the Occupational Safety and Health Administration (OSHA) on November 19, 2007, challenging American Airlines' decision to

deduct sick pay. Upon OSHA's denial of the complaint, Furland requested an ALJ hearing. After the hearing, the ALJ issued the R. D. & O. ordering American Airlines to pay Furland $915.64, the amount of salary that had been withheld, plus interest. The ALJ denied Furland's request to have his personnel file expunged.

On July 23, 2010, the ALJ issued a supplemental Recommended Decision and Order awarding Furland's attorney fees in the amount of $38,711.25.

Respondent American Airlines has timely appealed both of the ALJ's Recommended Decisions and Orders to the Administrative Review Board (ARB or the Board).

CONSOLIDATION OF ARB CASE NOS. 09-102 AND 10-130

In view of the substantial identity of the legal issues and the commonality of much of the evidence, and in the interest of judicial and administrative economy, American Airlines' appeals are hereby consolidated for the purpose of review and decision. *Levi v. Anheuser Busch Cos., Inc.*, ARB Nos. 06-102, 07-020, 08-006; ALJ Nos. 2006-SOX-037, -108, 2007-SOX-055; slip op. at 6 (ARB Apr. 30, 2008); *Harvey v. Home Depot*, ARB Nos. 04-114, -115; ALJ Nos. 2004-SOX-020, -036; slip op. at 8 (ARB June 2, 2006); *Agosto v. Consol. Edison Co. Inc.*, ARB Nos. 98-007, -152; ALJ Nos. 1996-ERA-002, 1997-ERA-054; slip op. at 2 (ARB July 27, 1999).

JURISDICTION AND STANDARD OF REVIEW

The Secretary of Labor has delegated her authority to this Board to issue final agency decisions in AIR 21 cases. Secretary's Order No. 1-2010 (Delegation of Authority and Assignment of Responsibility to the Administrative Review Board), 75 Fed. Reg. 3924 (Jan. 15, 2010); 29 C.F.R. § 1979.110(a).

AIR 21's implementing regulations provide, "[t]he Board will review the factual determinations of the administrative law judge under the substantial evidence standard." 29 C.F.R. § 1979.110(b). The Board reviews the ALJ's legal conclusions de novo. *Rooks v. Planet Airways, Inc.*, ARB No. 04-092, ALJ No. 2003-AIR-035, slip op. at 4 (ARB June 29, 2006) (citing *Mehan v. Delta Air Lines*, ARB No. 03-070, ALJ No. 2003-AIR-004, slip op. at 2 (ARB Feb. 24, 2005); *Negron v. Vieques Air Links, Inc.*, ARB No. 04-021, ALJ No. 2003-AIR-010, slip op. at 4 (ARB Dec. 30, 2004)).

DISCUSSION

1. *AIR 21 Whistleblower Provision*

AIR 21's whistleblower protection provision, 49 U.S.C.A. § 42121, provides at subsection (a):

> No air carrier or contractor or subcontractor of an air carrier may discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment because the employee . . . provided . . . to the employer or Federal Government information relating to any violation or alleged violation of any order, regulation, or standard of the Federal Aviation Administration or any other provision of Federal law relating to air carrier safety under this subtitle or any other law of the United States.

To prevail under AIR 21, a complainant must prove by a preponderance of the evidence that his protected activity was a contributing factor to the alleged adverse action. *See* 49 U.S.C.A. § 42121(b)(2)(B)(i); 29 C.F.R. § 1979.109(a).[2] If the complainant proves that the respondent violated AIR 21, the complainant is entitled to relief unless the respondent demonstrates by clear and convincing evidence that it would have taken the same unfavorable action in the absence of the protected activity. *See* 49 U.S.C.A. § 42121(b)(2)(B)(ii); 29 C.F.R. § 1979.109(a).

Protected activity under AIR 21 has two elements: (1) the information that the complainant provides must involve a purported violation of a regulation, order, or standard relating to air carrier safety, though the complainant need not prove an actual violation; and (2) the complainant's belief that a violation occurred must be objectively reasonable. *Rooks v. Planet Airways*, ARB No. 04-092, ALJ No. 2003-AIR-035, slip op. at 6 (ARB June 29, 2006).

ARB case law under analogous whistleblower statutes governing transportation and the environment holds that protection for activities that further the purposes of the statutes depends on whether the complainant reasonably believed that the employer was violating or would violate the pertinent act and its implementing regulations. *See Melendez v. Exxon Chems. Americas*, ARB No. 96-051, ALJ No. 1993-ERA-006 (ARB July 14, 2000), and cases cited therein. Thus, a complainant need not prove an actual violation, but need only establish a

[2] A complainant's failure to prove by a preponderance of the evidence any one of the above listed elements of his complaint warrants dismissal. *Robinson v. Northwest Airlines, Inc.*, ARB No. 04-041, ALJ No. 2003-AIR-022, slip op. at 7 (ARB Nov. 30, 2005).

reasonable belief that his or her safety concern was valid. *Kesterson v. Y-12 Nuclear Weapons Plant*, ARB No. 96-173, ALJ No. 1995-CAA-012, slip op. at 4-5 (ARB Apr. 8, 1997).

2. *ALJ Findings of Fact and Conclusions of Law*

The ALJ found that Furland engaged in protected activity: (1) when the union sent the July 9, 2007 letter to American Airlines on his behalf protesting that American Airlines asked for a doctor's note to justify his sick leave, and (2) on August 27, 2007, at the meeting between Furland, the union, and American Airlines when Furland argued that the demand for medical documentation pressured Furland to fly when sick in violation of his legal obligations under the FARs. R. D. & O. at 5. The ALJ stated that "it is axiomatic that a pilot should not fly when impaired," and noted that Furland referred to such pressure as "pilot pushing." *Id.* The ALJ found that the union's July 9, 2007 letter, and Furland's representations at the August 27th meeting constituted effective complaints about FAR safety violations and thus constituted, in each instance, protected activity. *Id.*

Regarding Furland's claims of retaliatory adverse action, the ALJ found that the deduction of $915.64 from Furland's paycheck was materially adverse to Furland and that it thus constituted adverse employment action. *Id.* at 6.[3] The ALJ determined "that the preponderant evidence shows that the loss of use of the money was occasioned by the fact that the Complainant protested that he was required to provide a medical note," and thus concluded that Furland's "protected activity was a contributing factor in the unfavorable personnel action." *Id.*[4]

Turning to the question of whether American Airlines nevertheless avoided liability by establishing that it would have deducted Furland's pay in any event, the ALJ found that American Airlines failed to prove by clear and convincing evidence that it would have docked his pay absent Furland's protected activity. *Id.* at 10. American Airlines asserted that its sole reason for docking Furland's pay was his failure to provide a medical note substantiating the basis for his sick leave on June 27th. The ALJ found American Airlines' assertions nevertheless failed to meet the heightened burden imposed by the "clear and convincing" standard of proof, noting company policy to the contrary, the fact that none of American Airlines' witnesses testified that pilots had to provide medical notes, and that no one at American Airlines asked Furland the reason for his illness on June 27, 2007, prior to sending him the June 28th letter from Hynes. *Id.* at 8.

---

[3] The ALJ further found that Furland had to borrow money from a line of credit as a result of the reduced pay. R. D. & O. at 6. Because his pay was docked, Furland was hesitant to call in sick because he cannot afford to not get paid. *Id.*

[4] The ALJ also found that Furland failed to prove that he was adversely affected by the Hynes' June 28, 2007 letter (JX 7), and therefore held that the letter did not constitute adverse action. R. D. & O. at 6.

3. *Analysis*

Before turning to the merits, we address American Airlines' argument on appeal that the ALJ should not have allowed Furland to amend his complaint to conform to the evidence. 29 C.F.R. § 1979.107(a) states that: "Except as provided in this part, proceedings will be conducted in accordance with the rules of practice and procedure for administrative hearings before the Office of Administrative Law Judges, codified at subpart A, of 29 C.F.R. Part 18." 29 C.F.R. § 18.5(e)(2010) provides the ALJ with discretionary authority to allow "appropriate amendments to complaints . . . upon such conditions as are necessary to avoid prejudicing the public interest and the rights of the parties." Finding no abuse of that authority, we reject American Airlines' argument challenging the ALJ's order allowing Furland to amend his complaint.

A. Furland engaged in protected activity

The Federal Aviation Regulations give pilots of commercial aircraft such as Furland, broad authority for ensuring the safe operation of an aircraft. *See, e.g.*, 14 C.F.R. § 1.1 (2011) (giving the "pilot in command" the "final authority and responsibility for the operation and safety of the flight"); 14 C.F.R. § 91.3 ("The pilot in command of an aircraft is directly responsible for, and is the final authority as to, the operation of that aircraft."). During flight time, the pilot in command is "responsible for the safety of the passengers, crewmembers, cargo, and airplane." 14 C.F.R. § 121.533(d). *See also* 14 C.F.R. § 121.663 ("The pilot in command and an authorized aircraft dispatcher shall sign the release only if they both believe that the flight can be made with safety."). A pilot's broad regulatory authority for ensuring the safety of air travel includes a pilot's obligation to refrain from flying when the pilot himself is unfit. *See* 14 C.F.R. § 61.53 ("no person . . . may act as pilot in command or in any other capacity as a required pilot flight crew member while that person knows or has reason to know of any medical condition that would make the person unable to meet the requirements for the medical certificate necessary for the pilot operation"). *See Douglas* v. *Skywest Airlines*, ARB Nos. 08-070, -074; ALJ No. 2006-AIR-014, slip op. at 9 (ARB Sept. 30, 2009), (a pilot has the authority to declare himself and his crew "unfit for flight" due to fatigue under 14 C.F.R. §§ 91.3, 121.533, which afford the pilot "full control and authority in the operation of aircraft."); *see also Rooks v. Planet Airways, Inc.*, ARB No. 04-092, ALJ No. 2003-AIR-035, slip op. at 6-9 (ARB June 29, 2006) (pilot's authority to refuse to fly due to fatigue stems from 14 C.F.R. § 121.533).

Substantial evidence fully supports the ALJ's finding that Furland engaged in protected activity when he complained through the July 9, 2007 union letter and at the August 27, 2008 meeting that American Airlines' actions pressuring him to fly even when sick contravened the FARs. In light of the foregoing, we also conclude that American Airlines' insistence on medical documentation *after* Furland had already called in sick on June 27, 2007, constitutes unlawful retaliation in violation of AIR 21. On each occasion Furland presented his sick leave decision of June 27, 2007, whereby he effectively deemed himself unfit for flight on that day, as a legitimate safety concern within his authority to raise, to which the protection against retaliation under AIR 21 is to be afforded.

The ALJ implicitly found that Furland did not engage in protected activity when he called in sick on June 27, 2007, and refused to complete his assigned flight schedule. R. D. & O. at 7. However, Furland's refusal to fly based on illness is not unlike the pilot's refusal to fly in *Douglas*, ARB Nos. 08-070, -074, that the ARB upheld as protected activity. In this case, the ALJ found that on June 27, 2007, Furland informed his co-pilot that he was "suffering from food poisoning and felt ill," and directed his co-pilot to "send a message to crew scheduling" so that he could be replaced with another pilot. R. D. & O. at 4 (citing Tr. at 33, 84). Like the complainant in *Douglas*, Furland reasonably exercised his authority under the FARs in deeming himself unfit for flight based on his medical condition at the time of flight operations on June 27. Indeed, the ALJ noted that after Furland was released from further flight obligations, he became more ill and did not feel normal until the next morning. R. D. & O. at 5, 9 (citing Tr. at 34-35 (Furland)). Thus, consistent with the Board's holding in *Douglas*, Furland's decision to call in sick on June 27, 2007, and refrain from further flight operations during his illness was protected activity under AIR 21.[5]

Furthermore, the substantial evidence of record fully supports the conclusion that American Airlines knew of the protected activity described above, *e.g.*, Furland's unfitness to fly because of his illness, the union letter protesting the late-request for medical documentation, and the protest of medical documentation at the August 27, 2007 hearing. R. D. & O. at 5.

B. Furland's protected activity was a contributing factor in American Airlines' decision to dock Furland's pay

The ALJ's determination that American Airlines' decision to dock Furland's pay constituted adverse action is supported by substantial evidence of record and is in accordance with prior ARB decisions in which the Board has held that a reduction in pay can constitute an adverse action. *See Walkewicz* v. *L.W. Stone*, ARB No. 07-001, ALJ No. 2006-STA-030, slip op. at 4-5 (ARB Mar. 30, 2008) (reduced pay can constitute an adverse action); *Brune* v. *Horizon Air*, ARB No. 04-037, ALJ 2002-AIR-008 (ARB Jan. 31, 2006).

---

[5] We reach this conclusion notwithstanding American Airlines' argument that Furland waived this issue on appeal because he did not raise it pursuant to a petition for review, but in his responsive pleadings. 29 C.F.R. § 1979.110(a) provides that any exception not raised in a petition for review "ordinarily shall be deemed to have been waived by the parties." The plain language of the regulations provides for exceptions to the general rule. Therefore because Furland prevailed before the ALJ and has been diligent in arguing that his refusal to fly by calling in sick was protected activity throughout this litigation, including in his initial complaint, his objections to OSHA's findings, his post-hearing brief to the ALJ, and his reply brief on appeal to the Board, we do not consider Furland to have waived the issue. Moreover, the Board is not bound by an ALJ's conclusions of law but reviews them de novo. *Sitts v. COMAIR, Inc.*, ARB No. 09-130, ALJ No. 2008-AIR-007, slip op. at 8 (ARB May 31, 2011) (citing *Rooks v. Planet Airways, Inc.*, ARB No. 04-092, ALJ No. 2003-AIR-035, slip op. at 4 (ARB June 29, 2006)).

The ALJ's conclusion that Furland proved by a preponderance of the evidence that his protected activity was a contributing factor in his termination is also supported by the substantial evidence of record and is in accordance with applicable law. A contributing factor is "any factor, which alone or in combination with other factors, tends to affect in any way the outcome of the decision." *Klopfenstein v. PCC Flow Techs. Holdings*, ARB No. 04-149, ALJ No. 2004-SOX-011, slip op. at 18 (ARB May 31, 2006), quoting *Marano v. Department of Justice*, 2 F.3d 1137, 1140 (Fed. Cir. 1993) (interpreting the Whistleblower Protection Act, 5 U.S.C.A. § 1221(e)(1) (Thomson Reuters 2011)).[6] It is abundantly clear from the record before us that Furland met his burden of proving by a preponderance of the evidence that his protected activities, which included calling in sick on June 27, contributed to American Airlines' decision to dock his pay.

C. American Airlines failed to prove by clear and convincing evidence that it would have docked Furland's pay absent his protected activity

Based on the substantial evidence in the record, we also affirm the ALJ's conclusion that American Airlines failed to prove by clear and convincing evidence that it would have deducted the paid sick leave amount from Furland's pay absent protected activity.[7] The ALJ noted that the Respondent failed to present evidence of a company-wide policy requiring pilots to present medical documentation to support requests for sick leave. *See* R. D. & O. at 5 n.4. Moreover, substantial evidence supports the ALJ's determination that Furland was *not* informed at the May 18, 2007 meeting with Hynes that Furland's future sick leave requests would require medical documentation and prior approval. *See* R. D. & O. at 4 ("Complainant argues that Captain Hynes never instructed complainant that he could receive paid sick leave only if he provided medical documentation. . . . This is substantiated by Captain Hynes."); *see also supra* at 2. Therefore, we conclude that the ALJ's determination that American Airlines failed to prove by clear and convincing evidence that it would have docked Furland's pay notwithstanding his protected activity is in accordance with law.

We agree with the ALJ that employers have a compelling business interest in requiring proof that their employees' absences based on illness are legitimate. *See* R. D. & O. at 7. However, without pilots having *prior* notice of such a requirement – whether through company policy requiring such proof or advance notice that such proof will be required – such a requirement can prove retaliatory in violation of AIR 21. Indeed, had Furland had prior notice

---

[6] As *Marano* explains, the contributing factor standard was "intended to overrule existing case law, which requires a whistleblower to prove that his protected conduct was a 'significant,' 'motivating, 'substantial,' or 'predominant' factor in a personnel action in order to overturn that action." *Marano v. Department of Justice*, 2 F.3d 1137, 1140 (Fed. Cir. 1993).

[7] American Airlines contends that the ALJ erred by requiring it to prove "certain facts by clear and convincing evidence or disprove causation." (Pet. for Rev. at 2; Resp. Br. at 25). However, AIR 21 expressly states that once a complainant has proven his/her case by a preponderance of the evidence, a respondent must prove by "clear and convincing evidence" that it "would have taken the same unfavorable action in the absence of the protected activity." 49 U.S.C.A. § 42121(b)(2)(B)(ii). Thus, the ALJ applied the proper standard. *See* 29 C.F.R. § 1979.109(a).

that medical documentation was required to support a request for sick leave, then the contributing factor behind the decision to dock his pay might have been a failure to supply medical documentation and the results in this case might be different. However, in light of the ALJ's findings that Furland had no such prior notice, we find that the ALJ's conclusion that American Airlines failed to prove by clear and convincing evidence that it would have docked Furland's pay notwithstanding his protected activity is fully supported by the substantial evidence of record and in accordance with applicable law. Accordingly, we affirm the ALJ's ruling that American Airlines' docking of Furland's pay constituted retaliation in violation of AIR 21's whistleblower protection provision.

4. Remedies

Having ruled that American Airlines violated AIR 21, we turn to remedies. The ALJ ordered American Airlines to repay to Furland $914.64, the amount American Airlines deducted from Furland's September 25, 2007 paycheck, plus interest. On appeal, neither Furland nor American Airlines has contested the award, and thus we could deem that both parties have waived any exception. *See* 29 C.F.R. § 1979.110(a). Nevertheless, we review the propriety of the ALJ's award.

When an AIR 21 complainant establishes that his employer retaliated against him for whistleblowing activities, the Secretary of Labor shall order the employer to: "(i) take affirmative action to abate the violation; (ii) reinstate the complainant to his or her former position together with the compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment; and (iii) provide compensatory damages." 49 U.S.C.A. § 42121(b)(3)(B); 29 C.F.R. § 1979.109(b). A prevailing complainant is entitled to back pay from the time of the adverse action until he is reinstated to employment plus interest at the rate specified in 26 U.S.C.A. § 6621 (West 2002), computed until the date of payment. *Agbe v. Texas Southern Univ.*, ARB No. 98-072, ALJ No. 1997-ERA-013, slip op. at 21 (ARB July 27, 1999) (citations omitted); *Wells v. Kansas Gas & Elec. Co.*, 1985-ERA-022, slip op. at 7 n.6 (Sec'y Mar. 21, 1991). *See also Assistant Sec'y of Labor for OSHA & Nidy v. Benton Enters.*, 1990-STA-011, slip op. at 7 (Sec'y Nov. 19, 1991); *Wells v. Kansas Gas & Elec. Co.*, 1985-ERA-022, slip op. at 1 (Sec'y June 28, 1991). The purpose of back pay is to make an employee whole and restore him to the position that he would have occupied in the absence of the unlawful discrimination. *Id.* (citations omitted). The employee discriminated against should recover damages for the period of time he would have worked in the absence of the unlawful discrimination. *Id.*

Consistent with the foregoing, and having found that the factual basis for the ALJ's award is supported by the substantial evidence of record, we affirm the ALJ's award of $914.64, plus interest from September 25, 2007, the date American Airlines docked Furland's pay.

5. Attorney's fees

Furland petitioned for $38,711.25 in fees and costs. Before the ALJ and on appeal, American Airlines has not objected to the amount of legal time for which Furland's attorney

seeks payment, to the billing rate charged for that time, or to the amount or types of costs and expenses sought. Nevertheless, American Airlines argues before the Board, as it did before the ALJ, that Furland should not recover any fees because his petition did not establish that he incurred any fees since Furland's union funded Furland's action. American Airlines also argued that if there is an award of attorney's fees, that it should be cut in half because Furland only won on half of his claims, and further that the requested fee is disproportionate to Furland's success in the litigation because the requested fee is so much larger than the damage award that Furland recovered in the proceeding.

The ALJ issued a Decision and Order on Attorney Fees on July 23, 2010. The ALJ found the attorney's $185.00 an hour rate to be reasonable. Finding that Furland's attorney's application for the award of fees was reasonable, and having rejected American Airlines' arguments in opposition to the award, the ALJ awarded $38,711.25 for 209.25 hours of representation. The ALJ held that whether Furland or the union on his behalf incurred the fees was no basis for granting fee shifting or reduction of the fee award as American Airlines argued. R. D. & O. at 1. The ALJ also ruled that while he did not order that Furland's personnel record be cleared of written discipline, Furland nevertheless prevailed in his case in chief, noting that American Airlines could have chosen to settle early in the litigation, as Furland argued, but chose not to do so and engaged in many objections, some of them redundant. *Id.* at 2.

As the prevailing party in this case, Furland is entitled to an award of all costs and expenses (including attorney's fees) reasonably incurred. 49 U.S.C.A. § 42121(b)(3)(B); 29 C.F.R. § 1979.109(b). We thus agree with the ALJ that American Airlines' argument about fees incurred in the litigation of Furland's case fails and is not a legitimate basis for shifting the fee obligation. Regardless of whether Furland or the union on his behalf funded this action, American Airlines is responsible for the fees reasonably incurred by Furland in prosecuting his AIR 21 administrative complaint in order to make him whole.[8]

Concerning American Airlines' argument in opposition to the amount of the ALJ's fee award, the Board has declined to reduce attorney's fee awards solely because the amount is larger than the damages recovered. *See Clemmons v. Ameristar Airways, Inc.*, ARB No. 08-067, ALJ No. 2004-AIR-011, slip op. at 6 (ARB Jan. 5, 2011); *see also Hoffman v. Boss Insulation & Roofing, Inc.*, ARB Nos. 96-091, 97-128; ALJ No. 1994-CAA-004, slip op. at 5 (ARB Jan. 22, 1997) (policy against chilling attorneys from taking moderately complicated cases where the complainant earned modest wages and hence the back pay sought would be small in relation to the attorney time expended; standard that degree of a plaintiff's success is crucial factor). In this case, Furland's attorneys achieved essentially complete relief under AIR 21. We agree with the ALJ that his rejection of Furland's request for modification of his personnel file does not mean that Furland did not prevail. We also note that we have found that Furland also prevailed on his

[8] This is not to say that Furland's counsel is entitled to double-payment for his legal services as a result of the Board's affirmation of the ALJ's order awarding fees against American Airlines. As Furland has represented, "an award of fees in this case will be used to reimburse the APA for its expenditure on [his] behalf." Complainant's Reply Brief In Support of His Petition for Attorney Fees, Exhibit 1 "Declaration of Theodore R. Furland" at 2 (July 2, 2009).

claim that that his refusal to fly constituted protected activity. We therefore deny American Airlines' request to reduce the attorney fee award based on its disproportionate size or because he only prevailed on part of his claims.

As the prevailing party in this case, Furland is entitled to all costs and expenses including attorney's fees reasonably incurred in bringing his complaint. 49 U.S.C.A. § 42121(b)(3)(B); 29 C.F.R. §1979.109(b). Upon our review of the record and the request, we find that the ALJ's award of fees and costs is reasonable, supported by the substantial evidence of record, and in accord with applicable law. We thus affirm the ALJ's order regarding attorney's fees.

CONCLUSION

Substantial evidence in the record as a whole supports the ALJ's findings of fact, and he correctly applied the pertinent law with one exception as discussed above. We **AFFIRM** the ALJ's conclusion that Furland's protected activity was a contributing factor to American Airlines' termination of his employment, and that American Airlines therefore violated AIR 21. We also **AFFIRM** the ALJ's award of damages. Finally, we **AFFIRM** the ALJ's July 23, 2010 supplemental decision awarding attorney's fees and costs.

Furland's attorney shall have 30 days from receipt of this Final Decision and Order in which to file a fully supported attorney's fee petition for costs and services before the ARB, with simultaneous service on opposing counsel. Thereafter, American Airlines shall have 30 days from its receipt of the fee petition to file a response.

SO ORDERED.

E. COOPER BROWN
Deputy Chief Administrative Appeals Judge

JOANNE ROYCE
Administrative Appeals Judge

LISA WILSON EDWARDS
Administrative Appeals Judge

APA Exhibit 420

IN THE MATTER OF THE ARBITRATION

Between

THE ALLIED PILOTS ASSOCIATION

Grievants,

and

AMERICAN AIRLINES, INC.,

Company

P-12-06
Hunter Presidential Grievance
New Sick Leave Policy

For the Allied Pilots Association
Patricia E. Kennedy, Esquire

For American Airlines
Thomas J. Kassin, Esquire
Ford & Harrison

Gregg M. Formella, Esquire
American Airlines

System Board Members
For APA
Ray J. Duke, Esquire
Mickey Mellerski

For American Airlines
Dennis A. Newgren
Captain John C. Conrad

Robert O. Harris, Neutral Chairman

Appointment

Under Title II of the Railway Labor Act, as amended, the parties entered into a collective bargaining agreement which provides in Section 23 for the establishment of a System Board of Adjustment. The present Board, consisting of Dennis A. Newgren and Captain John C. Conrad, appointed by the Company, Ray J. Duke and Mickey Mellerski , appointed by the Association and Robert O. Harris, chosen by the parties to act as the Chairman and neutral member, was designated to hear and decide the issues involved in this case.

The arbitration hearings were held in Fort Worth, Texas, on August 22 and 23, and September 11, 2006. At the hearings, exhibits and testimony were submitted by the Allied Pilots Association (APA) and American Airlines (AA). On October 25, 2006, subsequent to the hearings, briefs were filed by the parties. Executive sessions of the Board were held telephonically on October 18, 2006 and in person on December 1, 2006. The matters in dispute are now ready for final resolution.

Facts

On June 1, 2006, APA President Ralph Hunter filed a grievance alleging that the company violated "past practice and Sections 10, 11, 20, 21, Supplement F, and all related sections of the Agreement" by unilaterally implementing a new sick leave policy for pilots. On June 6, 2006, Captain Mark Hettermann, Vice President Flight and Chief Pilot , effectively denied the grievance.

On May 25, 2006, David S. Levine, Managing Director, HR Delivery, sent the

following letter to all AA pilots, regarding the "policy for Pilots with absences lasting 30 days or longer":

> The Turnaround Plan encourages all of us to focus on continuous improvement throughout the Company. In an effort to assist the Flight Department, the Medical Department will begin reviewing medical conditions that drive long-term absences. In the past, base flight office personnel performed some of these tasks among other duties for the local flight office. We feel the Medical Department will better serve the needs of both the company and those employees who are absent from work for extended periods of 30 days or more. This is a widely accepted business practice that will be mutually beneficial by ensuring the lines of medical communication with our pilots are open, while adequately addressing our responsibility to monitor their health conditions and assist them in returning to a productive work status.
>
> Beginning June 1, 2006, the following policy will be in effect:
>
> Pilots who are away from work (paid or unpaid) due to personal injury or illness for 30 calendar days or more are responsible for providing specific documentation to the AA Medical Department (Occupational Health Services).
>
> Any medical documentation provided will be protected under HIPAA policies and appropriate federal and state laws.
>
> Details about the information needed are included in the attached copy of the policy.
>
> This policy is similar to the policies of other AA workgroups and industry standards. It will help our company to effectively manage our crew staffing. For our operational needs, it is important for us to understand why our employees are unable to be at work for an extended period of time. More importantly, our Medical team will be able to assist you, as a pilot, in your efforts to return to work when it can reasonably be expected for you to perform your work safely and effectively.
>
> As we begin this process, I am hopeful that we can improve our employee communication, promote further education of illness and injury and more accurately forecast the utilization of the pilot group.

The following was the attachment to Mr. Levine's letter:

PILOT ABSENCE EXPECTATIONS

30-Day Absence Substantiation

When you are absent from work for a period of 30 days or longer (paid or unpaid) these are the guidelines and requirements you will need to follow when substantiating your extended time away from work for personal injury or illness.

You will be responsible to ensure that your physician provides all treatment records regarding this illness or injury to AA Medical (Occupational Health Services) Pilot – Nurse.

Your physician should include the following:

- Diagnosis
- Results of diagnostic testing
- Prognosis
- Treatment including medications
- Expected return to work date
- Expected return to work status

The corporate medical department must receive the requested medical records no later than 15 calendar days from your 30th calendar day of continuous absence from work.

The following outlines your responsibilities:

- Ask your physician to mail the requested medical information no later than 15 calendar days from your 30th calendar day of continuous absence from work to:

  AA Medical (Occupational Health Services) Pilot – Nurse
  4255 Amon Carter Blvd, MD 4100
  Ft. Worth TX 76155

  OR

  Fax to 817-963-1189

- The medical information must be authenticated by your physician, via signature or letterhead for example.

- In the event you have questions regarding the information needed, please contact AA Medical (Occupational Health Services) Pilot – Nurse at 1-800-555-2373, option 5.

- The medical department personnel will send periodic emails to your Chief Pilot to keep him/her informed of your compliance with these responsibilities and your flight status.

- If your physician needs a copy of the Pilot Job Description and Essential Functions to determine your return to work status, you may provide a copy or advise your physician to contact AA Medical (Occupational Health Services) Pilot – Nurse.

- Some conditions may require you to clear through AA Medical (Occupational Health Services) Pilot – Nurse before returning to work. If you have any questions or concerns regarding the Return to Work policy or clearance process you can obtain more information from:

    - The Return to Work Medical Clearances page of the Occupational Health Services website, OR
    - Call AA Medical (Occupational Health Services) Pilot – Nurse at 1-800-555-2373, option 5.

Pilots who do not provide the information described in this policy with 15 calendar days will be referred to Flight Management for follow-up.

You may be eligible for FMLA Leave (Family Medical Leave of Absence). It is important to check FMLA Leave requirement, such as administrative eligibility, timelines and medical eligibility. If your time away from work has been designated as FMLA Leave, your absence will be subject to the FMLA Leave policies.

On June 2, 2006, Thomas Bettes, M.C., Director, and Occupational Health Services Department, sent a series of letters to pilots who had been absent from work for more than 30 calendar days. Some of the pilots returned to work, others submitted medical reports and some did not comply with the announcement and failed to return medical information from their physicians within the 15 calendar days of the new policy. Starting on August 11, 2006, a number of the domicile chief pilots sent letters to

individuals who had not furnished the medical information. The language differed depending upon the writer; however, they all listed the bullet points of the directive quoted above, and then stated that the individual pilot was "directed to send the ... information provided by your attending physician" within 10 days. All of the letters then contained some kind of reference, such as the following:

> Failure to follow the above directive will be considered a violation of American Airlines Rules of Conduct #7, which in and of itself is grounds for termination. American Airlines Rule of Conduct #7 states:
>
> > #7 – Follow instructions received from supervisors. Insubordination will not be tolerated.

At least 43 of these letters were sent between August 11 and September 8, 2006.

Issue

Whether American Airlines' new sick leave policy violates the collective bargaining agreement (including, but not limited to, Sections 10, 11, 20, 21, Supplement F, and all related sections), past practices, state and/or federal law? If so, what is the appropriate remedy?

Positions of the Parties

APA contends that changes in the collective bargaining agreement caused the sick leave usage to appear to be increasing. It contends that the new sick leave policy violates the Agreement and past practice established by the parties and specifically Sections 20 and 21 of the Agreement. Finally, it contends that the Company is attempting to obtain verification of sick leave provisions, which it has not obtained

through negotiations, as it obtained such verification provisions of disability benefits and the use of military leave.

APA requests that this Board grant the grievance in its entirety and find that: (1) the Company's new sick leave policy violates the Agreement and/or past practice; (2) all letters/documentation placed in Company files in association with the new sick policy should be removed and destroyed; (3) if pilots provided medical documentation to the Company in connection with the new sick leave policy, it should be returned to the pilot; (4) the Company must circulate a memo in all pilots' mailboxes, on Jet Net, and any other place where the new sick leave policy is posted announcing that the new sick policy is not enforceable and not a requirement for pilots; and (5) grant such other relief that is just and proper.

AA contends that the Union bears the burden of proof in this case. It further contends that American possesses the clear management right to implement the long-term sick leave policy and that this policy does not violate the pilot Agreement, is consistent with past practice and was not the subject of negotiations. Specifically, AA states in its brief that while it agrees with the Union that it may use Section 20 to "require physical examinations (as well as to require pilots to provide Medical with medical records relating to their ongoing absence in anticipation of a mandatory Section 20 examination)" nothing in Section 20 precludes the Company from instituting or applying the Long Term Sick Leave Policy as a method of administering paid or unpaid sick leave either independent of Section 20 or preliminary to a possible mandatory Section 20 examination.

Relevant Contractual Provisions

Section 20 – PHYSICAL EXAMINATIONS

A. The purpose and object of any Company physical examination for a pilot shall be to diagnose the true and actual physical condition of the pilot, and the pilot or his duly designated personal physician will be furnished with an exact duplicate copy of all medical examiner's reports affecting him.

B. Physical standards for Company physical examinations will be those standards set forth in the FAA Regulations as being required to maintain a First Class FAA Medical Certificate with Statements of Demonstrated Ability (waiver) for Air Line Pilots. Physical examination procedures shall be determined by the Company.

C. Any information obtained by, or as a result of, a Company physical examination shall be strictly confidential between the Company, the Company's doctor, and the pilot, and shall not be divulged to any other person without the written permission of the pilot.

D. A pilot shall not be required to submit to any Company physical in excess of two (2) in any twelve (12) month period without the pilot's consent, unless it is the Company's opinion that his health or physical condition is appreciably impaired, in which case the following procedure shall apply:

1. The Company shall notify the pilot, in writing, specifying the nature and extent of its concern.

2. Any pilot hereunder who, in the Company's opinion, fails to pass a Company physical examination, may, within thirty (30) days, at his option, have a review of his case in the following manner:

a. He may employ a qualified medical examiner of his own choosing and at his own expense for the purpose of conducting a physical examination for the same purpose as the physical examination made by the medical examiner employed by the Company.

b. A copy of the findings of the medical examiner chosen by the employee shall be furnished to the Company, and in the event that such findings verify the findings of the medical examiner employed by the Company, no further medical review of the case shall be afforded.

c. In the event that the findings of the medical examiner chosen by the employee shall disagree with the findings of the medical examiner employed by the Company, the Company will, at the written request of the employee, ask that the two (2) medical examiners agree upon and appoint a third qualified and disinterested medical examiner, preferably a specialist, for the purpose of making a further physical examination of the employee.

d. The said disinterested medical examiner shall then make a further examination of the pilot in question and the case shall be settled on the basis of his findings. The said disinterested medical examiner will be given a copy of the findings of the two (2) physicians previously mentioned prior to making his examination.

e. The expense of employing the disinterested medical examiner shall be borne one-half (1/2) by the pilot and one-half (1/2) by the Company. Exact duplicate copies of such medical examiner's report shall be furnished to the Company and to the pilot.

E. When a pilot is removed from flying status by the Company as a result of his failure to pass the Company's medical examination and appeals such action under the provisions of this Section, he shall, if such action is proven to be unwarranted, as provided in paragraph D. of this Section, be paid retroactively for all time lost in an amount which he would have ordinarily earned had he been continued on flight status during such period; providing further that in no case shall he be paid for a period in excess of ninety (90) days from the date of his removal from flight status.

Discussion

This case involves two important and potentially conflicting principles: the right of American to manage its work force and the right of the pilot, in accordance with the Federal Aviation Regulations (FARs) to individually determine whether he "knows or has reason to know of any medical condition that would make the person unable to meet the requirements for the medical certificate necessary for pilot operation".

The real question in this case is not whether American has the right to request private and personal medical records from its pilots, but rather whether to ensure that a pilot is not abusing his or her sick leave, American may require such medical records under the threat of discipline for "insubordination", which may include termination, if the individual pilot fails to provide such records. It is not the establishment of a policy which asks for medical records, as APA contends, which is a violation of the collective bargaining agreement. Rather, it is both the threat of discipline and the bypassing of the Section 20 provisions, which protect the pilot which is a violation of the collective bargaining agreement. Section 20 is not a disciplinary section. It is an investigative section created to make a determination of medical condition. This difference is especially important in view of the fact that the Federal Aviation Regulations (FARs) place the initial responsibility for the determination on whether a pilot is physically able to fly on the pilot himself and it is only where there is a doubt as to the correctness of the pilot's determination that there is a review of that determination.

As noted in a footnote to the Company's brief, under Section 11.G., disputes regarding unpaid sick leave are to be settled in accordance with the provisions of Section 20. That section is entitled "Leaves of Absence" and includes "Sickness or Injury Leaves". On the other hand, Section 10, which is the Sick Leave section, deals only with the accrual and expenditure of sick leave except for the final subsection H. which deals with "Medical Self-Clearance" and limits such self clearance to where a pilot was injured, hospitalized or where a pilot had "...a

previous medical history that demands a personal medical clearance, as determined by the base physician or Corporate Medical Director."

Although Section 20 is entitled "Physical Examinations" it is clearly intended to verify, for the Company, the nature and extent of any medical problem a pilot may indicate he or she has, and which the Company questions. It provides for a dispute resolution procedure where there is a difference of medical opinion and is non-disciplinary in nature.

While the initial letter to pilots from Mr. Levine, quoted above, does not spell out the possibility of discipline if a pilot fails to comply with the Company request for medical information, there are two references in it which must be noted. The first is the statement, "This policy is similar to the policies of other AA workgroups and industry standards." This statement papers over the fact that for the other AA workgroups, such provisions were collectively bargained and also exaggerates what industry standards really are, but indicates what AA would like industry standards to be. The Company was admittedly well aware of the decision by this arbitrator in a Delta Airline-ALPA case, which it included in its brief and which belies Mr. Levine's statement regarding accepted industry practice. The second reference, later in the letter is: "Pilots who do not provide the information described in this policy within 15 calendar days will be referred to Flight Management for follow up." This was clearly a veiled threat of disciplinary action. However, to insure that there was no misunderstanding, Dr. Bettes, the Company's Director of Occupational Health Services Department, sent a letter, also quoted above, which stated "AA Medical will

send periodic emails to your chief pilot to keep him informed of your compliance with these responsibilities and your flight status."

Thereafter, various base chief pilots sent letters to individual pilots who had not furnished the requested medical information, stating, "Failure to follow the above directive will be considered a violation of American Airlines Rules of Conduct #7, which in and of itself is grounds for termination."

Section 20 clearly gives American the right to call a pilot in to submit to a physical examination where "...in the Company's opinion ... his health or physical condition is appreciably impaired ... ." In all of the cases involved in this proceeding, a pilot was on sick leave for more than 30 days. Such an absence clearly implies a physical or mental impairment. American clearly had and has the management right to insure that its employees are not abusing sick leave. However, collective bargaining agreements may modify any management right, and in this case Section 20 clearly contains such a modification. Action taken by American must be under Section 20. Only after a Section 20 finding adverse to a pilot and that pilot's failure to abide by the medical finding may disciplinary action be taken.

The policy created by American effectively presumes that if a pilot determines that he or she is medically unable to fly, that determination is subject to question in every case where the period of time away from work is beyond 30 days. American has packaged this presumption as a method of insuring the wellbeing of its pilots. And that may be true, but it is also an invasion of pilot privacy without a showing of cause. Clearly, there are medical reasons for sick leave by individual pilots, which the base

chief pilots know about, which require longer than 30 days to be resolved. To ask for medical substantiation in these cases is both demeaning and unnecessary. It is not the job of the Medical Department to police pilot sick leave. The supervision of pilots is in the Flight Department. Where a pilot supervisor has the suspicion that there is a need to determine the medical condition or suspected abuse of the sick leave policy by a particular pilot, that supervisor should attempt to communicate with the pilot to find out what the pilot's problem is and if these efforts fail, the remedy is Section 20, not the policy which is being complained about in this proceeding.

Certainly, a chief pilot may ask an individual pilot to send his medical records to the Medical Department for review. However, if the pilot fails to comply with that request, the remedy is Section 20. That is the only procedure available.

In its brief, APA has asked for a number of remedies in addition to the sustaining of the grievance. One request was that the medical documentation obtained by the Company should be returned to the individual pilot. Since the medical records of individual pilots that were obtained, were obtained under threat, such records should be returned to the individual pilots. A second request was that all letters/documentation in connection with the new sick leave policy, which were placed in Company files, should be removed and destroyed. Since it is the disciplinary enforcement of the new sick policy which is being found to violate the collective bargaining agreement, it is appropriate that only such letters as threaten discipline be removed and destroyed. Finally, APA requests that the Company be directed to "circulate a memo in all pilot's mailboxes, on Jet Net, and any other place where the new sick policy is posted

announcing that the new sick policy is not enforceable and not a requirement for pilots." Since this decision finds that the new policy must be modified and that it can only be enforced through the provisions of Section 20, this request is not granted. APA has its own communication methods for disseminating this decision to all pilots if it wishes to do so.

Award

The grievance is sustained in accordance with the foregoing Discussion. All letters which have been communicated to individual pilots regarding possible discipline for not furnishing medical records to the Company in accordance with the announced new sick leave policy are to be removed from every personnel file and every other file maintained by the Company, including the notes maintained by chief pilots which resulted from information obtained by the new sick policy prior to this decision. The Board will retain jurisdiction to resolve any disputes regarding the enforcement of this decision.

Robert O. Harris
Chairman

Ray J. Duke for APA
concur per attached opinion (APA)

Dennis A. Newgren for AA
1/18/07
Concur per attached opinion

Mickey Mellerski for APA
concur per attached opinion (APA)

Captain John C. Conrad for AA
All concurring opinions attached

Chevy Chase MD, December 4, 2006

1/18/07

"New Sick Leave Policy" Arbitration
Concurring Opinion

Reading the award within its proper context – i.e., in light of the issue submitted, which was defined by the Neutral Chairman on page 10 -- we concur with the award's essential conclusion regarding the 30-Day Sick Leave Policy as that Policy was interpreted by a majority of the Board. However, we would emphasize the award's recognition that the Company is able to use Section 20's medical examination provisions as a tool in exercising its management rights to verify a pilot's claim of illness or injury, and in order to prevent misuse or abuse of sick leave.

We reached this conclusion as the result of understandings we gained through executive sessions of the System Board held on September 11 and December 1, 2006. These understandings include the following:

- The 30-Day Sick Leave Policy was violative of the labor agreement only to the extent it was *both* (a) interpreted by a majority of the Board as containing an implicit threat of discipline for insubordination in the event that a pilot did not comply with the requirement to produce personal medical records to the Medical Department *and* (b) applied in a context where the Company had "bypassed" Section 20 before requiring that such records be produced.

- The award recognizes and does not intrude upon Flight Management's right to question the legitimacy of a pilot's use of sick leave or to contact the pilot to try to find out what the problem is and to simply *request* – i.e., *without* invoking Sec. 20, and *without* threatening discipline for insubordination in the event that the pilot does not comply with the request -- that the pilot submit documentation to the Medical Department to substantiate his use of sick leave.

    - In this scenario, if the pilot does not comply with the Chief Pilot's request, or if the pilot does comply but thereafter the Chief Pilot (after consulting with Medical) is not satisfied that the documentation the pilot submitted to Medical substantiates or supports the pilot's sickness claim, the Chief Pilot's options include directing the pilot to undergo a physical examination pursuant to Section 20.

    - As always, the Section 20 physical examination can be a full FAA physical and can include the requirement of full disclosure of medical history and issues.

    - As always, if the pilot refuses to undergo the Sec. 20 physical examination to which he has been directed, or if the Chief Pilot has reason to believe that the pilot will not comply with the physical examination requirements

under Section 20, the Company may proceed directly to a disciplinary hearing for insubordination pursuant to Section 21.

- Although Section 20 is "investigative," its use in this context does not constitute a disciplinary investigation under Section 21.

- In this context, a disciplinary investigation under Section 21 does not begin until such time as Flight Management receives the Medical Department's assessment of the Section 20 physical examination (and/or other information concerning the pilot's situation or actions) and on that basis determines that such an investigation is necessary based on apparent misuse or abuse of sick leave or other potential misconduct.

- As always, cases involving medical judgment as to the best course of treatment and the pilot's responsibility to follow medical advice will continue to be handled on a case-by-case basis.

- With respect to specific cases that were pending while this grievance was being decided, Flight Management will now begin the process of contacting those pilots and/or issuing directives for those pilots to report for Section 20 medical examinations, consistent with the understandings reached by the majority of the Board. For example, any pilot who has refused to accept letters sent by American Medical will be subject to such a directive.

- Consistent with the issue submitted, the award does not limit the Company's right to exercise in its discretion, to require a pilot to undergo a Sec. 20 exam even if the Company has not first asked the pilot to provide medical records. Likewise, in any situation where sick leave abuse or fraud is suspected, nothing in the award intrudes upon the Company's right to proceed directly to Section 21 (i.e., without needing to invoke Section 20 as preliminary to, conditional to, or supporting of a disciplinary investigation or an imposition of discipline).

Respectfully submitted:

Dennis A. Newgren
Company Board Member
1/18/07

Captain John C. Conrad
Company Board Member

Hunter Presidential Grievance No. P-12-06 – New Sick Policy

Concurring Opinion

The Allied Pilots Association (the "APA") respectfully submits this Concurring Opinion to the majority's Opinion and Award. Upon reviewing the Company's concurring opinion, APA feels compelled to memorialize our position with regard to the Opinion and Award as well as the Company's concurring opinion. Succinctly put, APA takes exception to the Company's concurring opinion which references "understandings" that were allegedly "gained through" the System Board's executive sessions. In APA's eyes, the Company's concurring opinion mischaracterizes the board's discussions and improperly attempts to extend the scope of the present grievance to cover undisclosed future policies that were not before this System Board.

The Company implemented a new sick policy for pilots effective June 1, 2006 (the "New Sick Policy"). APA filed this Presidential grievance and asserted that the New Sick Policy was a violation of the 2003 collective bargaining agreement and past practices. The issue and evidence presented to the System Board was limited to the viability of the specific terms of the New Sick Policy employed by the Company. After the record closed, the System Board engaged in confidential executive sessions regarding that specific New Sick Policy. The Opinion and Award, as written by the Arbitrator, was a product of the record as well as the executive sessions. APA wholeheartedly concurs with Arb. Harris' ruling that, among other things, the Company's New Sick Policy as implemented violates the Collective Bargaining Agreement and therefore must be discontinued immediately.

APA is troubled by the Company's "concurring opinion" for a number of reasons, three of which are specifically addressed herein: (1) the mischaracterization of the Board's confidential deliberations; (2) an attempt to extend the scope of the present grievance ruling to legitimize future sick policies; and (3) creation of a defense for future arbitrations concerning sick policies. APA addresses its three concerns as follows.

Generally speaking, executive sessions are confidential in nature so that system board members can engage in frank and open discussions regarding all aspects of the grievance record. Unfettered dialog among board members is a valuable and critical element in the grievance process. The end result is a well thought out and thoroughly vetted opinion and award. The Company's concurring opinion runs afoul of the process by citing their interpretation of discussions that allegedly took place during confidential executive sessions. The Company's mischaracterization of discussions that took place during executive session constitutes a significant departure from past practice and serves as a detriment to the grievance resolution process.

APA adamantly disagrees with the Company's characterization of the confidential board discussions. Without waiving confidentiality, APA asserts that the Board's discussions do not support the Company's assertions / "understandings" as set out in its concurring opinion, nor do they represent a majority opinion. It would be wholly inappropriate for any system board to accept and/or rely upon the Company's "understandings" as articulated in its concurring opinion as insight to the true meaning of the majority decision or as precedent.

The Company seizes the concurring opinion as an opportunity to foreshadow another sick policy and attempts to bless same as if it were a part of the deliberations of this grievance. The system board members did not agree upon the elements of or even the concept of a prospective sick policy going forward. Lest there be no misunderstanding, the components of and methodology of another sick policy was not a topic addressed in this grievance record, nor part of the arbitration decision.

We were initially perplexed that the Company would execute a concurring opinion to a majority opinion that strikes down its own policy. Upon careful review, it is evident that the Company is attempting to recover something from its loss by laying a defensive foundation for a subsequent sick policy. It is not lost on APA that the Company is boot strapping an undisclosed future policy to the present grievance. The Company is trying to spin the majority opinion (which concerns a specific policy) to suggest that the Board blessed the parameters of a going forward sick policy for the Company.

In conclusion, this Concurring Opinion preserves APA's general objection to the Company's mischaracterizations of the Board's confidential executive sessions. In the event the Company acts upon its "understandings" then APA will then scrutinize such applications and will vigorously pursue all avenues for remedy – when (and if) such action is appropriate.

Respectfully submitted,

First Officer Mickey Mellerski
APA System Board Member

Respectfully submitted,

Ray J. Duke
APA System Board Member

Dated: January 26, 2007

APA Exhibit 421

In the Matter of the Arbitration Between:

American Airlines, Inc.

and

Allied Pilots Association

Hunter Presidential Grievance
Grievance No.: P-01-07
Revised 30-Day Sick Leave Policy

Hearing Held: April 24, September 16-18, October 8-10, 2008

Before the System Board of Adjustment
Richard I. Bloch, Chairman
Steven Hoffman, APA Member
Tom Westbrook, APA Member
Lydia Bacon, Company Member
John Conrad, Company Member

Appearances:

For the Association:
Patricia Kennedy, Esq.

For the Company:
Thomas J. Kassin, Esq.
Gregg M. Formella, Esq.

OPINION

Facts

The dispute in this case has its origins in May of 2006, when the Company distributed a letter from David S. Levine, announcing a new sick policy (hereinafter "new policy" or, occasionally, "NSP") "... for pilots with absences lasting 30 days or longer." The announcement letter stated, in relevant part:

> The Turnaround Plan encourages all of us to focus on continuous improvement throughout the Company. In an effort to assist the Flight Department, the Medical Department will begin reviewing medical conditions that drive long-term absences. In the past, base flight office personnel performed some of these tasks among other duties for the local flight office. We feel the Medical Department will better serve the needs of both the Company and those employees who are absent from work for extended periods of 30 days or more.

Central to the new policy, and to the dispute in this case, was the requirement for pilots to document an extended absence:

> Pilots who are away from work (paid or unpaid) due to personal injury or illness for 30 calendar days or more are responsible for providing specific documentation to the AA Medical Department.[1]

Pilots were advised that AA Medical Department personnel would send periodic e-mails to Chief Pilots to inform them of the pilot's compliance with the reporting obligations. The policy noted that "pilots who do not provide the information described in this policy within 15 calendar days will be referred to Flight Management for follow-up."[2]

The Union grieved the new policy, objecting to its reporting and verification requirements, as well as to the disciplinary overlay. The matter was arbitrated before the System Board of Adjustment, chaired by Arbitrator Robert Harris.

In January of 2007, the Harris Board granted the grievance, finding, among other things, "it is both the threat of discipline and the bypassing of the Physical Examinations provision of the contract – Section 20. The Board concluded that Section 20 was an "investigative section created to make a determination of medical condition," not a disciplinary section.[3]

Following the decision, the Company unilaterally implemented certain changes to the sick leave program, including making document production to the Medical

---

[1] Union Ex. 2, at 1. Pilots were advised to have their physician include the following:
Diagnosis
Results of Diagnostic Testing
Prognosis
Treatment, including medications
Expected return to work date
Expected return to work status
(Union Ex. 2, at 2).

[2] Union Ex. 2, at 2.

[3] Harris Op.,p.10.

Department voluntary, rather than mandatory, as well as removing various oversight and enforcement responsibilities from the Medical Department, and placing greater emphasis on utilization of Section 20 in investigating medical questions surrounding cases of suspected sick leave abuse. Left intact, however, was the requirement that pilots out ill or injured for 30 days or more would have to supply "specific documentation"[4] verifying their illness or injury; the Company maintained the right to discipline at a later stage. Those modifications, and others, and the resultant revised Sick Policy ("RSP", for clarity), that are at issue before this Board.[5]

Issues

Does the Company's revised sick leave policy violate the collective bargaining agreement?

Association Position

APA says the new RSP violates the labor agreement. Management has, among other things, converted Section 20, intended as a vehicle for physical examinations, into an administrative process that, for the first time, requires verification of sick leave by a pilot – an obligation never previously imposed. In the process, the Company has shifted the burden of proof in sick leave matters. In the past, says APA, management had to take the initiative, showing cause not only for imposing discipline for sick leave but also for denying a pilot's application for sick pay. Under the revised system, however, payment requests are being summarily denied by the Company, forcing the pilot to provide documented verification and to challenge the denial. Moreover, pilots are still

---

[4] *See* n.1, *supra.*

[5] The System Board convened initially in April of 2007 to begin the proceedings in this case. The proceedings were recessed for some 17 months while the parties sought a mutually satisfactory resolution, but when they were unable to do so; the hearings were continued in September and October of 2008.

vulnerable to discipline for failure to verify, by means of documenting, their absence. As remedy, the Association requests, among other things, a cease and desist order, together with an order making affected employees whole.

Management Position

The Company says the RSP is consistent with both the mandates of the Harris Board and the requirements of the labor agreement. Many of the Association's claims, says the Company, were raised before the Harris Board and cannot be re-litigated here. It requests the grievance be denied.

Relevant Contract Provisions

SECTION 10

SICK LEAVE

... H. Medical Self Clearance [See Q&A #44]

A pilot who has reported sick may declare medically fit to fly in person or by telephone without visiting the Company's medical facilities provided:

1. That the illness was not for an injury on duty; nor was the pilot hospitalized during such illness.

2. That such self-clearance shall not apply to pilots with a previous medical history that demands a personal medical clearance, as determined by the base physician or Corporate Medical Director.

SECTION 11

LEAVES OF ABSENCE

... E. Military Service Leaves

... 5. Notice and Verification

a. Pilots must provide the Company with reasonable notice of all military leaves which conflict with their American Airlines work schedule, unless the giving of

such notice is precluded by military necessity or, under all of the relevant circumstances, the giving of such notice is otherwise impossible or unreasonable.

(1) Notice of military leave shall be submitted to the Company before trip selection bids close for the following month, unless precluded by one of the exceptions above.

(2) Late notice and notice of change shall be submitted to the Company by the deadline date specified on the bid sheet header pages.

(3) Subject to verification as provided in 6. below, a request for a required military leave period, or for a change in a previously requested military leave, which is submitted to the Company after the deadline date specified on the bid sheet header pages will comply with this Agreement if accompanied by endorsed orders and a letter from the pilot's military superior officer stating the reason why notice could not be provided earlier.

... 6. Verification of military duty will not normally be required by the Company

a. When the Company does require verification, within a reasonable period of time the pilot must provide a Leave and Earnings Statement substantiating the military duty in question.

b. If no Leave and Earnings Statement was issued for the military duty in question, within a reasonable period of time the pilot must submit endorsed orders and a statement from the commanding officer of the pilot's military unit indicating that no Leave and Earnings Statement was issued to cover the military duty in question.

SECTION 20

PHYSICAL EXAMINATIONS

... A. The purpose and object of any Company physical examination for a pilot shall be to diagnose the true and actual physical condition of the pilot, and the pilot or his duly designated personal physician

will be furnished with an exact duplicate copy of all medical examiner's reports affecting him.

B. Physical standards for Company physical examinations will be those standards set forth in the FAA Regulations as being required to maintain a First Class FAA Medical Certificate with Statements of Demonstrated Ability (waiver) for Air Line Pilots. Physical examination procedures shall be determined by the Company.

C. Any information obtained by, or a result of, a Company physical examination shall be strictly confidential between the Company, the Company's doctor, and the pilot, and shall not be divulged to any other person without the written permission of the pilot.

D. A pilot shall not be required to submit to any Company physical examination in excess of two (2) in any twelve (12) month period without the pilot's consent, unless it is the Company's opinion that his health or physical condition is appreciably impaired, in which case the following procedure shall apply:

1. The Company shall notify the pilot, in writing, specifying the nature and extent of its concern.

2. Any pilot hereunder who, in the Company's opinion, fails to pass a Company physical examination, may, within thirty (30) days, at his option, have a review of his case in the following manner:

a. He may employ a qualified medical examiner of his own choosing and at his own expense for the purpose of conducting a physical examination for the same purpose as the physical examination made by the medical examiner employed by the Company.

b. A copy of the findings of the medical examiner chosen by the employee shall be furnished to the Company, and in the event that such findings verify the findings of the medical examiner employed by the Company, no further medical review of the case shall be afforded.

c. In the event that the findings of the medical examiner chosen by the employee shall disagree with the findings of the medical examiner employed by the Company, the Company will, at the written request of the employee, ask that the two (2) medical examiners agree upon and appoint a third qualified and

disinterested medical examiner, preferably a specialist, for the purpose of making a further physical examination of the employee.

d. The said disinterested medical examiner shall then make a further examination of the pilot in question and the case shall be settled on the basis of his findings. The said disinterested medical examiner will be given a copy of the findings of the two (2) physicians previously mentioned prior to making his examination.

e. The expense of employing the disinterested medical examiner shall be borne one-half (1/2) by the pilot and one-half (1/2) by the Company. Exact duplicate copies of such medical examiner's report shall be furnished to the Company and to the pilot.

E. When a pilot is removed from flying status by the Company as a result of his failure to pass the Company's medical examination and appeals such action under the provisions of this Section, he shall, if such action is proven to be unwarranted, as provided in paragraph D. of this Section, be paid retroactively for all time lost in an amount which he would have ordinarily earned had he been continued on flight status during such period; providing further that in no case shall he be paid for a period in excess of ninety (90) days from the date of his removal from flight status.

SECTION 21

DISCIPLINE, GRIEVANCES, HEARINGS, AND APPEALS

... B. Investigation and Rights of Representation

1. A pilot shall not be disciplined or dismissed from service with the Company without an investigation and written notification of such action, including the precise charge(s) and an explanation for any action taken. A pilot shall be provided with an opportunity to meet with that pilot's Flight Department supervisor prior to the rendering of the Company's decision with regard to discipline or dismissal.

2. A pilot shall be entitled to Association representation, or the pilot may elect to be represented by another Company employee of the pilot's choice, at any meeting with the Company for the purpose of (1)

investigating a matter which may result in discipline or dismissal, or (2) at which a written statement may be required, or (3) of sufficient importance for the Company to have a witness or more than one supervisor present. In any case, if a pilot does not wish to have Association representation, the Association reserves the right to have an observer present and the Company has an affirmative obligation to inform the Association in a timely manner about such meeting.

3. The Company will advise the pilot that s/he is entitled to Association representation at the time the investigative meeting/hearing is scheduled.

4. Prior to any investigation, the Company will notify the pilot and the Association of the purpose of the investigation, and make available relevant documentation including the specific charges and statements. The Company may in cases involving harassment allegations require employees of the Company to sign non-retaliatory confidentiality statements prior to reviewing statements. Further, the Company may redact names and other personal identifiers at the preliminary investigative proceeding. It is understood that should the matter proceed to the System Board, the Company will provide the Association such statements without redactions. ...

Analysis

Management retains the right to institute reasonable policies, but it is also well-accepted that such policies may not contravene the terms of the Collective Bargaining Agreement. In this case, for reasons to be discussed, the finding is that this change is, in fact, contrary to the joint and continuing understanding of these parties. The new sick leave policy introduced in 2006 introduced meaningful change to the processes relevant to sick leave abuse questions. Previously, suspected pilot sick leave abuse was handled by the parties as a disciplinary matter. As such, denials of sick pay applications were considered in the nature of disciplinary "dockings" (the sick pay being subsequently

recouped from a pilot) and disputes were channeled through the disciplinary mechanism of Section 21 of the labor agreement[6]. It was, therefore, management's burden to justify withholding or recouping requested sick pay. Section 20, by contrast, ("Physical Examinations"[7]) had been primarily utilized to examine pilots for suspected problems that might challenge their ability to fly. The normal scenario, therefore, involved pilots who desired to remain working but whose illness or injury was suspected to require their grounding. Under the new NSP, however, the Company referred pilots who claimed injury or illness over an extended period, but whom the Company suspected should, in fact, have been flying. As such, the NSP substantially expanded the scope of the inquiry in Section 20, the question becoming broader than whether, at the precise time of the physical, the pilot was fit to fly. And, questionnaires previously restricted to a relatively narrow range of maladies were revised so as to become considerably more probing.[8]

The result of these, and other changes, was, in part, to meaningfully shift the respective burdens of proof, pilots having to show why they should qualify for sick pay rather than the Company demonstrating why they should not. In the process, the Company, via the NSP, constructed an administrative mechanism designed to better control perceived sick leave abuse by means of three significant elements. First, the NSP presumed a pilot's determination that he or she is medically unfit to fly is suspect in all cases where the absence is 30 days or more. Second, the new policy anticipated scrutiny of medical documentation and general administration of the Policy either independent

---

[6] *See* p. 7, *supra.*

[7] *See* p. 6, *supra.*

[8] The questionnaire asks specifically about prior use of sick time and asks whether a pilot had suffered from some 60 conditions. See APA Ex. 56.

of Section 20 or, possibly, as preliminary to a mandatory Section 20 examination. Finally, a pilot's obligation to supply relevant medical documentation was mandatory, punishable as insubordination for failure to comply. The Association grieved the NSP[9] and the matter was arbitrated before Robert O. Harris in August and December of 2006.

P-12-06: The Harris Decision

Central to the case before the Harris Board was the question of leave usage and, as noted above, the ability of the Company to police suspected abuse by broadly demanding medical records, upon pain of discipline, in all cases of extended (30 days. or more) leaves. Harris vetoed that approach. Instead, he ruled the Company's inquiry into sick leave issues must begin in a non-disciplinary context. If a pilot's supervisor suspects misuse and wishes to pursue the matter, the first step should be communication with the pilot. Base Chief Pilots, said Harris, are often familiar with personal circumstances concerning individual pilots, and these elements should be aired. Assuming, however, such conversations are not fruitful, the Chief Pilot "may ask [not demand] an individual pilot to send his medical records to the Medical Department", said Harris.[10] But, in any event, said the Board, prior to any discipline, Section 20 is the next step: "it is," said the Board, "the only procedure available."[11] Harris recognized Section 20 had normally been restricted to more limited FAA physicals that generally sought to assess the current state of a pilot's health. However, he said:

> Although § 20 is entitled, "Physical Examinations", it is clearly intended to verify, for the Company, the nature and extent of *any* medical problem a Pilot may indicate he or she has, and which the Company questions. It provides for a

---

[9] See JX-3.
[10] Harris Op., p. 13.
[11] *Id.*

> dispute resolution procedure where there is a difference of medical opinion and is non-disciplinary in nature.[12]

Thus, the Arbitrator concluded the Company's threats of discipline, both muted and explicit, were untenable. He recognized the Company's wish to better monitor sick leaves as well as the generally accepted managerial right to promulgate reasonable rules and policies. Significantly, however, Harris found the Company had agreed to certain restrictions on its prerogatives:

> Section 20 clearly gives American the right to call a pilot in to submit to a physical examination where "...in the Company's opinion ... his health or physical condition is appreciably impaired ... ." In all of the cases involved in this proceeding, a pilot was on sick leave for more than 30 days. Such an absence clearly implies a physical or mental impairment. American clearly had and has the management right to insure that its employees are not abusing sick leave. However, collective bargaining agreements may modify any management right, and in this case Section 20 clearly contains such a modification. Action taken by American must be under Section 20. Only after a Section 20 finding adverse to a pilot and that pilot's failure to abide by the medical finding may disciplinary action be taken.[13]

The essence of Harris' objection to the new process centered on the Policy's presumption that, in every case where a pilot is off work for more than 30 days, there is cause to suspect abuse. He rejected that presumption as "an invasion of pilot privacy without a showing of cause" and as "demeaning and unnecessary.":

> The policy created by American effectively presumes that if a pilot determines that he or she is medically unable to fly, that determination is subject to question in every case where the period of time away from work is beyond 30 days. American has packaged this presumption as a method of insuring the wellbeing of its pilots. And that may be true, but it is also an invasion of pilot privacy without a showing of cause. Clearly, there are medical reasons for sick leave by individual pilots, which the base Chief Pilots know about, which require longer than 30 days to be resolved. To ask for medical substantiation in these cases is both demeaning and unnecessary. It is not the job of the Medical Department to police pilot sick leave. The supervision of pilots is in the Flight Department. Where a

[12] Harris Op., p. 11, emphasis added.
[13] Harris Op., p. 12.

> pilot supervisor has the suspicion that there is a need to determine the medical condition or suspected abuse of the sick leave policy by a particular pilot, the supervisor should attempt to communicate with the pilot to find out what the pilot's problem is and if these efforts fail, the remedy is Section 20, not the policy which is being complained about in this proceeding.[14]

At its heart, then, the Harris opinion directed itself to what that Board concluded was impermissible under the CBA – converting the medical, non-disciplinary process contemplated by the bargained terms of Section 20 into a disciplinary tool for enforcing sick leave regulations. As the Board made clear, the real question in the case was not whether the Company could request private and personal medical records, but whether it could enforce such disclosure under the threat of insubordination.[15] The rationale leading the Board to conclude the NSP violated the labor agreement were (1) Section 20 was the sole vehicle for assessing a pilot's medical condition, including doing so for purposes of sick leave[16], (2) Section 20 is non-disciplinary in nature and, therefore, (3) the Company's policy of mandating, upon pain of discipline, production of medical documentation was inconsistent with the contract.

The Current Grievance

Following the Harris Award, the Company modified the NSP in an attempt to accommodate the System Board's concerns. A January 2007 letter from Vice President of Flight, Captain Mark Hetterman, to all pilots stated, in relevant part:

> When a Pilot is away from work (paid or unpaid) due to personal injury or illness for 30 or more calendar days, he/she will be contacted by a member of Flight Management and will be asked (not required) to provide specifically documentation to AA Medical.

---

[14] Harris Op., pp. 12-13.

[15] Harris Op., p. 10.

[16] *See* text accompanying n. 12, *supra*.

> If a Pilot does not provide the requested documentation or provides documentation that does not validate the absence, the Pilot will normally be required to submit to a §20 physical examination.
>
> * * *
>
> Failure to validate an illness via a §29 physical examination may also lead to a §21 investigation and potential disciplinary process. In addition, regardless of whether a §20 physical examination takes place, the §21 investigation process may be initiated based on suspected misuse or abuse of sick leave and discipline may be imposed without a §20 physical exam.
>
> Going Forward
> Implementation of this policy will play a key role in reducing unnecessary costs, improving our schedule planning and bolstering the Company's competitiveness. Therefore, we have spent the last few months carefully reviewing the use of sick time and have hired an outside firm to conduct an objective and detailed statistical analysis.[17]

The changes, says the Company, are that the RSP removes from AA Medical the duty of ordering pilots to appear and provide substantiating documentation. Now, it is Chief Pilots who have the discretion to request the pilot to provide substantiating documentation to Medical. In the event the pilot cannot or does not provide the requested medical records, the pilot is not disciplined at that stage, but instead may be ordered to undergo a Section 20 physical examination.[18] The Company characterizes the role of the Medical Department as fully non-disciplinary and limited to a support resource for the Chief Pilots:

> The Medical Department's role under the Revised Policy is now largely limited to acting as a resource to the pilot and consultant to Chief Pilots – in *response* to a contact of a pilot initiated by a Chief Pilot. Thus, Medical no longer sends out request letters to pilots. Instead, Medical assists pilots in ensuring that they are receiving proper medical attention; reviews the medical information that a pilot may have voluntarily provided based on a Chief Pilot's request letter; performs Section 20 physical examinations that a Chief Pilot may have directed; makes a determination as to whether a pilot has substantiated, and express any opinion to the Chief Pilot; and addresses pilot medical issues that appear as a result of the process. This amounts to a role of support to the Chief Pilot "to reach the right

---

[17] APA Ex. 29.
[18] *Id.*

> determination, correct determination as to whether a pilot is using the sick benefit properly." [19]

The purposes of the RSP, like its predecessor, says the Company, continue to be those of "(a) remind[ing] pilot's of health resources that are available to them (including through Medical), and thereby promot[ing] pilot's health; and (b) promot[ing] effective planning and efficient use of corporate resources relating to pilot use of sick leave."[20]

The Association, for its part, claims the Revised Sick Policy (RSP) violates a wide range of contract provisions, including both Secs. 20 and 21. According to APA, management has misinterpreted and misapplied the Harris award. As a general matter, it is argued, management is attempting to unilaterally import into the labor agreement a new verification process in order to establish sick pay eligibility. APA acknowledges a pilot, may, in appropriate circumstances, be disciplined for sick leave abuse. However, that is to be distinguished, it contends, from a routine application for sick pay coverage; Management may not condition one's eligibility for that benefit on verification by the pilot.

At the heart of this grievance is the Company's newly implemented practice of requiring documented verification of sick leave as a condition to qualifying for the contractual sick pay benefit. There is no dispute management has never done this before in the context of the pilot bargaining unit.[21] However, the Company claims the labor agreement nowhere proscribes such a change; it is black letter law that management retains the prerogative to issue reasonable work rules. A 30-day absence,

---

[19] Co. Closing brief, p.23.
[20] *Id.*, p. 22.
[21] *But, see* text accompanying notes 35-37 *infra.*

it says, should be distinguished from the more abbreviated sick or injury incident, and some basic showing by the pilot under such circumstances is not unreasonable.

One may set aside, for purposes of this Opinion, any extended discussion as to whether, and to what extent, the longer absence is "different." The entire focus of the Harris Opinion is on the question of sick leave abuse. We, too, deal with that issue, primarily in terms of interpreting and applying the Harris award. But at issue in this case is an additional element – the right of the Company to unilaterally impose a written verification requirement in order to claim the sick pay benefit. Without question, the abuse, claiming sick leave when one is not sick, is just a profound on a 25, 15, 5, or 1-day absence as it is at 30 days. At the same time, as will be discussed below, this record reflects both a contract and a practice that, taken together, establish an intent by these parties to make the bargained sick leave benefit available without the requisite of a pre-conditioned written verification.

Resolution of this dispute requires a careful reading of the Harris award. The opinion has engendered profound misunderstanding between the parties and, indeed, some disagreement among the Harris Board Members themselves, as is evidenced by, among other things, concurring opinions by both the management and labor members. Additional evidence of misunderstanding is found in the fact that each side in the current case relies on precisely the same language to justify vastly differing positions. Thus it is that this Board approaches its interpretive task with great care.

The essence of the System Board's job bears repeating: The Board is charged with interpreting and applying the collective bargaining agreement. However imposing that task may be in an individual case, it is also significantly limited: The Board has no authority to modify the terms of the labor agreement. This assumption is so well

accepted in industrial labor relations as to require no further citations. It is also expressly set forth in this labor agreement.[22] We proceed in this case with the knowledge the parties did not request the Harris Board to modify the contract and that the Harris Board did not do so.[23] The significance of this point is that the Company may not, in this case, rely on a claim that the previous System Board either mandated or authorized its implementing procedures that serve, in any way, to change the labor agreement. This is not to say the Company cannot change procedures – Harris did mandate that. Such changes, however, must continue to comply with the bargained terms of the labor contract.

The current case poses the question of, among other things, when, if ever, the Company may require medical documentation in support of sick leave claims. The Company observes that Harris in no way ruled out the Company's pursuit of sick leave abuse cases and that, indeed, he expressly contemplated the possibility of discipline, although only after the results of the Section 20 process. If so, when and under what circumstances may this occur? We turn first to the Company contentions.

---

[22] Section23 – System Board of Adjustment – states, in relevant part:

> E. Jurisdiction
>
> The System Board shall have jurisdiction over disputes between any employee covered under this Agreement or between the Association and the Company growing out of grievances, or out of the interpretation or application of any of the terms of this Agreement. The jurisdiction of the System Board shall not extend to proposed changes in hours of employment, rates of compensation, or working conditions covered by this Agreement.

[23] Bob Harris was one of the most skilled and respected arbitrators of his time. He served as a trusted neutral member of the AA/APA System Board of Adjustment for many years, and made incalculable contributions to their relationship through his decisions. There is no evidence of any request of him to modify the contract, and had there been such a request, he would have rejected it.

The Company's Claims

By its reading, the Company retains broad prerogatives. It suggests that, following the Section 20 process, the pilot's failure to have produced satisfactory documentation amounts to grounds for the Company to (1) decline his or her application for sick pay coverage, (2) impose possible discipline for sick pay abuse or (3) discipline for Insubordination in refusing to supply the documentation. The Company cites the Harris award as finding a violation based on the NSP's having "both required production of medical records under threat of an insubordination charge for non-compliance and did that without invoking Section 20's physical examination provisions. [Citing Opinion, pp. 10,13.]" From this, it concludes that, by avoiding one of the two cited errors – the bypassing of Section 20 – it can cure the violation. Thus, by channeling sick leave inquiries through the Section 20 process, the Company may discipline, as insubordination, the pilot's failure to provide the documentation. The Company argues:

> In other words, the Harris Board held, American can have a policy requiring production of medical records under threat of discipline for insubordination based on failure to comply only if in so doing American invoked Section 20 and allowed a pilot an opportunity to provide medical records and substantiate through that process. [24]
>
> ***
>
> ...The Harris Board stated that, under such a policy, American can direct a pilot to provide substantiation under threat of insubordination for noncompliance – but – Section 20 *must* be used by American before any *discipline* can be imposed. Specifically, the Board stated that, under such a Policy, it is "only after a Section 20 finding adverse to a pilot and that pilots' failure to abide by the medical finding [that] *disciplinary* action may be imposed." (JX-2 at 12) (emphasis added). Thus, while "a chief pilot may ask an individual pilot to send his medical records to the Medical Department for review," "if the pilots [*sic*] fails to comply with that

[24] Company closing brief, p. 19.

> request, the remedy [before discipline for non-compliance with the directive can be imposed] is Section 20." (JX-2 at 13).[25]

These statements are only partially accurate. The Company may, indeed, direct the pilot to attend a Section 20 examination. A lengthy absence may reflect serious "physical or mental impairment," as Harris noted,[26] and it is to all parties' advantage to implement the medical inquiry. Refusal by a pilot to comply with that directive may properly be viewed as insubordination. It is abundantly clear, however, that supervision may not *order* the pilot to provide medical documentation at that stage. The company position misreads the import of the Harris decision in concluding that it may discipline later solely for failure to produce that verification material. The Section 20 hearing is not merely a necessary formality that precedes a later unfettered ability to demand such document production.

The Company's reading would amount to a *"Catch 22,"* that would serve to reduce to a nullity the considerations of pilot privacy cited by the Harris Board. That Board nowhere endorsed mandatory disclosure of private and personal medical records from pilots as a precursor to sick leave pay entitlement.

To be sure, sick leave abuse can lead to discipline. Beyond the intuitive assumption that sick leave is to be used for sickness, the Harris Board expressly contemplated that possibility. But that Board took care to note that, through collective bargaining, these parties had limited what is normally regarded as an unfettered managerial prerogative:

---

[25] Id., p. 20-21. The inescapable conclusion by the Company is that failure by the Pilot to comply with the Chief Pilot's "request" to send medical records for review is that discipline for non-compliance with that directive can, in fact, be imposed subsequently, following conclusion of the § 20 investigation. Nothing in the Harris Award or the labor agreement compels that conclusion.

[26] Harris Op.,p.12.

> American clearly had and has the management right to insure that its employees are not abusing sick leave. However, collective bargaining agreements may modify any management right, and in this case, Section 20 clearly contains such a modification. Action taken by American must be under Section 20. Only after a Section 20 finding adverse to a pilot and that pilot's failure to abide by the medical finding may disciplinary action be taken.[27]

None of this is to say the Company cannot pursue issues of fraudulent sick use or that, ultimately, the lack of documentation on the pilot's part cannot lead to discipline. The Harris Board specifically noted that, after a Section 20 finding adverse to a pilot "and that pilots failure to abide by the medical finding" disciplinary action may be taken.[28] It is to say, instead, that management may not presume that an extended absence, in and of itself, amounts to sick leave abuse. The Harris Board said that explicitly.[29] This means that, in a Section 21 investigation, a pilot's failure or refusal to substantiate claimed sick or injury absences, including the absence of medical documentation, may be relevant. But the absence of such written documentation may not be the sole factor relied on by management. To so conclude would be to ignore these parties' agreement that eligibility for sick pay shall not require written verification.

The parties to this labor agreement have chosen to consciously omit from their collective bargaining agreement any requirement of routine verification of sick leave requests (by, for example, the standard "sick slip") by pilots. The APA argues persuasively that it vigorously resisted, during contract negotiations over the years, the concept that pilots should be asked to verify illnesses in order to receive sick pay

---

[27] Opinion, p. 12.

[28] It is not clear from the Award as to with what "medical finding" the affected pilot must comply. But it is abundantly clear the Board recognized circumstances arising as a result of a finding adverse to the pilot that could generate subsequent discipline. Indeed, the intended goal was to place cases of that nature into the disciplinary track as embodied in Section 21's dispute settlement mechanism, and not the admittedly non-disciplinary processes of Section 20.

[29] See text accompanying n. 14, *supra*.

coverage, and that this concept was, in fact, adopted by the parties, in contract language and in practice. On a micro level, this means the Company could not ordinarily demand "sick slips" for doctor visits, for example, and it has not done so in the case of pilots.[30]

The record in this case contains evidence concerning negotiations, meetings, and discussions. Management urges this Board, vigorously,[31] that many of these meetings amounted to explorations, not negotiations. But there were formal negotiations over the question of substantiation. According to the testimony[32] APA and the Company engaged in such negotiations in July of 1967. At one point, according to the APA witness, the Company proposed that all pilots would be required to fill out a medical form prior to receiving any sick leave pay.[33] But, no such language made its way into the labor agreement. In 1975, the labor agreement reflected, for the first time, the Company's right to seek verification of a pilot's medical condition for disability

---

[30] The demand for documentation in the NSP and RSP, it should be recalled, extends only to absences over 30 days.

[31] Characterizations of these colloquies are often both significant and important to the parties. Note, for example, management's characterizations of discussions between American and APA on the sick leave issue, between 2003 and 2006: "Certain informal discussions took place ... outside of a contractual negotiations context"; "These informal discussions were not negotiations ..."; "These discussions were never negotiations ..."; "...The meeting with the APA Board of Directors was not negotiations ..."; "Such meetings were not considered negotiations, [and the absence of agreement was not a failure to negotiate] because the discussions were not negotiations."; "Although not considered by either party as negotiations ..." (Co. Post-Hearing Br., pp. 13-16.)

[32] *See* Tr., at 242-248.

[33] *See* Tr., p. 246-248. Capt. George MacPherson, a member of the pilot negotiating team in 1967, testified, without rebuttal, that, during negotiations, the pilots were proposing unlimited sick leave and credit for unused sick leave time. According to the witness, the Company proposed, in response, the distribution of a written verification form. He testified the company "wanted ... for us to drop our demand and instead that all pilots be required to fill out a medical form prior to receiving any sick leave pay." (Tr., p. 248. An APA report of its view of the negotiations reflects the APA's demands and the Company's request for the verification form. (Union 104.) The Company objected to witness MacPherson expanding on Union 104 by attempting to interpret the document to explain "what the company was proposing." (Tr., p. 245.) This objection on the Union's using the "secondhand recitation" (*Id.*, p. 246) to expand on the Company's position was sustained. (*Id.*) But the witness continued on to describe the Union's position at the time and the Company's response, as it understood it, and as reflected by the report. The document itself, sans any union interpretation of company intentions, was admitted (Tr., p. 251).

purposes.[34] In the January 14, 1975 agreement, the parties agreed, that "Once established, the disability, when appropriate, may be subject to verification every ninety (90) days."[35] Such language exists in the current labor agreement with respect to disability. Section 11.E of the 2003 labor agreement – Military Service Leaves – also has explicit verification language[36] reflecting the parties agreement that:

> "...verification of military duty will not normally be required by the Company. When the Company does require verification, within a reasonable period time, the Pilot must provide documentation substantiating the military duty in question..."[37]

All this supports the conclusion that, when the parties saw the need for verification, they knew how to write the language requiring it.

Telling, as well, is the explicit language bargained by the Company and other unions on the property. The Company and the Transport Worker's Union, for example, agreed to the following language:

> (E) While it will not be the policy of the Company to require a slip from his doctor stating treatment for an illness or injury for all absences of one (1) to three (3) days in order for an employee to be eligible for sick leave pay, the Company reserves the right to require a doctor's slip whenever circumstances indicate suspected abuses of the sick leave policy.
>
> (1) Any employee suspected of abusing sick leave may be required to furnish a doctor's slip stating that he was treated for an illness or injury will first have the circumstances leading to the suspicion fully discussed with him. He may, if he so desires, have a Union representative present during the discussion.
>
> Subsequent to this discussion, if the Company decides that a doctor's slip is required, he will be given written notice of this

---

[34] *See* Union Ex. 11.

[35] *Id.* The 1997 agreement included language in Supplement F(1) establishing that disability verifications would be "established by the Corporate Medical Director through claim procedures set up by the Company and the Allied Pilots Association. Once established, the disability, when appropriate, may be subject to verification every ninety (90) days." (APA Ex. 11).

[36] Jt. Ex. 1 at 11-2.

[37] *Id.*

requirement. Upon request of the employee, the specific reasons for the suspected abuse will be supplied to him in writing. The requirement for this slip from the doctor will expire ninety (90) calendar days from the effective date of the written notice.[38]

The Flight Attendant's Association, APFA, agreed with the Company to the following language:

I. MEDICAL CERTIFICATE

A Flight Attendant may be required to submit a medical certificate signed by the Flight Attendant's personal physician to support payment of sick leave benefits. A verbal instruction will be considered sufficient to support this requirement. All verbal instructions will be confirmed in writing. Such medical certificates shall contain the following information:

1. Date(s) treatment received,
2. Diagnosis of illness or injury in medical terms,
3. Prognosis.[39]

The Air Line Pilots Association, International, and Eagle, an AA wholly-owned subsidiary, incorporated the following language:

D. Medical Self Clearance

1. A Pilot who has reported sick may declare himself medically fit to fly, in person or by telephone, without visiting the Company's medical facilities provided:

a. That the illness was not for an injury on duty; nor was the Pilot hospitalized during such illness.
b. That such self-clearance should not apply to Pilots with a previous medical history that demands a personal medical clearance as determined by the domicile physician or Corporate Medical Director.

2. When the Company has a reasonable basis to believe that sick leave has been abused, the pilot may be required to provide a doctor's certificate to the domicile physician or Corporate Medical Director, to substantiate sick pay.

---

[38] APA Ex. 24, at 1-2.

[39] APA Ex. 23, at p. 2.

a. In the event a doctor's certificate is required by the Company, the Company retains the right to designate the doctor, however, the cost of the doctor visit and required tests will be borne by the Company.[40]

These are explicit requirements of written verification. Their absence in the AA/APA agreement speaks loudly to the proposition that these pilots were not expected to submit sick slips, or their functional equivalent, as verification for absences.

One may argue, as the Company does, that docking pay (to recoup the sick pay) is non-disciplinary in nature, and that may be so. Harris didn't say that, but the Company suggests that outcome is "implicit" in the Harris Award.[41] The suggestion is that the Company may therefore deny sick pay solely on the basis of no written verification following an extended absence. However, nothing in the Harris Opinion deals with the question of establishing preconditions for utilizing the sick leave benefit. Indeed, prior to the events giving rise to the grievance in that case. While the Company had pursued suspected sick leave abuse on a case-by-case basis, it had never imposed an across-the-board written verification requirement. One may not argue, therefore, that the Harris Board somehow authorized such a mechanism. That result would inject a verification requirement that currently does not exist in the labor agreement. As indicated earlier, there may well be situations where the failure to provide documentation is relevant in considering both whether a pilot has substantiated his application for sick pay and whether he has engaged in abuse. But the mere absence of such documentation cannot lead to a presumption that the pilot has forfeited his or her entitlement to coverage or that discipline is appropriate. That is what Harris said.

---

[40] APA Ex. 100.

[41] Company Closing brief, p.34.

Management is fully within its rights in pursuing "questions of sick leave abuse." What it may not do is to establish, under the heading of a "sick leave policy" a verification mechanism that, to date, by mutual design, has never been part of these parties' labor agreement or their practice. Accordingly, the mere conclusion by Medical that, by failing to provide documentation, the pilot has not substantiated his or her absence cannot be seen as justification for denial and/or recoupment of sick pay. That is precisely the type of intrusive presumption ruled out by the Harris Board. It would be antithetical to the central holding of the Harris case to conclude that the Company was foreclosed from ordering such production in the medical examination process, but free to do so thereafter.

The Association's Claims

Via this grievance, APA protests the revisions to the NSP (thus, the resultant RSP), contending that, in fact, it contained a wide range of new and objectionable features. It directs this Board to a variety of specific elements of the RSP it claims are objectionable.

The Invitation Letter

In evidence[42] are a series of letters from Chief Pilots that request substantiation of pilots' absences of over 30 days due to sick leave. The letters are essentially similar, containing, among other things, the following request:

> ... I am requesting that you or your medical provider(s) provide to AA Medical, within 10 calendar days from the date of this letter, your written treatment records and the following written information regarding your absence:
>
> | | | | |
> |---|---|---|---|
> | ✓ | Diagnosis | ✓ | treatment including medications |
> | ✓ | results of diagnostic testing | ✓ | expected return to work date |
> | ✓ | prognosis | ✓ | expected return to work status |
>
> If you choose not to provide the requested documentation, or if what is provided is incomplete or does not substantiate your absence, you may be directed to report to AA Medical for a physical examination in accordance

[42] *See, e.g.,* Union Ex. 31.

> with Section 20 of the collective bargaining agreement. Also, whenever the Company suspects that the use of sick leave is not supported by the facts, the Company may conduct a disciplinary investigation under Section 21.

In accordance with the mandates of the Harris opinion, the Chief Pilot, in this correspondence, refrains from ordering production of the medical information, noting, instead, that failure to provide it may lead to a Section 20 examination. Moreover, the letter reminds the pilot of the possibility of a disciplinary investigation under Section 21. The letters are copied to AA Medical, APA Legal and to the pilot's Personnel File.

In the event the requested documentation is not supplied to AA Medical, the pilot receives a "Directive Letter"[43] ordering the Pilot to report to AA Medical for a Section 20 physical examination. In the event the pilot declines to provide medical documentation at that stage, or that AA Medical determines it to be inadequate, a Notification Letter is sent:

> Since AA Medical cannot assess your true and actual physical condition without complete and verifiable medical history, you have not substantiated your use of paid sick leave for the period beginning January 12, 2008 through February 18, 2008. I am scheduling a hearing on March 3, 2008 at 1:00 pm to investigate your failure to substantiate your use of paid sick leave.
>
> In preparation for that hearing, I recommend that you familiarize yourself with Section 21 of the Collective Bargaining Agreement regarding your rights to APA Representation.[44]

These three letters immediately precede invocation of a Section 21 disciplinary hearing. The Association says that, in this process, the Company violates Section 21.B.1, Section 21.B.2, Section 21.B.3 and Section 21.B.4.[45]

---

[43] *See, e.g.,* APA Ex. 96.

[44] APA Ex. 94.

[45] *See* p. 8-9, *supra.*

APA contends, among other things, that the above-referenced letters constitute discipline, that they have been placed in pilots' files improperly and that, in this process, the Company has begun an investigation without knowledge of the pilot, input from APA or any opportunity for the pilot to defend himself.

These claims lack merit, for the following reasons. Section 21.B – Investigation and Rights of Representation – speaks to a variety of protections pertaining to the Section 21 investigatory hearing, none of which are violated by the procedures here complained of. Section 21.B.1 says a pilot must be given an opportunity to meet with the Flight Department supervisor prior to the Company rendering a decision on discipline. The Section 21 hearing provides precisely that opportunity and, at the time of execution of these letters, no decision with respect to discipline has been made.

Under Section 21.B.2, the Pilot is entitled to an Association representative, or another representative of his or her choice. Nothing in these letters deprives the pilot of that right. Moreover, the Notice of Hearing letter specifically advises the pilot to consult Section 21 with respect to their rights to APA representation. Section 21.B.4 requires the Company to notify the pilot and the Association of the purpose of the investigation; this has been done by notifying the pilot he or she had not substantiated their use of paid sick leave and that the Section 21 hearing was being scheduled, in the words of the above-cited document, "to investigate your failure to substantiate your use of paid sick leave."

Citing Arbitrator Harris' ruling that "Section 20 is not a disciplinary action. It is an investigative section created to make a determination of medical condition."[46] APA claims that "with that backdrop, the 'investigation and rights of representation' of

[46] APA Post-Hearing br., citing Jt. Ex. 2, at p. 10.

Section 21 apply."[47] They do not. Section 21 deals with disciplinary matters and, as clearly indicated in the above quotation "Section 20 is not a disciplinary action." That tenet is central to the Harris decision.

APA also questions the appropriate scope of the Section 20 process. It says the exam has, universally and consistently, been confined to relatively perfunctory inquiries that are utilized for the normally straightforward purpose of determining whether a pilot is fit to fly, according to the FAA. And, from the evidence, this is clearly the case. That, however, does not resolve the question of whether that is the only purpose to which that process may be directed. Section 20 itself suggests a broader potential. Subsection A says, " The purpose and object of any Company physical examination for a pilot, shall be *to diagnose the true and actual physical condition of the pilot*..." The Association directs the Board's attention to the first sentence of Subsection B, which says that "Physical standards for Company physical examinations will be those standards set forth in the FAA Regulations as being required to maintain a first class FAA medical certificate...." From this, APA concludes there may be no more profound inquiries.[48] Surely, this language is responsive to the contemplated purpose of the examination – FAA Physicals – at the time the language was being drafted. But that cannot reasonably be seen as foreclosing other questions that may be consistent with the stated goal of subsection A – diagnosing a pilot's " true and actual physical condition", even though those precise inquiries might be for a purpose unrelated to the FAA licensing procedure.

---

[47] APA Post-Hearing br., p.42.
[48] Testimony by various witnesses describe the examination as, basically, "Can you see? Can you hear? " etc."

That, too, was Arbitrator Harris's conclusion when he wrote that "Although Section 20 is entitled 'Physical Examinations' it is clearly intended to verify, for the Company, the nature and extent of any medical problem a pilot may indicate he or she has, and which the Company questions.[49] ... Section 20 clearly gives American the right to call a pilot in to submit to a physical examination where '...in the Company's opinion...his health or physical condition is appreciably impaired....'".[50] But, says the Association, the revised and markedly expanded forms provided pilots under the current sick leave policy are unnecessarily intrusive. Reasonably stated, however, the Company's right to inquire as to the nature and extent of "any medical problem" is consistent with the Company's right to determine the procedures to be utilized.[51] However,, the failure of a pilot to supply information that is in no way related to the claimed injury cannot fairly be regarded as failing or declining to respond to the Company's request for substantiation.

APA also claims that, inasmuch as a pilot may be punished for falsification or misrepresentation on the Section 20 medical form[52] the physical examination is investigatory in nature and the Company has violated the labor agreement by failing to afford union representation or advise the pilot of that right. It cites the "Miami Representation Cases"[53] wherein the Arbitrator concluded that, when the Chief Pilot, during a conversation with a Flight Engineer, began to discuss the Flight Engineer's own

---

[49] Opinion, p. 11. The Board went on to observe that Section 20 provides for a dispute resolution procedure in the event of a difference of medical opinion; in this manner, disputes of this nature can be resolved prior to any other issues arising.

[50] Opinion, p. 12.

[51] Section 20.B, p7, supra.

[52] That form includes the warning that, "FALSIFICATION OR MISREPRESENTATION IN RELATION TO THIS DOCUMENT MAY BE GROUNDS FOR DISCIPLINARY ACTION UP TO AND INCLUDING DISMISSAL." (*See* Union Ex. 56.)

[53] In Re *Allied Pilots Association and American Airlines, Inc.*, Case Nos. P-01-02; P-03-02; and P-04-02. (2002, Arb. Douglas).

sick leave problems, that exchange converted the meeting into a Section 21 investigation during which the pilot was entitled to representation.

The facts of that incident, however, differ substantially from those here at issue. According to the Opinion, the inquiry in the Miami case was being conducted by the Chief Pilot – the individual imbued with disciplinary power – and the discussion clearly placed the Flight Engineer in some jeopardy of discipline. That is clearly not the case during the non-disciplinary Section 20 examination. It is true that falsifying the form in question might lead, in the appropriate circumstances, to disciplinary consequences. But that is often the case with respect to a wide variety of signed documents in the course of employment. That fact alone does not convert the surroundings into a Section 21 disciplinary investigation. Concluding, as we do, that Section 20 is a non-disciplinary process, and that evidence concerning sick leave usage may be discovered in Section 20 but must be utilized, if at all, through the disciplinary procedures of Section 21, it follows that the claimed right to union counsel in Section 20, as urged by APA, does not exist. That material gathered (or not gathered) in Section 20 may ultimately serve to support an abuse case against a pilot in a Section 21 proceeding does not lead to the conclusion that a pilot may demand the presence of a representative during a medical exam that Arbitrator Harris characterized, properly, as "non-disciplinary in nature."[54]

Similarly, the Association's argues that a pilot's entitlement to relevant documentation[55] constitutes a violation of Section 21, since he is not receiving it in the Section 20 examination. APA also says the pilot is being deprived of the ability to cure or appeal a Company doctor's findings, as provided for in Section 20.D. Nothing in the

---

[54] Harris Op., p.12.
[55] *See*, generally, § 21.A.1 *et seq.*

record, however, supports the claim that the pilot is somehow entitled to Section 21 protections in the Section 20 proceeding, and there is no evidence that a pilot os somehow deprived of the opportunity to request other medical opinions following the Section 20 inquiry.

Summary

While the Board's decision in this case is not unanimous, we are agreed on certain important principles. First, sick leave is for sick. Proven misuse of the benefit can result in loss of the benefit as well as resulting in appropriate levels of discipline up to and including termination. Despite the extended discussion of Section 20 in the Opinion, it should be made clear that the use of the Section 20 processes is not required for any and all fraud cases; its use is only required in the context of non-disciplinary production of medical information, as exhaustively discussed in the Harris case.[56] All this means, in practice, that a pilot who is absent for 30 days or more may be requested (not ordered) to supply medical documentation to the Medical Department. Transmission to the pilot of an Invitation letter would be consistent with such a request. Should the pilot refuse or fail to produce such documentation, the Company may order him or her to report for a Section 20 physical examination. It may be that the pilot is unwilling or unable to produce written documentation during the Section 20 examination. If so, it is probable the Medical Department will report that fact. At that point, management may decide whether to proceed with a Section 21 disciplinary process. And, its decision on whether to proceed farther, denying the pilot the benefit of the sick leave or otherwise, will likely turn on its judgment on whether grounds exist to

[56] Thus, for example, the Company may choose to discipline a pilot who has claimed a broken leg but who is observed playing in a football game on a claimed sick day without invoking Section 20, assuming the Company opts not to solicit a medical examination.

believe the pilot has misused the leave. Management may well choose to accept a pilot's verbal recitation of treatment received and conclude that no discipline and no docking is appropriate, notwithstanding the absence of any written verification. On the other hand, in the case of an individual whose behavior is characterized by a wholesale lack of cooperation, whose history gives rise to questions of good faith compliance, or where the facts of the case reasonably raise suspicions, the lack of written documentation may stand as yet another indice of misconduct. The judgment on these elements will necessarily be made on a case-by-case basis and resolved finally, if necessary, by a System Board of Judgment. The conclusion in this case is limited to the finding that the failure to supply written verification, taken alone, cannot be considered grounds for denial of the benefit or for discipline.

Without question, imposing a written documentation requirement as a precondition to the benefit is simpler, manifestly more efficient, and it avoids the difficult and inevitable judgment calls based on the limitless range of individual facts. But, however expeditious this result may be, it is one, we conclude, that the parties declined to adopt in their labor agreement or apply in their practice for over 40 years, as discussed earlier. These are the reasons we conclude that written verification, to be achieved, must be bargained, and not unilaterally implemented under the aegis of a policy change.

The Harris award focused on what it considered an unwarranted "invasion of pilot privacy without showing of cause"[57] by demands for medical substantiation in circumstances that are "demeaning and unnecessary."[58] That Board was concerned with

---

[57] Harris Op., p. 12.
[58] *Id.*

the Medical Department policing pilot sick leave and reminded the parties that the task of supervising pilots is properly ensconced in the Flight Department. And, that Board concluded, emphatically and repeatedly, that, where questions exist as to a pilot's use of sick leave, the pilot and the Chief Pilot need to first try and resolve the matter. That profoundly important observation mirrors the expected and essential relationship at a base.

According to the record, no pilot has ever been disciplined for failing to supply written medical documentation. However, numerous pilots have been automatically denied eligibility for sick pay coverage solely on the basis of their having been out for more than 30 days or more and not supplying written verification satisfactory to the Company. Because we find that the RSP effectively modified the eligibility requirements of the labor agreement by adding a verification requirement where none currently exists, the appropriate remedy is to grant the Association's request for a cease and desist and to make affected pilots whole by ordering the return of sick pay denied. The Board will retain jurisdiction to resolve disputes arising in the course of implementing this Award.

AWARD

1. The RSP violates the 2003 Agreement to the extent indicated above. The Company is ordered to cease and desist from imposing the across-the-board written verification requirement based solely on an illness or injury absence of 30 or more days.

2. The Company must make whole affected pilots by restoring sick pay improperly withheld or docked as a result of the RSP and reduce accrued sick bank hours accordingly.

3. Medical documents provided in response to disciplinary threats to be returned to the pilots within 30 days of this Opinion. For purposes of this Opinion and

Award, we hold that the "Directions Letter" contained the threat of discipline.[59] The "Invitation Letter," on the other hand, [60]did not.

4. Any written or electronic records relating to or leading to the recouping or docking of pay shall be removed from all relevant personnel and other files.

Additional requests for relief are denied.

Richard I. Bloch, Esq.

Steven Hoffman, Esq.
Association Appointed Member

Tom Westbrook
Association Appointed Member

Lydia Bacon
Company Appointed Member

John Conrad
Company Appointed Member

May 13, 2009

[59] See APA Ex. 96.

[60] See APA Ex. 31.

APA Exhibit 422

BEFORE AMERICAN AIRLINES, INC. – ALLIED PILOTS ASSOCIATION SYSTEM BOARD OF ADJUSTMENT

IN THE MATTER OF THE ARBITRATION BETWEEN **ALLIED PILOTS ASSOCIATION,** ("APA" or "Union") AND **AMERICAN AIRLINES, INC.** ("AA", "Airline", "American" "Company" or "Employer") Hill Presidential Grievance No.: P-15-08 Arb. Case No. 08-047	**HILL PRESIDENTIAL GRIEVANCE (FREQUENT AND PATTERN SICKNESS)** (Claimed improper Frequency and Pattern Sick Leave Policy ("FPP"); issue of whether there exists a unilateral implementation of FPP Policy or merely a Company internal administrative process to make consistent the Chief Pilots' managerial right to contact Union employees to discuss use of Sick Leave Policy; Due Process Right to Have Policies Issued In Writing; issue of whether process involves discipline and imposes an improper medical verification requirement for use of paid sick leave benefit). **OPINION AND AWARD**

Union Members

Captain Tom Westbrook
Vice President
O'Connell Building
14600 Trinity Blvd., Suite 500
Fort Worth, TX 76155-2512

Steven K. Hoffman, Esq.
James & Hoffman
1101 17th Street, N.W.
Suite 510
Washington, DC 20036

Employer Members

Captain John C. Conrad
Chief Pilot - DFW
American Airlines
P.O. Box 619047, MD 1146
Dallas/Ft. Worth Airport
Fort Worth, Texas 75261-9047

Rose Doria
Managing Partner
Barrett Doria Partners LLC
5736 Whispering Trail
Galena, OH 43021

Neutral Chair

Elliott H. Goldstein

Appearances:

On Behalf of the Union:

Tricia E. Kennedy, Esq., Allied Pilots Association
Bennett Boggess, Esq., Allied Pilots Association
Captain Frederick R. Vogel, Pilot, Witness
Captain James G. Sovich, Pilot, Witness
Captain Edwin White, Jr., Pilot, Witness
Captain Douglas Gabel, Pilot, Witness
First Officer Mike Karn, Pilot, Witness
First Officer Mike Lackovic, Pilot, Witness
Captain Ronald Hunt, Pilot, Witness

On Behalf of the Employer:

Thomas J. Kassin, Esq., American Airlines, Inc.
Gregg M. Formella, Esq., American Airlines, Inc.
Captain Jeffery B. Osborne, Chief Pilot, Witness,
Rhonda Theuer, Human Resources, Witness,
Marsha Reekie, Registered Nurse, Witness
Captain David Andre, Director of Flight, Witness
Dennis Newgren, Employee Relations, Witness
Mark Burdette, Employee Relations, Witness

I. INTRODUCTION

The hearing in this case was held on December 3, 4 and 5, 2008 and January 19 and 20, 2009 at Flagship University, Fort Worth, Texas before the undersigned members of the System Board who were appointed by the parties to render a final and binding decision in this matter. At the hearing, the parties were afforded full opportunity to present evidence and argument as desired, including an examination and cross-examination of all witnesses. A 948-page written transcript of the hearing was made. After post-hearing briefs were received from the Employer and the Union on June 25, 2009 and July 1, 2009, respectively,

the record was deemed closed. An executive session of the Board was held on September 1, 2009 at the APA's offices in Fort Worth, Texas. Both parties stipulated at the hearing to the Board's jurisdiction and authority to hear this case and to issue a final and binding decision in this matter.

II. RELEVANT CONTRACTUAL PROVISIONS

Section 21 of the 2003 Agreement

A. Discipline

In recognition of the mutual interest by the Association and the Company to assure that the very highest standards of Pilot conduct and performance are maintained, and acknowledging the Company's obligation to timely investigate allegations of misconduct while balancing the Association's obligation to fairly represent the Pilots, the Company and the Association have reached the following understanding regarding the Company's disciplinary program for Pilots and the Association's rights of representation.

1. Disciplinary Program

a. It is understood and agreed that the Company will have the right to maintain and administer a disciplinary program for Pilots and that the Company may in the future revise, modify, rename, or otherwise change its disciplinary program, solely at its discretion, provided prior written notification is given to the Association and such changes are not in violation of the provisions of the Agreement.

b. It is understood and agreed that the Company's disciplinary program will not contain any procedure or step which will require a Pilot to waive the contractual right to grieve an action taken by the Company, as provided under the Agreement. The parties recognize that the initial discussion, as defined in 21.A.1.g below,

with an employee does not constitute discipline or a step in the disciplinary procedure.

c. In response to the Association's expressed concerns relative to the disciplinary letters in Pilots' files, the Company agrees that disciplinary letters or advisories issued to Pilots under the provisions of the disciplinary program will be removed from the affected Pilots' files not later than two (2) years following the date of issue.

d. It is understood and agreed that discussion records, which are currently referred to as CR-1 entries, would be entered in and will be maintained as a permanent part of a Pilot's Company personnel file; however, no advisory or disciplinary letter will refer to any adverse CR-1 entries in the discussion record entry which was made more than two (2) years prior to the issuance of said advisory or disciplinary letter.

e. In accordance with Section 24.B of the AA/APA Agreement, the Company will notify a Pilot each time an entry is made on the Pilot's discussion record and the discussion record will be available for inspection by the Pilot during business hours. Further, in response to any discussion record entry, a Pilot may provide a written rebuttal which will be attached and become a part of the discussion record.

f. The purpose of any Company discipline is to correct a Pilot's behavior and/or performance.

g. The Company will not normally impose discipline upon any Pilot until a step process effort has been made to correct a Pilot's behavior and/or performance. An entry in the discussion record (currently a CR-1 entry) of a non-disciplinary verbal advisory will include a record of the Pilot meeting and specific information concerning the behavior or performance in question, but not such detail as would constitute a written advisory. The Pilot or the Association may, at either's option, provide a written response, rebuttal or addendum.

The discussion record and the Pilot's or the Association's response, rebuttal, or addendum can be referred to for no more than two (2) years from the date of the issuance of said discussion record.

h. The following steps will constitute the disciplinary program for Pilots:

(1) The first step will be a written advisory which will include specific information concerning the behavior or performance in question, any corroborating evidence, and a record of the Pilot meeting. The Pilot or the Association may, at either's option, provide a written response, rebuttal or addendum. The written advisory and the Pilot's or the Association's response, rebuttal, or addendum will be considered part of the first step, which will reside in the personnel file or record for no more than two (2) years.

(2) The second step will be a Letter of Discipline which will include specific information concerning the behavior or performance in question, any corroborating evidence, and a record of the Pilot meeting. The Company may proceed to the second step should the Pilot have another occurrence documented under A.1.h.(1) of this Section during the time in which a first step written advisory as described in A.1.h.(1) is still in the personnel file or record. The Company may consider and implement other forms of corrective action. The Pilot or the Association may, at either's option, provide written response, rebuttal or addendum to the Company's file or record.

(a) The parties recognize that there are certain serious infractions that may result in termination or other discipline without prior steps.

(b) The Company will weigh the positive attributes of the Pilot's employment history when considering whether or not a Pilot should be disciplined, suspended, or terminated.

i. The Company will maintain no more than one discussion record in a Pilot's personnel file and will maintain nor more than one (1) personnel file or record for any Pilot that can be used for disciplinary purposes. A Pilot will be advised immediately if any material, notation, entry or otherwise is placed in or removed from such personnel file or record. Such file or record will be available for inspection by the Pilot at the Pilot's domicile during normal business hours. At the Pilot's request, an Association representative may be present and be permitted to view the Pilot's file.

j. Nothing in this Section shall be construed as requiring or otherwise forcing the Company to impose discipline upon a Pilot at any time.

B. Investigation and Rights of Representation

1. A Pilot shall not be disciplined or dismissed from service with the Company without an investigation and written notification of such action, including the precise charge(s) and an explanation for any action taken. A Pilot shall be provided with an opportunity to meet with that Pilot's Flight Department supervisor prior to the rendering of the Company's decision with regard to discipline or dismissal.

2. A Pilot shall be entitled to Association representation, or the Pilot may elect to be represented by another Company employee of the employee's choice, at any meeting with the Company for the purpose of (1) investigating a matter which may result in discipline or dismissal, or (2) at which a written statement may be required, or (3) of sufficient importance for the Company to have a witness or more than one supervisor present. In any case, if a Pilot does not wish to have Association representation, the Association reserves the right to have an observer present and the Company has an

affirmative obligation to inform the Association in a timely manner about such meeting.

3. The Company will advise the Pilot that s/he is entitled to Association representation at the time of the investigative meeting/hearing is scheduled.

4. Prior to any investigation, the Company will notify the Pilot and the Association of the purpose of the investigation, and make available relevant documentation including the specific charges and statements. The Company may in cases involving harassment allegations require employees of the Company to sign non-retaliatory confidentiality statements prior to reviewing statements. Further, the Company may redact names and other personal identifiers at the preliminary investigative proceeding. It is understood that should the matter proceed to the System Board, the Company will provide the Association such statements without redactions.

* * *

Also cited by the Union as being relevant to this dispute are Section 5.A., Section 10, Section 11, Section 20, Section 21 and Supplement F to the parties' 2003 Labor Contract. In the interest of brevity, these contractual provisions are merely referenced and not quoted out in full.

III. SUMMARY OF THE CASE

At issue is the propriety of what the Company has characterized as an internal administrative process set up by it to address in a consistent manner certain Pilot sick leave issues. The Company understands that the Union has characterized this "internal administrative process" however as an unwritten Company attendance policy, that the APA has also

consistently identified it with two formal written policies concerning other attendance issues involving bargaining unit Pilots which Management concedes were promulgated at about the same time as the now-grieved internal administrative process set up by Management in 2006 through 2008, and that these policies have been overturned in arbitration. The Company firmly believes, on the other hand, that those aspects of its internal frequency and pattern monitoring process are within its Management rights and do not similarly violate the parties' Labor Contract.

Both parties acknowledge that the two formal written policies on attendance and sick leave issues just mentioned (the "NSP" and the RSP") have already been found improper and violative of the parties' 2003 Labor Agreement in two recent System Board of Adjustment arbitrations. See the System Board of Adjustment decision in Case No. P-12-06 (Hunter Presidential Grievance -- New Sick Leave Policy) (Robert D. Harris, Chair, decided on January 18, 2007); and System Board of Adjustment decision in Case No. P-01-07 (Hunter Presidential Grievance -- Revised 30-Day Sick Leave Policy) (Richard I. Bloch, Chair, decided on May 13, 2009). Again, the parties are in absolute conflict over the applicability of the Harris and Bloch awards ("Harris award" and "Bloch award") to the instant case.

In the current case, Management strongly argues that placement of a Pilot on a list so as to scrutinize patterns or frequency of paid sick leave usage, and having a telephone contact with the Pilot discussing the issue, is an administrative action completely within the purview of a Chief Pilot's supervisory authority. Consequently, says the Company, a Pilot placed on this list is not entitled to a Section 21.B. Hearing since no discipline, but only monitoring, has actually occurred. The fact that the Chief Pilot then memorializes the telephone contact in the Pilot's personnel record with a Permanent Entry History ("PEH") and sends the Pilot a letter repeating what was discussed on the phone, (both of these permitted non-disciplinary actions) cannot be essentially construed as discipline triggering the Section 21 mechanism, the Employer goes on to contend.

In turn, the Union strongly disagrees with these Company positions. It believes this Presidential grievance (the "Hill Presidential grievance") raises many more questions of Management wrongdoing than just the three elements of the "internal administrative process" (namely, (1) the Watch List, (2) the telephone contact without Union representation, and (3) the PEH and confirming letter sent to the Pilot) that Management apparently now is willing to arbitrate. The Union asserts the entire frequency and pattern policy ("FPP") applied since 2007

is properly before this System Board and that the broad reach of the Hill Presidential grievance has always been binding in the processing of this case. The Union further argues that if any Pilot is (a) placed on the Watch List; (b) then contacted by the Chief Pilot to give the Pilot notice that his future use of paid sick time must be supported by medical verification given to the Company's Medical Department; and (c) warned that disallowance of the paid sick time and docking of pay are imminent, then such Pilot is actually "disciplined" by a demand for medical verification, and then docked pay for disallowed sick time, the parties' contract has been breached.

Furthermore, the requirement of a doctor's excuse for some Pilots and the docking of their pay are clearly also discipline forbidden by the Harris and Bloch awards, the Union contends. What Management has done is to create an impermissible unwritten policy (the "FPP") that is wholly outside the parties' Labor Contract, past practices, and general arbitral precedent, concludes the Union.

At the outset, the Employer emphasizes that the actual process as currently implemented is that the respective Chief Pilots are trying to reduce suspicious and unusual patterns or frequency in sick leave use by the Pilots they supervise. In particular, for purposes of this case, Pilots who are at the extreme upper end of the scales in terms of their frequency or

their pattern of sick usage become a focus for the Chief Pilots' interest in a more organized way than was formerly the case, says American. This attention to a particular Pilot's attendance situation is done without any discipline or even questioning of that Pilot regarding his or her prior absences, the Employer further strongly emphasizes.

Additionally, to the Company, the internal administrative procedure at issue now was begun in 2007 only to provide a more organized way for the Chief Pilots to exercise their acknowledged existing managerial responsibilities to monitor attendance and paid sick leave use. Such supervisory review of sick leave usage has been consistently recognized by general arbitral authority and by the Harris and Bloch awards, as well as another recent American-APA System Board of Adjustment decision chaired by Arbitrator Douglas that dealt with when a Section 21 investigation for perceived sick leave issues begins. See the System Board decision in Case Nos. P-01-02, P-02-02; P-03-02; and P-04-02 (Robert Douglas, Chair decided on November 30, 2002 (the "Douglas Award").

Significantly, concludes the Company, its internal administrative process by the Chief Pilots for checking on their Pilots' "unusual" sick leave frequency or pattern usage now under review, at least in part, is contractually permissible, based on the reasoning of the Douglas, Harris and Bloch awards;

stands wholly apart from the negotiated Section 21 mechanism for discipline quoted above, including the provisions for investigation of sick leave use and for the prevention and correction of sick leave abuse; and finally the internal process is also fully consistent with the parties' past practices.

There is no contractual violation in this informal administrative process, whose details will be fleshed out below, the Employer therefore urges again, since no discipline is involved in the monitoring and review of sick leave use or in the contacts by the Chief Pilots with the Pilots they directly supervise about frequency or pattern issues, this System Board is told.

The Union, on the other hand, believes that what the Company has described as merely an informal and discretionary internal administrative procedure for monitoring sick leave frequency and unusual patterns is instead absolutely a formal attendance policy that should have been put in writing, with proper notice to the APA and the bargaining unit Pilots. Moreover, the "FPP" is a thinly veiled attempt to circumvent the negotiated Section 21 provisions of the Labor Contract as those provisions relate to the investigation and discipline of Pilots for sick leave abuse, by the addition of a medical verification requirement where no such requirement exists in the 2008 Collective Bargaining Agreement, the APA claims.

This improper "policy" which the Union calls the Frequency Pattern Policy ("FPP") therefore should have been implemented only after negotiations and agreement by the Union and Company to written and ascertainable standards, the Union avers. The record evidence, without doubt, establishes no agreement by the APA for the implementation of the FPP, the Union stresses.

Since both parties agree that the process or procedure now at issue was not so implemented through the promulgation of a written policy and negotiation and agreement to it by the Union, the core contractual violation is established by that very fact alone, the Union submits. Moreover, the FPP is obviously disciplinary because it adds a requirement for a "doctorship" or medical verification for paid sick leave use that has never been permitted by the parties' Labor Agreement nor by its past practices, the Union submits.

The System Board recognized that any effort to condense in this Opinion the Union and Employer's disparate interpretations and assumptions about the precise nature and scope of the "FPP," as the Union calls it, or the "internal administrative process," as Management would have it (as it was developed and implemented since 2007, as presented in the 948 pages of transcript, in the 102 exhibits introduced, and in the parties' extensive post-hearing briefs), must necessarily not reproduce each fact that highlights the parties' completely different "takes" on

what is in dispute. The lack of mention of a fact or argument does not mean this Board did not consider it. It merely means that to keep this Opinion and Award to a reasonable length, only the most important testimony is specifically referenced.

IV. ISSUES PRESENTED

The parties obviously have not agreed to a submission statement in this case because of their very different perceptions as to the issues raised by the current grievance. The Union posed the following issues at hearing:

- Whether the Company's Frequency/Pattern Sick Policy violates the Collective Bargaining Agreement dated May 1, 2003 (the "2003 Agreement"), including but not limited to §5, §10, §11, §12, §21, Supplement F, and all related sections, and/or the past practices established by the parties, and/or arbitral law. If so, what is the appropriate remedy?

- Whether the unilateral implementation of the Company's sick occurrence policy denied Pilots' rights of representation. If so, what is the appropriate remedy?

The Employer, on the other hand, emphasized that it has only consented to the submission of three specific issues to this System Board of Adjustment:

- Does American have a Management right to have its Chief Pilots:

  (a) contact Pilots who have recently used paid sick leave in an unusual way –such as unusually frequently, or in a pattern – to remind them about potential assistance that American's Medical Department can offer them and to inform them that ***future*** sick calls (***not*** any prior ones) might result in a request that they medically

substantiate that future absence, ***without*** that contact being a Sec. 21.B.2. "meeting" (at which a Pilot would have a right to representation)?

(b) provide such Pilots with a written summary of the above-referenced contact (setting forth the reminder and other information in a letter which is non-disciplinary)?

(c) make a "Personal Employment History" ("PEH") note, which is non-disciplinary, for the Pilot's personnel file regarding the above-referenced contact?

The Company makes the strong argument that it has not agreed to the submission of any other issues to this Board and has objected to the submission of any other issues by the Union. Despite the Employer's strenuous objection, the issues as framed by the Neutral Board Member are broader in scope than the Company would have it, since the question of whether the internal administrative process is a policy underlies many critical aspects of this case. That is certainly an issue that must be resolved in the instant dispute. Further, as both parties effectively have recognized in their briefs and arguments, the System Board decisions in the cases chaired by Arbitrator Robert O. Harris and Richard I. Bloch cited above are so intertwined with the historical background and merits of the subject case that this Neutral is convinced their applicability -- one way or the other -- must be considered a separate and significant issue to be resolved by this Board, too.

Finally, the question of whether the entire monitoring and contact process, including the requirement of "future presentation of medical verification" for certain Pilots subject to scrutiny, then the later actual imposition of medical verification for sick leave use for some Pilots, is a violation of the parties' Labor Contract.

V. THE FACTS

A. The Employer's Attendance Policy and Federal FARS Requirements.

American has a long-standing written attendance policy that calls on employees to have regular and predictable attendance and to take reasonable steps so as to be able to report to work, which includes taking precautions against illness and maintaining reasonable health standards. This specific Employer attendance policy with its general requirement for employees to be regular in their attendance is not at issue in this case, the parties agree.

To the Union, the Federal Aviation Regulations ("FARS") has significance at least as a matter of background in this dispute. The FARS are a comprehensive body of regulations governing various aspects of aviation including the medical standards a Pilot must maintain. According to the FARS, commercial Pilots must maintain a Medical Certificate issued by an Aviation Medical Examiner. Although the Medical Certificates

are valid for the designated timeframe, a Pilot is duty bound, pursuant to the FARS, to assess whether he can exercise his Medical Certificate in a particular circumstance, the Union notes. Importantly, the Union explains that the FARS require that a Pilot must self-assess whether he is fit for duty and able to exercise his or her Medical Certificate before he operates the aircraft and while he or she is operating the aircraft. Indeed, says the Union, pursuant to FAR 61.53, a person:

> [S]hall not act as a Pilot in command or in any other capacity as a required Pilot flight crewmember, while that person (1) knows or has reason to know of any medical condition that would make the person unable to meet the requirements for a medical certificate . . . or (2) is taking medication or receiving other treatment for a medical condition that results in a person being unable to meet the requirements for the medical certificate. . .

The result of this federal self-assessment requirement for commercial Pilots is that each of American's Pilots must, on his or her own, consider whether he or she is suffering from an illness, on medication, under undue stress, has recently consumed alcohol or is fatigued or emotionally unfit for duty every time a Pilot flies for the Company.

It is the responsibility of each American Pilot to decide whether he or she is fit enough to operate a commercial aircraft. That obligation of each bargaining unit Pilot historically has been recognized by the Company and, in fact,

has resulted in bargaining unit Pilots covered by the parties' 2003 Labor Agreement having different rules governing their attendance and their permitted use of sick leave benefits from other employees of the Company, the Union stresses. The bargaining history is such that there simply is no doubt that it is not permitted to have a routine duty to supply medical verification to substantiate sick leave use in order to have requested leave time paid, Arbitrators Harris and Bloch determined in their respective precedent System Board decision, the Union then contends. See Union Exhibit 12 and Union Group Exhibit 61.

Of specific significance, insists the APA, it and the Company have negotiated provisions governing Pilot sick time that require Pilots who are suspected of sick leave abuse to be investigated under the Section 21 mechanism quoted above. This recognized history and practice, going back to the 1960s, exempts bargaining unit Pilots from any formal Company policy forcing them to provide doctors' notes to justify their specific use of paid sick time outside the rubric of the Section 21 disciplinary process. That is unlike Company requirements for virtually all other Company employees, the Union again emphasizes.

B. Pilots' Increasing Use of Sick Leave Over Time, and American's Response Beginning In 2006.

The genesis of this case was the "Restructuring" Labor Contract of 2003, several witnesses testified in this case. After this "recessionary" Labor Contract, which contained significant Pilot give-backs in salary and benefits, the facts of record establish that the Employer began to notice what it considered a significant and worsening Pilot paid sick leave usage rate. The witnesses for the Employer in fact asserted that, after 2003, "sick leave usage had been increasing year after year." Tr. 478) (testimony of Managing Director for Systems Operations Control Jeffrey Osborne).

For example, testified Captain Osborne, the sick rate among American's Pilots was deteriorating relative to the industry, so that by 2005, the overall Pilot sick rate had become the highest among the 10 major airlines. (Tr. 478-481). Captain Osborne further testified that, to address the costly and unexplained increase in sick time usage, American took a series of steps in 2006 and 2007 to bring the paid sick leave usage rate back to the industry norm. These methods implemented by the Company to correct or reduce attendance issues have been strongly challenged by the APA and the Pilots, the parties agree.

Particularly in 2006 and 2007, the Company unilaterally implemented two formal sister policies concerning Pilots' use of sick time.[1] Each policy required the Pilot to provide a doctor's note (upon differing triggering events) to AA Medical, as the Union sees it. The Employer suggests that the current grievance does not properly involve any issue with respect to medical verification of sick time, as already indicated, because only a telephone contact without a demand for a doctor's excuse, a summary letter of the telephone contact, and a PEH about what was said in the contact that is placed in the Pilot's personnel file are at issue at present. None of these actions are discipline, the Employer further maintains.

C. How the Contested Internal Administrative Process Works.

The Company did not summarize in writing the "internal process" for monitoring frequency or pattern attendance issues for its Pilots after it began to strengthen its scrutiny of them, nor did it inform the Union of the newly emphasized administrative review procedure for "FPP" issues prior to its implementation, several witnesses testified. Neither did it ever provide a written version of any FPP attendance policy to the APA upon its request, the record evidence certainly also

[1] The sister policies include: The New Sick Policy (implemented in June 2006 and struck down by Arbitrator Harris in December 2006 and what the Union calls the Newest Sick Policy (or NSP) implemented in January 2007 and struck down by Arbitrator Bloch in May 2009.

demonstrates. The Company did not publish the fact of a frequency or pattern internal administrative process on the Company's intranet, JetNet, either, we note. (Tr. 121). The Company also did not issue the administrative process in writing to its Chief Pilots, the evidence shows. (Tr. 275, 358-359). Its position that it merely strengthened supervisory scrutiny of potential abuse as one aspect of its inherent Management rights has remained consistent, the facts of record certainly establish.

The Employer's witnesses described the process and procedures implemented by it to correct what was thought to be suspicious sick leave use, as follows: at the request of the Flight Department, the Chief Pilots are periodically provided a list of Pilots who have unusually frequent or patterned absences. If a Chief Pilot sees on the list one of the Pilots from his base, the Chief Pilot: (a) telephones and/or writes to the Pilot and informs him/her of health resources available to Pilots and of the fact that -- in the possible event of future sick calls -- the future absence might result in a request that the Pilot provide medical documentation to substantiate his situation; (b) sends the Pilot a written summary of such a telephone call; and (c) makes a PEH record of the call. (Tr. 514-516, 658-659, 663-664 and 783-786).

To Management, the fact is that there is nothing new or unique about its having the right to simply "reach out to particular Pilots," on an individual basis, to discuss what the Chief Pilot perceives to be unusual circumstances or behavior of the Pilot, including with respect to attendance. What happened after 2005 was simply that American instituted an internal process so that Chief Pilots would be able to "more actively and effectively administer this right" in connection with Pilots who were making frequent or patterned sick calls in an especially unusual or curious way, the Employer asserts. The pattern issue is that absences are consistently connected to a holiday or weekend. The frequency issue is that an individual Pilot's absence rate is significantly higher than the other bargaining unit Pilots working for the Company.

Thus, in Spring 2007, the Company implemented the frequency and pattern sick leave internal administrative process at issue so as, the Company witnesses stated, "to monitor and address the sick leave usage of individual Pilots whose sick leave usage was frequent or in a pattern, such as calling in sick regularly over certain holidays or in conjunction with a vacation or military leave." (Testimony of Captain Osborne, Tr. 487).

One trigger for the development of an internal "uniform process" was, the Company claims, that even Pilots themselves

had complained that certain Pilots called in sick "in patterns," such as every Thanksgiving -- the complaining Pilots had to fly the trips to cover these absences. (Tr. 487-488). Of the Company's approximately 9,000 Pilots, about 400 had "extreme" frequent or patterned sick leave usage. (Tr. 490-491, 883-884).

The Union objects to the entire process and, essentially, to all its significant elements. It asserts that a Pilot placed on the Watch List; then contacted and told he or she may need a doctor's excuse for future sick leave use; and later required to produce reporting and medical verification or suffer disallowance of paid sick leave, has actually been disciplined. Section 21 thus should apply, including a right to a fair investigation (a 21.B. Hearing and the right to Association representation). To prove these contentions, the Union presented the following evidence.

According to Chicago Domicile Chairman Captain Ron Hunt "[i]n the beginning, the Pilot was placed on the Watch List, without his knowledge, and then we would receive a §21 notice of hearing."[2] The exact language of the Notice of Hearing varied, but the Notice for the frequency issues stated:

> Although a Pilot's failure to report for duty may well be due to legitimate factors such as an illness or injury of the Pilot, your frequency of absences is

[2] See Tr. 233. Copies of all of the Notices of Hearings are marked at Union Exhibit 6, 7, and 8.

> causing me concern.[3] In addition to a personal concern, I'm sure you can appreciate the adverse effect that employee attendance issue can have on the reliability of our airline and our customers – to say nothing of the impact on our fellow Pilots.
>
> I am scheduling a hearing on [specific date and time noted] to discuss my concerns regarding your frequent use of sick time. In preparation for that hearing, I recommend that you familiarize yourself with §21 of the CBA regarding your rights to APA Representation."[4]

These letters were copied to APA Legal and placed in the Pilot's personnel file.[5] As for the hearing portion, Captain Ron Hunt testified:

> I would talk to the Pilot. We would set up a convenient time to meet with the flight office to have the hearing. We would go into the flight office. We always met with Captain John Jirschelle, who is the Chief Pilot there. The meetings were fairly short. They would be 10 to 15 minutes in length. Captain Jirschelle would follow pretty much the same script that was given to him by HR. They always hit the very same points with each meeting, and that was, he would notify the Pilot that he's been placed on the watch list for his atypical use of sick time, in the company's opinion, and that would meet either frequency or pattern -- that would be either frequency or pattern use of the sick time. He would tell the Pilot that the company was concerned about their health. He would give them a sheet of paper that had resources that were available to the Pilot. This included the phone number of AA Pilot

[3] The Notices of Hearing (also in Union Exhibit 6) follow the same vein but note "a certain pattern of absences that you have had is causing me concern." Such letters also note that "Because of the pattern(s) you have had, I am scheduling a hearing to discuss my concerns with you." See Union Exhibit 6 (a Notice of Hearing dated November 27, 2007 to First Officer James McGovern from then MIA Chief Pilot Brian Fields).

[4] See Union Exhibit 6 (a Notice of Hearing dated October 5, 2007 to Captain Dale McCombs from MIA Chief Pilot Captain Tom Hynes). The Notices of Hearing for alleged pattern abusers followed the same line.

[5] See Union Exhibit 6. Some of the letters in Union Exhibit 6 were also copied to Nurse Marsha Reekie and Ms. Rhonda Theuer (HR).

> nurse Marsha Reekie. It included a phone number for dial-a-nurse program. There was information on where to go to find family medical leave. There was information about the employee assistance program, where to find more information about that. He would tell the Pilot that they were going to be monitoring his attendance from that point forward. They would give them a form that the Pilot would have -- if he was asked to justify his sick leave in the future, that he would have to have his doctor fill out and bring in.[6] They would always say that you may be asked to justify that sick use in the future. And we found out later that meant that they would. They would basically, you know, tell the Pilot that if we ask you, you have to provide this justification; and if you don't provide the justification or if it doesn't meet the standards that we're looking for, then they were subject to have their pay docked and their sick time would be returned to their bank. And then they would ask for any questions.[7]

The Miami Base, however, experienced something different according to the testimony of Domicile Chairman First Officer Michael Lackovic. Miami Chief Pilot Tom Hynes refused to let the APA Representatives participate in the telephonic hearings. According to Miami Chairman First Officer Michael Lackovic:

> There were a couple of variations that happened in -- occurred in Miami. Between Iteration 1 and 2, where it switched to phone calls, there was a handful of

[6] When these hearings initially began, APA and the Pilots asked the Company for clarification as to what would constitute sufficient information from their treating physicians to verify future sick use. After multiple inquires, the Chief Pilots included the form. See Union Exhibit 8 (letters from Chief Pilots to Pilots): "Since that hearing, we have had numerous Pilot inquires regarding the specific information required to substantiate an absence. In response, AA Medical has provided a form [entitled AA Pilot Medical Substantiation Form] to be filled out by your healthcare provider that includes all applicable information that would be required." That form included the exact information noted in: (1) the Company Supervisor Manuals governing the Flight Attendants/Ground Crew (Union Exhibit 19 at 6, 7, 9-12); and (2) the language of the CBAs for other employee groups on the property (Union Exhibits 20, 30, and 21).

[7] See Tr. 233-235.

> Pilots in Miami -- I want to say four or five -- that received letters that said this is an attendance discussion meeting and that no APA representation is required. The Pilots, of course, wanted APA representation. We started coordinating for those meetings to happen. The meetings eventually got canceled, never occurred; and they switched to the Iteration 2, where it became a phone call to these Pilots to discuss their attendance and to notify them that they were on the watch list. The other difference is, in Miami, we were never afforded the opportunity to be on those phone calls. The Union reps were cut out of the process completely at that time.[8]

After such telephone "contact calls," all Pilots received a "Follow up to Telephone Discussion Letter" that provided in part:

> As discussed during our telephone conference on [specific date] regarding your frequent or pattern usage of sick leave, I am providing you a list of resources available to you at American Airlines, Inc, designed to assist you with unusual circumstances or ongoing health issues.
>
> American is committed to being a leader in the air transportation industry. Consistent delivery of quality service to our customers is a team effort and requires all of us working together to achieve that goal. Being at work on time and doing our jobs every day also lessons the workload on fellow employees.
>
> Company Expectations:
> The Company expects that a Pilot should:
> Maintain reasonable health standards and take precautions against illness. (This includes obtaining medical attention as needed or appropriate.)
>
> Not permit minor indispositions or inconveniences to keep the employee away from work.

[8] See Tr. 411.

Attend to personal business at times outside of our scheduled working hours. (this includes consulting with medical provider(s) as needed or appropriate.)

** *

Medical Certificate Form/Medical Records

Also, I have enclosed a copy of the AA Medical Certificate form, as you may be asked to provide substantiation for ***future*** sick calls. This form is be filled out by you (Part I) and be completed by your healthcare provider(s) (Part II) and then be faxed to AA Medical by your healthcare provider within 15 days of the date of the request. Also, you would also be asked to have your healthcare provider(s) send the complete Medical Certificate form and copies of medical records relating to your condition that caused the absence period to AA Medical. (Records should include but are not limited to: office progress notes and treatment records, procedures notes, lab reports, diagnostic reports, narrative notes, treatment plans and all other relevant records.)

Some specifics to the process are as follows:

In the event you are asked to substantiate such a future absence, you will be sent a letter via FedEx along with an additional copy of the AA Medical Certification form.

The attempt to deliver to your address of record will be regarded as your receipt of those materials. . . . If you and your healthcare provider(s) were not to provide AA Medical with the substantiation as requested within 15 days of the date of that request, you then likely would be scheduled for a Sec. 21 Hearing that may result in your paid sick occurrence being converted to unpaid and the issuance of a disciplinary advisory.

Additionally, as stated during our conversation, the Company reserves the right to direct you to a physical exam pursuant to §20 of the CBA.

As a reminder, I would reiterate that American recognizes the Pilot's rights and responsibilities

> regarding health and fitness to fly. The Company respects the rights of a Pilot who is ill or injured to use sick leave to the full extent provided for in the CBA. In addition, Pilots remain subject to all applicable FARs relating to their ability to fly.
>
> As I also noted on the telephone, pursuant to Sec.21.A.1.i, I have made a PEH record of our telephone conversation, which also references this letter, and you have a right to submit a rebuttal to the PEH record.[9]

The AA Medical Certificate form noted in the letter is three pages and entitled, "URGENT MEDICAL CERTIFICATE."[10] Part I of the form states that the Pilot must "sign the following authorization:

> I hereby authorize my Physician or Health Care Provider identified below to complete and provide to American Airlines, Inc.'s Medical Department ("AA Medical"), as indicated below, all information as requested in Part II of this form – including medical information regarding myself – along with copies of pertinent medical records. Also hereby give permission to both (a) my Physician/Health Care Provider identified below and (b) a medical representative(s) of AA Medical to discuss with one another all information requested, and all information that my Physician/Health Care Provider provides, on or along with this form, for purposes of explaining or supplementing that information.[11]

Part II of the form requires the "Physician or Health Care Provider" to "provide below all information requested." That information includes:

---

[9] See Union Exhibit 52 (Follow-up Telephone Discussion letter dated April 25, 2008 to Captain Paul Lucia from MIA Chief Pilot); see also Union Exhibit 9 (a collection of the Follow Up Telephone Discussion letters in chronological order); see also Union Exhibits 44-59.
[10] See Union Exhibit 52 (emphasis in original).
[11] See Union Exhibit 52 (page 1 of the Urgent Medical Certificate).

> The date of any treatment provided to the Pilot;
>
> The diagnosis made by the doctor or health care provider;
>
> The treatment provided to the Pilot;
>
> Prognosis and duration of illness;
>
> Date the Pilot can return to work.[12]

The Urgent Medical Certificate also urges that the treating Physician "provide with this form a copy of the following medical records pertaining to any medical reason for which the Employee was absent from work on the date(s) specified above. Note that the inclusion of these medical records is considered essential to this process. . ."[13]

In addition to the letter quoted above, the Chief Pilots also places a permanent entry (PEH) into the Pilot's personnel file. MIA Captain Paul Lucia received this PEH in his file:

> CAPTAIN LUCIA,
> PER §21 OF THE CONTRACT, A PILOT EMPLOYMENT HSITORY [sic] ENTRY HAS BEEN MADE IN YOUR PERSONNEL FILE. THIS ENTRY IS A PERMANENT PART OF YOUR PERSONNEL FILE AND DOES NOT CONSTITUTE DISCIPLINE OR A STEP IN THE DISCIPLINARY PROCEDURE. IN ACCORDANCE WITH SECTION 24.B [sic] 21.B OF THE CONTRACT, YOU ARE HEREBY BEING NOTIFIED THAT THE ENTRY BELOW HAS BEEN MADE AND IS AVAILABLE FOR INSPECTION IN THE FLIGHT OFFICE DURING NORMAL BUSINESS HOURS. AS A MATTER OF RECOURSE IN

[12] See Union Exhibit 52 (page 2 of the Urgent Medical Certificate). It is important to note that the Urgent Medical Certificate demands that the Pilot provide the same information to the Company as noted in the Company Supervisor Manuals governing Flight Attendants/Ground Crew (Union Exhibit 19). Moreover, this is the similar information that is included the CBA for the Flight Attendants (see Union Exhibit 30) and CBA for TWU workers (see Union Exhibit 31). However, no such language is included in the Agreement between APA and AA, the majority of this Board notes.

[13] See Union Exhibit 52 (Urgent Medical Certificate at page 2-3).

> RESPONSE TO AN ENTRY, YOU MAY PROVIDE A WRITTEN REBUTTAL WHICH WILL BE ATTACHED AND BECOME PART OF THE EMPLOYMENT HISTORY.
>
> CAPTAIN RALEIGH DICUSSED PRECEIVED [SIC] FREQUENT USE OF SICK WITH CAPTAIN LUCIA. HE WAS INFORMED TO EXPECT THAT FUTURE SICK CALLS MAY REQUIRE SUBSTANTIATION, CAPTAIN LUCIA WAS ALSO REMINDED ABOUT RESOURCES AVAILABLE FOR HEALTH ISSUES, ETC. FOLLOW UP LETTER SENT TO CAPTAIN LUCIA ON 4/25/08.
>
> CAPTAIN LUCIA WAS INFORMED ABOUT THE INITIATION OF THIS PEH AND HIS RIGHT TO SUBMIT A REBUTTAL.[14]

Another piece of the Union's evidence involves Miami Captain Ted Furland. Captain Furland received a letter dated June 28, 2007, including the "required" language.[15] According to that letter:

> Dear Captain Furland,
>
> We met on May 17, 2007 to discuss your attendance. During that hearing you were notified that we would be observing your attendance going forward, and that you should expect that we would require you to provide medical verification to substantiate future absences attributed to illness or injury. I see that on June 27th you called in sick.
>
> Accordingly, consistent with company expectations for use of sick leave **I am requiring that you or your medical provider(s) submit to AA Medical, within ten (10) calendar days from the date of this letter, the written treatment records of your medical provider(s) and the following written information relating to your most recent absence:** [emphasis by this Union].
>
> Diagnosis
> Treatment including medications
> Results of Diagnostic testing
> Prognosis

[14] See Union Exhibit 52 (PEH dated May 2, 2008) (emphasis in original).
[15] See Union Exhibit 12.

> Expected return to date
> Expected return to work status
>
> Your documentation should be either faxed or post-marked, within ten calendar days of the date of this letter, to:
> . . . . .
> AA Medical will then review the information and/or follow up with you and your health care provider(s) as AA Medical may determine appropriate. As always, some conditions may require you to clear your return to work through AA Medical.
>
> . . . .
> If you are unable to provide the requested documentation as specified above or if what is provided to AA Medical is incomplete or is not determined by AA Medical to substantiate your absence, you may be subject to corrective action and/or the reversal of your paid sick to unpaid.
> . . . .
> If you have general questions about this letter, please contact my office, at 305-526-12230. If you have medical-related questions or concerns, please contact AA Medical's Marsha Reekie, RN, at 817-931-4260, or 1-800-555-2373, option 5. (Please note the 10 day deadline specified above applies regardless of whether the documentation is provided by you or your medical provider(s).[16]

However, showing American's inconsistency, says the Union, Miami Captain Paul Lucia received a letter dated May 19, 2008, which used the "request" language:

> Re: Request for medical substantiation of illness or injury
>
> Dear Captain Lucia,
>
> As you know, I have previously contacted you about my concern regarding your prior use of sick leave on a frequent or pattern basis. I advised you

[16] See Union Exhibit 44. Eventually, the Company docked Captain Furland's sick pay, the record evidence discloses.

> that, in the event of a future absence for sickness, you should expect that I may ask you to provide medication verification for your claimed illness or injury that caused the absence.
>
> Based on your recent sick call on May 5, 2008, **this letter is to request that medical substantiation for your resulting absence be provided by your health care provider(s) to AA Medical. Specifically, my request is that the enclosed Medical Certificate form be filled out by you (Part I) and then be completed by your healthcare provider(s) (Part II) and faxed to AA Medical by your healthcare provider. As part of this request, you are also being asked to have your healthcare provider(s) send the completed Medical Certificate form and copies of all medical records relating to your condition that caused the absence period to AA Medical. (Records should include but are not limited to: office progress notes and treatment records, procedure notes, lab reports, diagnostic reports, narrative notes, treatment plans and all other relevant records.)** In order for this request to be timely complied with, I would ask that you ensure that your health care provider(s) fax all of the requested information – including the fully-completed Medical Certification form and pertinent medical records as requested in the form – to AA Medical within 15 days of the date of this letter.[17]

At this point, several Union witnesses testified, the Company's Medical Department assessed the information the Pilot or his treating physicians provided to substantiate his/her sick use. If AA Medical was dissatisfied with the information, then the Pilot was subjected to further discipline, as the Union witnesses saw it, namely, docking of pay or a Section 21.B. Hearing. No Pilots have been directed to attend a §20 Physical

[17] To the Union, the information "requested" or "required in the letters in Union Group Exhibit 52. These letters track: (1) the language in the CBAs for the TWU (Union Exhibit31), APFA (Union Exhibit 30); and Eagle Pilots (Union Exhibit 20); and (2) the 1980's Supervisor's Manual governing Flight Attendants/Ground Crews (Union Exhibit 19), the Union argues.

Examination under this process, to date, the Union witnesses further asserted. And that is significant because §20 provides for an appellate process in the event there is a disagreement between AA Medical and the treating physicians, the Union adds.

Finally, if the Pilot did not provide a doctor's note -- or if what he provided was deemed insufficient -- then a §21 Hearing was scheduled between the Chief Pilot, the Pilot, and APA Domicile Representatives, several Union witnesses said. Only at this point, insists the Union, the Company alerted the Pilot that this Section 21.B. Hearing was investigatory and disciplinary in nature. See Tr. 259-265; see also Union Exhibits 13 and 14.

As Pilots were "pushed through the FPP," the Union contends, it became aware that there certainly was a detailed process for the FPP which was very similar to the NSP and BSP 30-day policies, the "other two" absence control policies overturned by Arbitrators Harris and Bloch, as the Union sees it. This time, however, under the grieved FPP, the Company did not extend to the Pilots the fundamental due process of publishing the policy and/or explaining its parameters, the Union emphasizes.

The Union also argues that, under the FPP, the Pilots (or the APA) were not given an opportunity to explain their historic use of sick time; yet the Company immediately disciplined the

affected Pilots by, among other things: (1) placing those Pilots on a Watch List; (2) placing a permanent entry in each Pilot's personnel file which explained he had misused his sick time and was on the Watch List ("PEH" entry); (3) placing harmful letters in the Pilot's personnel file; and (4) holding the Pilots to a higher standard going forward with regard to their use of paid sick time. These actions, in sum, constituted discipline outside the Section 21 mechanism, the Union's witnesses reported.

The Employer's witnesses paint a very different picture of the internal monitoring process at issue in this case, the Neutral notes. When questioned by counsel for the Company, Employer witness Rhonda Theuer, for example, testified as follows:

> Q. (BY MR. KASSIN) Rhonda, turning your attention to the frequency/pattern grievance that's before the system board of adjustment, to your knowledge when did the company start to pay closer attention to the individual Pilots' patterns and frequency of using sick leave?
> **A. In the spring of 2007.**
> Q. Okay. And does the company have a written policy addressing frequency or pattern sick leave usage?
> **A. No, we don't.**
> Q. Is there -- do you know why?
> **A. Well, basically it's a tool to identify the Pilots that are the top users of sick leave, either frequent or pattern, systemwide, and then give the chief Pilots the opportunity to interact with those Pilots.**
> Q. Earlier in this proceeding, as Company Exhibit 2, the company introduced America Airlines'

attendance policy. That's been around for a long time. Are you familiar with that policy?

A. Yes, I am.

Q. And is that the policy that applies to the Pilots?

A. Yes, it does.

Q. What, if any, role do you have with respect to assisting chief Pilots in connection with Pilots who have frequent or pattern usage of sick leave?

A. Well, basically, I'm the administrator. I keep the records for that system. I collect the data; I organize the data; I distribute the data; and I track the data.

Q. Could you tell the arbitrator and board members, with a little bit more specificity, what you do? Start from the beginning.

A. Okay. Monthly what happens is I get -- from the operations planning department I get a list of the top 100 frequent users and the top 100 pattern users systemwide, and I compare that list to a spreadsheet that I keep, to see if that Pilot is already on that spreadsheet.

Basically, the lists come identifying the top 100 users from the number of sick absences down. So I work my way through that list. When I get down to someone who is on that top list of 100 users, and they're not on the spreadsheet, then I add them to the spreadsheet and I notify the base that this Pilot has triggered being put on the spreadsheet. And then the Pilot -- the chief Pilot then follows up from there.

Q. Okay. Rhonda, there has been various documents introduced through this process from the association with various iterations of letters that have been given to Pilots. At this point I want to hand you a document I want to identify as Company Exhibit 4. I'd like you to look at it while we disseminate copies to the board members and the association. Just hold on here for a second.

MS. KENNEDY: Are these the letters, Tom?

MR. KASSIN: These will be the letters, yeah.

Q. (BY MR. KASSIN) Rhonda, first of all, what is Company Exhibit 4?

A. It's a collection of documents that we used in conjunction with the process.

Q. Okay. Rhonda, are these the current letters that the company is using today?
A. Yes, they are.
Q. If you could, briefly go through each of the letters and just a general description as to what they are.
A. Okay. Well, once I notify the base that a Pilot has come across on the top 100 sick leave frequent/pattern list, the chief Pilot has their conversation with the Pilot and then they send the follow-up telephone discussion letter, which is a follow-up to that conversation that they had with the Pilot on the phone regarding their attendance.
Q. Looking at the very top of Company Exhibit 4 -- and I know we have several letters in here -- is that the first letter?
A. Yes, it is. Follow-up to the telephone discussion.
Q. Okay. How many pages in that document?
A. Six.
Q. Okay. Before we go to the pages beyond three, I just want to ask you, on the third page of this letter, on the follow-up to the telephone discussion, is a copy of that sent to APA legal, on the cc's?
A. Yes, it is.
Q. Okay. And then after that, what are pages 4, 5 and 6?
A. That's the medical certificate that I believe the chief Pilots supply to the Pilot so when they go the doctor they have the documentation to hand the doctor to fill out.
Q. Okay. The next letter that follows the medical certification, what is that?
A. Well, it's the same letter as the first one, except it's for those Pilots that they weren't able to contact --
Q. Okay.
A. -- and that they left a message and the Pilot either did or did not call back. Probably did not call back.
Q. On the third page of that, does it show a copy going to APA legal?
A. Yes, it does.
Q. Okay. The same thing; the medical certification is attached to that letter?

A. Yes.

Q. Okay. Moving, then, to the third letter that's part of this process, can you tell us what that letter is?

A. Once the Pilot has been identified in the top 100 sick leave or pattern users, then that -- and the Pilot has been contacted by the chief Pilot and told that they may be asked in advance -- they may be asked, on a subsequent occurrence, to provide documentation or substantiation for their absence, this is the letter that's then sent if they call in sick again.

Q. And is it sent every time somebody calls in sick again?

A. No, not every time.

Q. Okay.

A. And I track that also, either every day or every other day. Once I have notification from the chief Pilot that the Pilot has been talked to and is aware that going forward they're going to be expected to substantiate, then I pull up a list every day, every other day, every third day, systemwide, of sick leave to determine who has subsequently called in sick.

Once they -- once I see that they have called in sick again, after having had the discussion, then I look back over the last 12-month period and sort of do an average of the days that the average -- the other line Pilots are calling in sick.

If that Pilot falls within those parameters, then I send the subsequent letter to the base, and then the chief Pilot at that point knows this person has triggered again, and they take a look to see if the letter should be sent or not sent or how they want to follow up.

Q. I want to ask you to explain the phrase you used, "falls within the parameters," to make sure I'm clear. If somebody's sick leave is consistent with the other Pilots, would they get a letter in that case?

A. No, they would not.

Q. Okay. Captain Osborne used the phrase "outlier." If it's outside the range of what the other Pilots are using, will they get a letter in that case?

A. Yes. It's not always determined that they get a letter from what I send. I send it to the chief; then the chief determines if they get a letter. The chief may know something that would determine he doesn't want to send the letter.

But I send it to the base, saying this Pilot triggered another absence, and then it's up to the chief to decide how to handle it.

Captain Osborne concurred in Theuer's description of the process in his testimony, as did Vice President for Employer relations Mark Burdette and Managing Director in Employee Relations (Chief Negotiator) Dennis Newgren.

Important to the Employer's theory of the case is the testimony of Employer witness Captain David Andre that if a Chief Pilot knows why a particular Pilot is out and knows that the Pilot's use of sick leave is appropriate, the Chief Pilot will instruct Theuer to remove the Pilot from the Watch List, both Theuer and Captain Andre specifically testified. (Tr. 722-723, 781-783). Similarly, if AA Medical confirms that the Pilot's use of sick leave is appropriate, the Chief Pilot may choose not to follow up with the Pilot and may remove the Pilot's name from the Watch List, Andre further asserted. (Tr. 781). This is specific evidence to support the Company's position that the internal administrative process grieved here preserves substantial discretion in the Chief Pilots' hands, the Company argues. As the Employer sees it, a "hard-and-fast Company policy" is not imposed from the top to automatically

correct "outlier" paid sick leave users outside the Section 21 mechanism, as the Union says. Thus, the Bloch award does not apply to this case, the Company urges.

It was upon these facts that this case came to the Board for final resolution.

VI. CONTENTIONS OF THE PARTIES

A. The Union

The Union strongly asserts that the FPP is a broad-scope attendance policy and that, as such, the FPP violates the parties' Labor Agreement. The Union recognizes that the grieved FPP has gone through several "iterations or formulations," as developed in detail above. In all these "iterations," however, the FPP contains a routine medical verification requirement communicated by the Chief Pilot for a bargaining unit Pilot to receive his or her negotiated paid sick leave benefit. However, the Harris award indicated, and the Bloch award, too, directly held that such a reporting and medical verification requirement is not permitted under the parties' 2003 Labor Contract, the parties' binding past practices, or by virtue of any claimed "reserved Management right" of a supervisor to correct sick leave abuse, says the APA.

Second, the Union strongly contends that, as was the case with regard to the overturned across-the-board formal sick leave policies at issue in the Harris and Bloch awards (the "NSP" and

the "RSP"), the Company by the implementation of the FPP has shifted the burden of proof in sick leave matters. As Arbitrator Bloch already has found, this shift in the burden of proof occurs, the APA reasons, because, in the past, Management had to take the initiative in cases of suspected sick leave abuse by showing "just cause" not only for imposing discipline for that abuse but also for denying a Pilot's application for sick pay. Under the FPP, the Union insists, paid sick leave requests are in fact being denied by the Company without its burden to first prove just cause, forcing the Pilot to move forward to provide documented medical verification and to challenge the denial. Both the Harris and Bloch awards forbid that shift in the burden of proof.

Third, contends the APA, while the FPP indeed is a broad-scope attendance policy, it has never been reduced to writing; has no clearly defined standards or parameters; and takes away the ability of a Chief Pilot to use his own judgment in assessing what constitutes excessive frequency or an unusual pattern of paid sick leave use. To the extent the Employer has attempted to contradict these points, says the Union, the Company's evidence is either unconvincing or actually directly inconsistent with Management's position in this case. See, for example, the testimony of Captain Osborne, Employer

representative Theuer, and Captain Andre at Tr. 490, 492-493; 716; 723-728; 734-736 and 789.

Fourth, in response to the Company's contention that only one small part of the FPP is properly before this Board for resolution, the Union asserts it is difficult to understand this Employer argument. To the Union, a fair review of the voluminous record must disclose that the Union has always grounded this grievance in its objections to the Employer's creation of the entire process -- namely a no "Watch List;" a warning of future requirements to supply medical verification in order to get paid sick time; and the overall forbidden presumption that whatever Management deems suspicious or unusual sick leave usage (based on a comparison of a specific Pilot's frequency or pattern to some undisclosed "average" or to the overall bargaining unit sick leave use) necessarily shows inappropriate abuse, unless proven by the Pilot to be otherwise. Again, the Bloch award establishes the shift in burden of proof and transparent attempt to void the Section 21 mechanism is not permitted under the 2003 Labor Contract, the Union avers.

The fact is that the entire FPP process is clearly designed to correct what Management presumes is sick leave abuse, the Union argues (testimony of Captain Osborne, at Tr. 491). Certainly the actual imposition of the medical verification requirement for a Pilot, and the docking of his

pay, constitutes discipline, Arbitrator Bloch has already found. All the elements of the FPP are thus inconsistent with the Section 21 provisions which always have applied to charges of sick leave abuse, the Union submits. Therefore, this FPP process violates the 2003 contract, the Union concludes.

As remedy, the Union requests a cease-and-desist order, together with an order making affected Pilots whole.

B. The Employer.

The Company asserts that the telephone calls that Chief Pilots make to bargaining unit line Pilots they supervise regarding the Company's health resources totally fall under the Company's Management right to supervise and communicate with its employees and therefore are completely proper. The PEH entries regarding these calls similarly are permissible under Section 21.A.1.g. of the 2003 Agreement, which allows for recording of a non-disciplinary verbal advisory, the Employer also submits.

Additionally, it is the position of American that the summary letters memorializing the telephone contact are no more than recaps of discussions permitted to be done by the Chief Pilots in their supervisory role. (Compare Section 21.A.1.b. which expressly permits discussions such as the telephone contact at issue and the express finding in the Bloch award, at pp. 24-25, where Arbitrator Bloch found that certain "Invitation

Letters," which Management considers to be like the summary letters at issue in this case, were not discipline but within a supervisor's routine duties). There is no discipline imposed under these administrative procedures, the Employer insists.

The Company also says that its internal administrative policy is not, as a matter of fact, an "attendance policy," nor is it disciplinary in nature, the facts of record establish. Thus, there was no duty for the Company to publish the process in writing or give notice to the APA or the Pilots of these administrative procedures, as the APA would have it, the Company concludes.

Finally, the Company says its administrative procedures with regard to the frequency and pattern sick leave issues are fully consistent with the Douglas, Harris and Bloch awards and the requirements of the parties' Labor Contract. It thus requests the instant Hill Presidential grievance be denied.

VII. DISCUSSION AND FINDINGS

A. Preliminary Findings.

The parties have presented an extremely complicated case of very hot-button issues. The Union argues that the facts fit into the holding of the Harris and Bloch awards that forbid a routine imposition of medical verification requirements for suspected sick leave abuse as a matter of general Company policy. The Company claims that there is no such general policy

and, relying on its interpretation of both the Harris and Bloch awards, says that what is at issue in this case is not a policy but an informal administrative procedure to highlight high frequency or peculiar patterns of Pilot absence that is in compliance with the parties' contract. It further insists that the administrative process takes place in the Flight Department and that its real focus is on a case-by-case judgment call by the base Chief Pilot acting as line supervisor. There is also no attempt to discipline, but merely to monitor, control, and correct sick leave overuse, the Employer avers.

This Neutral believes both parties have overstated the case as to this first issue. The Harris and Bloch awards recognize the managerial right of this Company under the 2003 contract to monitor their employees and how they utilize their sick leave. Based on the Neutral Chair's reading of the specific provisions of this contract on the established bargaining history, the parties' past practices, and the teachings of the Douglas, Harris and Bloch awards, the Neutral concludes that the real issue is whether the Employer in lieu of discipline is mechanically utilizing a threat of medical verification and then actually imposing medical verification requirements on certain bargaining unit Pilots without allowing them Union representation, and doing this in a routine way instead of case-by-case. If so, this would be discipline

whether or not called a formal policy, the Neutral is convinced. By long and well-recognized reasoning in labor arbitration, form will not trump substance. Although there has been much debate over nomenclature in this case, the standard must be the application and effect of the internal administrative process, the majority rules.

Again, the Harris and Bloch awards recognize the Employer's right to monitor its employees' sick leave use and to correct sick leave abuse. The pure monitoring aspects are still the responsibility of Management, both Arbitrators Harris and Bloch said. What has been found to be a violation of the parties' labor agreement is, however, the routine requiring of medical verification to get sick leave approved "as a matter of policy." Suspected sick leave abuse is to be handled under this labor contract by investigation and discipline under the Section 21 mechanism quoted above, because that is what the parties intended, both Arbitrators Harris and Bloch concluded. The tension in this matter is where the boundary lies.

The System Board now turns to the second primary issue posed by the Union, namely, did the Company violate industrial due process by not distributing in writing a formal attendance policy to cover their actions? In other words, was a formal attendance policy in effect promulgated by the Company, without any of the technical requirements, namely, writing, posting and

distributing the policy? In trying to determine not the effect of Management's actions but their technical nature, the "name and form" of the act do mean something to most arbitrators. The Company's internal practices may exist but still not be in the order of formal policy or rule of general application, we hold.

Ultimately, the Neutral finds the evidence of record insufficient to substantiate the Union's contention that a unilaterally promulgated formal attendance policy is at play. The Employer's witnesses were emphatic in their denials that there was any Management intent to issue a formal policy or rule on frequency or pattern issues, probably to avoid having to defend such a policy in light of the Harris and Bloch awards. The Employer must live with the problems of proof as to what is the real nature of the process it developed. In contrast, though, the industrial due process requirements for a policy of general application are avoided if no general rule or policy is claimed by the Company. That is the case here, the Neutral holds.

Consequently, the Union's due process arguments, its contention that the grieved FPP attendance "policy" is unwritten, has no standards, and has never been communicated or distributed to the APA or to the bargaining unit Pilots, is not found to be valid. That aspect of the Hill Presidential grievance is thereby denied. This System Board thus turns now

to the remaining issue of how the administrative policy really works in practice, and whether it functions in violation of the parties' Labor Contract.

B. The Watch List.

The Union asserts that a bargaining unit Pilot placed on the Company's "Watch List," as described by Employer witness Theuer and in the testimony of several Union witnesses, has been disciplined, despite the Company's protests to the contrary. The Company insists that its action in developing and distributing the list, and the Chief Pilots' use of the list thereafter, is not investigatory or disciplinary in nature. Although the Company urges that the issue of the Watch List is not properly before this Board, it also strongly contends that the lists themselves, if considered, are mere administrative tools permitted under the teachings of the Douglas, Harris and Bloch awards. The "Watch Lists" cannot properly be viewed as discipline, Management concludes, because such lists are consistent with the Management right to monitor sick leave use, a right that has not been limited by the terms of the 2003 contract.

The Neutral Chair has devoted considerable time and effort to a careful review of the record in this case, as well as of the Douglas, Harris and Bloch awards. The question of whether the Flight Department and base Chief Pilots may monitor sick

leave usage was addressed in each of these arbitration decisions, although certainly in somewhat different contexts. Arbitrator Harris in the Harris award, addressed the question of sick leave usage and the ability of the Company to monitor suspected sick leave abuse in cases of extended (30 days or more) leaves. He concluded that any Company inquiry into sick leave issues must begin with a non-disciplinary process, that is, a talk between the Chief Pilot and the Pilot under his supervision whose sick leave use had caused the Chief Pilot concern. See Harris award, pp. 11-13.

In fact, Arbitrator Harris recognized the appropriateness of the Company's desire to better monitor sick leaves as being permissible under its Management rights, so long as the monitoring was done by the Flight Department and the Chief Pilots and not the Company's Medical Department. Harris award, p. 12. Arbitrator Harris concluded, at least by implication, that there had been no waiver or limitation on the obligation of the Flight Department or the base Chief Pilots to monitor and police sick leave use issues. The start of such monitoring process should be non-disciplinary, Arbitrator Harris stressed. Harris award, p. 13.

In the Bloch award, Arbitrator Bloch did not dispute Arbitrator Harris' conclusion that this Employer, through the Flight Department and base Pilots, had the ability, and the

obligation, too, to monitor sick leave usage and control sick leave abuse, this System Board recognizes. In fact, Arbitrator Bloch in his decision said that proven misuse of the paid sick leave benefit "can result in the loss of the benefit." Like Arbitrator Harris, Arbitrator Bloch concluded that Chief Pilots have the role to monitor and verify potential sick leave abuse as part of their functions as line supervision.

The Employer's brief correctly argues that if Management has the right to monitor sick leave, then a computer analysis of data available to the Company is permitted to aid in that duty, unless the parties' Labor Contract expressly precludes that action. Furthermore, as the Company also points out, the testimony of Employer witness Dennis Newgren showed that the Flight Department is free to obtain information and analyses from other organizations in the Company to support its supervisory and monitoring responsibilities over sick leave usage. (Tr. 846). (Claim that the APA in the current round of negotiations has proposed only Chief Pilots may have input in Section 21.B.2. investigations. See also Co. Exh. 10).

Assuming the Flight Department's responsibility to support the Chief Pilots, as Arbitrators Harris and Bloch suggested, and the duty of Chief Pilots to monitor sick leave usage, then the Watch List itself cannot be considered to violate the parties' contract, simply by its compilation and existence, the Neutral

finds. How the Watch List is constructed is Management's business. Its existence cannot plausibly be found to be discipline; in the Company's terms, it is a reasonable tool for the monitoring function in the twenty-first century, the Neutral is persuaded -- nothing more, nothing less.

This is so because current record-keeping uses computers and in fact numerous computer-generated programs far more sophisticated than what Employer witness Theuer described are now commonplace tools in the airline and other industries. The collection and management of data is not discipline. It is the use to which the records and lists are put that may be investigatory or disciplinary, the Neutral points out. It takes more than the compilation of an "outlier list" to say a Section 21 investigation has begun or that discipline is inherent in its construction. In other words, the bold assertion that there is a "Watch List" to establish an act of discipline or to say some evil-doer could misuse the list to violate the contract's Section 21 terms, is simply not valid. If there is a departure from a proper use of the list, that result is independent from the putting together of the list itself, this Neutral holds.

C. The Telephone Contacts, PEH and Summary Letter.

There is no discipline imposed by the telephone contact, the letter summarizing the contact and then sent to the Pilot,

or the PEH, the Employer insists. The Company likens the Chief Pilots' phone calls to other Chief Pilots-Pilot "casual" communications on such issues as grooming, uniform appearance and minor operational issues, which fall outside the rubric of Section 21. Casual communications by a supervisor to check sick leave use are permitted by the Douglas award, this System Board is explicitly told.

Additionally, according to the Company, there is no investigation involved in the grieved administrative process because a Chief Pilot's telephone call is narrowly tailored to address the Company's potentially available health resources. There is no questioning of the Pilot's past sick leave usage in any way at all, Management asserts.

The Company further distinguishes the Harris award in its application to Management's monitoring contacts at issue in the instant case. To Management, what the Harris award specifically holds is that the Company's Medical Department may not drive any monitoring process of Pilots' sick leave use. Arbitrator Harris reasoned that the Chief Pilots are the line Pilots' supervisors and are thus charged under the parties' contract with controlling sick leave use, insists the Employer.

Of critical importance to the Company's theory of the case is the fact that Chief Pilots under the Harris decision were permitted to "request" medical records from Pilots in accordance

with their supervisory authority. Such requests for verification or substantiation could occur independently from a Section 21 Hearing, the Employer believes. There is no discipline involved in such a request, just a supervisor gathering facts, the Employer suggests.

The Company again urges that a Chief Pilot has an inherent right and actually a duty to communicate sick leave concerns to Pilots and that such right was explicitly recognized by both the Harris and Bloch awards, as well as by the Douglas decision. That is what is done for frequency and pattern absences now, without any disciplinary action being imposed, the Company submits.

The Company also reasons that there is no investigatory element to the Chief Pilots' actions in the instant dispute that would necessitate Union representation or a Section 21.B. Hearing. That distinguishes this case from the underlying facts in the Douglas award, we are told.

The Company goes on to point out to the System Board that Arbitrator Bloch specifically held that a PEH entry is not discipline. (See Company brief, p. 45 and Bloch award, pp. 24-26, 30). This argument is made pursuant to the express terms of Section 21.A.1.g. wherein Pilots are expressly not permitted to grieve PEH entries, the Employer further notes. Thus, the claim that a PEH is discipline is not justified, by

virtue of both the contract's express terms and the arbitration decisions on this property interpreting Section 21, the Board is told. See also the Douglas award, p. 11, cf. City of Chicago, 97 LA 20 (Goldstein, 1990) (Management can talk to its employees when that employee is not questioned or asked to give any evidence that could be used in a disciplinary proceeding against him).

Furthermore, according to the Company, the "Follow up to Telephone Discussion Letter" sent by the Chief Pilot is not discipline either, because such letters do not punish the Pilot nor impose any corrective action under Section 21's terms and definitions, but instead only summarize the phone call, Management argues. (Co. Brief, pp. 40-41).

The Company then argues that, because it does not request Pilots to submit to a physical examination or to give a reason for prior absences in the telephone contact, Section 20 of the parties' Labor Contract is not involved in the current process at all.

It is the Union's position, however, that the telephone contact by the Chief Pilot, the PEH and summary letter all represent discipline outside the parties' negotiated contractual provisions. Importantly, Management's claim of genuine discretion being vested in the Chief Pilots to individualize and make flexible how the "Watch List" is implemented, is belied by

a fair reading of the facts of record, the APA also argues. The specific testimony of the Union witnesses overwhelmingly demonstrates that the FPP is a firm policy coming from flight operations, and not an administrative tool used at the individual Chief Pilot's option.

In fact, the Union claims, the testimony not only of its witnesses, but of Employer witnesses Theuer, Osborne, Newgren and Burdette all point to the conclusion that the Chief Pilots' contacts with a bargaining unit Pilot under his or her supervision are ordered and scripted from above. Similarly, the threat of discipline (the medical substantiation ordered or requested to be submitted to the Company's Medical Department in the future) automatically comes to a Pilot on the "Watch List." There is no case-by-case assessment by a Chief Pilot or discretion to consider anything other than the frequency or pattern of sick leave use presumed from the Pilot's presence on the Watch List, the Union urges.

The Union makes the strong argument that sometimes the sum is more than its constituent parts. To the Union, the telephone calls from a Chief Pilot to a Pilot are an investigation even if none of the conversation is ever put in question form. The telephone call is discipline; hence, there is a right to Union representation under the Section 21.B. mechanism that has been disregarded by this Employer, the Union asserts.

Ultimately, the Neutral Chair is convinced that the Company has done far more than just have a Chief Pilot contact a Pilot under his or her supervision about available Company resources that might help to maintain regular attendance. Suppose that in the scripted contacts, there was no mention about a possibility that future sick calls might result in a Company request for the Pilot to provide medical documentation in order to receive the paid sick benefit. Suppose further that this conversation was documented in a PEH and summarized in a letter by the Chief Pilot to the Pilot who was contacted by him. The reality is that, in that case, there would be no basis for the Union's claim that the right to Union representation has been triggered; that an investigation has occurred; or that discipline, either tacit or direct, has been imposed. No doubt the Chief Pilot by making that contact would be having a pre-disciplinary talk, precisely as Arbitrator Harris contemplated. That talk would not violate the contract, we rule.

However, despite the Employer's best efforts, the grieved telephone contacts and related Employer actions that actually take place, as described in detail above, have at their heart something far more than the scenario just proposed. At its core, the telephone contact at issue communicates the additional information from the Chief Pilot, namely, that there is a

"possibility" that future sick calls for the Pilot on the other end of the telephone line "may result in a request to them to provide medical documentation to obtain their paid sick leave." Even couched as a hypothetical, the warning that a doctor's note giving medical substantiation must be presented for paid sick leave thereafter, implies the threat of future discipline.

To the Neutral, this conclusion is mandated by the specific findings in the Bloch award. The Employer certainly seeks to distinguish the Bloch award on its facts and to limit its holding to circumstances where a broad Company policy rather than an informal administrative procedure is being analyzed. Yet Arbitrator Bloch stated much more. With reference to medical verification of sick leave usage, Arbitrator Bloch held:

> One may argue, as the Company does, that docking pay (to recoup the sick pay) is non-disciplinary in nature, and that may be so. Harris didn't say that, but the Company suggests that outcome is "implicit" in the Harris Award. The suggestion is that the Company may therefore deny sick pay solely on the basis of no written verification following an extended absence. However, nothing in the Harris Opinion deals with the question of establishing preconditions for utilizing the sick leave benefit. Indeed, prior to the events giving rise to the grievance in that case. While the Company had pursued suspected sick leave abuse on a case-by-case basis, it had never imposed an across-the-board written verification requirement. One may not argue, therefore, that the Harris Board somehow authorized such a mechanism. That result would inject a verification requirement that currently does not exist in the labor agreement. As indicated earlier, there may well be situations where the failure to provide documentation is

> relevant in considering both whether a Pilot has substantiated his application for sick pay and whether he has engaged in abuse. But the mere absence of such documentation cannot lead to a presumption that the Pilot has forfeited his or her entitlement to coverage or that discipline is appropriate. That is what Harris said.
>
> Bloch award, at p. 23.

The Employer reads this language as confined to across-the-board written verification requirements, i.e., policies, but not to Management's ability to handle suspected sick leave abuse on a case-by-case basis by the use of the sick leave verification requirement. It further identifies the information communicated by the Chief Pilot to a Pilot that is the focus of the instant grievance as arising from independent, case-by-case judgments by the Chief Pilot.

In other words, what the Employer argues is that because there is no investigation or presumption of misconduct, the Pilot who has been warned and then told to submit medical verification for paid sick leave to be approved in the future, has not been subjected to discipline. He has been placed on a special status in the interest of safety perhaps, or as a health maintenance aid. The administrative procedure is narrow enough only to encompass the verification requirement without investigation, without presuming misconduct, and for non-disciplinary reasons, the Employer is saying.

What the Employer, however, has disregarded is Arbitrator Bloch's analysis in an earlier portion of his decision concerning the medical clearance requirements for other American employees in bargaining units represented by other Unions. In discussing those other situations outside the APA/American relationship, Arbitrator Bloch stated "these are explicit requirements of written verification." Bloch award, at pp. 19-20. However, Arbitrator Bloch went on to write that "their absence in the AA/APA agreement speaks loudly to the proposition that these Pilots [the bargaining unit Pilots] were not expected to submit sick slips, or their functional equivalent, as verification for absences." Bloch award, p. 19.

Arbitrator Bloch went on to hold, and this System Board agrees, that "in a Section 21 investigation, a pilot's failure or refusal to substantiate claimed sick or injury absences, including the absence of medical documentation, may be relevant. But the absence of such written documentation may not be the sole factor relied on by management. To so conclude would be to ignore these parties' agreement that eligibility for sick pay shall not require written verification." Bloch award, p. 19.

Arbitrator Bloch thus recognized that the Chief Pilots, under the parties' 2003 Labor Agreement, had the Management right to pursue "suspected sick leave abuse on a case-by-case

basis." He declared however that routine demands for medical verification are not to be a pre-condition for paid sick leave use under the parties' 2003 agreement, under ordinary circumstances as a matter of policy. As the Union has so strongly suggested, what is meant by that is that medical verification so as to truly not be considered to trigger the investigatory and disciplinary procedures through the Section 21 mechanism, must be individualized and not worked from a Watch List and uniform and scripted telephone contacts, the majority of this System Board holds.

Additionally, to the extent that the Employer is seeking to establish that the "warnings" communicated to a Pilot about future medical verification for sick leave use in practice actually are individualized helpful hints or mere requests, the facts detailed above fail to support that broad contention. The reality is that the internal process is applied mechanically and the Chief Pilots are not permitted to even ask about individual circumstances causing the prior sick leave use issues so as to avoid the Douglas award and its conclusion. Such questions would immediately be investigatory. The process is driven by the construction and distribution of the Watch Lists and the rate or pattern of sick leave usage, as a programmed comparison to other Pilots' use and patterns. As such, the process is not only one to monitor frequency and patterns of use but to correct

Pilots who are "outliers." Effectively, the burden has shifted. Misconduct and abuse are presumed, and an additional requirement for sick leave use has been imposed outside the parties' negotiated contractual provisions, the majority rules. As Arbitrator Bloch found in the Bloch award, this conduct and use of the Watch List and telephone contacts violate the parties' contract, the Neutral holds.

Of critical significance to this analysis is the reliance by both Arbitration Harris and Arbitrator Bloch on the shift in burden of proof with reference to sick leave abuse represented by the now rejected across-the-Board policies (the NSP and the RSP) regarding Pilot absences of 30 days or more. The same presumption of a shift from just cause and Management's obligation to prove sick leave abuse, to the Pilot's having to prove he is not abusing the sick leave benefit, is inherent in the instant case. The requirement for medical verification, presented now as what the Union argued was an implied threat in the telephone contacts under discussion, contains an identical presumption of abuse, based on the mere presence on the Watch List, as will be developed below, the majority of this System Board is again convinced.

Indeed, a fair reading of the Bloch and Harris decisions is controlled by what Arbitrator Bloch expressly stated:

> The parties to this Labor Agreement have chosen to consciously omit from their Collective Bargaining Agreement any requirement of routine verification of sick leave requests (by, for example, the standard "sick slip") by Pilots. The APA argues persuasively that it vigorously resisted, during contact negotiations over the years, the concept that Pilots should be asked to verify illnesses in order to receive sick pay coverage, and that this concept was, in fact, adopted by the parties, in contract language and in practice. On a micro level, this means the Company could not ordinarily demand "sick slips" for doctor visits, for example, and it has not done so in the case of Pilots.
>
> Bloch award, pp. 19-20.

The Neutral Chair fully understands that both Arbitrators Harris and Bloch were very careful to use such words as "routine verification of sick leave requests" and "the Company could not ordinarily demand 'sick slips' for doctor's visits. . ." It is certainly reasonable for the Employer to take the position that the protests or complaints at the center of this case, by definition, do not relate to any request for routine verification or demands for doctors' excuses in the ordinary case. What the Employer still was required to address, but did not do so to the satisfaction of the Chair, at least, is the fact that if the Management of this Company may not presume that extended absence, in and of itself, amounts to sick leave abuse, then the placement of a Pilot on the Company lists because he or she is an "outlier" in frequent or pattern sick leave usage permits precisely the same presumption called sick leave abuse.

See the Harris Award, pp. 12-13 and the Bloch award, pp 19. That is the nub of this case.

Of course it is a black letter principle of labor law and arbitration jurisprudence that if an Employer may not properly impose a requirement (here, a routine medical verification requirement for Pilots on its Watch List), then the threat to do that act is equally inconsistent with the parties' Labor Contract. The warning of an impending medical verification requirement, then, contained in all the Pilot contacts that underlie the Hill Presidential grievance, constitutes the "plus element" that changes mere monitoring actions by the Chief Pilots to an improper investigation and discipline outside the Section 21 mechanism, the majority of this Board rules.

At its core, the development of the Employer's internal administrative process is admittedly intended to correct improper use of paid sick leave benefits by some Pilots, without formal discipline, we recognize. That is what Captain Osborne suggested in his testimony (Tr. 491), and that is certainly what the Company's closing brief suggests. Nevertheless, even though the Company has been extremely careful to stay within the confines of the parties' Labor Contract, as it interpreted by the Douglas, Harris and Bloch awards, it has stepped over the line, the evidence of record discloses.

Finally, Management argues that if it cannot make a list of high volume sick leave users, or those with suspicion patterns of sick leave use, then its Management right to monitor and police sick leave benefit utilization has been virtually nullified, except for the Section 21 mechanism disciplinary path. The individualized, case-by-case judgments of the Chief Pilots to request medical verification for outliers explicitly recognized in the Harris and Bloch awards would be trumped by the Association's being able to declare this flexible and discretionary process to be a formal policy covered by the holdings in the Harris and Bloch cases, the Employer argues.

What that means in practice is that the Company has used the Watch List and scripted contacts to bypass its Section 21 allegations to investigate and discipline for actual sick leave abuse, we rule. That is the majority's reading of the Harris and Bloch awards as a matter of contract law. The facts are that the Flight Department and the base Chief Pilots are doing more than monitoring sick leave usage. They are policing, correcting and demanding medical verification routinely, not on a case-by-case basis, we hold.

D. Summary.

Sick leave still is for the sick. But the substantive complaints of the APA on the administrative process are well-taken, the majority of this System Board finds.

First, what is done by the Flight Department and Chief Pilots is an investigation under the teachings of the Douglas award; the Company does not offer the Pilot being investigated an association representative as expressly required by Section 21; and both the purpose and effect of the stress of a medical verification requirement, and then the implementation of that requirement, are discipline and thus directly contrary to the terms of the parties' Labor Contract, the bargaining history, the parties' past practices, and the specific holdings in the Harris and Bloch awards.

Second, that brings the Board to the meat of the case, as the Neutral Chair sees it. Simply put, there is a significant inconsistency in what Management claims it does under any of the "iterations" of its internal administrative process currently under review. There is extensive evidence of record of how the Watch List is constructed and distributed by Employer representative Theuer. As already noted, those actions are deemed to be within the realm of the Company's Management rights and are not independent violations of the Labor Agreement.

Third, there is, however, very little evidence of what precisely the Chief Pilots do with the Watch List that represents a case-by-case individualized review of prior sick leave usage that docks the particular Pilot on the list in the first place. Strangely, the extensive testimony quoted above

omitted that important information, other than the generalized statement of Captain Andre that he had more discretion to simply tell a Pilot who was on the list to "go to the doctor." (Tr. 788. See also Tr. 789).

Fourth, the Employer claims that other than personal knowledge of the underlying reasons for a particular Pilot to have a frequency or pattern sick leave use issue, no investigation happens. There is thus no evidence in the record that any Chief Pilot necessarily relies on anything but the Watch List, the meetings among the Chief Pilots that occur routinely to create consistency in the correction of sick leave use, and the at least weekly distribution of the Watch List to all Chief Pilots by the Flight Department. All that rebuts individualized and case-by-case attention.

Fifth, to put it bluntly, the Company's evidence is slight for the claimed individualized case-by-case consideration of each base Chief Pilot and the underlying reasons for any specific Pilot's being on the Watch List, other than perceived frequency or pattern issues that the Chief Pilots understand is the basis for compiling the Watch List. The Employer witnesses claimed that Chief Pilots know best what is going on with the Pilots they supervise. There is some Management evidence that this knowledge, whether first-hand or hearsay, could make a Chief Pilot not make a telephone contact with a specific Pilot

to warn of a future medical verification requirement or, later, to impose such a verification requirement. (Tr. 788).

There is of course generalized testimony from Theuer and Osborne, certainly, that Chief Pilots could have a Pilot removed from the Watch List at the Chief Pilot's discretion. Captain Andre seems to agree, although much less emphatically. (Tr. 788-789). This is so, the Employer argues, because the Chief Pilot "knows more about the Pilots he or she supervises than Theuer and the other employees in the Flight Department not directly working with the Pilots at their base." The preponderance of the evidence contradicts these assertions, we hold.

It is to be remembered that the Union witnesses who testified on this point all reported that they had been told by several Chief Pilots that the Watch List controlled the rest of the administrative process, in the sense a Pilot's name on the list triggered the rest of the uniform process described by Theuer. The Union witnesses further uniformly asserted that no case-by-case or individualized considerations by Chief Pilots were communicated to them and, in fact, the Chief Pilots told them directly the opposite: they merely followed the Watch List.

Taking all these additional bits of testimony together proves by a preponderance of the evidence that the Watch List

was much more than a mere tool or guide for the Chief Pilots' efforts to focus on sick leave use. Once the list was distributed, an individualized and case-by-case consideration by the Chief Pilots of particularized underlying circumstances for any specific individual was prevented by the inability of the Chief Pilots to ask about the circumstances of prior sick leave use, we rule.

As the Neutral reads the Harris and Bloch awards then, these decisions stand for the proposition that doctors' slips or excuses and the Company form to verify sick leave use passed on to a Pilot as part of the "internal administrative process" described by Theuer, were routinely demanded without the Section 21 mechanism being activated.

Relying on assumed common knowledge of the reasons for prior absenteeism is perilous at best, we also suggest. By chance or design, "common knowledge" frequently escapes supervisors, even the subject base Chief Pilots, we note. Unlike many of the Collective Bargaining Agreements covering other bargaining units on this property, this Labor Contract imposes no permitted presumption of misuse or abuse based on the fact of high sick leave usage or patterns of sick leave usage. The opposite is indeed the case. That is what the Bloch award expressly holds, based on Arbitrator Bloch's reading of the reasoning in the Harris award.

In sum, one key part of the Association's complaints about the internal administrative process is correct: no questions are permitted to be posed about prior sick leave use by a Chief Pilot in the telephone contacts being discussed. The Pilot on the other end of the telephone conversation is not asked or permitted to explain prior sick leave use, either. While the Employer strongly argues that there is not a routine imposition of a verification requirement based on the Watch List, but instead an individualized and discretionary decision by a Chief Pilot, as permitted under the Company's reading of the Bloch award, the facts show this is simply not the case, we rule.

Because we find the internal administrative process to be inherently investigatory, we further hold that the Section 21 mechanism should have been activated. The majority of the Board so concludes. As such, the mandated medical verification and the resulting disallowance of sick pay applications in certain cases are also found to have been in the nature of discipline, as were the resultant "dockings," we conclude.

In accordance with these conclusions, the Hill Presidential grievance currently before this System Board is sustained. The appropriate remedy is to grant the APA's request for a cease-and-desist order and to make affected Pilots whole by ordering the return of paid sick leave that was denied.

VIII. AWARD

1. The Company's frequency and pattern process violates the 2003 Agreement to the extent indicated above. The Company is ordered to cease and desist from imposing a medical verification requirement based on frequency and patterns of sick leave use, without investigation and primarily because of a Pilot's presence on the Watch List.

2. The Company must make whole affected Pilots by restoring sick pay improperly withheld or docked as a result of the improper administrative process and it must reduce accrued sick bank hours accordingly.

3. Medical documents provided to the Company in response to potential discipline under this process are to be returned uncopied to the Pilots within 30 days of this Opinion. For purposes of this Opinion and Award, we hold that the summary letters are also improper as are the PEH notes that were the result of the administrative process.

4. Any written or electronic records relating to or leading to the recouping or docking of pay shall be removed from all relevant personnel and other files.

5. The Board will retain jurisdiction to resolve disputes arising in the course of implementing this Award. Additional requests for relief are denied.

IT IS SO ORDERED.

Tom Westbrook

Captain Tom Westbrook
Association Board Member
(concur) (dissent)
Date: March 18 2010

John Conrad

Captain John C. Conrad
Employer Board Member
(concur) (dissent)
Date: March 18, 2010

Steven K. Hoffman, Esq.
Association Board Member
(concur) (dissent)
Date: 3/18, 2010

Rose Doria
Employer Board Member
(concur) (dissent)
Date: _____, 2010

Elliott H. Goldstein
Neutral Board Member
Date: March 17, 2010

APA Exhibit 423

4:30 p.m. -- Scope

Tom Rheinart (TR)
Richard "Dick" Malahowski (RM)
Denny Newgren (DN)
Jeff Brundage (JB)

Tim Hamel (TH)
Per Lovfald (PL)
Neil Roghair (NR)
Jennifer Arend
Bill Boyd (BBoyd)
Tim Daudelin (TD)

Jamie McNeice (JM) -- APFA
Tim Gillespie (TG) -- TWU
Don Videtich (DV) -- TWU

NR: Thanks to all on both sides for attending discussion
Framed to everyone don't anticipate really long
Convey fundamental message key to negotiations
Right now
Ground rules here
We're aware of all noise going on
Moving parts of restrictive process
We're fully aware of intent to file next week
Start this discussion like to keep this on topic and constructive in working toward consensual agreement
No surprise talked about
Key to consensual is agreement on scope
Getting past that is make or break issue for consensual agreement
That's why think discussion is important
We know from a perspective of where at in process
Acknowledge will be changes to scope language
Not here to draw line in sand
Here to have construct dialogue
Appreciate other unions showing up for this discussion to T up later discussions for us
Not here to make other unions sit through pilot scope debate
We'll keep this relevant to the people in room
Some of things decide on pilot scope side will have implications on other unions
We know move on scope will be in direction from where we are towards something more representative of industry standards at other legacies
Think co needs something that's more representative of industry stand
Our perspective is what you're asking is beyond industry stand and what company needs for successful restructuring
Different perspective there
What talking about is some point in discussion going to be line gets drawn involves flying smaller than A319 but bigger than what Eagle flying now
Clearly from all three unions want to deliver message willing to do and want to do that work at mainline
Along with that goes key phrases market rates competitive cost structure
Without getting into nuances of how affects Don and Jamie and APFA
Message for all groups
Is that we're open to negotiating toward something for successful restructuring for small jet
Your term -- large RJs
At mainline
Advantages purport for doing at mainline vs. outsourcing
See opportunity for restructured company to reduce overhead and redundancy

Enormous amount inefficiencies two management structures for two separate and distinct operations
Small jet unrestricted flying any city pairs easier from operational perspective
Has us working together
Rather than against each other on scope
Think appetite to do things at market rates
Competitive cost structure
Another thing struggle is longevity issue at Eagle
Probably never envisioned
See this flying for small jets at mainline being entry level
Envision lot of turnover
Entry level years payrates
Continue to be cost savings benefit for company
See substantial opportunity for company in doing this flying at mainline
Discussion on pilot scope clause keep separate
Think fundamental difference of opinion what necessary
Also a factual different what allowed at other carriers and what is actually going on
Like to stay focused on what is actually going on
As opposed to doing cut and paste out of their contracts and saying we want that
With that said intent of this get together to deliver that message ways to structure this flying that makes sense and work with all three groups
Think Jeff over the next few days or couple weeks in discussion like this to turn from conceptual to proposals back and forth discussions
If what's in term sheet is truly bottom line, need to know. That saves us time
If taking this to mat this is what we need to have, want to know where stand
Think places to reach agreements that make sense for both sides

JB: How envision next steps?
Little bit different obviously
All three unions sitting here now
Get sense

DV: Talked to pilots, they said this interest
If they're going to fly, we're going to want to work them
Get down to is it competitive
Depending on where Eagle if that blows up or grows
Look at down the road if airplane get here
Get guys in those position helps offset costs
We already represent eagle guys
That's how take care of them
Obviously laying off thousands of people
Hopefully less
As planes come in, not come in overnight
Willing to sit and talk about them
Where that lands, who knows

JM: We would be happy to have members flying smaller jets
See separate opportunity
Not train across equipment
Pool feed to airline

NR: This is soundbite meeting
Openness, flexibility, appetite to do this work
I see it as an opportunity for progress in talks
For us it's absolutely vital to consensual agreement
Not going to drag Don and Jamie to table
Going to be handled in individual work group
Maybe times get together
Just T up our talks from a point that we don't get to first discussion what about TWU or APFA
See a path through for all three workgroups

TG: Eagle related brothers too affects them

NR: Know has lot of tentacles
We think opportunity for something that makes sense

JB: Understand everything said
Need time to have conversations
Hadn't intent on this being proposal
Just opening discussion
Want to step into individual discussions next

NR: Didn't want to get to first meeting on our side and say "what about all other workgroups?"
Nuts and bolts – just have frank, roll-up-sleeves conversations of our perspective, your perspective
See of meeting of minds then paper phase
Those conversations
Both sides need to see if common ground
If not, then plays out on track
Owe it our constituencies see where it goes
At some point discussion
Are times where going to need invite you down for discussion
Some decisions major business decision for corporation
Ripple effect

TH: Scope's a big issue
Lot at stake for company
If you're really going to trust us, gotta reach out
On this issue alone, things could be done to make this work for everyone
Horton talked about AA being the group
Let's get some of the group back into group
Think can do it this time on this subject with these jets

JB: We understand what big issue, nobody going to be flippant

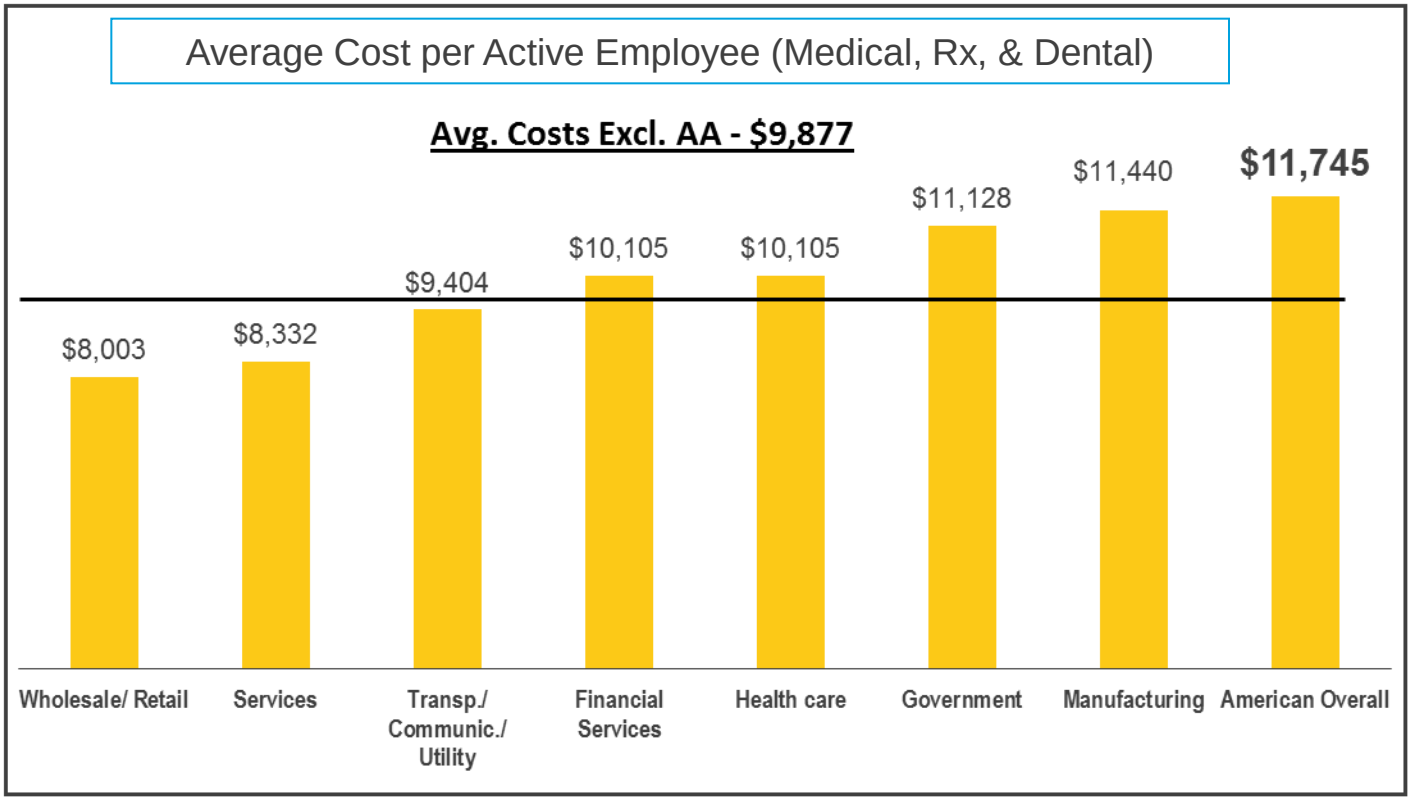
APA Exhibit 424

February 6, 2012

American Airlines
Healthcare Marketplace Trends

AA's healthcare costs are high compared to other large companies

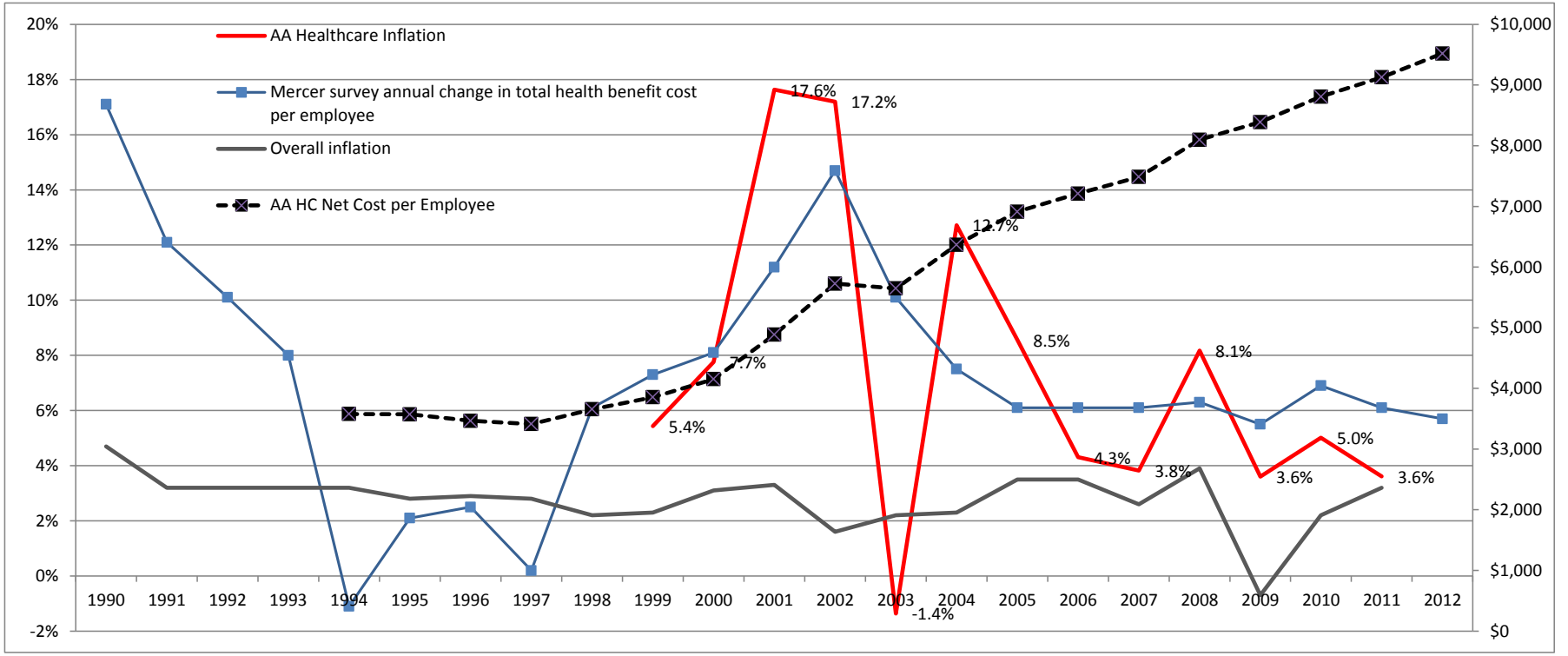
- Our cost disadvantage versus the overall average is $113 million
- Compared to our industry sector average, our cost disadvantage is $142 million



Source: 2011 Mercer National Survey of Employer-Sponsored Health Plans – Jumbo Employers (20,000 or more employees)

AA's low healthcare inflation is due to aggressive vendor management, plan design and wellness strategies

- However costs are still increasing at an unsustainable rate
- Since 2003, net medical/Rx healthcare cost has increased 68%



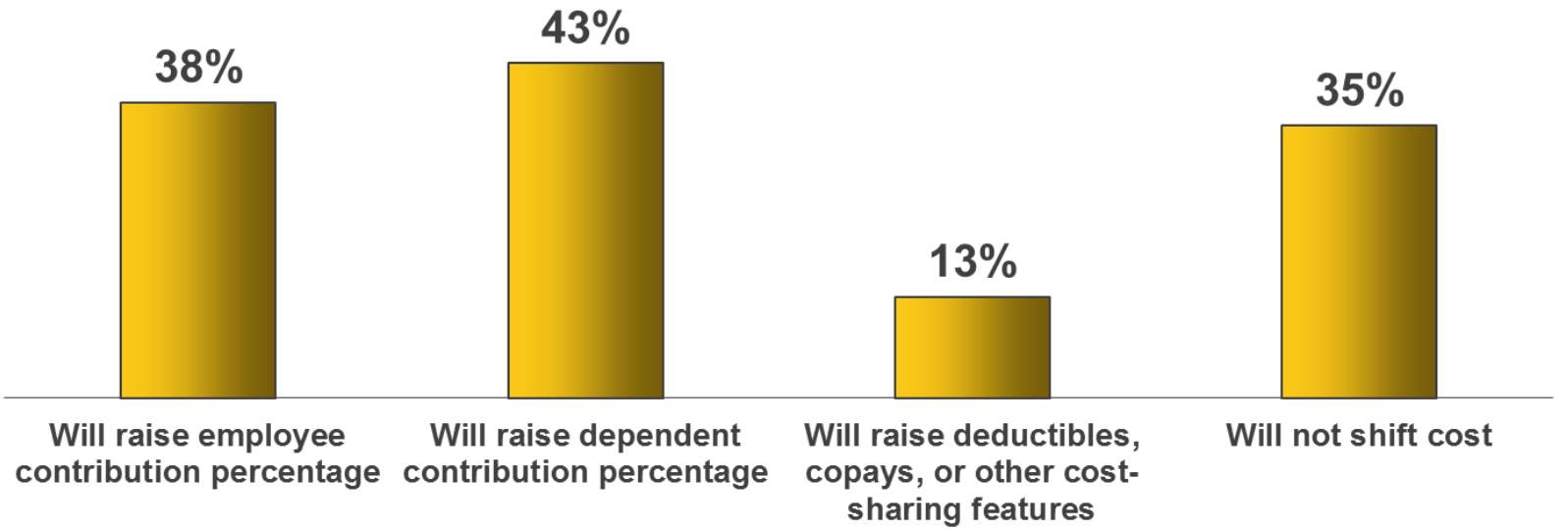
**Projected*

Source: Mercer's National Survey of Employer-Sponsored Health Plans; Bureau of Labor Statistics, Consumer Price Index, U.S. City Average of Annual Inflation (April to April) 1990-2011; Bureau of Labor Statistics, Seasonally Adjusted Data from the Current Employment Statistics Survey (April to April) 1990-2011.

American Airlines HR Group Insurance calendar year inflation experience, medical/Rx healthcare expenses only.

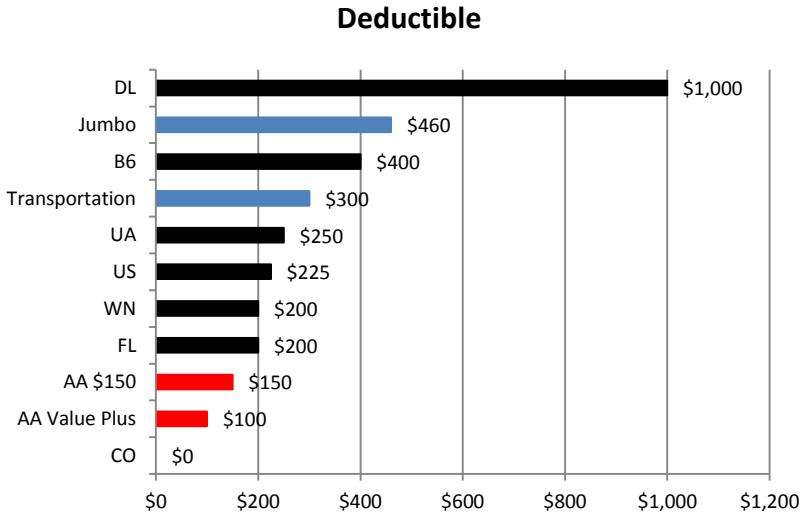
Employer strategies for cost control: raise deductibles, copays and out of pocket maximums, spousal surcharges

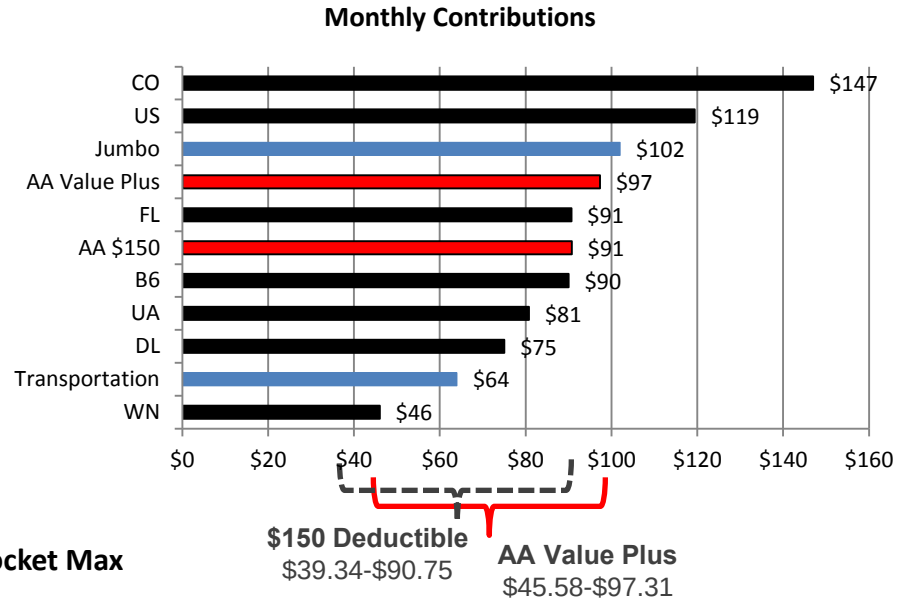
- Higher deductibles and out-of-pocket expenses promote consumer-based employee behavior when using healthcare services
- AA's contractual medical options do not require use of provider or hospital/facility networks
  - Both the Company and the employee forgo greater network discounts and pay more

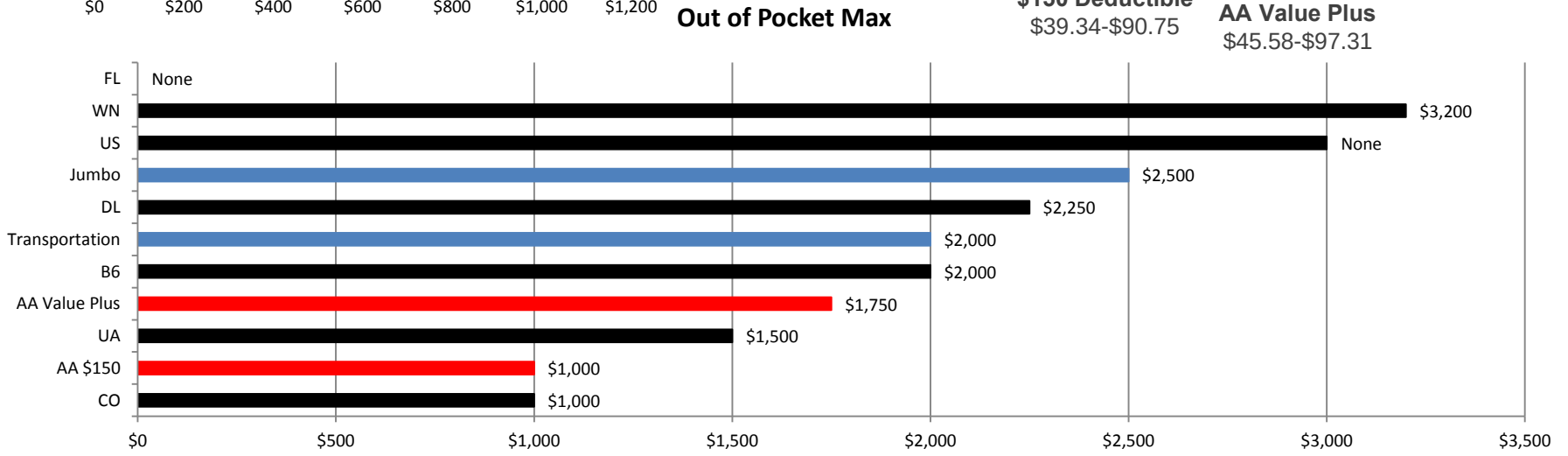


Source: *2011 Mercer National Survey of Employer-Sponsored Health Plans, employers with at least 20,000 employees*

Historically, employers use three main levers when managing costs; deductibles, out-of-pocket maximums, and employee contributions, AA's combined levers are uncompetitive







Source: AirCon Benefits 2011, AA HR Benefits, 2011 Mercer National Survey Employer-Sponsored Health Plans

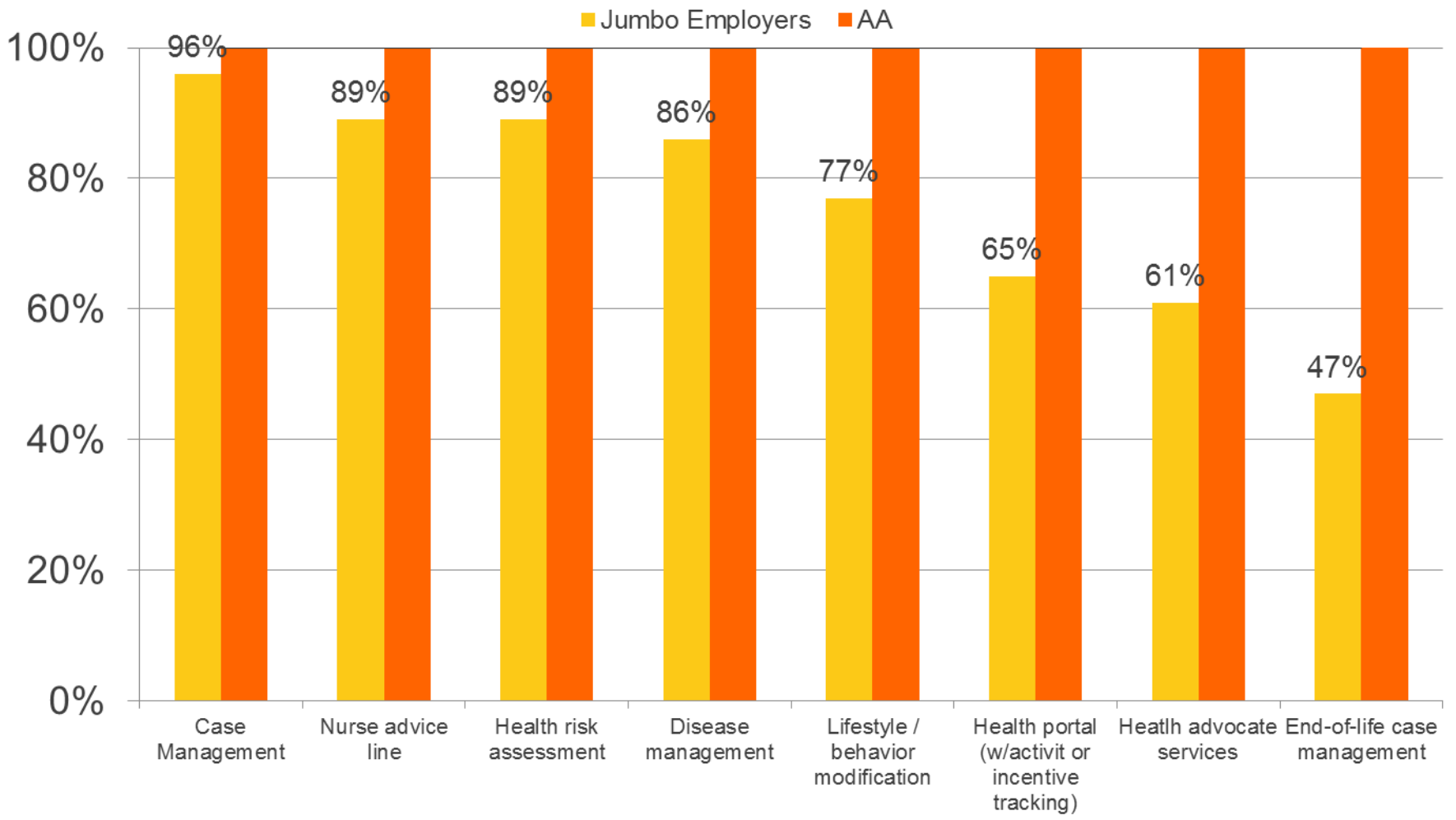
Other airlines use the same employee contributions for most workgroups

- US Airways contributions are higher for Pilots and Flight Attendants
- AirTran (FL) contributions are based on years of service
- Continental has a working spouse surcharge not included in the 20% cost share

Contributions	AA	DL	CO	UA	WN	US	B6	FL
Pilots	14%	23%	20%	20%	14%	23%	24%	21-33%
Flight Attendants	9%	23%	20%	20%	14%	17%	24%	21-33%
Ground Union	19%	23%	20%	20%	14%	15%	24%	21-33%

Source: AirCon Benefits 2011

AA's Healthmatters wellness program is offered to help employees prevent illness and manage health conditions



Source: 2011 Mercer National Survey of Employer-Sponsored Health Plans, employers with at least 20,000 employees
Source: AA HR Benefits

PT employee contributions are higher at other airlines and jumbo employers

- American's healthcare coverage for PT employees is uncompetitive amongst several airlines and jumbo employers
- American's PT employees have the same coverage and contributions as FT employees
- Continental, Southwest, US Airways, and JetBlue charge higher contributions for dependents, charging up to 2 times the full-time employee cost share or more
- PT employees at jumbo employers pay 46% of the total cost for employee only coverage, and 50% of the total cost for tiers with dependent coverage

Source: AirCon Benefits 2011

Summary: why our medical costs are higher

- Low deductibles and out of pocket maximums
- Low employee contribution rates
- Company absorbs most of the annual inflation
- Contract plans do not promote use of network providers with discounted fees
- Higher company subsidy for spouse/domestic partner coverage than other companies
- Limited employee participation in wellness and managed care programs

Changes to Active Medical

What our healthcare savings proposal delivers

- Consistent medical options and contributions for all employees
- Set employee contributions to cover 23% of the cost of coverage, in line with other airlines and large employers
- Employee choice:
  - Lower contributions/higher deductible option, or
  - lower deductible/higher contributions
- Higher company subsidy for employee only and tier with children
- Increases contributions for spouses and domestic partners
- Increases the contribution required of PT TWU-represented employees electing to cover dependents

2012 Projected full year 2012 savings = $103 million

Workgroup	Savings
Agents/Reps/Planners, Management & Support Staff	$17.3M
TWU-represented	$30.4M
Flight Attendants	$32.9M
Pilots	$22.5M
Total healthcare savings	$103.0M
Additional savings PT TWU-represented employees	$3.4M
Total with PT savings	$106.4M

Savings above is based on healthcare analysis performed by Mercer using enrollment data and healthcare assumptions; savings is annualized for 2012 based on an assumed implementation date of January 1, 2012. The savings analysis does not factor in any analysis performed by finance

2012 Medical plan design
Value, Standard & Core

- Standard option would become contract option subject to change through the negotiations process - plan design features in Value and Core would be subject to change at the Company's discretion

	Value	Standard	Core
Spending Accounts	Not HSA Compatible	Not HSA Compatible	HSA Compatible
In Network Deductible (Single/Family)	$750 pp	$1,500 pp	$2,000/$4,000**
Out of Network Deductible (Single/Family)	$2,000 pp	$3,000 pp	$4,000/$8,000**
Coinsurance (In/Out)	20%/50%	20%/50%	30%/50%
In Network Out of Pocket Max (Single/Family)	$3,250 pp	$4,000 pp	$6,000/$12,000**
Out of Network Out of Pocket Max (Single/Family)	Unlimited	Unlimited	$12,000/$24,000**
Primary Care Physician Copay (In/Out)	$25*	$30*	30%/50%
Specialist Copay (In/Out)	$45*	20%/50%	30%/50%
Retail Clinics Copay (In/Out)	$45*	20%/50%	30%/50%
Preventive Care*	$0	$0	$0
Pharmacy (Retail)*			
Generic	20% ($20 min/$40 max)	20% ($20 min/$40 max)	subject to
Formulary Brand	30% ($30 min/$100 max)	30% ($30 min/$100 max)	deductibles and
Non-Formulary Brand	50% ($45 min/$150 max)	50% ($45 min/$150 max)	coinsurance***
Pharmacy (Mail)*			
Generic	20% ($10 min/$80 max)	20% ($10 min/$80 max)	subject to
Formulary Brand	30% ($60 min/$200 max)	30% ($60 min/$200 max)	deductibles and
Non-Formulary Brand	50% ($90 min/$300 max)	50% ($90 min/$300 max)	coinsurance***

*Not subject to deductible

** Core - each deductible (single/family) is an aggregate that needs to be satisfied in total before coinsurance applies

** Core - the deductible is calculated as satisfying a portion of the OOP Max

** Core - each (single/family) OOP Max is an aggregate that needs to be satisfied in total before receiving 100% coverage

***Preventive Rx not subject to deductible, coinsurance still applies

2012 Contributions for all employees

2012 Current Contributions

- 62% of all employees are enrolled in the Value Plus option

Workgroup	Medical Option	EE Only	EE + 1 (Sp/DP)	EE + Child(ren)	EE + 2 (Family)
TWU-represented	Value Plus	$92.50	$185.00	-	$277.50
Flight Attendants	Value Plus	$47.55	$95.01	-	$142.64
Pilots	Value Plus	$62.09	$124.18	-	$186.27

New 2012 Contributions All Employees

Workgroup	Medical Option	EE Only	EE + 1 (Sp/DP)	EE + Child(ren)	EE + 2 (Family)
FT Employees	Value	$82.42	$247.27	$148.36	$333.27
	Standard	$76.91	$230.74	$138.44	$311.00
	Core	$67.59	$202.78	$121.67	$273.31
PT Employees	Value	$82.42	$412.11	$214.30	$584.12
	Standard	$76.91	$384.56	$199.97	$545.08
	Core	$67.59	$337.96	$175.74	$479.03

2012 Projected enrollment by workgroup and medical option

Workgroup	Medical Option	EE Only	EE + 1 (Sp/DP)	EE + Child(ren)	EE + 2 (Family)
Flight Attendants	Value	6,230	2,402	1,339	3,206
Flight Attendants	Standard	283	142	52	120
Flight Attendants	Core	38	24	6	28
Total		6,551	2,568	1,397	3,354

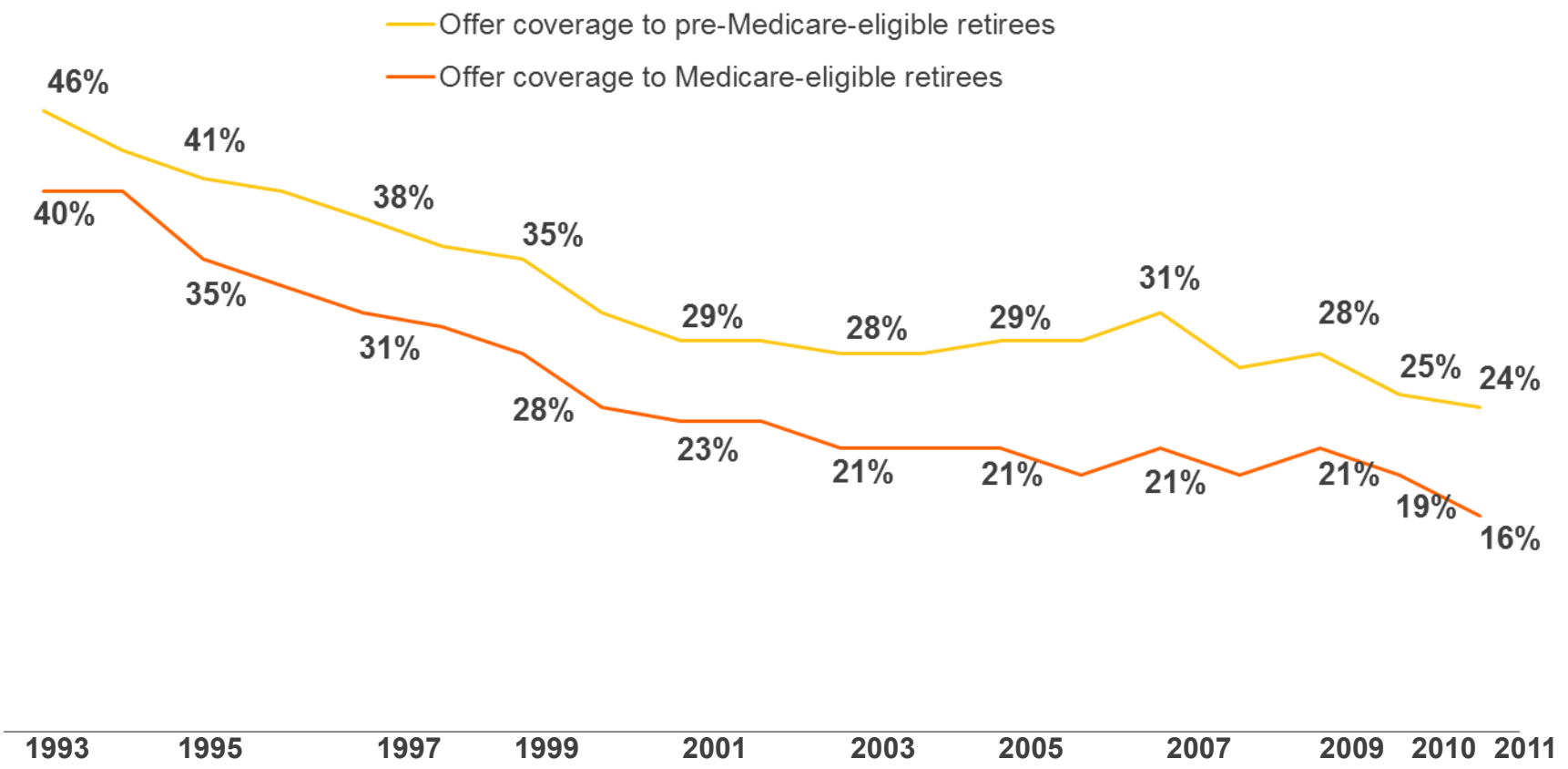
Workgroup	Medical Option	EE Only	EE + 1 (Sp/DP)	EE + Child(ren)	EE + 2 (Family)
Pilots	Value	862	1,450	512	3,983
Pilots	Standard	83	148	35	228
Pilots	Core	119	132	58	259
Total		1,064	1.730	605	4,470

Workgroup	Medical Option	EE Only	EE + 1 (Sp/DP)	EE + Child(ren)	EE + 2 (Family)
TWU-represented	Value	5,380	4,646	2,257	7,470
TWU-represented	Standard	156	102	45	142
TWU-represented	Core	156	102	45	142
Total		5,692	4,850	2,347	7,754

Source: Mercer plan design modeling using 2011 census enrollment

Retiree Medical Program

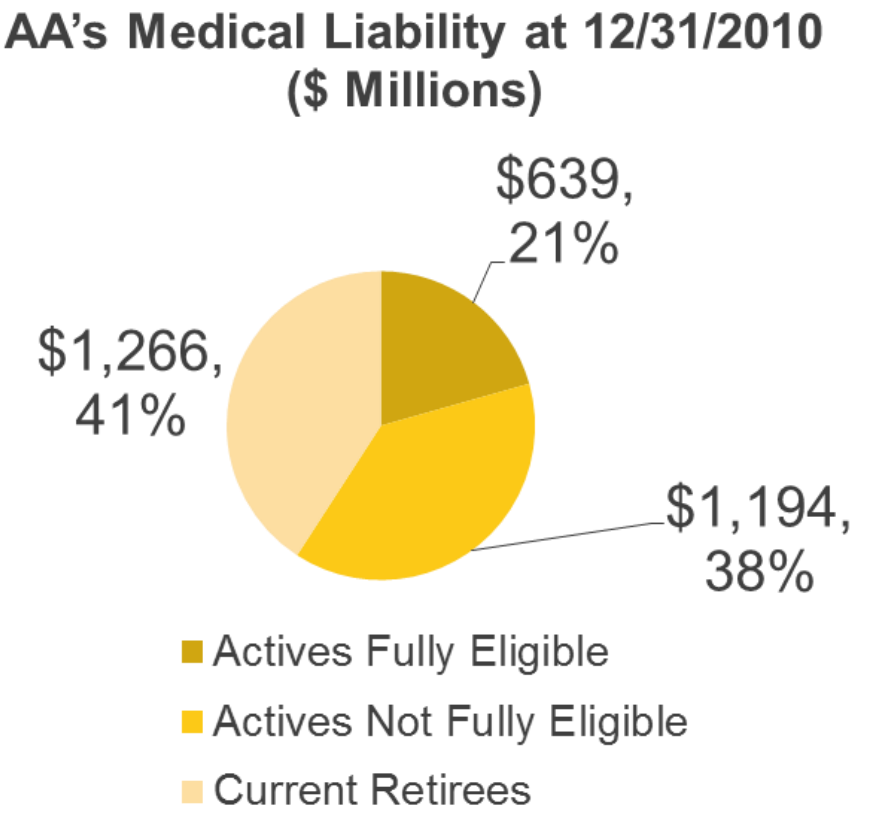
Mercer 2011 National Survey of Employer-Sponsored Health Plans



*Includes only plans offered on an ongoing basis (i.e., new hires are eligible).

AA's retiree medical expense

- American Airlines has significantly greater expense for retiree health care than other major airlines
- Over $3.0 billion liability and $178 million in annual expense in 2010



Airline retiree medical programs

	Eligibility Age/YOS	Under 65 Coverage Retiree Only Cost Per Month	Age 65 & Over Coverage
American	55 / 10	$115 MS (25%) Prefunding – TWU/FA $58.38 ARP No Cost Pilots	None MS None Agents retired on/after 1/1/2011 Prefunding TWU/FA No Cost Pilots
AirTran		No Program	No Program
Continental	55 / 5	$706, 100% of cost (assume same BYO choice as active employee) $482 for Pilots (post 3.31.2005) SK trade available for some groups	No Program
United	55 / 10	YOS < 20 $452 (80%) 20% UA subsidy 20 – 24 $339 (60%) 40% UA subsidy 25+ $226 (40%) 60% UA subsidy	$153 $90/mo fixed UA subsidy
Delta	55 / 5	$315 - $607, 100% of cost $795 Pilot DPMP in addition to above	No Program
JetBlue		No Program	No Program
Southwest	55 / 15	$476 - $712 (age 55 – 59) $580 - $793 (age 60 – 64) SK trade available for some groups	No Program
US Airways (E)	55 / 5	$380 - $779, 100% of cost SK trade available for some groups	No Program

Source: Aircon 2011 benefits, CO, DL, WN, US premiums based on retiree medical option enrollment

Changes to Retiree Medical

American's retiree healthcare proposal
All employee groups

- Pre-65 retiree medical
  - American would continue to sponsor pre-65 retiree medical
  - 2012 plan design will be implemented with a network
  - Plan will have a lifetime medical maximum benefit of $300,000
  - Monthly premiums for pre-65 retiree standard medical option is $461.96 per person per month for 2012 enrollment
  - Voluntary Value Plus would continue to be an option – monthly premiums $667.94 per person per month with a $1M lifetime medical maximum benefit
  - Employees who prefunded for retiree medical would be refunded their contributions, adjusted for investment performance
- Post-65 retiree medical
  - American would no longer sponsor a post-65 retiree medical option
  - Future retirees may purchase Medicare Supplement plans from UHC Connector or through another administrator

Retiree medical plan options - 2012

	Retiree Value Plus	Retiree Standard
In Network Deductible (Single/Family)	$250	$150 / $400
Out of Network Deductible (Single/Family)	$750	-
Coinsurance (In/Out)	15%/35%	20%/40%
In Network Out of Pocket Max (Single/Family)	$1,750 pp	$1,000 / $3,000
Out of Network Out of Pocket Max (Single/Family)	Unlimited	
Primary Care Physician Copay (In/Out)	$30*/35%	20%/40%
Specialist Copay (In/Out)	$40*/35%	20%/40%
Preventive Care* (In Network Only)	$0	$0
Pharmacy (Retail)		
Generic	$10	20% coinsurance
Formulary Brand	30% ($20 min/$75 max)**	after deductible
Non-Formulary Brand	50% ($35 min/$90 max)**	for most prescription drugs
Pharmacy (Mail)*		
Generic	20% (no min/$80 max)	$25****
Formulary Brand	30% ($40 min/$150 max)***	25% when no generic avail ($150 max)
Non-Formulary Brand	50% ($70 min/$180 max)***	

*Not subject to deductible

**If you select a brand name drug (formulary or non-formulary) when a generic is available, you will pay the $10 generic retail co-pay plus the cost difference between generic and brand prices. Maximums do not apply.

***If you select a brand name drug (formulary or non-formulary) when a generic is available, you will pay the 20% generic mail order co-insurance plus the cost difference between generic and brand prices. Maximums do not apply.

****If you select a brand name drug (formulary or non-formulary) when a generic is available, you will pay $25 generic mail order co-pay plus the cost difference between generic and brand prices. Maximums do not apply.

2012 Retiree Monthly Premiums		
Retiree Only	$667.94	$461.96

Source: AA HR Benefits

Questions

Appendix

Active medical healthcare savings methodology

- 2011 Claims data from American's data warehouse, Optum Health
  - January – September 2011 with actuarial trend for October - December
  - Self-funded claims experience for medical/Rx and enrollment detail
- Claims experience trended forward with 7% inflation annually 2012 – 2018, administrative fee inflation at 2%
- 2012 – 2018 savings is against status quo for same years
  - Both analysis assume no change in plan design and enrollment choices
- 2012 savings in healthcare model assumes implementation was January 1, 2012
  - Using enrollment migration into new options, claims are trended forward to 2018
- 2012 claims, fees, and enrollment were aggregated to calculate the 23% aggregate cost share with the same contributions applied to all workgroups
- Savings calculation: Net Company Cost (Claims + Admin – Contributions) for new options versus status quo Net Company Costs

Active medical healthcare savings methodology

- Employee only contributions is the base for determining costs for dependent tiers, EE + Spouse/Domestic Partner is 3.0 times employee only, EE + Child(ren) is 1.8 times employee only, and EE + Family is 4.0 times employee only contributions
- Migration assumptions made to determine savings
  - Flight Attendants:
    - Value Plus and $150 Deductible – 100% to Value
    - $250 & $500 Deductible – 100% to Standard
    - $1,000 Deductible – 45% to Standard, 45% Core, 10% drop coverage
  - Pilots:
    - Value Plus and $150 Deductible – 100% to Value
    - $250 Deductible – 100% to Standard
    - $500 & $1,000 Deductible – 100% to Core
  - TWU-represented:
    - Value Plus, Value, and $150 Deductible – 100% to Value
    - $1,000 Deductible: 45% to Standard, 45% to Core, 10% drop coverage

Active medical healthcare savings methodology
PT employees

- Part-time employee only contributions will be established at the same cost as full-time employee only contributions
  - Part-time employees with dependents will pay two-times the monthly contributions that full-time employees pay for dependents in the same medical option/dependent tier structure

    Example: Standard medical option for employee only enrollment is $76.91 and FT Employee + Spouse is $230.74 per month, PT Employee + Spouse is $384.57 calculated as follows:

    Step 1: $230.74 - $76.91 = $153.83

    Step 2: $153.83 X 2 = $307.66

    Step 3: $307.66 + $76.91 = $384.57

- Savings assumes 20% of part-time employees will drop coverage for spouse/domestic partner and child(ren) and 5% will drop all coverage (waive)

2012 Contributions for ARP, Management, Support Staff
(excludes home-based representatives)

- Current cost share for these workgroups is 18%
- Company subsidizes Management and Support Staff part-time employees based on PT schedule (50%, 60%, 80% of full-time costs)

Workgroup (AMS)	Medical Option	EE Only	EE + 1 (Sp/DP)	EE + Child(ren)	EE + 2 (Family)
Agents/Reps/Planners	Value Plus	$101.49	$233.43	$182.68	$314.62
Management	Value Plus	$101.49	$233.43	$182.68	$314.62
Support Staff	Value Plus	$101.49	$233.43	$182.68	$314.62

Workgroup	Medical Option	EE Only	EE + 1 (Sp/DP)	EE + Child(ren)	EE + 2 (Family)
AMS	Value	5,631	2,580	1,873	3,921
AMS	Standard	194	64	41	144
AMS	Core	194	64	41	144
Total		5,692	4,850	2,347	7,754

APA Exhibit 425

AA Cost With OA Contract Summary - Pilots

		AA Costs H/(L) w/OA Contract ($MM)									Wtd Avg Calcs	
	AA	DL	NW	CO	UA	US	HP	WN	FL	B6	Legacy	All
Compensation												
Wages	$ 1,242	$ 45	$ 45	$ (41)	$ (188)	$ (293)	$ (231)	$ 391	$ (138)	$ 32	$ (76)	$ (2)
Pension	266	(112)	(145)	(115)	(79)	(145)	(145)	(153)	(139)	(145)	(114)	(123)
Pension Compounding		(3)	(4)	3	11	31	24	(43)	14	(3)	6	(2)
Subtotal	**1,507**	**(70)**	**(104)**	**(152)**	**(256)**	**(407)**	**(351)**	**195**	**(263)**	**(116)**	**(184)**	**(126)**
Benefits												
Active Medical	82	(12)	(12)	(6)	(6)	(6)	-	10	(10)	(10)	(8)	(6)
Retiree Medical	38	(19)	(19)	(7)	(15)	(29)	(37)	(29)	(15)	(37)	(17)	(20)
Other Fixed Benefits	2	-	-	-	-	-	-	-	-	-	-	-
Subtotal	**122**	**(31)**	**(31)**	**(13)**	**(20)**	**(35)**	**(37)**	**(20)**	**(25)**	**(47)**	**(25)**	**(26)**
Workrules												
Schedule Max	-	(90)	(90)	(85)	(52)	(102)	(88)	(102)	(102)	(102)	(80)	(85)
Preferential Bidding	-	(18)	(18)	(18)	(18)	(18)	(18)	-	-	(18)	(18)	(14)
Duty Rigs	-	15	15	(51)	(13)	(1)	8	81	(1)	(25)	(7)	6
Deadhead	-	-	-	-	-	(14)	-	-	-	-	(1)	(1)
Lineholder Guarantee	-	1	1	7	1	5	18	14	4	4	3	5
Sequence Protection	-	14	14	14	14	14	14	14	14	14	14	14
Sick Accrual	-	69	69	-	-	21	21	124	(83)	(207)	31	28
Reserve Days of Availability	-	10	10	6	(2)	(4)	10	40	(10)	6	5	10
Vacation	-	0	0	35	3	(60)	26	76	(22)	87	4	18
Reserve Guarantee	-	(11)	(11)	4	(11)	4	16	11	(11)	(10)	(5)	(3)
Subtotal	**-**	**(9)**	**(9)**	**(89)**	**(78)**	**(154)**	**7**	**260**	**(208)**	**(250)**	**(54)**	**(23)**
Compounding												
Outsourcing											-	-
Workrules	-	(6)	(6)	6	11	48	(22)	(12)	55	41	5	6
Subtotal	**-**	**(6)**	**(6)**	**6**	**11**	**48**	**(22)**	**(12)**	**55**	**41**	**5**	**6**
AA Cost B/(W) vs OA Contract ($MM)	**1,630**	**(116)**	**(150)**	**(248)**	**(343)**	**(547)**	**(403)**	**424**	**(442)**	**(373)**	**(259)**	**(168)**
ASM Weighting (2010)	153.2	120.5	80.3	97.4	122.7	44.4	27.2	98.4	24.1	34.7		

											Wtd Avg Calcs	
Traditional View	**AA**	**DL**	**NW**	**CO**	**UA**	**US**	**HP**	**WN**	**FL**	**B6**	**Legacy**	**All**
Wages	1,242	45	45	(41)	(188)	(293)	(231)	391	(138)	32	(76)	(2)
Benefits (Incl Pension)	388	(143)	(176)	(128)	(99)	(180)	(182)	(172)	(165)	(192)	(140)	(149)
Workrules	-	(9)	(9)	(89)	(78)	(154)	7	260	(208)	(250)	(54)	(23)
Outsourcing	-	-	-	-	-	-	-	-	-	-	-	-
Compounding	-	(9)	(10)	9	22	79	2	(55)	69	38	11	4
AA Cost B/(W) vs OA Contract ($MM)	**1,630**	**(116)**	**(150)**	**(248)**	**(343)**	**(547)**	**(403)**	**424**	**(442)**	**(373)**	**(259)**	**(168)**

APA Exhibit 426

Entire Exhibit Under Seal

APA Exhibit 427

David Dean

From: Mollen, Neal D. <nealmollen@paulhastings.com>
Sent: Tuesday, April 10, 2012 6:30 PM
To: David Dean
Subject: RE: Information inquiry

Your understanding is correct; no such analyses were done

PAUL HASTINGS

Neal Mollen | Partner, Employment Law Department
Paul Hastings LLP | 875 15th Street, N.W., Washington, DC 20005 | Direct: +1.202.551.1738 | Main: +1.202.551.1700 | Fax: +1.202.551.0138 |
nealmollen@paulhastings.com | www.paulhastings.com

From: David Dean [mailto:dpdean@jamhoff.com]
Sent: Tuesday, April 10, 2012 10:27 AM
To: Mollen, Neal D.
Subject: Information inquiry

Neal:

I would like to confirm that I am correctly interpreting the Company's response to an information request promulgated by the APFA that is contained in Intralink Doc. 21.59:

Merger Initiatives
1. Analyses and / or presentations regarding any potential merger initiatives undertaken by the Company within the last 2 years.
A: We do not believe that information is reasonably necessary for the union to evaluate the Company's proposals.

I understand the Company's response to be that it did not undertake any analyses of potential mergers as part of developing the business plan underlying its current labor proposals. Is that correct?

If that is not correct, I'd like to request any such analyses or presentations, and I will arrange for Neil Roghair to make the same request across the negotiating table.

Thanks,
David

David P. Dean
James & Hoffman, P.C.
1130 Connecticut Avenue NW
Suite 950
Washington, DC 20036

ph: 202-496-0500
fax: 202-496-0555
www.jamhoff.com

****Please note our new address****

Confidentiality Notice: This email is not encrypted. However, the email is confidential and may be privileged, and it is for the sole use of the named and intended recipient. Any review by or distribution to others is strictly prohibited and may be illegal. If you are not the intended recipient, you are not authorized to read, print, retain, copy or disseminate this message or any part of it. If you have received this message in error, please delete all copies received and notify the sender or the receptionist of James & Hoffman, P.C. immediately at (202)496-0500.

****
IRS Circular 230 Disclosure: As required by U.S.Treasury Regulations governing tax practice, you are hereby advised that any written tax advice contained herein was not written or intended to be used (and cannot be used) by any taxpayer for the purpose of avoiding penalties that may be imposed under the U.S. Internal Revenue Code.
****

This message is sent by a law firm and may contain information that is privileged or confidential. If you received this transmission in error, please notify the sender by reply e-mail and delete the message and any attachments.

For additional information, please visit our website at

APA Exhibit 428

APA to AA: AEA Data Request
4/13/2012

APA Data Request – April 13, 2012

APA has removed those questions (from prior data requests), which were answered by the company on April 10, 2012 or in the Newgren e-mail to FO Roghair on April 12, 2012 @ 11:24 a.m.

There are approximately 29 questions from prior data requests that APA is still waiting for a company response. Additionally, this data request includes 20 new questions at the end of this document.

Also, the company is not providing APA with timely notification of responses provided to APA data requests, including the posting of files to Intralinks.

Many of the recently posted Intralink files are not accessible to all relevant APA representatives, including the APA Negotiating Committee. This has been noted in APA's new data requests (question #11) at the end of this document and highlighted in yellow after the question in the original data request.

1. AA provided a partial response to the APA Scheduling and General Data request (from March 8, 2012) on March 20, 2012. AA stated in their response that answers to the following questions were, "In Process", yet responses have only been received for four questions. Provide a written explanation why APA has not yet received a response to these questions that were submitted over one-month ago:
    a. Please provide a breakdown that includes the methodology used to arrive at the headcount impact of the new FAA Flight, Duty and Rest rules? The Company provided APA with a response on February 27, 2012 that included an aggregate number of 471 pilots, broken down into three sub-sections (short-call and international reserves, limits on duty hours, rest period frequency and length), but did not break the numbers down with the methodology used to arrive at the figures.
    b. Please provide any information contained in the Company's modeling reflecting any headcount savings generated by the implementation of PBS and "compression" for reserve pilots?

2. APA submitted a data request on March 22, 2012 with the following questions. AA has yet to provide a response to the questions regarding active medical, retiree medical and dental. Provide a written explanation why APA has not yet received a response to these questions:

    a. Active Medical:
        i. Provide a complete list of formulary prescription drugs. (The MEDCO website makes it difficult and cumbersome to compile a complete list of formulary drugs) (Newgren e-mail to Roghair on 4/12/2012 @ 11:24 a.m. states this question has been answered on 4/3/2012 with the posting of Intralink file 27.26. However, this file is not accessible to all relevant APA representatives, including the APA Negotiating Committee).
        ii. Provide a written explanation why the company has used an Actuarial Value methodology as opposed to a Relative Value methodology to value cost savings as a result of active medical plan design and premium changes. (In 2003, the parties mutually agreed to value active medical changes using the Relative Value methodology)
        iii. Provide a written explanation why the company did not model pilot behavioral changes for future active medical plan selection, given the significant depth of proposed changes to both monthly premiums and plan designs.
        iv. Provide a written explanation of how the company modeled the planned migration in future enrollment between the Value and Standard medical plans.
        v. Provide a dollar value in savings for the " Out-of-network Out-of-Pocket Maximum" per the company's updated active medical proposal of March 15, 2002.

    b. Retiree Medical
        i. Provide a written explanation why the company used an 8.25 percent discount factor in valuing retiree medical liabilities. Segal recommends no more than a 5 percent discount factor. Current professional actuarial and accounting standards use a rate between 4 percent and 5 percent.

ii. Was the discount factor used to value the AA retiree medical proposal selected by AMR senior management or the third-party professional actuarial firm contracted by the company to provide the valuation?

c. Dental:
   i. Provide the methodology and line item breakout of the company's valuation of the APA Dental proposal (February 8, 2012), including the following three items:
      1. Preventive Care covered at 100 percent
      2. Increase in lifetime Orthodontia coverage to $2k and include for all family members
      3. Increase in annual dental benefit max to $2k per year

d. Scheduling:
   i. Provide an updated valuation for paying one (1) minute of pay for every two (2) minutes of ground time greater than 2:00. (Company valuation uses data from 2008). The company's April 11, 2012 response via Intralinks file 22.77 is non-responsive.
   ii. Provide an updated valuation for paying one (1) minute of pay for every 3.25 minutes of duty (Company valuation uses data from 2008). The company's April 11, 2012 response via Intralinks file 22.77 is non-responsive.
   iii. The company term-sheet does not have a line item cost savings for the "Substitution of Equipment" proposal. Provide an explanation why the company is not assigning a value to their proposed change on this issue. Provide a breakdown of the number of hours in 2011 (by four-part bid status) paid to pilots for a "Substitution of Equipment" and the savings that would be derived if the company proposal had been in place in 2011. The company's April 11, 2012 response via Intralinks file 22.77 is non-responsive. There are many cases where a pilot's entire sequence is not flown by the original pilot due to a substitution of equipment (example: pilot is scheduled to fly a DFW – LGA – DFW turnaround on a S80 and the flights are substituted with a 737). The pilot is removed with pay and credit with no obligation.

iv. In the AAMPL model, provide specific detail on how reserves are planned for, including what assumptions are used for reserve utilization rates. The company's April 11, 2012 response via Intralinks file 22.77 is non-responsive.

v. In the AAMPL model, provide specific detail how PBS is taken into account in reserve planning. The company's April 11, 2012 response via Intralinks file 22.77 is non-responsive.

3. APA submitted a data request on March 27, 2012 with three questions. The response to question a. below was non-responsive (does not include assumptions and methodologies) and AA has yet to provide a response to question b.
   a. The revised Valuation Models supporting the revised valuation sheet, including listing what assumptions and/or methodologies changed from the previous valuation(s). (Intralink file 22.73 is non-responsive to this request)
   b. Provide an Excel copy of the supporting model and analysis used to create Intralinks file 26.1.7, "OA Contract on AA_OAL Salary Benefit Workrules Priceout 2011"

4. APA submitted a data request on March 30, 2012. AA has yet to provide a response to the following questions from the March 30, 2012 data request. Provide a written explanation why APA has not yet received a response to the remaining questions:
   a. Please provide a copy of the assumptions and results produced from the various AAMPL runs conducted on March 27, 2012. (Newgren e-mail to Roghair on 4/12/2012 @ 11:24 a.m. states this question has been answered on 4/3/2012 with the posting of Intralink file 22.71. However, this file is not accessible to all relevant APA representatives, including the APA Negotiating Committee.
   b. Provide the reduction in paid hours modeled by the company as a result of modifying trip/duty rig provisions per the company proposal?
      i. How much does this save annually?
      ii. What percentage of the reduction in paid hours does the company attribute to a reduced pilot headcount and how many fewer pilots would the company need per the

company proposal?

iii. Explain how this savings is factored into the savings from Schedule/Max Workrules?

iv. The OA Contract on AA Pilot Analysis provided by the company (Intralinks 26.1.7) states that if AA were to implement the trip/duty rigs in place at CAL (which is what the company is proposing), the company would realize $51 million in annual savings. Where does this show on the company's March 21, 2012 valuation sheet?

c. Provide revised priceout models (including the methodology) for the following company proposals (initially requested by FO Roghair to Mr. Newgren on 3/27/12 at 12:33pm CST):

i. Pay Groupings – company has decreased the six-year average savings by $2 million (March 5, 2012, company placed a value of $13 million on pay groupings, now valued at $11 million per company March 21, 2012 valuation sheet). Why and what assumptions changed?

ii. Modify Int'l Premium – include how regular and reserve pilots will be paid. For example, will a reserve pilot only receive international override if the reserve pilot flies a sequence(s) qualifying for international override per the company's proposal.

d. Regarding the company proposal to displace and assign the FO on an augmented sequence to an open FB or FC position, provide a breakdown by 4 part bid status of all sequences in 2011 that resulted in either the Captain or FO being displaced on an augmented flight where the FB and/or FC position was open at the time of displacement.

e. During a March 26, 2012 negotiating session with AA Crew Resources and AA Finance, the company stated the APA and AA scheduling/work rule proposals would eliminate an additional 180 pilot jobs (due to PBS effects) versus the company's previous valuations. The company further stated APA would be receiving a credit of $8 million in savings in the company's valuation of the AA and APA proposals.

i. Provide an updated valuation sheet (last one was March 21, 2012) reflecting the company's valuation of the AA and APA scheduling/work rule proposals year-by-year and the six-year average.

ii. Provide the difference in assumptions that changed in the

company's modeling that resulted in the additional savings and pilot headcount reduction.

iii. Provide the methodology of how the elimination of an additional 180 pilot jobs results in a cost savings of $8 million. The company has stated the cost of an incremental pilot is between $80 - $90k. 180 pilots X $80k = $14.4 million. 180 pilots X $90k = $16.2 million

The following is an additional new data requests:

1. Does the company's April 10, 2012 response (Intralinks 22.76) to the APA request for annual training events include training events as a result of displacements or is it only a breakdown of training events by pilots who had bid into higher equipment (transition and upgrade – either as an FO to FO, FO to CA, CA to CA, etc.)?
2. Why does the company not have a training forecast for 2015 through 2017, even though the business plan and underlying 1113(c) proposals to APA are based on projections through 2017?
3. Provide a training forecast for 2015 through 2017 based on the projected business plan and underlying 1113(c) proposals to APA.
4. In the company's April 10, 2012 response to APA regarding the calculation of planned pilot retirements (Intralinks 22.76), the company states, "The company has made a modest adjustment to its retirement forecast since the data from the "Retirements" tab was created". Why did the company make an adjustment increasing the planned pilot retirements between now and 2018?
    a. Please provide the methodology and assumptions used to make an adjustment to calculate pilot retirements beginning in January 2012 through December 2017?
    b. What was the average planned age for pilot retirements in the company's initial Retirement tab of the Valuation model and what is the new average planned age for pilot retirements?
    c. What analysis did the company use to adjust the increased planned pilot retirements?
    d. What impact does the company's updated pilot retirement forecast have on the company's valuation sheet?
5. It appears in the company's April 10, 2012 response (Intralinks 22.76) to APA regarding the breakdown of sequences (for 2011) causing a reassignment due to a domestic reserve pilot not proffering for a domestic sequence that signed-in prior to 07:00 a.m. for the first day

of reserve availability following a DFP or other planned absence ending at midnight, resulted in an increase of 13,025 additional paid hours.

a. What is the annual cost savings to eliminate the 13,025 additional paid hours?
b. How many fewer pilots will be required?
c. Why did the company use an 80 percent realization factor and not a 100 percent realization factor?
d. Why did the company not make a volume adjustment for years 2013 through 2017?
e. What impact does this change have on the company's valuation sheet?

6. The company EXCEL spreadsheet used to model the company's proposed changes to the premium pay structure appears to be inaccurate. In Column J, there are 53 cells without any value where there should be a value. Please fix the spreadsheet and provide a revised priceout of the savings of the company's proposal.
7. The company has proposed to eliminate Section 15.D.1. – regularly scheduled pilots shall receive not less than five (5) separate periods of forty-eight (48) consecutive hours free from all duty with the company at their base during each contractual month. Confirm that under the company's proposal, a pilot could be scheduled to work every day of the month, with no requirements to have a calendar day off at a pilot's home base and that the company could satisfy the new FAR rest requirements of 30-hours off every 168-hours by having a pilot on layover?
8. Provide APA with any analysis and/or presentations regarding any potential merger and/or acquisition initiatives undertaken by the company within the two years PRIOR to declaring bankruptcy on November 29, 2011.
9. Provide APA with any analysis and/or presentations regarding any potential merger and/or acquisition initiatives undertaken by the company since declaring bankruptcy on November 29, 2011.
10. Provide APA with any analysis of potential mergers and/or acquisitions done by the company as part of developing the business plan underlying its current 1113(c) proposals to APA.
11. Intralink File Access:
    i. The following Intralink files may have increased security restrictions and are not available to all relevant APA

representatives, including the APA Negotiating Committee.

1. 22.69
2. 22.70
3. 22.71
4. 22.72 – Working Version – Valuation Model March 21, 2012 Proposal to APA
5. 22.73 – Working Version – Valuation Model April 4, 2012
6. 22.74
7. 27.26

Provide a written explanation why relevant APA representatives do not have the same level of access (to the Intralinks files listed above) as other Intralink files. Please provide access to the above files at the regular security level.

12. Provide an updated valuation sheet in the same format as the ones provided previously (i.e. February 1st , February 23rd and March 21st).

APA Exhibit 429

Entire Exhibit Under Seal

APA Exhibit 430

Entire Exhibit Under Seal

APA Exhibit 431

Entire Exhibit Under Seal

APA Exhibit 432a

CONDITIONAL LABOR AND PLAN OF REORGANIZATION AGREEMENT

This Conditional Labor and Plan of Reorganization Agreement ("**Agreement**") is entered into by the APA (defined below) and US Airways (defined below) as of April ___, 2012, and sets forth the binding agreement of the parties and supports a plan of reorganization that they will use their best efforts to support and seek confirmation of in the Debtors' Bankruptcy Cases (defined below).

I. **Parties**:

A. Allied Pilots Association ("**APA**") is an unincorporated association and labor union.

B. US Airways, Inc. ("**US Airways**") is a Delaware corporation and carrier by air.

II. **Background**:

A. American Airlines, Inc. ("**American**," or "**AA**"), a Delaware corporation, and its parent, AMR Corporation ("**AMR**"), a Delaware corporation, along with certain other subsidiaries (collectively, the "**Debtors**"), filed a chapter 11 bankruptcy petition on or about November 29, 2011 with the United States Bankruptcy Court for the Southern District of New York: In re AMR Corporation, et al., jointly administered Ch. 11 Case No. 11-15463 (SHL) (the "**Bankruptcy Cases**").

B. American is a "common carrier by air engaged in interstate and foreign commerce" within the meaning of the Railway Labor Act ("RLA").

C. APA has been certified by the National Mediation Board ("**NMB**") as the collective bargaining representative of airline pilots employed by American and is therefore a "representative" under the RLA.

D. APA is a party to the Debtors' bankruptcy case and has been designated as a member of the Unsecured Creditors Committee in that case.

E. APA and American concluded their first collective bargaining agreement ("CBA") in 1963. Since that first contract, APA and American have negotiated and administered a series of successor CBAs covering terms and conditions of employment for pilots employed at American. The most recent comprehensive collective bargaining agreement (also referred to as the "**2003-2008 CBA**") was a five-year contract beginning May 1, 2003.

F. Since the filing of the Bankruptcy Cases, APA and American have been engaged in negotiations regarding the terms of modifications to the 2003-2008 CBA. To date, no agreement has been reached.

G. US Airways has expressed an interest in acquiring the Debtors pursuant to a plan of reorganization (the "**POR**"), votes for which will be solicited ("**Solicitation**") pursuant to applicable law, including Sections 1125, 1126 and 1145 of the Bankruptcy Code, in conjunction with the Bankruptcy Cases, and the APA believes such a POR would enhance the prospects of the reorganized Debtors and enhance recoveries for unsecured creditors.

H. Prior to pursuing the POR, US Airways and APA desire to negotiate and resolve the terms of the modifications to the 2003-2008 CBA to apply between an entity formed on the effective date of

the POR by the reorganized Debtors and US Airways ("**New American Airlines**") and APA, as well as the terms of the POR with respect to APA.

III. **Terms of POR**:

A. US Airways shall propose a POR in the Bankruptcy Cases that is consistent with the terms set forth herein.

APA Allowed General Unsecured Claim: the POR shall provide APA with an allowed general unsecured claim (the "**APA Allowed General Unsecured Claim**") in such amount as the APA and Official Committee of the Unsecured Creditors shall agree, or, failing such agreement, as the Court shall determine. This Agreement shall continue in full force and effect in accordance with its terms without regard to the allowance or disallowance of any such APA General Unsecured Claim.

B. APA Allowed Administrative Expense Claim: The POR shall provide APA with an allowed administrative expense claim which shall be paid in full on the effective date of the POR (the "**APA Allowed Administrative Expense Claim**"). The amount of the APA Allowed Administrative Expense Claim shall be equal to the amount sufficient to reimburse APA for all fees and expenses incurred by APA lawyers and experts in the Bankruptcy Cases in connection with the negotiation and litigation related to the CBA negotiations. The amount accrued as of the date hereof shall not exceed $2,007,735, and the APA will be allowed an additional claim for lawyer and expert fees reasonably incurred through the Effective Date of the POR. On the Effective Date of the POR, New American Airlines shall pay, or reimburse APA, the fees and expenses incurred by APA's investment bankers in connection with this Agreement and approval of the POR.

IV. **New APA CBA**: As soon as reasonably practicable, US Airways shall, in good faith, negotiate modifications to the 2003-2008 CBA with APA to finalize the New APA CBA.

A. As used herein, the "**New APA CBA**" means a collective bargaining agreement which is substantially in accordance with the following terms:

Effective Date	• The New APA CBA shall not become effective unless it has been ratified by APA's members or the final and binding interest arbitration decision (outlined in the "Other" section below) has been rendered. These events shall occur no later than the effective date of the POR, in which case the "**Effective Date**" of the New APA CBA shall be the effective date of the POR.
Duration	• Six (6) years from the Effective Date of the New APA CBA.
Pilot Compensation	Aircraft will be established into equipment groupings for the purposes of pay as follows: **Equipment Group I** – Bombardier CRJ-900/1000, CS-100, MRJ90, Embraer 175/190/195, and other similar aircraft in the 81-110 seat range. The specific aircraft listed in Equipment Group I may be configured up to 118 seats. **Equipment Group II** – A319, A319neo, A320, A320neo, A321, A321neo, CS300, B-717, MD-80, B-737-700, B-737-7 MAX, B-737-

800, B-737-8 MAX, B-737-900, B-737-9 MAX

Equipment Group III – B-757 (all variants), B-767-200, B-767-300, A300

Equipment Group IV – B767-400, B787-8, B-787-9, B-787-10, A332, A333, A340, A350 (all variants), B-777 (all variants)

Equipment Group V – B-747 (all variants), A380 (all variants)

New aircraft not listed above will be treated as per the October 28, 2011 AA/APA Tentative Agreement. [Provided to Beth Holdren 4/12/12]

Initial Pay Rates

Group I: 12-year Captain rate $110.65 [US Airways agrees to this pay rate on the condition that the APA produce $2 Million/year in additional cost concession]

Groups II, III and IV

APA 2003-2008 CBA, (May 1, 2008 rates) used to establish initial pay rates as follows:
Group II – Average of MD-80 /737-800 12-year Captain rate $163.45
Group III – 767 12-year Captain rate $176.01
Group IV – 777-200 12-year Captain rate $204.81

Structural Pay Adjustments

On the Effective Date of the New APA CBA, the above rates for Groups I, II, III, and IV will receive the following structural adjustments:

Effective Date 3%
Effective Date + One (1) year.....3%
Effective Date + Two (2) years.....3%
Effective Date + Three (3) years.....3%
Effective Date + Four (4) years.....3%
Effective Date + Five (5) years..... 3%

	Effective Date + Six (6) years . . . . . .* *determined by averaging formula described below. [Increases in base hourly rates, above and beyond those specified in the AA 1113 term sheet, dated February 1, 2012, are acceptable to US Airways so long as they are offset by additional cost concessions. With respect to the 3% increase on the third and fourth anniversary, the APA shall produce offsetting cost concessions as if the increase were 2.5% (and not 3%). With respect to the 3% increase on the fifth anniversary, the APA shall not be obligated to produce any additional offsetting cost concessions. See clarification in cost concessions section] • Pilot hourly pay rates shall be adjusted for the sixth year of the New APA CBA as follows: with the exception of Group I, hourly pay rates of the pilots for narrow-body and wide-body aircraft shall be adjusted (if necessary) so that the "Total Cockpit Crew Cost" shall be equal to the average of the Total Cockpit Crew Cost for the pilots of United Airlines or Delta Airlines, or their successors, flying narrow-body and wide-body aircraft, respectively. "Total Cockpit Crew Cost" shall be based on the following: compensation (i.e., pay rates, profit sharing, premiums, and per diem); vacation; retirement; and health and welfare benefits. • Pilot productivity shall be addressed as follows for Groups II-V. On the third anniversary of the New APA CBA, the New American Airlines and the APA shall meet and confer to review the productivity of the New American Airlines' pilots relative to the productivity of the pilots of United Airlines and Delta Air Lines, or their successors (if any). If the block hour levels flown by the New American Airlines narrow-body or wide-body pilots is 2:00 hours (or more) below the average of the block hour levels flown by United and Delta narrow-body or wide-body pilots, respectively, then the New American Airlines and the APA shall agree to modifications to the New APA CBA to reach the United/Delta average level of productivity. [Discussion is required for the definition of a "narrow-body and a "wide-body"] If the block hour levels flown by the New American Airlines narrow-body or wide-body pilots is 2:00 hours (or more) above the average of the block hour levels flown by United and Delta

	narrow-body or wide-body pilots, respectively, then the New American Airlines and the APA shall agree to modifications to the New APA CBA to compensate for the excess productivity. If the parties cannot agree on the need for modifications to the New APA CBA, or the specific modifications to reach the United/Delta average level of pilot productivity (or in the case of excess productivity, a return of value to the pilots), within 60 days of the third anniversary of the New APA CBA, then the New American Airlines shall proffer final and binding interest arbitration under Section 7 of the RLA to resolve the dispute(s) and the APA shall accept such proffer. The arbitration panel shall consist of three (3) arbitrators, with Richard Bloch serving as the neutral arbitrator. If Arbitrator Bloch declines to serve in this capacity or is not available to resolve the parties' dispute, the parties shall select another neutral arbitrator. The arbitration decision shall be issued no later than 150 days after the third anniversary of the effective date of the New APA CBA. • Pilot hourly pay rates for Group I shall be adjusted for the sixth year of the New APA CBA so that the Total Cockpit Crew Cost for the New American Airlines, giving consideration to pilot productivity, is equal to the average (weighted by number of aircraft) of the Total Cockpit Crew Cost, giving consideration to pilot productivity at any other domestic carrier operating at least twenty Group I aircraft that are currently being operated by the New American Airlines in Equipment Group I. (e.g. – If the New American Airlines is operating E-190 aircraft, only those domestic carriers operating at least 20 E-190 aircraft will be used as a comparator.) In the event that no other domestic carrier operates the CRJ-1000, then the CRJ-900 will be used as the comparator. In the event that no other carrier operates the E-195 or the CS-100, then the E-190 will be used as the comparator. • If there are any disputes regarding the above-described pay rate adjustments for Groups I-V, the New American Airlines shall offer final and binding interest arbitration under Section 7 of the RLA, and the APA shall accept such proffer. The arbitration panel shall consist of three (3) arbitrators, with Richard Bloch serving as the neutral arbitrator. If Arbitrator Bloch declines to serve in this capacity or is not available to resolve the parties' dispute, the parties shall select another neutral arbitrator. The parties shall conduct their discussions and any arbitration such that the arbitration decision will be

	issued no later than six months after the sixth anniversary of the New APA CBA. • Section 9 of the 2003-2008 CBA shall be carried forward into the New APA CBA, with the following exceptions: (1) vacation accrual and value (i.e., how accrual translates to days off) shall be computed in accordance with the existing program for US Airways (West) pilots; and (2) the New American Airlines minimum monthly vacation obligation will be 5.0% of the awarded vacations for the year (i.e., total accrued vacations less floated vacations), or 2.75% of the total accrued vacation, whichever is **lower**.
Profit Sharing	• APA hereby exercises its right to convert its participation in the profit sharing program to an additional 2.5 % increase to structural pay rates on the Effective Date of the New APA CBA.
Pension	• The Pilot defined benefit "A" Plan shall be frozen. • New American Airlines shall provide a defined contribution of fourteen percent (14%) by New American Airlines on pensionable earnings. Allocation to individual pilots may vary to reflect the effect of a frozen A-Plan benefit. • The parties acknowledge that the effect of "freezing" the A Plan is to maintain all rights and obligations under that Plan accrued through the date of freeze (does not include the accrual of any additional benefits, based on service or compensation, after the date of the freeze). The "Pension" provisions herein shall modify the retirement/pension obligations in the 2003-2008 CBA with the exception of those applicable to the pilots protected by the provisions of Supplement B. The parties will discuss the extent to which specific retirement/pension obligations are superseded by this Agreement and the corresponding impact on the APA's need to generate the cost concessions required by this Agreement.
Cost Concessions	• Pursuant to the Debtor's Motion to Reject the APA CBA, the Debtors have sought an average of $370 million/year of cost concessions over 6 years, and escalating thereafter, from the provisions of the 2003-2008 CBA, including savings associated with modifications to Work Rules. The Parties have agreed to an average of a net $240 million/year of cost concessions projected over 6 years from the existing 2003-2008

	CBA. The parties have agreed that certain concessions will not be credited toward the $240M. Those items include any cost adjustments resulting from changes listed in the Scope section below. The parties also have agreed that the following increases relative to the existing 2003-2008 CBA shall not be charged against the APA's obligation to produce a net $240 million/year in cost concessions: (1) the annual 1.50% increases in hourly pay rates specified in the AA 1113 Term Sheet; (2) the changes to vacation listed in the Pilot Compensation section above; (3) the pay protection provided to pilots involuntarily displaced to a Group I aircraft, as listed in the Job and Pay Protections section below; (4) 0.50% of the 3% annual increases on the third and fourth anniversaries of the New APA CBA; (5) the 3% annual increase on the fifth anniversary of the New APA CBA; (6) the furlough protection provided to pilots in the Job and Pay Protections section below (i.e., the APA will not be incrementally charged for the cost to the New American Airlines from not furloughing pilots on account of the furlough protection). • • For clarification, the company share of structural pay raises will be as follows [any improvements above these raises requires an offsetting savings]: - Effective date: 0% - Effective date plus one year: 1.5% - Effective date plus two years: 1.5% - Effective date plus three years: 2.0% - Effective date plus four years: 2.0% - Effective date plus five years: 3.0% • Any net improvements to existing per diem rates or sequence protection must be offset by a corresponding concession of equal value Subject to APA's provision of adequate cost documentation, $129.5 million of the above referenced $240 million net total cost concessions will be attributed to the freezing of the Pilot "A" Plan and the follow on defined contribution plan described above in the section entitled "Pension." [The parties have not yet agreed on this valuation, but will continue to discuss in good faith.] As stated previously, APA agrees to additional cost concessions so that the total net concessions average $240 million annually over a 6 years projection, with such concessions to likely include improvements to productivity, reduced healthcare costs, and other cost benefits to be agreed with US Airways. APA will provide its list of

	concessions, and corresponding valuations with underlying documentation and modeling, within seven (7) days of execution of this Agreement. To the extent the parties have a disagreement as to the valuation of any concessions, US Airways shall offer final and binding interest arbitration, and the APA shall accept such proffer, to resolve the dispute regarding the achievement of the cost savings required herein. The arbitration panel shall consist of three (3) arbitrators, with Richard Bloch serving as the neutral arbitrator. If Arbitrator Bloch declines to serve in this capacity or is not available to resolve the parties' dispute, the parties shall select another neutral arbitrator. The arbitration decision on any contested valuation issues shall be issued no later than 60 days after APA provides its list of proposed concessions.
Job and Pay Protections	• New American Airlines shall not furlough any pilots, whose names appear on the American Airlines pilot seniority list as of the Effective Date of the New APA CBA, during the term of the New APA CBA – except those pilots (including American Eagle pilots with AA seniority numbers who have yet to flow-up to AA) on furlough as of the Effective Date of the New APA CBA. This no-furlough provision shall be subject to a *force majeure* exception. US Airways shall use its best efforts to negotiate with the US Airline Pilots Association furlough protection for the US Airways pilots to be effective on the Effective Date of the Plan of Reorganization APA will provide, by name, (Pilot "X") who will be the most junior American Airlines pilot on the American Airlines Pilot Seniority List who is not on furlough, nor awaiting flow-up from American Eagle. Pilot "X" will represent the most junior pilot afforded this furlough protection. Note: There are pilots more senior to pilot "X" who have volunteered to be on furlough out of seniority. If any of these more senior pilots are recalled they will become a part of the furlough-protected group of pilots. • If any currently-active New American Airlines pilot is involuntarily displaced to a Group I aircraft, the pilot's hourly pay rate shall not be reduced. This pay protection shall terminate if and when the involuntarily-displaced pilot can hold a position at the same or higher pay rate. • If any currently-active New American Airlines pilot is displaced from his bid position to another bid position within his base, or to a

	bid position at a different base, that pilot will be pay protected against a pay rate reduction unless: 1. That pilot could have been awarded a displacement within his base to a bid position of equal or greater pay, but elected a displacement to a lower paying bid position. (A lateral displacement (International / Domestic, and vice versa) is considered a displacement of equal pay); or 2. No bid position of equal or greater pay was available at his current base, and that pilot elected not to be awarded a displacement at a new base to a bid position which would have provided that pilot equal or greater pay when compared to the bid position displaced from. (A lateral displacement to a different base (International / Domestic, and vice versa) is considered a displacement of equal pay). This pay protection shall terminate if and when the displaced pilot could return or advance to a position in any base at the same or higher pay rate from which the pilot was initially displaced. The APA shall produce $12 million/year in additional cost concessions for each year of this pay protection. The parties will address the duration of this pay protection during their above-described discussions regarding cost concessions and valuations.
Scheduling / Productivity	APA will agree to a Preferential Bidding System (PBS). (The parties have not reached agreement on the valuation for the APA's agreement to PBS.) The New American Airlines agrees to confer with APA regarding PBS implementation. Agreed to PBS parameters: • Planned absence value for vacation for line construction purposes of 3:40 per day Costs related to the parameters below have not been agreed upon. • Simulator Training Day 4:17 • Classroom Day 3:00 • Union Leave 5:00 Line Construction

	• Average line value 72-83 hours • Rolling average line value 74-82 (twelve month average) • Line construction window ± 7 • Individual Monthly Max – 90 hours (twelve month average)
Scope	As of the Effective Date of the New APA CBA, the New American Airlines' code can be placed, without restriction, on any and all flights operated by US Airways and any and all flights operated by other carriers that are currently allowed to bear the "US" code. It is understood that placing the New American Airlines' code on flights operated by UAL bearing the "US" code pursuant to the US Airways and United code sharing agreement is permissible, shall not be subject to the 4% limit on new codeshares described below, and is not a violation of the New APA CBA during the period of time necessary to comply with the termination provisions of such code sharing agreement, provided that the New American Airlines gives UAL notice of termination within 2 months of the Effective Date of the New APA CBA and that the termination is effected within two years of the notice date. As of the Effective Date of the New APA CBA, the New American Airlines shall have full discretion to outsource or contract for flight aircraft (jet or turboprop) with 81 seats or fewer, as outlined in Appendix A. On the Effective Date of the New APA CBA, the maximum average number of aircraft that may operate under Section 1.D pursuant to the calculation set forth in Section 1.D.5.c shall be calculated to include the Narrowbody Aircraft at US Airways inclusive of the Embraer 190 aircraft. Aircraft inducted into service under Category C as outlined in Appendix A shall not be considered as Narrowbody Aircraft under Section 1.D.5.c. The New American Airlines shall provide to the APA a list of tail numbers for aircraft operating as of the Effective Date of the New APA CBA in each of the three categories outlined in Appendix A. The New American Airlines shall have full discretion to renew or replace such aircraft and shall be obligated to induct additional, incremental aircraft as specified below. For every four aircraft operating with less than 71 seats as of the Effective Date of the New APA CBA and for every two aircraft then operating with 71-81 seats that are subsequently replaced or added by the New American Airlines, one incremental aircraft will be inducted into service under Category C as outlined in Appendix A. The renewal or extension of

	the lease for an existing aircraft is not considered to be a replacement under this provision and will not trigger an obligation to induct aircraft into service under Category C. The New American Airlines will endeavor to coordinate a delivery schedule with manufacturers so that replacements or additions in Categories A and B are reasonably aligned with inductions of aircraft into Category C, and vice versa. Aircraft delivered and inducted into Category C in advance of replacements of aircraft in Categories A and B will be credited toward future replacements in Categories A and B, as applicable. The scheduling and tracking of replacements and inductions under this provision will be discussed in the quarterly scope meetings between the New American Airlines and the APA. In the event that American Airlines irrevocably commits to order and or replace any of its existing aircraft in Category A or B prior to the Effective Date of the New APA CBA, the New American Airlines shall not be required to induct an aircraft in Category C by such irrevocable commitment. In the event that American Airlines or the New American Airlines chooses to acquire temporary replacement aircraft so that it may remove 37-50 seat Embraer RJs from the American Eagle fleet, and those replacement aircraft operate with 50 or fewer seats, such temporary replacements shall not require the New American Airlines to induct an aircraft in Category C. In the event that US Airways orders new Category A or B aircraft prior to the Effective Date of the New APA CBA, the New American Airlines will be required to induct the appropriate ratio of aircraft in Category C and such aircraft will be ordered within 6 months of the Effective Date of the New APA CBA and shall be inducted into service at the New American Airlines within two years absent extraordinary circumstances. Domestic Code Sharing: As of the Effective Date of the New APA CBA: • The New American Airlines may code-share with Alaska Airlines and any of its affiliates without restriction except that there shall be no code-sharing on flight segments into and out of Hawaii. • The New American Airlines may code-share with Hawaiian Airlines (or its successor) without restriction on intra-Hawaii flights, so long as the New American Airlines in combination with US Airways shall maintain a minimum average of ten (10) flights per day between the mainland and Hawaii measured on a rolling look-back period of twelve (12) months.

	Prior to the operational merger of the airlines, the allocation of such flights between US Airways and the New American Airlines shall be at the same ratio of such flights existing in the 12 months prior to the Effective Date of the New APA CBA. • Section 1.H. will be replaced with the following: The New American Airlines may enter into new code-sharing agreements with domestic mainline carriers so long as the total flying under these new code-sharing agreements shall be subject to a maximum of 4% of the New American Airlines' domestic ASMs. Joint Ventures: • The parties agree to work toward a fair allocation of flying for the New American Airlines in Joint Business Agreements (JBA). APA has the right to review the initial JBAs and any material changes going forward. During the parties' quarterly scope meetings, the New American Airlines will discuss and receive input from the APA regarding current and anticipated JBAs. The definition of "Commuter Air Carrier" in the New APA CBA shall be modified such that it will apply to any domestic air carrier that only operates aircraft in Categories A and/or B. If the New American acquires a carrier that operates aircraft in Categories A and/or B and also C or larger, but intends to maintain that carrier as a separate feed operation, it shall have two years from the date of acquisition to either dispose of the Category C and/or larger aircraft or transfer them to the New American Airlines' operating certificate. Non-owned regional partners' operation of aircraft for other airlines will not impact the New American Airlines' right to engage those carriers to operate Category A and B commuter aircraft on behalf of the New American Airlines. On a temporary as-needed basis (e.g., a maintenance or service disruption), commuter carriers may from time-to-time use a neutral livery aircraft to substitute for aircraft listed in Category A and B on Appendix A. Use of this provision will be reported at Quarterly Scope Meetings. The New APA CBA will eliminate the owned/non-owned distinction for the use of Category A and B commuter aircraft to fly on behalf of the New American Airlines.

	The Baseline for International Flying (in Section 1-J) will be modified as follows. As of the effective date of the New APA CBA, a new International Baseline shall be calculated based on the combination of US Airways' and American Airlines' scheduled mainline flights during the 12-month period prior to the first day of the month following the effective date of the New APA CBA. This Baseline shall include all scheduled international mainline block hours (including those flown by Category C aircraft) plus all scheduled mainline block hours to/from Alaska. This Baseline shall not include any scheduled mainline block hours between Hawaii and the mainland United States. The combination of US Airways' and the New American Airlines' annual scheduled mainline block hours will be at least 91 percent of the new International Baseline. If the annual scheduled mainline block hours are below 91% of the International Baseline and the deficiency is not cured at the next annual measurement, then the APA's concurrence shall be required for the Compan(y)(ies) to enter into new international codesharing agreements where the New American Airlines places its code on a foreign carrier's flights to/from the United States, except the APA's concurrence shall not be required if the new international codesharing agreement involves a new partner entering into a Joint Business Agreement (JBA). If the annual scheduled mainline block hours falls below 81% of the International Baseline and that deficiency is not cured at the next annual measurement, then the APA's concurrence shall be required (1) for entering or renewing international code-share agreements where the New American Airlines places its code on a foreign carrier's flights to/from the United States, except those flights conducted under an existing JBA; and (2) to add a new partner to an existing JBA. The International Baseline will be modified such that new routes will not be added to the Baseline until the third anniversary of New American Airlines' operation of the route on either a year-round or seasonal basis. The remaining provisions of Section 1.J of the 2003-2008 CBA apply. In addition, the following sections of the 2003-2008 CBA shall be treated as follows: Section 1.D.4. is deleted; Section 1.D.5.g is modified such that (1) it does not apply to the

	shuttle operation between DCA, LGA and BOS; (2) the flying restrictions will apply to airports where the average number of mainline daily departures scheduled by the New American Airlines exceeds 80 in the prior six-month period; (3) the "total scheduled block hours" number shall be increased to 2.55%; and (4) following the operational merger of US Airways and the New American Airlines, at least 65% of the shuttle operation flights on weekdays and Sunday, combined, will be operated by the surviving mainline carrier utilizing Category C or larger aircraft. The mainline percentage of shuttle operation flights shall be measured on a 12 month rolling average basis, aggregating flights between DCA, LGA, and BOS. Section 1.D.5.h is modified such that the airport restrictions will apply to airports where the average number of mainline daily departures scheduled by the New American Airlines exceeds 80 in the prior six-month period. The New APA CBA shall not contain any restrictions on oneworld or other alliance livery, except that the New American Airlines will not use its vote with the oneworld alliance to promote the livery of other carriers on New American Airlines' aircraft, but instead will use its vote to promote the livery of the New American Airlines on its aircraft along with a oneworld alliance trademark or logo. The parties confirm that the New APA CBA will contain no restrictions on New American Airlines' decision to enter into or exit from any markets, with commuter or mainline aircraft or via code-sharing, based on whether it could earn an adequate return on invested capital. "Excess Baggage." The New American Airlines will be permitted to utilize freighter service operated by other carriers between and among Miami and all destinations in the Caribbean, Central America, and South America between November 23 and January 6, and during four additional weeks each year to include Easter/Spring break and the month of July. These four additional weeks will be designated by the New American Airlines by no later than January 15 of each year. The purpose of this scope clause exception is to enable the New American Airlines to accommodate passenger baggage that cannot be accommodated on the same flight as the passenger. There will be no apportionment pay to the APA for using such charter services. The APA will be able to audit baggage activity up to 8 times per year after providing one week's notice. At that time, the New American

	Airlines shall provide the APA with access to all relevant information, facilities, personnel and documentation. The New American Airlines will provide a quarterly report to the APA about how often charter services were used, to where, and how many bags were transported. The New American Airlines will conduct an annual joint performance review in the first quarter of each year at the request of the APA.
Other	The New APA CBA shall be constructed using the 2003-2008 CBA as modified by the provisions in this Agreement. • The parties shall complete negotiation for the formal New APA CBA within 60 days of the date on which the APA provides its list of concessions and corresponding valuations or, failing agreement on the value of the APA's proposed concessions, the date on which the final and binding interest arbitration decision is issued (all as described in the "Cost Concessions" section above), whichever is later. If the parties are unable to complete such negotiations within this 60-day period, US Airways shall offer final and binding arbitration and the APA shall accept such proffer, to resolve the dispute over incorporation of new terms into the 2003-2008 CBA to satisfy the provisions of this Agreement (including how the cost savings required herein shall be achieved). The arbitration panel shall consist of three (3) arbitrators, with Richard Bloch serving as the neutral arbitrator. If Arbitrator Bloch declines to serve in this capacity or is not available to resolve the parties' dispute, the parties shall select another neutral arbitrator. The arbitration decision shall be issued no later than 30 days after the close of the 60-day negotiation period. • In the event that APA members fail to ratify the New APA CBA (as constructed through the process described immediately above), US Airways shall offer final and binding interest arbitration, and the APA shall promptly accept such proffer, to resolve the dispute over incorporation of new terms into the 2003-2008 CBA to satisfy the provisions of this Agreement (including how the cost savings required herein shall be achieved). The arbitration panel shall consist of three (3) arbitrators, with Richard Bloch serving as the neutral arbitrator. Any such arbitration shall be completed and a decision issued within 60 days of any ratification failure, and the arbitrator's decision shall constitute the final and binding resolution of the dispute without any further ratification process. • The Parties agree to ultra-long haul flying based upon the framework of the agreement APA had with American Airlines prior to its Chapter 11 filing. [provided to Beth Holdren on 4/7/12]

	Supplement B: The parties hereto will promptly meet and confer to discuss appropriate provisions concerning the pilots covered by Supplement B to be incorporated into the New APA CBA. Such discussions are without prejudice to the company's right to invoke court processes to address the provisions of Supplement B. Supplement CC: [Note: the below text is from Neil Roghair's April 12 e-mail. The TrackChanges reflect the Company's proposed modifications to that language.] The New American Airlines will have the right, in its sole discretion, to decide whether to make changes to or close the existing STL pilot base. In the event that New American Airlines decides to make changes to or close the STL pilot base, it will offer final and binding interest arbitration pursuant to Section 7 of the RLA, and APA shall accept such proffer. The Supplement CC panel shall consist of three neutral arbitrators who are members of the National Academy of Arbitrators with Richard Bloch as the principal neutral. The arbitrators shall decide what non-economic modifications that would not otherwise be provided by the CBA, if any, may be required to Supplement CC. Training costs associated with the closure or downsizing of the existing STL pilot base shall be considered non-economic. In no event shall the arbitrators have authority to modify the AA/APA Pilots' System Seniority List. The New American Airlines and the APA shall agree to the procedures and standards governing this arbitration. Richard Bloch shall have continuing jurisdiction to resolve disputes over the implementation and interpretation of the decision by the panel. The parties shall incorporate a three-year lock.
Merger Issues	• The parties hereto agree to negotiate the terms of a "fence" and a "transition planning agreement" in anticipation of the operational integration of US Airways and New American Airlines promptly following the effective date of the POR. In the event that the parties are unable to resolve a dispute or disputes over the terms of the transition planning agreement within 60 days of the effective date of the POR, the New American Airlines shall offer final and binding interest arbitration under Section 7 of the RLA, and the APA shall accept such proffer, to achieve a "fence" and "transition planning

	agreement" that appropriately accommodates the interests of the pilots employed by the New American Airlines and US Airways. The arbitration panel shall consist of three (3) arbitrators, with Richard Bloch serving as the neutral arbitrator. The decision of the arbitration panel shall issue no later than 60 days after the dispute is submitted to arbitration. • APA shall file a single carrier petition with the National Mediation Board as soon as practicable after the Effective Date of POR, when APA determines that the facts support the legal requirements for the filing of a petition but in no event later than six months after the effective date of the POR. If and when the National Mediation Board makes a single-carrier finding, and assuming that the APA is certified to represent the pilots of the single carrier, the single carrier acknowledged by the National Mediation Board and the APA shall promptly engage in negotiations to achieve a single collective bargaining agreement to be applicable to the carrier that will be the product of the merger of US Airways and the New American Airlines. In the event that such negotiations are not completed within 90 days of the National Mediation Board's certification of the APA, the New American Airlines will offer final and binding interest arbitration under Section 7 of the RLA, and the APA will accept such proffer, to resolve once and for all the terms of the single collective bargaining agreement. In so doing, the arbitration panel must adopt a single collective bargaining agreement which adheres in the aggregate to the economic terms of this Agreement (specifically including the cost concessions and other provisions reflected herein). The arbitration panel shall consist of three (3) arbitrators, with Richard Bloch serving as the neutral arbitrator. Unless the parties agree otherwise, the decision of the arbitration panel shall provide that the single collective bargaining agreement does not become effective until an integrated seniority list has been implemented. It is understood by the parties hereto that, in the event the National Mediation Board certifies another labor organization as the representative of the pilots after a single carrier finding, the New American Airlines will offer the above arbitration provision to that certified representative.

V. Other Provisions:

A. **Agreements of APA.** For the entire period, provided this Agreement has not been terminated as set forth herein and subject to the terms of this Agreement, when solicited pursuant to the solicitation materials, APA will support a POR consistent with the terms of this Agreement.

B. **Acknowledgment.** This Agreement and the transactions contemplated herein are the product of negotiations between the Parties and their respective representatives. While the Parties agree herein to support approval of the POR on the terms set forth herein, this Agreement is not and shall not be deemed to be, a solicitation for consent to the POR or for votes for the acceptance of the POR. APA's acceptance of a POR will not be solicited until it has received a copy of the related Disclosure Statement approved by the Court.

C. **Miscellaneous Exhibits; Entire Agreement; Modification.** This Agreement contains the entire agreement between the Parties respecting the matters herein set forth and supersedes all prior agreements between the Parties respecting such matters. This Agreement may not be modified or amended except by written agreement signed by all Parties.

D. **Governing Law.** This Agreement shall be construed and enforced in accordance with the laws of New York (without regard to conflicts of laws) except to the extent governed by the RLA.

E. **Third Parties**. Nothing in this Agreement, whether expressed or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any other person other than the Parties, and their respective successors and assigns, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third persons to any Party, nor shall any provision give any third parties any right of subrogation or action over or against any Party.

F. **Counterparts; Delivery**. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same document. The delivery of an executed counterpart of this Agreement by facsimile or as a PDF or similar attachment to an email shall constitute effective delivery of such counterpart for all purposes with the same force and effect as the delivery of an original, executed counterpart.

Fiduciary Duties. Notwithstanding anything to the contrary herein, nothing in this Agreement shall require (a) APA or any directors or officers of APA (in such person's capacity as a director or officer of APA) to take any action, or to refrain from taking any action, to the extent that, in the opinion of counsel, taking such action or refraining from taking such action may not comply with its or their fiduciary obligations under applicable law, or (b) APA, as a member of the statutory creditors' committee that was established in the Bankruptcy Cases to take any action, or to refrain from taking any action, in APA's capacity as a statutory committee member to the extent taking such action or refraining from taking such action may not comply with fiduciary obligations applicable under the Bankruptcy Code; provided however, that nothing in this Agreement shall be construed as requiring APA or any representative of APA to serve on any statutory committee in the Bankruptcy Cases. Nothing herein will limit or affect, or give rise to any liability, to the extent required for the discharge of the fiduciary obligations described herein. Notwithstanding anything to the contrary contained herein, in light of APA's membership on the Creditors' Committee in the Debtors' Bankruptcy Cases, the terms of this Agreement shall not be construed so as to limit APA's exercise of its fiduciary duties to any person arising for its service on such Creditors' Committee, and any such exercise (in the sole discretion of APA) of such fiduciary duties, each in a manner consistent with this Agreement in all material respects, and shall not be deemed to constitute a breach of the terms of the Agreement.

G. 1113 Waiver. For a period of three years following the effective date of the New APA CBA (the "1113 Standstill Period"), the New American Airlines shall not file or support any motion pursuant to section 1113 of the Bankruptcy Code (or any other relevant provision of the Bankruptcy Code) seeking rejection, modification, relief or interim relief from the New APA CBA ("1113 Motion")--except with respect to Supplements B. During the 1113 Standstill Period, the New American Airlines (i) specifically waives the right to file or support an 1113 Motion, and (ii)

agrees that it will actively oppose any such 1113 Motion if filed by another party--again, with the exception of Supplements B. This Section 1113 Waiver shall be subject to a force majeure exception. The parties agree to incorporate these terms in an 1113 waiver side-letter that will be part of the New APA CBA.

H. Termination. If the US Airways' Plan of Reorganization is not approved, or if the Bankruptcy Court determines that US Airways may no longer pursue the Plan, or if a competing Plan is approved, or if the Bankruptcy Court determines that APA may no longer support the Plan, this Agreement shall terminate. This Agreement may also be terminated by mutual written agreement of the parties.

I. This Agreement is subject to the approval of the US Airways and APA respective Boards of Directors.

IN ORDER TO EVIDENCE THEIR AGREEMENT TO THE FOREGOING, the Parties have executed this Agreement as of the date first above written.

APA:

Allied Pilots Association,
an unincorporated association and labor union

By: _____
Name: DAVID BATES
Title: PRESIDENT

US Airways

US AIRWAYS, INC.
a _____

By: _____
Name: J. Scott Kirby
Title: President

By: _____
Name: _____
Title: _____

APA Exhibit 500a

Filiberto Agusti
Joshua R. Taylor (admitted *pro hac vice*)
STEPTOE & JOHNSON LLP
1330 Connecticut Avenue, NW
Washington, DC 20036
Tel: 202-429-3000
Facsimile: 202-429-3902

Edgar N. James (admitted *pro hac vice*)
Kathy L. Krieger (admitted *pro hac vice*)
David P. Dean (admitted *pro hac vice*)
Darin M. Dalmat (admitted *pro hac vice*)
Daniel M. Rosenthal (admitted *pro hac vice*)
JAMES & HOFFMAN, P.C.
1130 Connecticut Avenue, NW, Suite 950
Washington, DC 20036
Tel: 202-496-0500
Facsimile: 202-496-0555

Charles R. Hairston (admitted *pro hac vice*)
Staff Attorney
ALLIED PILOTS ASSOCIATION
14600 Trinity Boulevard, Suite 500
Fort Worth, TX 76155-2512
Tel: (817) 302-2178
Facsimile: (817) 302-2187

Counsel for Allied Pilots Association

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	:	Chapter 11
	:	
AMR CORPORATION, *et al.*,	:	Case No. 11-15463-SHL
	:	
Debtors.	:	(Jointly Administered)

UPDATED DECLARATION OF JAMES EATON IN OPPOSITION TO DEBTORS' MOTION TO REJECT APA'S COLLECTIVE BARGAINING AGREEMENT PURSUANT TO 11 U.S.C. § 1113(c)

Table of Contents

Exhibit List

No.	Exhibit Description
501	American Airlines Pilot Scope Clause and Letter of Agreement VV
502	Continental Airlines Pilot Scope Clause
503	Delta Airlines Pilot Scope Clause
504	United Airlines Pilot Scope Clause and Letters of Agreement 03-06 & 03-17
505	US Airways Scope Provisions (Letter of Agreement #91, Attachment B; Transition Agreement; Restructuring Agreement, Attachment C; Letter of Agreement #81; Letter of Agreement #82)
506	Excerpt from Arbitrator Goldberg's Opinion in the Canadian Scope Arbitration
507	Number of Outsourced Regional Jets by Seat Numbers (Chart)
508	Number of Outsourced Regional Jets by Type (Chart)
509	Aircraft Operating Characteristics
510	Regional Jet Maximum Take-Off Weight Allowances (Chart)
511	AA November 14, 2011 Scope Proposal
512	Excerpt from AMR 2011 10K (Fleet Count)
513	Regional Jet Allowances Under Pilot CBAs (Chart)
514	APA April 9, 2012 Scope Proposal
515	Slide 17, Re-Gauging the Regional Fleet will Allow us to Better match Supply and Demand, from February 2012 Regional Flying Value Proposition Presentation
516	APA February 15, 2012 Scope Proposal
517	APA-US Airways Term Sheet Excerpt

I, JAMES EATON, declare as follows on the basis of my personal knowledge and upon information from documents I have reviewed, including business records of the Allied Pilots Association ("APA"):

1. I have been employed as a pilot at American Airlines ("American," "AA" or "Company") since October 1992. I currently hold the position of First Officer on the Boeing 737 aircraft, flying out of the Company's Boston domicile. Prior to joining American, I served for more than six years as a United States Air Force pilot flying the OV-10 and F-15E. I was a distinguished graduate from pilot training and won the awards for academic excellence and flight training as well as class Top Gun in F-15 training.

2. From July 2010 through June 2011, I worked in Company management as a Project Manager in Customer Experience at the Company's headquarters. From 1995 to 1996, I worked as an Audit and Tax Associate Accountant at Coopers & Lybrand, LLC. I have a BS in Aviation Management from Daniel Webster College and an MBA and MS Accounting from Northeastern University.

3. During my tenure with American, I have held a number of positions with APA. I was APA's National Secretary-Treasurer from 2004 to 2007. During that period, I was a member of the National Joint Leadership Team, a group comprising labor and management representatives, that sponsored the Performance Leadership Initiative, a comprehensive, in-depth evaluation of the Company's revenue and costs compared to its competitors. At a time when most of American's major competitors were in bankruptcy, the goal of this initiative was a collaborative restructuring in early 2006; however, it was never realized because of a dispute over executive compensation. *See* Declaration of Neil Roghair ¶¶ 17-19. I also served on APA's Merger and Acquisition Committee from 2001 to 2003.

4. I served on the Scope Committee from 2000 to 2004 and was Committee Chairman from 2003 to 2004. APA's Scope Committee is responsible for ensuring that the Company complies with its obligations under Section 1 of the collective bargaining agreement ("CBA"). As part of its regular duties and in preparation for collective bargaining with the Company, the Scope Committee reviews the scope clauses of other airlines and monitors any developments at those airlines related to scope. During my time on the Scope Committee, my fellow committee members and I monitored scope developments by regularly reviewing other airlines' scope clauses, talking to scope committees at the other airlines, and reviewing any relevant scope arbitration decisions.

5. The Committee closely monitors the collective bargaining agreements of American's major network competitors: Continental Air Lines, Delta Air Lines, United Airlines, and US Airways, among others.[1] Together, these agreements establish an "industry standard" against which the Scope Committee measures the 2003-2008 CBA as well as the Company's and APA's collective bargaining proposals.

6. In April 2011, because of my previous experience with industry standards on Scope matters, my role as a lead negotiator of the 2003 Scope modifications and my role as the lead negotiator in negotiating [redacted] APA called me as a witness in an arbitration related to American's [redacted] During that time, in addition to reviewing the industry standards from 2003, I was charged with

[1] These are also the airlines to which the Company compares the Scope Clause. *See* Second Updated Declaration of Jerrold Glass ("Glass Decl.") ¶ 14; Declaration of Dennis Newgren ("Newgren Decl.") ¶¶ 5, 55, 75; Declaration of Daniel M. Kasper ("Kasper Decl."), APA Exhibits 62-63, 70-71. True and correct copies of the Continental, Delta, United, and US Airways scope clauses and relevant letters of agreement are attached as APA Exhibits 502-505, respectively. The clauses are excerpts from the collective bargaining agreements relied upon by Mr. Glass. The portions of the APA Exhibits that are most relevant to this Declaration are highlighted for the Court's convenience.

the responsibility of working with the Scope Committee to refresh and update my knowledge of the current industry standards related to domestic codesharing.

7. I am now serving on APA's Bankruptcy Advisory Committee. In addition, I act as APA's Representative on the Unsecured Creditors Committee ("UCC"). In March 2012, I led a research team that did background research and then I authored a presentation to the UCC about how American's and APA's collective bargaining proposals compared to the market. To do this, I was once again charged with the institutional responsibility of reviewing the CBAs of American's major network competitors as well as reviewing their annual reports and doing due diligence on a CBA comparison compiled by the pilots at Delta.

8. I submit this Declaration in support of APA's Opposition to the Company's Motion to Reject Collective Bargaining Agreements Pursuant to 11 U.S.C. § 1113 and to address the Company's § 1113 proposals implicating the Scope Clause (Section 1) of the most recent collective bargaining agreement between American and APA ("2003-2008 CBA"). In particular, I address (1) the purpose and history of the Scope Clause, (2) the Company's § 1113 proposals on regional jets, domestic codesharing, and other provisions of the Scope Clause, and (3) the market-based Scope terms APA was able to negotiate with US Airways.

I. The Purpose and History of the Scope Clause

9. The Scope Clause is a core provision of the 2003-2008 CBA because it defines the scope of work covered by that agreement. For the Court's convenience, I attach a true and correct copy of the current Section 1 to the 2003-2008 CBA as APA Exhibit 501 to this Declaration. The central provision of the Scope Clause is Section 1.C.1, which states that "[a]ll flying performed by or on behalf of the Company or [any other company that is controlled by the Company or that controls the Company] shall be performed by pilots on the American Airlines Pilots Seniority List in accordance with the terms and conditions of this Agreement, except as

expressly permitted [in subsequent subsections of Section 1 of the Contract]." APA Exhibit 501 at 1-2.

10. It is the Scope Clause that prevents the Company from outsourcing all of AA's flying to a series of low-cost subcontractors, or from forming a non-union, sister subsidiary controlled by AA to do all the flying that would otherwise be done at AA subject to the pay and work rules negotiated with the union.

11. Pilot scope clauses in the airline industry largely developed in the aftermath of airline deregulation in 1978. The history of the development of the American Airlines' Scope Clause from 1978 to 1993 is set out in an arbitration decision that is specifically incorporated by reference into the 2003-2008 CBA. *See* APA Exhibit 501 at 1-1 (Section 1.B.7); Goldberg Arbitration Opinion, attached as APA Exhibit 506, at 2-14.

12. Following Section 1.C.1, subsequent provisions of Section 1 of the 2003-2008 CBA are generally a series of "exceptions" to the core provision that allow outsourcing of Company flying under defined conditions, and/or subject to certain limitations. All of these provisions were freely negotiated between management and the pilots to accommodate the Company's competitive business needs and the pilots' need to preserve pilot jobs at the company in which they have generally invested their entire careers. The Company is, of course, always free under the terms of the 2003-2008 CBA to do unlimited flying in any type of aircraft as long as it utilizes pilots on the AA seniority list.

13. The various exceptions to the Scope Clause have evolved over time in response to the Company's needs and to changes in the industry. For example, in 1987, the pilots first negotiated the outsourcing of flying to "Commuter Air Carriers" that could be owned and operated separately by the Company, but limited that outsourcing to carriers that flew aircraft with a maximum seating capacity of 70 passenger seats. At the time, such aircraft were almost

all propeller-driven aircraft, or "turboprops." In 1997, as small aircraft with jet engines were first being introduced into the industry in large numbers, the pilots of American Airlines went on strike to limit outsourcing on these "regional jets." An Emergency Board established by the President facilitated a settlement imposing limits on such outsourcing in the pilots' 1997 CBA. The Company was allowed to outsource flying on up to 67 RJs certificated to fly with up to 70 seats and with a maximum take-off weight of 75,000 lbs. In 2003, AA sought to greatly expand its outsourced 50-seat RJ flying, and APA granted an exception to outsource the number of such RJs up to 110% of the number of narrow body aircraft flown at the mainline, permitting approximately 536 outsourced regional aircraft today.[3]

14. In the context of § 1113 negotiations, APA has proposed a further substantial relaxation of these restrictions in response to the Company's needs and the existing standards for such outsourcing among AA's competitors. As more specifically described below, the pilots have proposed that the Company be allowed to outsource flying on up to 150 jet aircraft configured at up to 70 seats with a maximum take-off weight of 80,500 pounds (in addition to outsourced 50-seat aircraft to a maximum of 110% of the mainline narrowbody fleet all together) with proportional growth at the mainline. *See* ¶ 25 below. This proposal is consistent with industry standards and gives the Company much more leeway to outsource regional jets than it sought in its last pre-petition proposal in November 2011, in which it agreed that APA mainline pilots would fly all additional regional jets over 50 seats. *See* ¶ 21 below.

15. In addition to the outsourcing of commuter flying on regional jets at a commuter carrier that the Company could own and operate alongside of AA, several of the Scope Clause

[3] According to its 10K, American outsourced 299 regional aircraft in 2011. *See* APA Exhibit 512. Although Mr. Vahidi did not appear to be aware of the fact during the hearing on this matter, American owns all of the regional jets on which it outsources AA flying. *Cf. id.* and Transcript, April 25, 2012, at 228:16-231:3 (Vahidi).

"exceptions" allow other carriers to fly "on behalf of" the Company by carrying the Company's designator code on flights that those carrier's pilots, rather than AA pilots, are paid to fly; this practice is called "codesharing." The Company is allowed to sell AA tickets on these other carrier's flights. While this outsourcing sometimes dilutes the AA "brand" in which AA pilots have invested their lifetime sweat equity, the industry has evolved such that codesharing is frequently used to extend the Company's market presence and sometimes to feed AA flights.

16. The most significant "codesharing" exception to the general rule that all flying on behalf of the Company will be done by American Airlines pilots is found in Section 1.H. of the 2003-2008 CBA. As described more fully below, Section 1.H. allows American to codeshare with Domestic Air Carriers other than Commuter Air Carriers as long as AA pilots receive whatever a neutral arbitrator decides are "industry standard" job protections for the duration of the outsourcing. The Company, however, has been unwilling to subject itself to any determinations by a neutral arbitrator on job protections. In the context of these § 1113 negotiations, therefore, APA has proposed specific exceptions to allow the Company to codeshare [redacted]

17. The Company's § 1113 term sheet[4] is a radical departure from any previous AA proposals to modify these commuter and domestic codesharing exceptions. The § 1113 term sheet Scope proposals appear calculated to take advantage of the bankruptcy process to overrun

[4] Unless noted otherwise, all references to the Company's "term sheet" are to the term sheet dated March 21, 2012, which was the term sheet in effect as of the date the Company filed its Motion to Reject Collective Bargaining Agreements Pursuant to 11 U.S.C. § 1113. *See* APA's Brief Regarding American Airlines Proposals To Be Considered Pursuant to 11 U.S.C. § 1113, Docket No. 2577.

any industry standard job protections, ignore the Company's previously (and recently) articulated needs in these areas, and wipe away *any* job protections regardless of necessity.

II. Regional Jets

A. Seat Number and Weight Limits on Regional Jets

1. *AA's § 1113 Proposal*

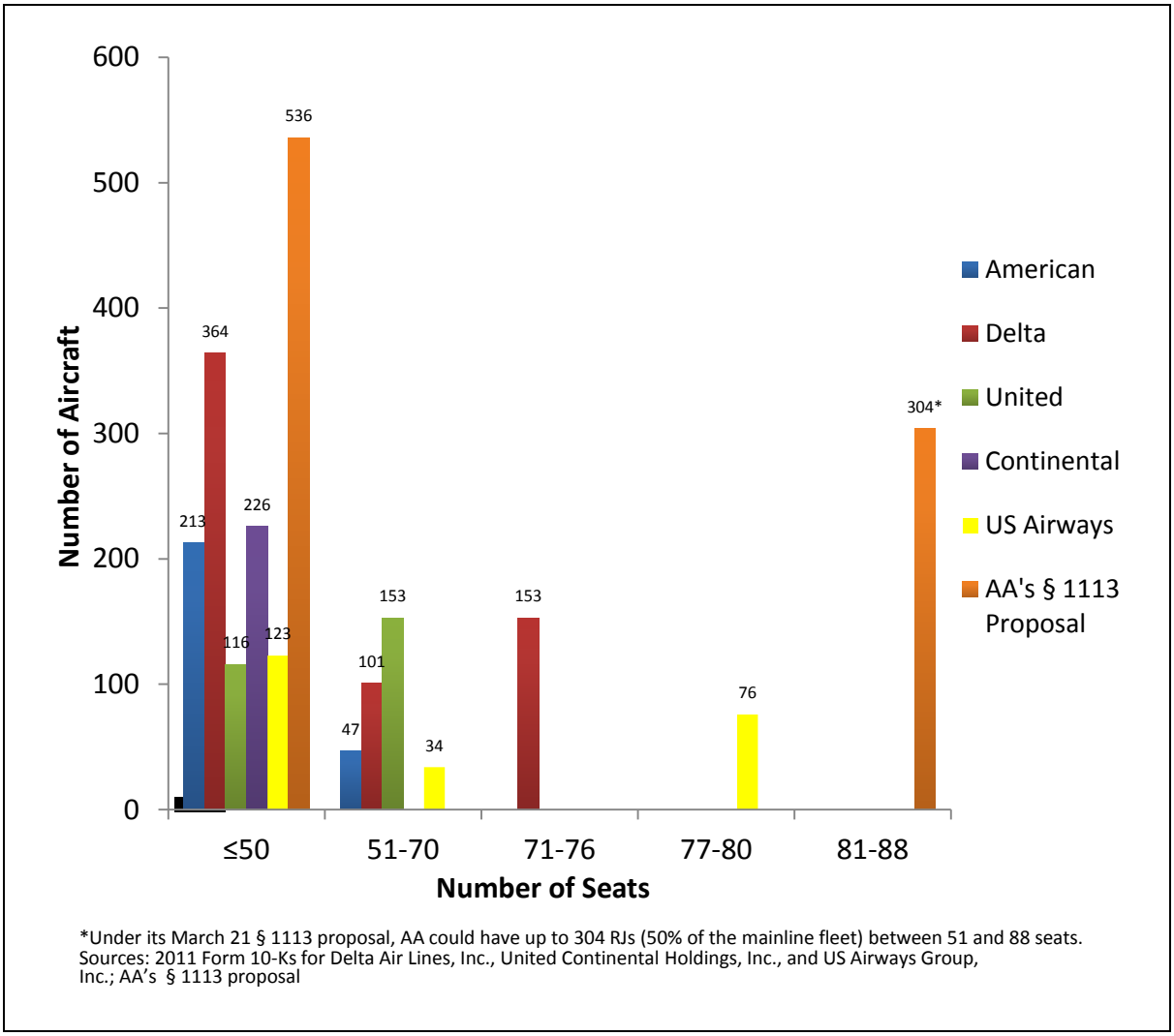
18. In its § 1113 term sheet, the Company proposes changing the definition of Commuter Air Carrier to carriers that fly aircraft (either jet or turboprop) configured with a maximum of 88 seats and a maximum take-off weight of up to 114,500 pounds. This proposal is entirely inconsistent with the industry standard with respect to both the maximum number of seats and the maximum take-off weight. The Company proposal would allow AA to create or acquire, and then operate, a separate airline alongside AA that would fly a large fleet of Embraer 190s[5] or comparable aircraft.

2. *Industry Standard*

19. *None of American's major competitors actually outsources 88-seat regional jets or any aircraft with a maximum take-off weight above 90,000 lbs.* Only one of American's competitors, US Airways, outsources a small number of regional jets in the 77-80 seat range. All of the remaining competitors outsource only regional jets that are configured at 76 or fewer seats. APA Exhibit 507 illustrates how many regional jets each of American's major competitors outsources as well as the number of seats those aircraft have.

[5] APA Exhibit 1, which was admitted into evidence during the first phase of the hearing, depicts an Embraer 190. *See* Transcript, April 24, 2012, at 10:12-21.

APA Exhibit 507: Number of Outsourced Regional Jets by Seat Numbers

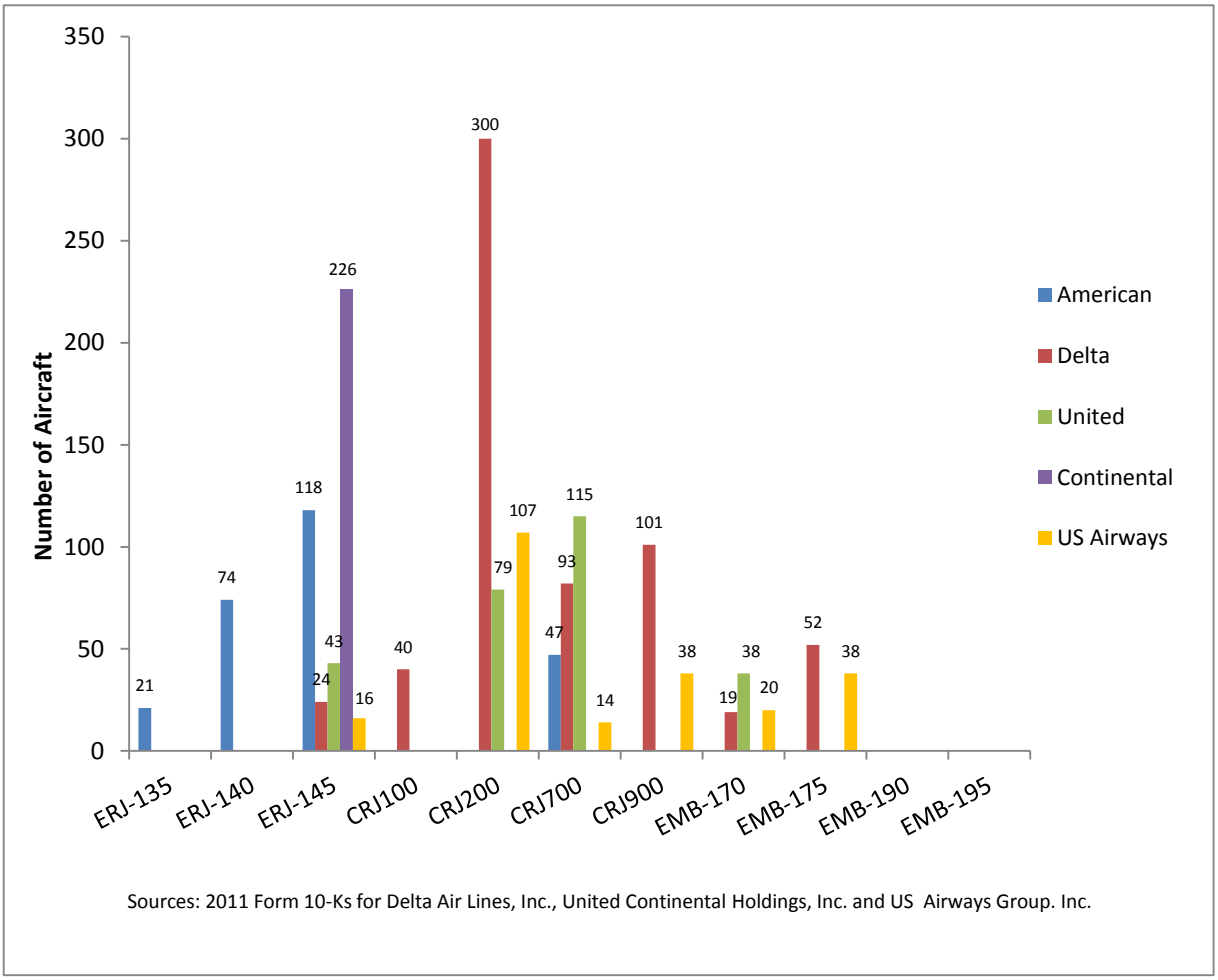


20. Several times during post-bankruptcy petition bargaining and at an American Eagle business plan briefing that I attended on or about March 27, 2012, the Company has indicated that it plans to outsource the flying of Embraer 190s, which are typically configured at more than 90 seats, to Commuter Air Carriers. However, contrary to Mr. Kasper's and Mr. Newgren's suggestions,[6] none of American's major competitors outsources EMB-190s to a regional carrier. APA Exhibit 508 shows the types and numbers of regional jets that are actually

[6] Kasper Decl. ¶¶ 102 n.113, 104; Newgren Decl., Ex. 64.

outsourced by American's major competitors. The basic operating characteristics of the aircraft with more than 50 seats are set out in APA Exhibit 509, attached hereto.

APA Exhibit 508: Number of Outsourced Regional Jets by Type



21. Continental's collective bargaining agreement prohibits the outsourcing of regional jets with an FAA certification of more than 50 seats.[7] APA Exhibit 502 at 1-4 (Part 2.Y.). United's contract does not allow the outsourcing of regional jets that are configured with

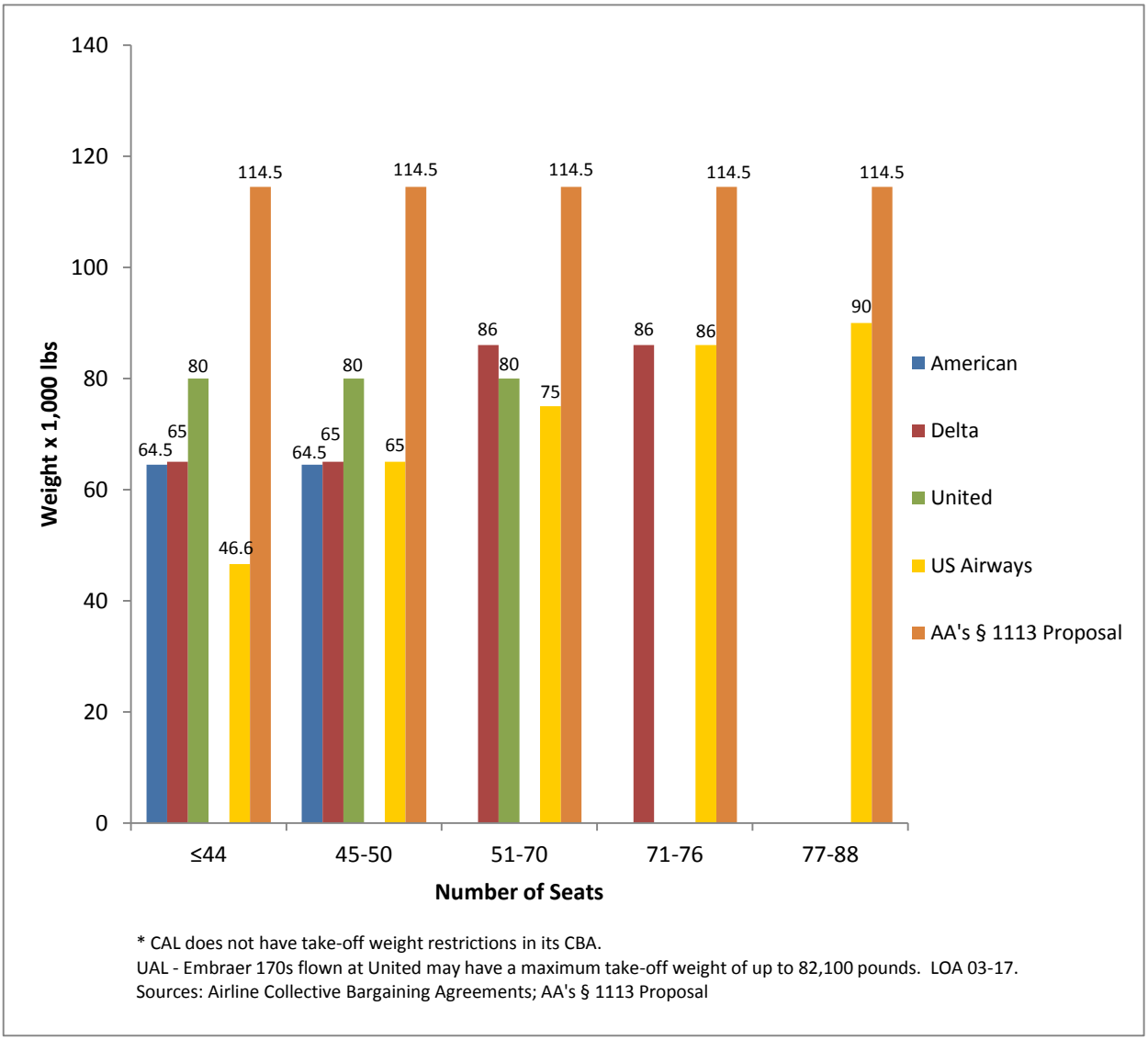
[7] In his Declaration, Jerrold Glass largely ignores this restriction in Continental's collective bargaining agreement. *See* Glass Decl. ¶ 77-78. However, as Mr. Glass admitted at the hearing, Continental and United are still operating under separate collective bargaining agreements. Transcript, April 23, 2012, at 224:25-225:19 (Glass).

more than 70 seats.[8] APA Exhibit 504 at 16 (Section 1-K-22), LOA 03-17. Delta's contract allows the outsourcing of regional jets with up to 76 seats; however, if a Delta pilot on the seniority list with an employment date prior to September 1, 2001 is furloughed, this 76-seat limit converts to a 70-seat limit. APA Exhibit 503 at 1-5 (Section 1.B.40). As part of the Transition Agreement following US Airways' merger with America West, US Airways is permitted to outsource a limited number of 88-seat jets (or 90 seats in a single-class configuration). APA Exhibit 505, Transition Agreement at 10-11. As noted in paragraph 17 above, however, US Airways does not actually outsource 88-seat jets. This is primarily because they are contractually limited to outsourcing CRJ-900 or other aircraft with a maximum take-off weight of 90,000 pounds or less, and aircraft that meet this weight limit are too small to configure with 88 seats in two classes.

22. American's proposal to increase the allowable maximum take-off weight of its regional jets to 114,500 pounds is similarly out of line with industry standard, as none of American's major competitors allows regional jets with a maximum take-off weight of more than 90,000 pounds, as illustrated in APA Exhibit 510.

[8] As noted at the hearing, the Air Wisconsin exception, which previously allowed United to outsource a limited number of jets with more than 70 seats, is no longer in effect. Transcript, April 23, 2012, at 281:23-283:9 (Glass).

APA Exhibit 510: Regional Jet Maximum Take-Off Weight Allowances



3. *APA's Proposals*

23. APA does not oppose American's plans to deploy additional regional jets with more than 50 seats and has in fact offered to fly those jets both pre- and post-petition, and American agreed to this in its last pre-petition proposal. A true and correct copy of American's November 14, 2011 Scope proposal is attached as APA Exhibit 511.

24. In fact, in an unprecedented move, on March 22, 2012, APA, together with the two other unions whose wages compose nearly all the labor costs of regional jet flying,

approached AA together to offer to fly these aircraft at market rates with a competitive cost structure. Neil Roghair's Declaration contains a more detailed description of this meeting. Roghair Decl. ¶ 60. American has yet to respond to the unions' offer.

B. Allowable Number of Outsourced Regional Jets

1. *AA's § 1113 Proposal*

25. American's March 21, 2012 § 1113 term sheet proposes to increase the number of regional aircraft that the Company could outsource to other Air Carriers:

- The maximum number of aircraft of fifty (50) seats or less that may be operated during a six-month period is the number of Narrowbody Aircraft multiplied by 110%.
- The maximum number of aircraft greater than fifty (50) seats up to and including eighty-eight (88) seats shall be the greater of two-hundred-fifty-five (255) or fifty (50) percent of the total number of mainline aircraft.

Based on the total mainline fleet count of 608 and the narrowbody fleet count of 488,[9] the Company's proposal would allow it to outsource up to 536 small regional jets with less than 50 seats and 304 large regional jets between 51 and 88 seats.[10] At a given fleet size, the Company's proposal, if implemented, would allow it to outsource twice the number of regional jets with more than 70 seats as allowed by any other scope clause in the industry, despite currently being approximately 13-22% smaller than Delta or United.

---

[9] APA Exhibit 512 (American's fleet count as of December 31, 2011, according to its 2011 10-K).

[10] The Company's April 17, 2012 Scope proposal would allow them to outsource a number of regional jets equal to 70% of the mainline fleet count (approximately 425 aircraft), including a number of 81-88 seat jets equivalent to 30% of the mainline fleet count (approximately 182 aircraft). This is still far out of line with industry standard. As noted in paragraph 17, none of American's competitors outsource *any* regional jets over 80 seats. *See* APA Exhibit 507.

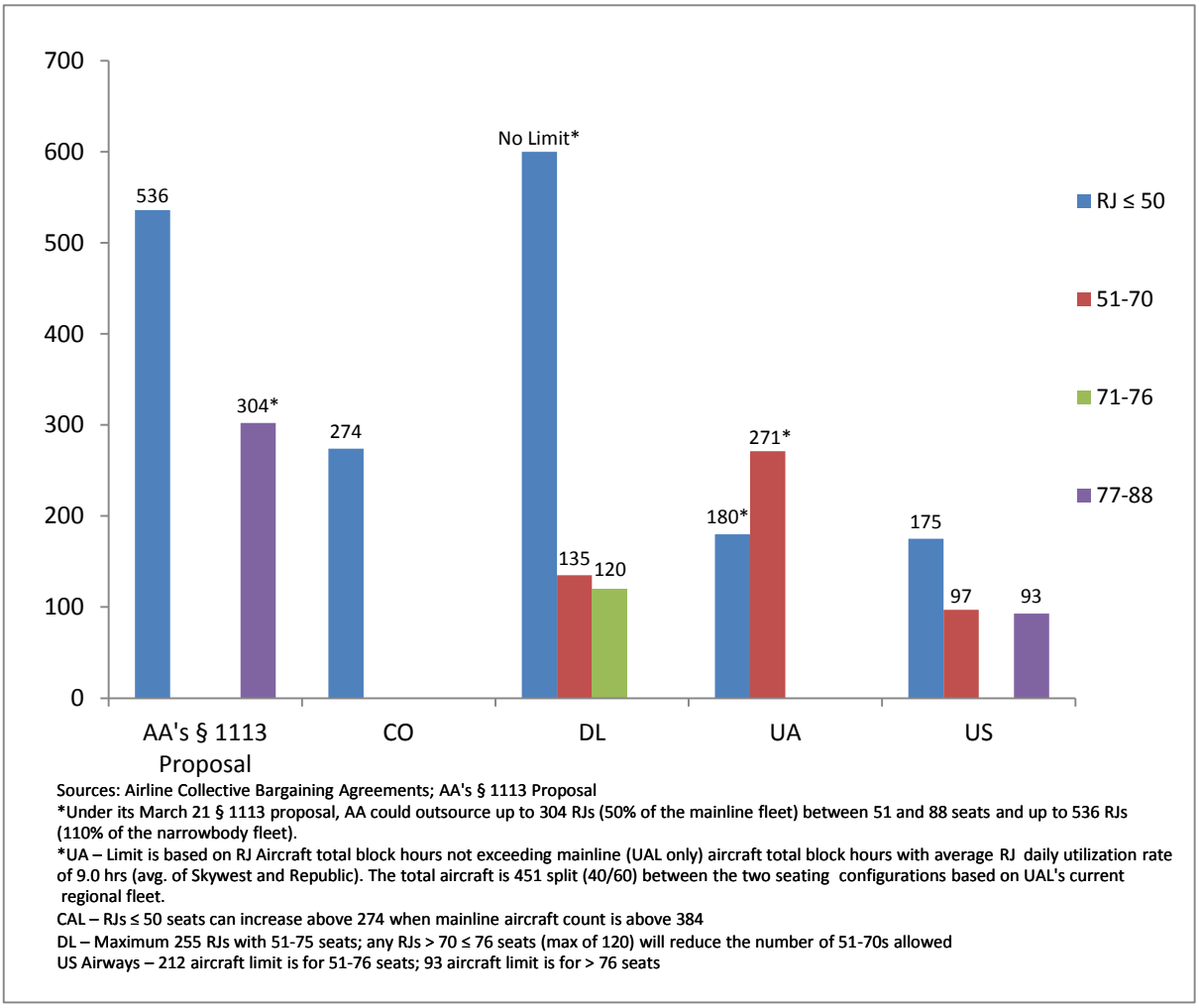
2. *Industry Standard*

26. Delta's CBA limits its 51 to 76 seat jets to an aggregate number of 255,[11] only 120 of which can have between 71 and 76 seats. Exhibit 503 at 1-5 (Section 1.B.40). US Airways is limited to 190 51 to 90 seat jets, only 93 of which may have between 77 and 90 seats and all of which are subject to a 90,000 pound maximum take-off limit. *See* Exhibit 505, Transition Agreement, at 10-11. Further, while United's CBA does not have an explicit limit on the number of 70-seat jets, United does not have "unrestricted use" of these jets, as Mr. Kasper and Mr. Glass suggest. *See* Kasper Decl. ¶ 102 n.114; Glass Decl. ¶ 77. Instead, United is limited by a provision in its pilot collective bargaining agreement that prohibits the number of scheduled block hours of Feeder Flying from exceeding the number of scheduled block hours flown by the mainline. *See* APA Exhibit 504 at 3 (Section 1-C-1-d). Assuming a conservative utilization rate for these large RJs of 9 hours per day, which is based on the current utilization rates for aircraft at United's regional carriers and on United's scheduled block hours,[12] United would be limited to approximately 451 regional jets with 70 seats or less. APA Exhibit 513 reflects this limit and other competitors' allowances compared with American's § 1113 proposal.

[11] This limit increases as Delta's mainline fleet grows above the baseline level established when its pilot collective bargaining agreement was negotiated in October 2008.

[12] The utilization rate was applied to United's scheduled block hours for 2009, which is the last year in which United and Continental reported their block hours separately.

APA Exhibit 513: Regional Jet Allowances Under Pilot CBAs



Sources: Airline Collective Bargaining Agreements; AA's § 1113 Proposal
*Under its March 21 § 1113 proposal, AA could outsource up to 304 RJs (50% of the mainline fleet) between 51 and 88 seats and up to 536 RJs (110% of the narrowbody fleet).
*UA – Limit is based on RJ Aircraft total block hours not exceeding mainline (UAL only) aircraft total block hours with average RJ daily utilization rate of 9.0 hrs (avg. of Skywest and Republic). The total aircraft is 451 split (40/60) between the two seating configurations based on UAL's current regional fleet.
CAL – RJs ≤ 50 seats can increase above 274 when mainline aircraft count is above 384
DL – Maximum 255 RJs with 51-75 seats; any RJs > 70 ≤ 76 seats (max of 120) will reduce the number of 51-70s allowed
US Airways – 212 aircraft limit is for 51-76 seats; 93 aircraft limit is for > 76 seats

27. In its April 9, 2012 Scope proposal, APA proposed that the Company could outsource up to 150 regional jets configured with 51 to 70 seats up to a maximum take-off weight of 80,500 pounds. This proposal would have allowed American to outsource an additional 51 to 70-seat regional jet (beyond the 47 RJs it currently outsources) for every 71 to 110-seat jet it added at the mainline, up to the 150-jet cap. A true and correct copy of APA's April 9 Scope proposal is attached to this Declaration as APA Exhibit 514. This proposal was tied to the growth American laid out in its business plan, which states that it plans to add approximately 109 70 to 99-seat jets by 2017. A true and correct copy of Slide 17, labeled Re-

Gauging the Regional Fleet will Allow us to Better match Supply and Demand from the Company's February 2012 Regional Flying Value Proposition Presentation is attached to this Declaration as APA Exhibit 515.

C. Routes Flown By Regional Jets

28. Contrary to Mr. Glass' assertion, *see* Glass Decl. ¶ 74, the protections under the 2003-2008 CBA governing the types and number of routes that may be flown by outsourced regional jets, Sections 1.D.5.g. and 1.D.5.h., are not "unique." Rather, they reflect industry-standard protections. The purpose of such restrictions is to ensure that regional flying feeds the mainline rather than replacing mainline flying. For example, all of American's major competitors have provisions restricting non-stop flying between the companies' hubs by regional jets outsourced to commuter carriers.

29. Two carriers, United and Continental, do not generally allow such hub-to-hub flying.[13] APA Exhibit 504 at 3 (Section 1-C-1-a-(1)); APA Exhibit 502 at 1-5 (Part 4.B.). Delta and US Airways limit non-stop flights between hubs to 6 percent of their commuter flights. APA Exhibit 503 at 1-9 (Section 1.D.6.); APA Exhibit 505, Attachment B to LOA #91 at 15. Similarly, Delta and United both require that 90 percent of their commuter operations be into or out of their hubs.[14] APA Exhibit 503 at 1-9 (Section 1.D.5.); APA Exhibit 504 at 3 (Section 1-C-1-b).

30. Other carriers also have additional protections on outsourced commuter flying that American does not have. Delta and US Airways both place statute mile restrictions on their

[13] United's commuter carriers may fly hub-to-hub only on routes in which the Company round trip rather than a commuter round trip would not pass the Base Internal Rate of Return ("BIRR") test. APA Exhibit 504 at 3 (Section 1-C-1-a-(1)).

[14] United's requirement applies to its "Feeder Flying Non-Stops." APA Exhibit 504 at 3 (Section 1-C-1-b).

outsourced commuter jet flying. APA Exhibit 503 at 1-9 (Section 1.D.4.); APA Exhibit 505 at Attachment B to LOA #91 at 15. US Airways requires that no more than 25 percent of its monthly non-stop Express flight segments may be between two non-US Airways hubs and that no more than 4 percent of its Express non-stop flight segments can be scheduled in the same direction within the same city pairs with departure times 30 minutes or less apart. APA Exhibit 505, Attachment B to LOA #91 at 15. And United's CBA requires that where a market is served by both mainline and commuter flying, the company cannot initiate a new commuter flying route or remove a mainline route unless the route would fail the Base Internal Rate of Return ("BIRR") test if the mainline flew it. APA Exhibit 504 at 3 (Section 1-C-1-c).

31. APA agreed during post-petition negotiations to eliminate the only "unique" restriction on such flying from the terms of its most recent CBA – the owned v. non-owned Commuter Air Carrier distinction with respect to the commuter flying limitations contained in Sections 1.D.5.g. and 1.D.5.h – as AA had requested in it pre-petition proposals. A true and correct copy of APA's February 15, 2012 proposal is attached to this Declaration as APA Exhibit 516. *Cf.* Glass Decl. ¶¶ 74-75.

III. Domestic Codesharing

A. Section 1.H.

32. The Company witnesses, aside from Mr. Dichter, simply misconstrue Section 1.H., the domestic code-sharing provision of the 2003-2008 CBA. Although APA has offered to modify this provision and allow the Company to codeshare with all the carriers that it has specifically proposed, the Company's blatant misconstruction of this provision illustrates its refusal to be subject to (or to negotiate) "industry standard" (or "market-based") scope terms. Section 1.H allows the Company to codeshare with Domestic Air Carriers that are not Commuter Air Carriers by notifying the APA 30 days before beginning such a codeshare. After the notice,

APA and the Company will discuss the domestic codesharing agreement for 30 days "in order to reach an agreement that will allow the implementation of the codeshare agreement." A mediator/interest-arbitrator will facilitate these discussions, and if the Company and APA are unable to reach an agreement, will resolve any outstanding issues. Section 1.H. also includes a list of topics that the mediator/interest-arbitrator should consider in issuing the award and states that in forming an award under Section 1.H., the arbitrator will utilize the terms of the United, Delta, Northwest, Continental, and US Airways CBAs to establish an industry standard domestic codeshare agreement that is fair to the pilots. *See* APA Exhibit 501 at 1-8.

33. Section 1.H. does not, as Mr. Glass and Mr. Newgren suggest, *see* Glass Decl. ¶ 61, 67; Newgren Decl. ¶ 68, 76, prohibit American from entering into domestic codeshare agreements. Nor could it be used to do so, as entering into such an agreement only requires that the Company discuss the agreement with APA and quickly resolve any disputes via an interest arbitration that guarantees the Company an "industry-standard" agreement. Under Section 1.H., APA lacks the contractual right to veto any domestic codeshare agreement the Company wishes to enter.

34. Moreover, contrary to Mr. Newgren's and Mr. Glass' assertions, *see* Newgren Decl. ¶ 70, Glass Decl. ¶ 60, domestic codesharing is not "the only way" for American to expand its network. American's major competitors have expanded their networks primarily through merging with other carriers, not through domestic codesharing. In any case, as explained below, APA has agreed to all the domestic codesharing agreements for which AA has specifically asked.

B. AA's § 1113 Proposal for Domestic Codesharing

35. In its § 1113 term sheet, American proposes to completely eliminate any pilot protections regarding domestic codesharing. This proposal is entirely inconsistent with industry

standards. None of American's major competitors has unlimited ability to enter into domestic codesharing agreements.

36. Delta's pilot collective bargaining agreement simply prohibits domestic codesharing absent a specifically negotiated, ad hoc exception from the Delta pilots. It is therefore significantly more restrictive than Section 1.H. of the 2003-2008 CBA. Each time Delta seeks to enter into a domestic codesharing agreement, Delta must approach its pilots' union to negotiate an individual exception, as it did in the case of its codeshare agreements with Alaska, Hawaiian, and Continental. The resulting exceptions are limited by multiple, tailored restrictions. *See* APA Exhibit 503 at 1-18 to 1-29 (Sections 1.N., O., Q.). There is no guarantee that Delta would even be permitted to enter into such an agreement because, unlike American's pilots, Delta's pilots have the right to simply refuse to grant an exception to their scope clause.

37. The Continental and US Airways CBAs require that domestic codeshare agreements comply with certain flying ratios between the codeshare partners and restrict codesharing on flights between company hubs. APA Exhibit 502 at 1-7 to 1-10 (Part 5.C.); APA Exhibit 505, Attachment C to July 2002 Restructuring Agreement. Further, Continental's agreement prohibits it from reducing block hours, pilot positions, pilots' equipment or status, or the number of aircraft during the term of a domestic codeshare agreement unless such reductions are unrelated to the codeshare. APA Exhibit 502 at 1-12 to 1-13 (Part 5.F.). United's agreement also places restrictions on domestic codesharing, requiring the company to meet and confer with the union prior to entering into a domestic codeshare agreement, and United's codeshare agreement with US Airways, the most significant domestic codeshare agreement in the industry, excludes a number of routes and limits codesharing into and out of United's "Key Cities." APA Exhibit 504, LOA 03-06.

C. [redacted]

38. The Company has identified [redacted] specific domestic codeshares that it claims are necessary for its business plan: [redacted] Contrary to Mr. Newgren's assertion, APA has not "aggressively oppose[d]" these codeshares. *See* Newgren Decl. ¶ 68. In fact, as described below, prior to AA filing its § 1113 motion, APA had agreed to allow AA to codeshare [redacted]

39. [redacted]

40. [redacted]

41. [redacted]

42. [redacted]

43. [redacted]

44. Rather than take "yes" for an answer, however, AA now attempts to use the bankruptcy process to "wipe the slate clean" of any and all job protections for pilots in the context of domestic codesharing.

[15] Current Scope protections are not precluding American from [redacted] Further, there are many other reasons that codeshare partners might not expand their relationships, including a commercial disincentive to do so or a prohibition in another codeshare agreement.

IV. International Codesharing

45. The Company has also proposed completely eliminating any protections on codesharing with Foreign Air Carriers. The pilots' most recent CBA already has one of the least restrictive international codesharing provisions in the industry. There is simply no industry standard support for completely eliminating these protections.

46. The 2003-2008 CBA permits American to place its code on any Foreign Air Carrier as long as American's own international block hours do not fall below a certain level, called the International Baseline. *See* APA Exhibit 501 at 1-9 to 1-10 (Section 1.J). The Baseline is calculated based on American's scheduled international block hours from 2003 and only goes up if American schedules additional international block hours. The Company may reduce international flying by 10 percent before it triggers any consequences under Section 1.J.4., and it may reduce international block hours by 20 percent before APA consent is required for the continuation of codesharing with existing codeshare partners. Once the Company falls below these 90 or 80 percent trigger points, it has one year to bring the international block hours back up before any of the penalties are imposed. American has never incurred a penalty pursuant to Section 1.J., is in no current danger of doing so, and under its announced business plan, will not do so.

47. By contrast, Delta must seek the pilots' union's consent to implement an international codeshare in which the company books or tickets a certain number of passenger seats on the foreign carrier's flight segments. APA Exhibit 503 at 1-11 (Section 1.E.2). United must meet and confer with the union before entering into an international codeshare agreement and cannot remove a scheduled Company non-stop from a joint international non-stop market unless it demonstrates that the flight to be removed doesn't pass the BIRR (Base Internal Rate of Return) test. APA Exhibit 504 at 4-5 (Section 1-C-3). Continental and US Airways may enter

into international codesharing agreements subject to certain baseline ratios governing flying between the codeshare partners and restrictions on hub-to-hub codesharing. APA Exhibit 502 at 1-10 to 1-11 (Part 5.D); APA Exhibit 505, LOA #82.

V. Plan Support Agreement With US Airways

48. As described in more detail in the Declaration of APA Negotiation Committee Chairman Neil Roghair, *see* Roghair Decl. ¶¶ 103-06, APA negotiated a Conditional Labor and Plan of Reorganization Agreement ("Plan Support Agreement") with US Airways, outlining certain new CBA terms in the event of a US Airways Plan of Reorganization ("POR"). As part of the Plan Support Agreement, APA and US Airways negotiated market-based Scope terms governing the number and size of outsourced regional jets and domestic codesharing. A true and correct copy of the Scope portion of the Plan Support Agreement is attached to this Declaration as APA Exhibit 517.

A. Regional Jets

49. The New APA CBA with US Airways would limit regional aircraft flown on behalf of the New AA to 110% of the mainline narrowbody fleet, of which only 3/4 could be outsourced and only on aircraft with 81 seats or less. Up to 40% of the regional aircraft will have between 30 and 70 seats and fall into "Category A" flying and an additional 35% of the aircraft could have up to 81 seats, and fall into "Category B." Flying on aircraft up to 110 seats will constitute the remaining 25% of regional flying and constitute "Category C" flying. All Category C flying will be done at the mainline, while Categories A and B may be outsourced. *See* APA Exhibit 517.

50. For every four aircraft added or replaced in the outsourced portion with 70 or less seats, one aircraft will be inducted into Category C at the mainline. For every two aircraft with between 71 and 81 seats replaced or added to Category B flying, one aircraft will be inducted

into Category C at the mainline. The New APA CBA would therefore guarantee that AA seniority list pilots would have the opportunity to participate in the growth of large regional jet flying and would fly all the Embraer 190 or Embraer 195, and CRJ -1000 aircraft.

B. Domestic Codesharing

51. The New APA CBA would allow the New American Airlines to enter into new codesharing agreements with domestic mainline carriers as long as the total flying under those new agreements does not exceed 4% of the New American Airlines' domestic ASMs. It would also allow the New American Airlines to codeshare (1) with Alaska Airlines with no restrictions except for flights into and out of Hawaii, and (2) with Hawaiian Airlines or its successor without restriction on intra-Hawaii flights as long as the New American Airlines in combination with US Airways maintains a minimum average of 10 flights per day between the mainland and Hawaii.

52. The APA's ability to quickly resolve all Scope issues in a binding term sheet with a proposed acquirer of AA, on terms much less onerous than those insisted on by AA in its § 1113 proposals, definitively demonstrates that none of AA's demanded concessions are "necessary" to AA's successful re-organization.

DECLARATION PURSUANT TO 28 U.S.C. § 1746

I declare that the foregoing is true and correct based on my personal knowledge and on information from documents I have reviewed, including business records of the Allied Pilots Association.

Date: 5/11/2012

James Eaton

APA Exhibit 501

Excerpt from AA-APA 2003-2008 Collective Bargaining Agreement.

AGREEMENT

between

AMERICAN AIRLINES, INC

and

THE AIRLINE PILOTS

in the service of

AMERICAN AIRLINES, INC.

as represented by the

ALLIED PILOTS ASSOCIATION

EFFECTIVE: MAY 1, 2003

SECTION 1

RECOGNITION AND SCOPE

A. Recognition

The Allied Pilots Association has shown satisfactory proof to the Company that it represents more than a majority of the airline pilots of the Company, and further, has been certified by the National Mediation Board.

B. Definitions

1. Affiliate

   The term "Affiliate" refers to (a) any entity that Controls the Company or any entity that the Company Controls, and/or (b) any other corporate subsidiary, parent, or entity Controlled by or that Controls any entity referred to in (a) above.

2. Agreement

   The term "Agreement" means this collective bargaining agreement between the Association and the Company and all supplements and letters of agreement between the Association and the Company.

3. Air Carrier

   The term "Air Carrier" means any common carrier by air.

4. Commuter Air Carrier

   The term "Commuter Air Carrier" refers to any Air Carrier utilizing only (a) aircraft that are certificated in the United States and Europe with a maximum passenger capacity of 50 passenger seats or fewer and (b) aircraft that are not certificated in any country with a maximum gross takeoff weight of more than 64,500 pounds. If an aircraft type operated by an Air Carrier otherwise meeting the conditions in the preceding sentence is recertified with a maximum passenger capacity of greater than 50 passenger seats, the Air Carrier operating said aircraft shall remain a Commuter Air Carrier so long as it operates said aircraft with no more than 50 passenger seats.

5. Company

   The term "Company" shall refer to American Airlines, Inc.

6. Comprehensive Marketing Agreement

   The term "Comprehensive Marketing Agreement" means an arrangement between the Company or an Affiliate and a Domestic New Entrant Air Carrier that is not a Commuter Air Carrier that contains at least the following elements:

   a. AAdvantage or any other Company frequent flyer program;

   b. joint marketing arrangements (other than AAdvantage type arrangements); and,

   c. the lease or transfer of gates from the Company or a U.S. Affiliate to the Domestic New Entrant Carrier.

7. Control

   The term "Control" shall have the same meaning as the term had in Arbitrator Stephen Goldberg's decision in the Canadian Arbitration Case No. 12-93 (April 25, 1994).

8. Domestic Air Carrier

   The term "Domestic Air Carrier" refers to any Air Carrier that is a citizen of the United States within the meaning of 49 U.S.C. § 40102(a)(15), as that statute defines citizenship on the effective date of this Agreement.

9. Domestic Commuter Air Carrier

   The term "Domestic Commuter Air Carrier" refers to any Commuter Air Carrier that is a citizen of the United States within the meaning of 49 U.S.C. § 40102(a)(15), as that statute defines citizenship on the effective date of this Agreement.

10. Domestic New Entrant Air Carrier

    The term "Domestic New Entrant Air Carrier" means a Domestic Air Carrier that has entered the passenger air transportation market since deregulation, either initially or through ceasing operations and then re-entering the market.

11. Fixed Base Operator Flying

    The term "Fixed Base Operator Flying" means flying activities in aircraft having a maximum passenger capacity of 30 seats and a maximum payload capacity of 7,500 pounds.

12. Foreign Carrier

    The term "Foreign Carrier" means an Air Carrier other than a Domestic Air Carrier.

13. International Flying

    The term "International Flying" means scheduled flying by the Company that includes a scheduled landing or departure outside the 48 contiguous states. This definition is solely for the purposes of the exception for International Codesharing and the conditions on that exception in Section 1.J.

14. Major Foreign Carrier

    The term "Major Foreign Carrier" means a Foreign Carrier that has had more than $1 billion US, or its equivalent, in annual revenues during its most recent fiscal year.

15. Successor

    The term "Successor" shall include, without limitation, any assignee, purchaser, transferee, administrator, receiver, executor, and/or trustee of the Company or of all or substantially all of the equity securities and/or assets of the Company.

16. Successorship Transaction

    The term "Successorship Transaction" means any transaction, whether single step or multi-step, that provides for, results in, or creates a Successor.

17. Transborder Flying

    The term "Transborder Flying" means flying scheduled by the Company on US-Canada transborder routes.

18. WACC

    The term "WACC" refers to AMR Corporation's weighted average cost of capital as described in the letter agreement between the Association and the Company dated May 1, 2003.

C. SCOPE

1. General.

All flying performed by or on behalf of the Company or an Affiliate shall be performed by pilots on the American Airlines Pilots Seniority List in accordance with the terms and conditions of this Agreement, except as expressly permitted in provisions D.- K. below.

a. Company Flying. Such flying shall include without limitation all passenger flying, cargo or freight flying, and ferry flying, whether scheduled or unscheduled, revenue or non-revenue:

   (1) performed on aircraft owned and operated by or on behalf of the Company or an Affiliate, leased to and operated by or on behalf of the Company or an Affiliate, or operated by the Company or an Affiliate, or

   (2) conducted by any other Air Carrier which the Company has permitted to utilize the Company's present or future designator code, trade name or aircraft paint scheme for the other Air Carrier's flight operations except as expressly permitted in Section 1 D - K below, and provided that the portion of this provision referring to trade names will apply only to Company trade names used to describe the Company's flight operations and not trade names such as "AAdvantage."

b. Prohibited Transactions.

Neither the Company nor an Affiliate shall, without the Association's prior written consent, enter into any transaction, agreement, or arrangement, except as expressly permitted in Section 1.D.- K. below, that permits or provides for:

(1) any form of contracting out or subcontracting out of any Company flying covered by subsection C.1., or any wetleasing from an entity or any chartering of such flying from an entity; or

(2) a Comprehensive Marketing Agreement with a Domestic New Entrant Carrier.

(3) Nothing in this provision C.1.b. shall be construed to permit any other transaction that would violate this provision C.1.

2. Training.

All flight training of American Airlines pilots in Company aircraft shall be performed by American Airlines pilots.

3. Interline Agreements

Nothing in this Section 1 shall be construed to limit the Company or an Affiliate's ability to enter into interline agreements with other Air Carriers.

4. Frequent Flyer Programs.

Nothing in this Section 1 shall be construed to limit the Company or an Affiliate's ability to enter into agreements or arrangements with other Air Carriers involving frequent flyer miles, promotions, awards or other frequent flyer arrangements that are not part of a Comprehensive Marketing Agreement.

5. Captions.

The captions to provisions in this Section 1 are not substantive and should not be considered in construing the meaning of any provision, provided that the Company and the Association do not intend thereby to create an implication as to other captions in this Agreement.

D. Scope Exception: Commuter Air Carriers

1. Commuter Air Carriers and Section 1 Limitations.

The Company or an Affiliate may create, acquire, maintain an equity position in, enter into franchise type agreements with, and/or codeshare with a Commuter Air Carrier, and flying by any such Commuter Air Carrier shall not be subject to the limitations of Section C.1 above, so long as any such Commuter Air Carrier operates in accordance with the limitations set forth in this Section 1.D.

2. American Eagle, Inc. and Executive Airlines, Inc.

American Eagle, Inc. and Executive Airlines, Inc. may operate, in the aggregate, no more than 43 ATR 72 aircraft or other turbo prop aircraft certificated in the United States and Europe for a maximum passenger capacity of between 51 and 70 seats, without losing their status as Commuter Air Carriers.

3. Purpose; Intent of the Parties.

a. Primary Purpose.

The primary purpose of a Commuter Air Carrier is either to provide passenger and/or cargo revenue feed to Company flights and/or to enhance the Company's overall market presence.

b. Role of Commuter Air Carriers in Company's Development.

The parties recognize that Commuter Air Carriers have played a role in the development of the Company as the world's premier airline. Additionally, the Company and the Association acknowledge that the passenger feed provided to the Company's domestic and international system strengthens the Company, thereby providing enhanced career opportunities to American Airlines pilots.

c. Markets in Which the Company Cannot Earn an Adequate Return on Invested Capital

The Company will operate American Airlines service in markets where such service can earn an adequate return on invested capital. This provision will not require the Company to operate a particular service, but instead, if the Company could operate a service and earn an adequate return on invested capital, the Company may not place or maintain the Company code on such service by a Commuter Air Carrier. Notwithstanding this prohibition, if the Company orders additional aircraft to fly such a route, the Company may place or maintain its code on the route or frequency during the time between order and delivery of the additional aircraft. Similarly, if the Company is procuring an airport slot, gate and/or other route authority to fly such a route, the Company may place or maintain its code on the route or frequency during the time required to procure such a slot and/or authority.

d. Parties to Meet in the Event of Problems.

It is not the intent of either the Company or the Association to limit the expansion of Commuter Air Carriers in developing new markets. If at any time it is determined that these provisions are impeding the ability of Commuter Air Carriers to fulfill their primary role in support of the Company's system, the parties agree to promptly meet and discuss appropriate modifications to this Agreement.

4. Cockpit Crewmember Floor.

In the event that the number of cockpit crewmembers employed by the Company on the American Airlines Pilots Seniority List goes below 7300, the parties agree that the commuter exception contained in this Section D. shall be terminable at the option of APA following a 90-day period to provide an opportunity for discussion. If APA elects to require termination of the commuter exception, the Company shall thereafter have a reasonable time to complete the disposition of the operations covered by this Section D. during which period the parties shall meet in good faith and discuss the issues related to such termination. Pilots added to the American Airlines Pilots Seniority List by way of seniority merger shall not count in calculating the number of cockpit crewmembers for purposes of this section 4.

5. Limitations on Commuter Carriers.

a. Aircraft Limit.

Beginning with the six month period starting 7/1/03, for each six month period, the total number of aircraft operated under this Section D. may not exceed a limit, based on Narrowbody aircraft operated during that period as provided in c. below. Aircraft shall be counted toward that limit as provided in d. below.

b. Counting Narrowbody Aircraft.

Effective each January 1 and July 1, the total number of aircraft that are being operated by the Company in a single aisle seating configuration ("Narrowbody Aircraft") that are "in service," as that term is defined in SUPPLEMENT CC Section 1.K., shall be tallied for purposes of determining the applicable limit on the number of aircraft operated pursuant to this Section D. For the purpose of this tally of Narrowbody Aircraft, the "total number of aircraft" being operated by the Company for the six month period shall be the straight average of the number of aircraft in service at the Company on the fifteenth calendar day of each of the previous six months. If any six-month tally involves a fractional aircraft unit, the fractional unit will be rounded down if less than .5, and otherwise rounded up.

(1) Force Majeure.

In the event that the Company's planned aircraft deliveries do not take place as scheduled due to conditions beyond the Company's control, then for 12 months from the scheduled delivery date, so long as the scheduled deliveries remain firm orders to be delivered as soon as circumstances permit, the aircraft shall be counted as though they had been timely delivered.

If the Company is unable to operate Company aircraft due to conditions beyond the Company's control, then the Company may count such aircraft as in operation for purposes of b.(1) above for three months from the date such aircraft go out of operation, or such longer period as necessary, not to exceed fifteen months, if the Company is taking all practicable steps to restore operations, including by repairing or replacing the affected aircraft.

"Conditions beyond the Company's control" shall include, but not be limited to, the following: (1) an act of God, (2) a strike by any other Company employee group or by the employees of a Commuter Air Carrier operating pursuant to Section 1.D., (3) a national emergency, (4) involuntary revocation of the Company's operating certificate(s), (5) grounding of a substantial number of the Company's aircraft, (6) a reduction in the Company's operation resulting from a decrease in available fuel supply caused by either governmental action or by commercial suppliers being unable to meet the Company's demands, (7) the unavailability of aircraft scheduled for delivery.

c. Determining the Maximum Number of Aircraft that Commuter Carriers May Operate.

The maximum average number of aircraft that may be operated under this Section D. during a six-month period is the number of Narrowbody Aircraft multiplied by 110%.

d. Counting Commuter Carrier Aircraft

(1) Two Counts.

Effective each January 1 and July 1, aircraft operated pursuant to this Section D. for the previous six month period shall be counted toward the aircraft limit in c above as a straight average of the number of aircraft in operation on the fifteenth calendar day of each of the previous six months.

Commuter Air Carriers that are Affiliates or that have more than 50% of their RPMs attributable to passengers flying on the Company code shall be counted on a 1 for 1 basis, with fractional units rounded as at the mainline.

Aircraft at Commuter Air Carriers that are not Affiliates and that have 50% or fewer of their RPMs attributable to flying on the Company's code shall be counted toward the aircraft limit as provided in d. (2) below.

(2) Counting Aircraft at Commuter Carriers With 50% or Fewer RPMs on the Company's Code.

At Commuter Air Carriers that are not Affiliates and that have 50% or fewer of their RPMs attributable to passengers flying on the Company's code, aircraft shall be counted in one of two ways, depending on whether or not the Commuter Air Carrier operates a portion of its flights as American Connection (or similarly dedicated operation).

If such Commuter Air Carrier does not operate a portion of its flights as American Connection (or similarly dedicated operation), monthly RPMs flown on the Company's code as a proportion of total monthly RPMs at each such carrier shall be multiplied by the average number of aircraft in operation at that carrier during that month. Fractional units shall be rounded to the nearest hundredth.

Thus, for example, if one third of the monthly RPMs at such a Commuter Air Carrier are attributable to passengers flying on the Company code, then one third of that Commuter Air Carrier's fleet shall be counted toward the overall limit for Commuter Air Carrier aircraft for that month.

If, on the other hand, the Commuter Air Carrier operates a portion of its flights as American Connection or similarly dedicated operation, the aircraft in the dedicated portion of the operation shall be counted on a 1 for 1 basis. If aircraft operated by such a Commuter Air Carrier outside the dedicated portion of the operation carry passengers on the Company code, then:

(a) The aircraft in the dedicated portion shall be counted on a 1 for 1 basis; and

(b) The aircraft in the non-dedicated portion shall be counted in the same manner as aircraft at Commuter Carriers without a dedicated operation, excluding the dedicated portion of the operation from the calculation; and

(c) The number of aircraft in (a) and (b) shall be added together.

Thus, for example, if a Commuter Air Carrier operates 10 aircraft in a dedicated portion of its operations, operates another 10 aircraft in a nondedicated portion of its operations, and if 1/10 of the monthly RPMs in the non-dedicated portion of its operations are attributable to passengers flying on the Company code, then 11

aircraft count toward the overall limit for Commuter Air Carrier aircraft for that month.

e. Penalty for Excess Commuter Carrier Operations.

If, for any six month period, the total number of aircraft operated under this Section D., counted as provided in d. above, exceeds the number permitted under provision c. above, then the number of aircraft that Commuter Air Carriers would otherwise have been permitted to operate during the subsequent six month period shall be reduced by twice the number of such excess aircraft. Moreover, during that subsequent six month period, the Company shall be required to stay within the aircraft limit as calculated on the first day of each month in the period for the previous months in the period. If the Company does not comply during any month of this subsequent six-month period, the Association shall have all available remedies. Nothing herein limits the right of either party to bring a grievance on an expedited basis before the System Board about any dispute regarding compliance with Section 1.D. at any time.

f. Limitations on Aircraft Types in Commuter Air Carriers' Fleets.

No aircraft type in the Company's fleet, or inactive aircraft type previously in the Company's fleet and still under the Company's control, and no orders or options for a Company aircraft type shall be transferred to or operated by a Commuter Air Carrier operated under this Section D.

g. Limits on Certain Non-Stop Flying

Beginning with the calendar quarter starting July 1, 2003, and for each calendar quarter thereafter, Commuter Air Carriers majority owned by AMR Corp. or by an Affiliate shall operate no more than 1% of the total combined scheduled block hours for such Commuter Carriers and the Company in nonstop scheduled service between any of the following airports, without the consent of the Association: DFW, ORD, MIA, JFK, SFO, LAX, LGA, STL and SJU. If the number of departures scheduled by the Company at any other airport exceeds an average of 70 per day over a 12 month period, the Company shall meet with the Association to discuss adding such airport to this list.

No other Commuter Air Carrier operated under this Section 1.D. shall operate nonstop scheduled service between any of the following airports without the consent of the Association: DFW, ORD, MIA, JFK, SFO, LAX, LGA, STL and SJU, except that if Executive Airlines ceases to be a Commuter Carrier that is majority owned by AMR Corp. or an Affiliate, then while Executive Airlines is such a Commuter Carrier, three daily nonstop scheduled roundtrips between SJU and MIA shall not be subject to the restriction in this paragraph. BNA shall be added to the list of restricted airports whenever the Company schedules 40 or more daily departures from BNA. If the number of departures scheduled by the Company at any other airport exceeds an average of 70 per day over a 12 month period, the Company shall meet with the Association to discuss adding such airport to this list.

Section 1.D.5.g amended see Letter VV

h. Hub or Major Airport Departures.

Beginning with the calendar quarter starting July 1, 2003, and for each calendar quarter thereafter, 85% of departures by turbo-jet aircraft at Commuter Air Carriers majority owned by AMR Corp. or by an Affiliate shall be into or out of the following major airports: DFW, ORD, MIA, SJU, SFO, LAX, LGA, STL, and JFK. Other Commuter Air Carriers shall carry passengers on behalf of the Company only into or out of the following airports: DFW, ORD, MIA, SJU, SFO, LAX, LGA, STL and JFK. Departures utilizing commuter slots at slot controlled airports other than those listed above (e.g., DCA) and departures from airports limited to commuter departures by other governmental or aircraft operational restrictions (e.g., SAF), shall not be covered by this provision h.

Section 1.D.5.h amended see Letter VV

6. Preference in Hiring.

If pilots of the Company are on furlough, such pilots shall be given preference in the filling of vacancies on Commuter Air Carriers that are Affiliates. The Company shall also attempt to secure preference for such pilots for vacancies occurring at Commuter Air Carriers in which the Company or an Affiliate owns a minority equity interest and at independently owned

Commuter Air Carriers that have franchise-type agreements or other codesharing relationships with the Company or an Affiliate.

7. Information Sharing.

   a. Review of Changes to Commuter Air Carrier Flying.

      The Association shall identify individuals to work with the Company's schedule planning department to review contemplated changes in flying by Commuter Air Carriers on routes where passengers will be carried on behalf of the Company. The Association agrees to treat the information provided by the Company pursuant to this provision as confidential.

   b. Quarterly Data Review.

      On a quarterly basis beginning September 1, 1997, the Company shall review with the Association data that reflects the results of any decisions to substitute flying by Commuter Air Carriers operated under this Section 1.D. for the Company's flying and shall review routes, if any, operated by Commuter Air Carriers on behalf of the Company that could be flown by the Company and earn an adequate return on invested capital. The Company shall also procure and share with the Association the data necessary to verify the limits set forth in this Section D.

   c. New Codesharing/Ownership Arrangements.

      The Company shall discuss with the Association any plans to enter into new codesharing or ownership arrangements with any Commuter Air Carrier prior to the implementation of such arrangements.

8. Foreign Commuter Air Carrier.

   A Commuter Air Carrier that engages in flying only between points outside the United States, its territories or possessions shall not be subject to the limitations set forth in Section D.4.-7.

9. Prohibition on Training.

   Neither the Company nor an Affiliate shall provide flight training to any pilot on the seniority list of any Commuter Air Carrier that operates under Section 1.D. on any aircraft type owned or operated by the Company.

E. Scope Exception: Fixed Based Operators

The Association recognizes the Company's desire to engage in fixed base operations. Where such operations include Fixed Base Operator Flying, the Association agrees that the provisions of Section 1.C. above shall not apply to such flying as long as it does not supplant the Company's flying and is not utilized in airline service which is offered for sale to the general public through such devices as the Official Airline Guide and airline industry computerized reservations systems.

F. Scope Exception: Hawaiian Inter-Island

The Company may place its current or future designator code on flights operating wholly within the Hawaiian Islands provided that the Air Carrier (or its parent) upon which the code is placed is not an Affiliate (other than a Commuter Air Carrier) of the Company, or categorized as a "Group III" Air Carrier by the U.S. Department of Transportation. Further, if the Air Carrier upon which the code is placed also operates between Hawaii and the U.S. mainland, and if the Company drops frequencies existing as of December 1996 between the contiguous 48 states and Hawaii, the Association shall have the right to withdraw its consent to this provision.

G. Scope Exception: Air Freight Feed Operations

Notwithstanding Section 1.C. above, it is agreed that the Company shall have the right to contract for Air Freight Feed Operations as defined in SECTION 2, below, or to operate such feeders by means of a subsidiary, affiliate, or a division of the Company, or both. If the Company contracts for such operation, and if any American Airlines pilots are on furlough during the performance of such operation, the Company will recall that number of pilots which equals the minimum number of pilots who would be required to perform the operation if the Company, utilizing the same type of aircraft as are actually utilized on the date of commencement of each such operation, performed the operation itself under the terms of this Agreement. The recall of

furloughed pilots shall proceed in the manner stated in this Agreement. In the event the Company operates any such Air Freight Feed Operation itself, the rules of this Agreement shall apply.

H. Scope Exception: Domestic Air Carriers Other Than Commuter Carriers

The Company may place its current or future designator code, and/or any designator code that the Company directly or indirectly controls, on a Domestic Air Carrier that is not a Commuter Air Carrier as specified below:

1. The Company shall notify the Association at least 30 days in advance of beginning to codeshare with a Domestic Air Carrier that is not a Commuter Air Carrier.
2. The Company and the Association will discuss the proposed domestic codesharing agreement for a period of 30 days after the notice in order to reach an agreement that will allow the implementation of the codeshare agreement. The parties do not intend these discussions to encompass subjects unrelated to the implementation of the codesharing agreement.
3. The parties will engage a mediator/interest-arbitrator to facilitate their discussions. The mediator/arbitrator will be selected by agreement from a list of interest arbitrators knowledgeable about Scope provisions in pilot collective bargaining agreements. If the parties have not reached agreement within the 30 day period, the mediator/arbitrator will resolve the outstanding issues by issuing an award within 10 days after the conclusion of the 30 days period. Any domestic codesharing agreement that the Company enters into before the issuance of the award, or the reaching of an agreement, shall not require the Company to place its code, or any code that it directly or indirectly controls, on flying by the Domestic Air Carrier.
4. In forming the award, the arbitrator will utilize the terms of the then-existing domestic codeshare agreements among domestic air carriers and the provisions of then-existing collective bargaining agreements for pilots at United, Delta, Northwest, Continental and USAirways airlines that are relevant to domestic codesharing. The Arbitrator will apply those agreements to establish an industry standard domestic codeshare agreement for the period of that agreement that is fair to the pilots.
5. The subjects to be considered by the parties and submitted to the arbitrator, if agreement cannot be reached, shall include, but not be limited to:
   a. Procedures for reciprocal codesharing;
   b. Terms of codesharing on flights between and from the Company's and the Domestic Air Carrier's hubs and focus cities;
   c. Conditions for codesharing on flying in overlapping markets;
   d. Conditions for blocked space arrangements;
   e. Code sharing on International Flying;
   f. Codesharing on regional jet flying by the Domestic Air Carrier's associated regional airlines and commuter carriers, if any;
   g. Block hour limitations;
   h. Joint marketing limitations;
   i. Adequate protections for existing AA flying;
   j. The mutual benefits to the Company and the American Airlines pilots.
6. The interest arbitration will be pursuant to the Railway Labor Act.
7. The interest arbitrator will retain jurisdiction to resolve questions and disputes about the implementation of his award.
8. Section 1.C.1.b. (2), concerning Comprehensive Marketing Agreements, shall no longer be effective upon the implementation of a domestic codesharing agreement under this Section pursuant to either an arbitrator's award or agreement with the Association.

I. Scope Exception: Transborder

The Company may place its current or future designator code on flights by Canadian Air Carriers as set forth below:

1. Codesharing to Third Countries.

   Codesharing agreements allowing Canadian Air Carriers to carry the Company's code between Canada and a third country must meet the following conditions:

   a. Opportunities to Earn WACC.

      The Company shall always deploy its own aircraft on any international route for which it can obtain authority, so long as that route will earn a return on invested capital at least equal to WACC. The Company shall not use Canadian Air Carriers' flights to third countries as a substitute for opportunities to operate its own international flights from U.S. gateways, provided such Company flights will earn a return on invested capital at least equal to WACC.

   b. Review of Third Country Traffic Flows.

      On September 1, 1997 and every six months thereafter, the Company shall review with the Association the flows of international passengers traveling to third countries on the Company's code on Canadian Air Carriers' flights and on Canadian Air Carriers' codes on the Company's flights. This review shall identify any incremental international operations that meet the criteria in provision 1.a. above. It shall include an evaluation of the size of aircraft and frequency of operations potentially available for the Company. This review shall also assure that the Company is accruing benefits from the traffic carried on its code on Canadian Air Carriers' flights.

   c. Review of Traffic Flows Exceeding Certain Numbers of Passengers on Company Code.

      If, for any period of six consecutive months, Canadian Air Carriers carry more than an average of 50 passengers per flight per day on the Company's code or more than an average of 500 passengers per flight per week on the Company's code, the Company and the Association shall promptly conduct a review as described in 1.b. above to determine whether any opportunity exists to carry that traffic from a U.S. gateway on a Company flight that will earn a return on invested capital at least equal to WACC, assuming that the Company can obtain authority for the operation. Nothing in these provisions 1.a.- c. shall be construed to require the Company to operate a particular route or routes.

   d. Maximizing Use of Canadian Air Carriers' Codes.

      The Company shall attempt to maximize Canadian Air Carrier codesharing on the Company's flights to third country destinations.

2. Ability to Reopen.

   In the event of a change in regulation, law, or industry practice with respect to codesharing, either party retains the right to reopen on this issue of codesharing with a Canadian Air Carrier.

J. Scope Exception: Other International Codesharing

The Company may place or maintain its current or future designator code on flights by Foreign Carriers under the following conditions:

1. General Principles

   a. Importance of International Codesharing.

      The Company and the Association agree that codesharing with Foreign Carriers has become an important element of international competition and that it is in the Company's interest to enter into codesharing agreements with such carriers when those agreements strengthen the Company's international and domestic route networks.

   b. Purpose of Codesharing.

      The purpose of codesharing is to provide feed to the Company's route system and/or establish, maintain, or acquire market presence.

2. Other Airline Codes on Company Flights.

The Association endorses the maximum use of other airline codes on Company flights. In negotiating codesharing agreements with Foreign Carriers, the Company shall attempt to maximize opportunities to use its own aircraft and personnel.

3. Baseline for International Flying.

A Baseline for International Flying shall be calculated for each year as described below:

a. Effective January 1, 2003, the Baseline for International Flying shall be ___ [the January 1, 2003 International Baseline under the May 1997 Agreement minus the number of block hours that were "double counted" since 1997, (to be determined but not to exceed 18,000 block hours) plus total scheduled block hours in 2002 of Transborder Flying as defined in the May 1997 Agreement].

b. International Baseline for January 1, 2004 and Beyond.

Effective January 1, 2004, and each January 1 thereafter, the International Baseline for that year shall be calculated as follows:

(1) The International Baseline for the previous year shall be adjusted upward by the total block hours of International Flying scheduled by the Company during that year in excess of the previous year's International Baseline. Thus, for example, if the January 1, 2003 International Baseline is *_x_* and the total block hours for International Flying scheduled during 2003 is *_x+ 1000*, then the January 1, 2004 International Baseline shall be *_x_+ 1000*.

(2) The International Baseline for the previous year shall carry forward and remain the same if the amount of block hours scheduled by the Company during the previous 12 month period for International Flying is less than or equal to the International Baseline for that year.

4. International Flying Below 90% and/or 80% of the Baseline in 2003 and Beyond.

On January 1, 2004 and on January 1 of each year thereafter, the International Baseline as calculated on the preceding January 1 shall be compared to the total block hours of International Flying scheduled by the Company during the preceding 12 months.

a. If the Company's scheduled International Flying is below 90% of the previous year's International Baseline, the Company shall have until the succeeding January 1 to cure that deficiency by increasing total scheduled block hours of International Flying to the level that would have met that 90% threshold. If the Company's scheduled International Flying during that additional 12 months does not increase to this required level, then the Association's concurrence shall be required for the Company to enter into new international codesharing agreements whether to place the Company's code on a Foreign Carrier's flights or to carry a Foreign Carrier's code on a Company flight.

b. If the Company's scheduled International Flying is below 80% of the previous year's International Baseline, the Company shall have until the succeeding January 1 to cure that deficiency by increasing total block hours back to the level that would have been required to meet that 80% threshold. If the Company's scheduled International Flying during that additional 12 months does not increase to this required level, then the Association's concurrence shall be required for renewal or continuation of all codesharing agreements whether to place the Company's code on a Foreign Carrier's flights or to carry a Foreign Carrier's code on a Company flight, with the exception of those specifically listed below:

Qantas (on AA 10/23/89; by AA 11/15/94)

British Midland (11/1/93)

Gulf Air (transatlantic 7/1/94; UK-Middle East 1/1/94)

5. Opportunities to Earn Adequate Return on Invested Capital.

a. General.

The Association and the Company agree that the Company shall continue to seek international route authority and pursue all opportunities for deploying its aircraft assets on international routes where it will earn an adequate return on invested capital.

b. Review of International Codeshare Traffic.

On May 1, 2003 and every six months thereafter, the Company shall review with the Association the flows of international codeshare passengers traveling on the Company's code on Foreign Carrier flights and on Foreign Carrier codes on the Company's flights. This review shall identify any incremental international operations that meet the criteria in provision 5.a. above. It shall include an evaluation of the size of aircraft and frequency of operations potentially available for the Company. This review shall also assure that the Company is accruing benefits from the traffic carried on its code on Foreign Carrier flights.

c. No Codesharing on Routes That Could Earn Adequate Return on Invested Capital.

The Company shall not, without the Association's consent, place or maintain its code on any international route or frequency operated by a Foreign Carrier, on which the Company could earn an adequate return on invested capital. This analysis shall be performed using the same method to analyze route profitability that AMR then uses internally for route planning. Notwithstanding this prohibition, if the Company orders additional aircraft to fly such an international route, the Company may place or maintain its code on the route or frequency during the time between order and delivery of the additional aircraft. Similarly, if the Company is procuring an airport slot, gate and/or other route authority to fly such a route, the Company may place or maintain its code on the route or frequency during the time required to procure such a slot and/or authority. Nothing in this provision 5 shall be construed to require the Company to operate a particular route or routes.

6. Cabotage.

If any Foreign Carrier obtains the right to transport local passenger or cargo traffic between airports within the United States or its territories, the Company shall not allow its code to be used on flights carrying such traffic and shall not carry that Foreign Carrier’s code on flights between airports within the United States or its territories.

7. Leaving Company Code in a Market.

The Company shall not reduce flying in a market and subsequently maintain or place its code on Foreign Carrier service in that market without the Association's concurrence unless:

a. the reduction is temporary, based on seasonality, and such flying will be reinstated; or

b. all of the following three conditions are met:

(1) the Foreign Carrier is a Major Foreign Carrier; and

(2) the route/flight failed to earn an adequate return on invested capital over the preceding three months or, if the flying has not continued for three months, then over such shorter period as the flying has actually continued; and

(3) either there will be no decrease in the Company's total international block hours, as measured on the next January 1 for the preceding calendar year, or there will be a proportionate decrease in international block hours flown by the Company and the codeshare partner on routes codeshared with that partner. (In calculating the proportionate decrease in block hours, such block hours shall be rounded to the nearest number that will enable each carrier to reduce its flying in increments of at least one daily round trip). Examples of such decreases are contained in Letter B.

8. Prior Documentation.

Prior to any reduction under provision 7 above, the Company shall provide to the Association the information and, if necessary, the documents necessary to demonstrate compliance with that provision.

9. Initiating Codesharing with a Major Foreign Carrier.

Notwithstanding provisions J.5.c and J.7. above, the Company may rationalize flying as part of entering into an initial codesharing agreement with a Major Foreign Carrier even though such rationalization involves withdrawing from a market and maintaining or placing the Company's code on the service of the Major Foreign Carrier in that market, or placing the Company code on a flight of a Major Foreign Carrier that could earn an adequate return on invested capital, provided that the following conditions are fulfilled:

a. As a result of the new codesharing agreement, block hours operated by the Company on routes involved in the codesharing agreement decrease by no more than 10% or by the block hours attributable to one round trip on a route (nonstop flying between any two airports) involved in the codesharing agreement, whichever is greater; and

b. either there will be no decrease in the Company's total international block hours, as measured on the next January 1 for the preceding calendar year, or there will be a proportionate decrease in international block hours flown by the Company and the new codeshare partner on routes codeshared with that partner as specified in 7.b.(3) above.

c. Provisions J.5.c. and J.7. shall apply to any subsequent change in service on the codeshared routes. In addition, if the Company withdraws from a route involved in the initial codesharing agreement, and such withdrawal causes block hours operated by the Company on routes involved in the codesharing agreement to drop below the level that would earlier have violated a. above, the Association and the Company shall review the remaining routes on which the Major Foreign Carrier is codesharing. If such review reveals that any route could earn an adequate return on invested capital, the Association shall have the right to require the Company to withdraw its code from one such route for each route from which the Company has withdrawn.

10. Withdrawal from a Codesharing Agreement.

Where the Company is required by this Agreement to withdraw from an agreement with a codesharing partner, such withdrawal shall take place at the earliest possible date that does not cause the Company to incur a financial penalty that is material in the context of the codesharing agreement with the Foreign Carrier.

K. Equity Ownership Of Foreign Carriers

A Foreign Carrier in which the Company or an Affiliate has an equity investment of more than 15% and with whom the Company codeshares shall be a “Foreign Partner.” The Company may have a Foreign Partner only under the following conditions:

1. When a Foreign Carrier becomes a Foreign Partner, the parties shall establish a “Company Baseline” for that Foreign Partner as follows:

   a. International flights by the Foreign Partner to or from any point in the U.S. that carry the Company code (or that a new codesharing agreement contemplates will carry the Company code) shall be “Covered Flights.”

   b. The Company’s total scheduled block hours for the previous 12 month period in all markets (city pairs) in which there is a Covered Flight shall be the “Company Baseline.”

2. Twelve months after a Foreign Carrier becomes a Foreign Partner and annually thereafter, the Foreign Carrier’s total scheduled block hours attributable to Covered Flights for that twelve months shall be compared to the Foreign Carrier’s previous year’s total scheduled block hours attributable to Covered Flights. The Company’s total scheduled block hours in markets in which the Foreign Partner operates a Covered Flight shall also be compared to the Company’s previous year’s total scheduled block hours in those markets.

   a. If the above comparison in any year shows that the Foreign Partner’s block hours on Covered Flights have increased, the Company’s international block hours shall have increased that year at least the same number of block hours.

   b. If the above comparison in any year shows that the Company’s block hours in markets in which the Foreign Partner performs Covered Flights have decreased, then the Foreign Partner’s block hours on Covered Flights shall have decreased that year or the Company’s international block hours shall have increased at least the same number of block hours.

   c. If the above comparison in any year shows that the Company’s block hours in markets in which the Foreign Partner performs Covered Flights have decreased and the Foreign Partner’s block hours on Covered Flights have increased, then the Company’s international block hours shall have increased in the same year by the amount of the Company’s decrease combined with the amount of the Foreign Partner’s increase. For example, if the Company’s block hours decrease by 100 hours and the Foreign Partner’s block hours increase by 100 hours, the Company’s international block hours in that year shall have increased by 200 hours.

d. If the above provisions 2.a., b. or c are violated, the Company shall have the ensuing year to bring itself into compliance. If, at the conclusion of the ensuing year, the Company is still not in compliance, then the Company shall withdraw the Company code from sufficient Covered Flights to bring the Company into compliance.

e. If the comparison in any year shows a decrease in the Company's block hours such that the total is less than the Company Baseline, then the Foreign Partner's block hours on Covered Flights shall not increase until a subsequent year's comparison shows that the Company's block hours are again equal to or greater than the Company's baseline.

L. Successorship

1. Agreement Binding on Successor.

   The Agreement shall be binding upon any Successor. The Company shall not bring a single step or multi-step Successorship Transaction to final conclusion unless the Successor agrees, in writing, to recognize the Association as the representative of pilots on the American Airlines Pilots Seniority List consistent with the Railway Labor Act, to employ the pilots on the American Airlines Pilots Seniority List in accordance with the provisions of this Agreement, and to assume and be bound by this Agreement.

2. Seniority List Merger.

   If the Successor is an Air Carrier or an affiliate of an Air Carrier, the Company shall, at the option of the Association, require the Successor to agree to integrate the pre-transaction pilot seniority lists of the Company and the Successor in a fair and equitable manner within 12 months of the Successorship transaction pursuant to Sections 3. and 13. of the Allegheny-Mohawk Labor Protective Provisions ("LPPs"). The requirement of this provision does not apply to the Company's acquisition of all or part of another Air Carrier in a transaction which includes the acquisition of aircraft and pilots.

M. Opportunity To Make Competing Proposal

In the event that any person or entity proposes a transaction which would result in a change of control or potential change of control of the Company or its parent, as those terms are used in AMR's 1988 Long-Term Incentive Plan, whether through a single or multi-step transaction, and the Company determines to pursue or facilitate the proposal, the Company, if consistent with the fiduciary duties of its Board of Directors, shall provide the Association with

1. advance written notice before acting favorably on such proposal; and

2. an opportunity to make a competing proposal.

N. Other Labor Protective Provisions In Substantial Asset Sale

In the event that, within any 12 month period, the Company transfers (by sale, lease, or other transaction) or otherwise disposes of aircraft, slots, or route authorities ("Aircraft-Related Assets") which, net of Aircraft-Related Asset purchases or acquisitions during the same 12 month period, constitute 20% or more of the value of the Aircraft-Related Assets of the Company to an entity or to a group of entities acting in concert that is an Air Carrier or that will operate as an Air Carrier following its acquisition of the transferred Aircraft-Related Assets (any such entity or group, the "Transferee"; any such transaction, a "Substantial Aircraft-Related Asset Sale"):

1. the Company shall require the Transferee to proffer employment to pilots from the American Airlines Pilots Seniority List in strict seniority order (the "Transferring Pilots"). The number of Transferring Pilots shall be no fewer than the average monthly pilot staffing over the prior 12

months for the Aircraft-Related Assets transferred to the Transferee in connection with the Substantial Aircraft-Related Asset Sale; and

2. the Company shall not finally conclude a transaction under this subsection unless the Transferee agrees to integrate the Transferring Pilots into the Transferee's pilot seniority list pursuant to Sections 3. and 13. of the Allegheny-Mohawk LPPs.

O. Remedies

1. The Company and the Association agree to arbitrate any grievance filed by the other party alleging a violation of this Section 1 on an expedited basis directly before the System Board of Adjustment sitting with a neutral arbitrator. The arbitrator shall be a member of the National Academy of Arbitrators and experienced in airline industry disputes. The burden of proof will be determined by the arbitrator. The provisions of the Railway Labor Act shall apply to the resolution of any dispute regarding this Section 1.

2. The parties agree that, in addition to any other rights and remedies available under law and this Agreement, an arbitration award under this Section 1 shall be enforceable by equitable remedies, including injunctions and specific performance against the Company, AMR Corp., and/or an Affiliate of the Company. The Company and Association agree that in a court proceeding to enforce an arbitration award under this Section 1, the rights and obligations are equitable in nature, that there are no adequate remedies at law for the enforcement of such rights and obligations, and that the Association and the Company's pilots are irreparably injured by the violation of this Section 1.

LETTER VV

May 19, 2004

VIA HAND DELIVERY

Mark L. Burdette
Director, Employee Relations, Flight
American Airlines
PO Box 619616 MD 5235
Dallas-Fort Worth Airport, Texas 75261-9616

Re: Changes to Sections 1.D.5.g and 1.D.5.h. of the Basic Agreement

Dear Mark:

Your signature below will confirm agreement on the following two changes to the Basic Agreement. The two paragraphs of Section 1.D.5.g of the May 1, 2003, Basic Agreement shall hereby be replaced with the following two paragraphs:

> Beginning with the calendar quarter staring July 1, 2003, and for each calendar quarter thereafter, Commuter Air Carriers majority owned by AMR Corp. or by an Affiliate shall be subject to the following limit on nonstop scheduled service between DFW, ORD, MIA, JFK, SFO, LAX, LGA, STL, BOS, and SJU. The combined scheduled block hours of such service shall not exceed 1.25% of the Company's total scheduled block hours, unless the Association consents. If the number of departures scheduled by the Company at any other airport exceeds an average of 70 per day over a 12 month period, the Company shall meet with the Association to discuss adding such airport to this list.
>
> No other Commuter Air Carrier operated under this Section 1.D. shall operate nonstop scheduled service between any of the following airports without the consent of the Association: DFW, ORD, MIA, JFK, SFO, LAX, LGA, STL, BOS, and SJU except that if Executive Airlines ceases to be a Commuter Carrier that is majority owned by AMR Corp. or an Affiliate, then while Executive Airlines is such a Commuter Carrier, three daily nonstop scheduled roundtrips between SJU and MIA shall not be subject to the restriction in this paragraph. BNA shall be added to the list of restricted airports whenever the Company schedules 40 or more daily departures from BNA. If the number of departures scheduled by the Company at any other airport exceeds an average of 70 per day over a 12 month period, the Company shall meet with the Association to discuss adding such airport to this list.

The sole paragraph of Section 1.D.5.h shall herby be replaced by the following paragraph:

> Beginning with the calendar quarter starting July 1, 2003, and for each calendar quarter thereafter, 85% of departures by turbo-jet aircraft at Commuter Air Carriers majority owned by AMR Corp. or by an Affiliate shall be into or out of the following major airports: DFW, ORD, MIA, SJU, SFO, LAX, LGA, STL, JFK, and BOS. Other Commuter Air Carriers shall carry passengers on behalf of the Company only into or out of the following airports: DFW, ORD, MIA, SJU, SFO, LAX, LGA, STL, JFK, and BOS. Departures utilizing commuter slots at slot controlled airports other than those listed above (e.g., DCA) and departures from airports limited to commuter departures by other governmental or aircraft operational restrictions (e.g. SAF), shall not be covered by this provision h.

Sincerely yours,

/signed/

Captain John Darrah
President

/signed/
Mark Burdette
Director, Employee Relations, Flight

cc: APA National Officers
APA BOD
APA Scope Committee

APA Exhibit 502

Excerpt from Continental Airlines 2002 Collective Bargaining Agreement.

CONTRACT '02

AGREEMENT

BETWEEN

CONTINENTAL AIRLINES, INC.

AND

THE AIRLINE PILOTS

IN SERVICE OF

CONTINENTAL AIRLINES, INC.

AS REPRESENTED BY

THE AIR LINE PILOTS ASSOCIATION, INTERNATIONAL

APRIL 1, 2005 - DECEMBER 31, 2008

Section 1 - Recognition and Scope

Part 1 - Recognition

A. In accordance with Certification Number R-6193 and Certificate Number R-6717 issued by the National Mediation Board on July 7, 1993, and October 2, 2000, respectively, as transferred by the National Mediation Board on July 17, 2001, Continental Airlines, Inc. (the "Company") recognizes the Air Line Pilots Association, International (the "Association") as the collective bargaining representative of the Pilots and Flight Instructors employed by the Company with the authority and obligation to represent them for the purposes of the Railway Labor Act, as amended (the "Act").

B. This Collective Bargaining Agreement dated April 1, 2005, and any letters of agreement, letters of understanding, and memoranda of agreement between the Company and the Association as listed in Section 30 (Duration) below, or as entered into after April 1, 2005, are collectively referred to as the "Agreement." Unless otherwise specified, a reference to a section, part, or paragraph is to a provision of Section 1-30 of this Collective Bargaining Agreement.

Part 2 - Definitions

For the purposes of this Section 1, the following definitions will apply:

A. "Affiliate", with respect to a specified Entity, means any of the following:

1. A Subsidiary, Parent or division of the specified Entity, or

2. An Entity that directly or indirectly Controls the specified Entity or is Controlled by the specified Entity or is under common Control with the specified Entity.

B. "ASM" means available seat mile.

C. "Carrier Hub" means any airport of an air carrier (other than the Company) from which the air carrier, in any month during the six (6) months prior to the month for which the measurement is being made, scheduled an average of 50 or more daily departures on its mainline jet aircraft, provided that such an airport will not be considered a Carrier Hub of the air carrier if, in any two (2) months during the six (6) months prior to the month for which the measurement is being made, the air carrier scheduled an average of 35 or fewer daily departures from that airport. For Complementary Carriers, "Carrier Hub" includes only airports located within the United States and Territories. For Foreign Air Carriers, "Carrier Hub" includes only airports located outside the United States and Territories. A "Carrier Hub" does not include a Company Hub.

D. "Circumstance beyond the Company's Control" means an act of nature; an ongoing labor dispute; grounding or repossession of a substantial number of the Company's aircraft by a government agency or a court order; loss or destruction of the Company's

aircraft; involuntary reduction in flying operations due either to governmental action(s)/requirement(s) or to a decrease in available fuel supply or other critical materials for the Company's operation; revocation of the Company's operating certificate(s); war emergency; a terrorist act, or a substantial delay in the delivery of aircraft scheduled for delivery, provided that one of these listed occurrences has a material and substantial impact on the Company.

E. "Code-Share Agreement" means an agreement or arrangement between the Company and one or more air carriers under which another air carrier's flights bear the designator code of the Company or the Company's flights bear the designator code of the other air carrier, or both.

F. "Code-Share Agreement Flight" means a non-stop flight of the Company bearing another air carrier's designator code or a non-stop flight of another air carrier bearing the Company's designator code under a Code-Share Agreement. A non-stop flight will be considered a Code-Share Agreement Flight where the flight has code-sharing (*i.e.*, a Company non-stop flight bearing the other air carrier's designator code or a non-stop flight of the other air carrier bearing the Company's designator code) as published by the respective air carrier to the Official Airline Guide (OAG).

G. "Company Hub" means:

1. IAH, CLE, GUM, and EWR;

2. An airport from which the Company, in any month during the six (6) months prior to the month for which the measurement is being made, scheduled an average of 50 or more daily departures of Company flights.

Provided that an airport specified in Paragraph 2 will not be considered a Company Hub if, in any two (2) months during the six (6) months prior to the month for which the measurement is being made, the Company scheduled an average of 35 or fewer daily departures from that airport.

H. "Complementary Carrier" means a Domestic Air Carrier (other than the Company or a Company Affiliate) that engages in Complementary Carrier Flying, including:

1. Any of its Domestic Air Carrier Affiliates, and

2. Any other Domestic Air Carrier that conducts flights (regardless of equipment size or type) under the designator code of the first Domestic Air Carrier or its Affiliates under a Revenue/Profit Sharing Agreement, but only to the extent that its operations are under such Revenue/Profit Sharing Agreement.

I. "Complementary Carrier Flying" means flying by a Domestic Air Carrier under a Code-Share Agreement, other than Express Carrier Flying,

J. "Control" of an Entity means the possession, whether directly or through one or more Affiliates, of any one of the following:

1. Securities that constitute, or are then exercisable for or then exchangeable into fifty percent (50%) or more of the Voting Stock of such Entity; or

2. The power, right or authority to select or prevent the selection of a majority of the specified Entity's board of directors or similar governing body.

Provided that the possession, whether directly or through one or more Affiliates, of securities that constitute, or are then exercisable for or then exchangeable into, less than fifty percent (50%) but more than thirty-five percent (35%) of the Voting Stock of such Entity will constitute Control of such Entity if the other Entity possessing such securities (or one or more of its Affiliates) also has the power, right or authority to select a minority of the specified Entity's board of directors or similar governing body and such minority has the sole power, right or authority to appoint or remove any of such Entity's executive officers or the majority of any committee of such Entity's board of directors or other governing body.

Provided that notwithstanding the foregoing Compañia Panameña de Aviacion, S.A. (COPA) will not be considered Controlled by the Company (and thus not an Affiliate of the Company) as long as the Company and Company Affiliates own securities that in the aggregate constitute, are then exercisable for or are then exchangeable into less than fifty percent (50%) of the Voting Stock of COPA

K. "Domestic Air Carrier" means an "air carrier" as defined in 49 U.S.C. Section 40102(a)(2).

L. "Entity" means a natural person, corporation, association, partnership, trust or any other form for conducting business, and any combination of any of the foregoing.

M. "Express Agreement" means an agreement between the Company and another Domestic Air Carrier for operation by the other Domestic Air Carrier only of Small Jets, Small Turboprops, or both, under a Code-Share Agreement *and* either a Marketing Agreement or a Revenue/Profit Sharing Agreement, or both.

N. "Express Carrier" means a Domestic Air Carrier that engages in flying under an Express Agreement.

O. "Express Carrier Flying" means flying pursuant to an Express Agreement.

P. "Foreign Air Carrier" means an air carrier that is not a Domestic Air Carrier.

Q. "Hub to Hub Flight" means a non-stop flight between a Company Hub and a Carrier Hub.

R. "International Route" means a route between an airport in the United States or its Territories and an airport outside the United States and its Territories. "Territories" consists of territories, possessions and commonwealths of the United States, including Guam and Puerto Rico.

S. "Livery" means, separately or in any combination, an air carrier's name, its logo, and the paint scheme on its aircraft. Livery does not include the logo of any multi-airline alliance of which an air carrier is part.

T. "Marketing Agreement" means an agreement or arrangement with an Express Carrier (including an Express Carrier that is a Company Affiliate), under which:

1. Such Express Carrier transports passengers or cargo or mail in aircraft displaying the Company Livery; or

2. Such Express Carrier or the Company or a Company Affiliate otherwise holds out to the public that the Company is performing flying of such Express Carrier.

U. "Parent" means an Entity that Controls another Entity.

V. "Reciprocal Livery Agreement" means an agreement or arrangement between the Company and another air carrier under which each of the two carriers displays on its aircraft Livery then in use by the other carrier, provided that the carriers display the other's Livery on equal numbers of aircraft and that each such aircraft displays prominently the name and logo of the operating carrier with the intent that the public will not conclude that such aircraft is operated by the other carrier.

W. Revenue/Profit Sharing Agreement means an agreement or arrangement between or among two or more carriers that provides for any form of:

1. Capacity purchase,
2. Fees for scheduled block hours,
3. Revenue sharing from flight operations,
4. Profit sharing from flight operations,
5. Margin sharing from flight operations,
6. Fees for departure, or
7. Purchasing blocks of passenger seats on a carrier for sale or resale by a different carrier;

Provided that a Revenue/Profit Sharing Agreement does not include the reimbursement of distribution costs, or payments or receipts under standard industry prorate agreements, standard industry interline service charge agreements, standard industry re-accommodation agreements, and standard industry revenue settlement agreements.

X. "Scheduled" (with or without capitalization) with respect to flying means flying that is published to the OAG. "To Schedule" (with or without capitalization) means to publish flying to the OAG.

Y. "Small Jet" means jet aircraft with an FAA certification of fifty (50) or fewer seats.

Z. "Small Turboprop" means turboprop aircraft with an FAA certification of seventy-nine (79) or fewer seats.

AA. "Subsidiary" means an Entity that is Controlled by another Entity.

BB. "Voting Stock" means a corporation's common stock and other securities that then entitle a holder thereof either to vote in elections for or to participate in selecting members of a corporation's board of directors or similar governing body.

Part 3 - Scope

A. The Agreement covers all revenue, non-revenue, scheduled, nonscheduled and miscellaneous flying performed by or for the Company or a Company Affiliate, or for

Continental Micronesia, Inc. or any of its Affiliates, so long as the Company Controls Continental Micronesia, Inc. or any of its Affiliates, in either case other than:

1. Flying by other air carriers authorized by Part 4 or Part 5;

2. Flying by a Company Affiliate that is separately incorporated as a Domestic Air Carrier operating solely Small Jets or Small Turboprops, or both; and

3. Flying by another air carrier while participating in a Complete Transaction in accordance with Part 7 below.

All flying covered by the Agreement will be performed by pilots whose names appear on the Continental Airlines, Inc. Pilots' System Seniority List ("Continental Pilots").

B. The Agreement also covers all Flight Instructor work as described in Section 10 of the Agreement. All such Flight Instructor work will be performed by Continental Pilots.

C. The Company will not directly or through an Affiliate establish any new airline which operates aircraft other than Small Jets and Small Turboprops; provided that a transaction permitted by and in accordance with Part 7 below does not constitute establishing a new airline under this Paragraph C.

D. There will be no subcontracting of work covered by the Agreement without prior written agreement with the Association. The Company may, however, enter into and maintain standard industry interline agreements for the accommodation of passengers and/or cargo or mail pursuant to standard industry practices (e.g., overbookings) and for transportation of excess baggage and excess cargo or mail, and if the Company has insufficient aircraft for operations on a newly awarded international route authority, it may engage in subcontracted revenue flying on the international route for a period of six (6) months or until sufficient aircraft are acquired, whichever is less.

E. Flying performed by another carrier pursuant to and in accordance with Part 4 or Part 5 will not be considered subcontracted flying.

Part 4 - Express Carriers

A. The Company may enter into and maintain Express Agreements subject to the limitations set forth below.

B. The Company will not permit Express Carrier Flying between Company Hubs. If an Express Carrier schedules a pair of successive flights of Express Carrier Flying to be operated either under a single flight number or on a single aircraft, where one flight is scheduled to originate at a Company Hub and the second flight is scheduled to terminate at a second Company Hub, the Company will impose an IATA standard schedules Information Manual Type "A" Traffic Restriction Code on the through flight which will suppress its display.

C. The Company will not enter into or continue Express Agreements unless the Company is in compliance with the protections prescribed by Part 5, Paragraph F of this Section.

D. When hiring, the Company will provide preferential interviews to pilots of Express Carriers, and will use commercially reasonable efforts to include reciprocal rights for Continental Pilots in the event of a furlough at Continental in its future agreements or

renewals of agreements with Express Carriers. A Pilot will not be required to resign as a Continental Pilot as a condition of applying for or being employed as a pilot by an Express Carrier.

E. The Company will review with the Association changes in flying by Express Carriers which substitute Express Carrier Flying for flying that is or could be economically flown by the Company. The Association agrees to treat the nonpublic information provided in such review as confidential, including in any grievance/arbitration.

F. The Company will not authorize the use of more than an aggregate of two hundred seventy-four (274) Small Jets in Express Carrier Flying, except that, if the Company operates more Company aircraft having an FAA certification of at least one hundred (100) seats than the three hundred forty-eight (348) that it operated on March 1, 2005, it may increase the number of Small Jets engaged in Express Carrier Flying in accordance with the following:

1. For every single aisle aircraft with an FAA certification of at least one hundred (100) seats but less than one hundred fifty (150) seats which increases the number of aircraft operated in the Company's fleet above the number operated on March 1, 2005, the Company may authorize the use in Express Carrier Flying of three (3) additional Small Jets beyond the two hundred seventy-four (274) Small Jets authorized as of the date of signing of the Agreement.

2. For every single-aisle aircraft with an FAA certification of at least one hundred fifty (150) seats (but not a twin-aisle aircraft) which increases the number of aircraft operated in the Company's fleet above the number operated on March 1, 2005, the Company may authorize the use in Express Carrier Flying of four (4) additional Small Jets beyond two hundred seventy-four (274) Small Jets.

3. For every twin-aisle aircraft with an FAA certification of at least one hundred fifty (150) seats which increases the number of aircraft operated in the Company's fleet above the number operated on March 1, 2005, the Company may authorize the use in Express Carrier Flying of five (5) Small Jets beyond two hundred seventy-four (274) Small Jets.

4. If the Company reduces the number of aircraft it operates in a group specified in Paragraphs 1, 2, or 3 to less than the number it operated on March 1, 2005, but increases the number of aircraft it operates in one of the higher groups beyond the number it operated on March 1, 2005, it may authorize the use of more than two hundred seventy-four (274) Small Jets in Express Carrier Flying as shown in the following examples, as long as the net number of aircraft operated by the Company in the three groups is not less than the number operated on March 1, 2005.

   a. If two single-aisle aircraft with an FAA certification of at least one hundred (100) seats but less than one hundred fifty (150) seats are retired and replaced by two single-aisle aircraft with an FAA certification of at least one hundred fifty (150) seats (but not twin-aisle aircraft), the Company may add two (2) Small Jets for use in Express Carrier Flying beyond two hundred seventy-four (274) Small Jets.

b. If two single-aisle aircraft with an FAA certification of at least one hundred (100) seats but less than one hundred fifty (150) seats are retired and replaced by one single-aisle aircraft with an FAA certification of at least one hundred fifty (150) seats (but not twin-aisle aircraft), the Company may add no Small Jets for use in Express Carrier Flying beyond two hundred seventy-four (274) Small Jets.

c. If two single-aisle aircraft with an FAA certification of at least one hundred (100) seats but less than one hundred fifty (150) seats are retired and replaced by two twin-aisle aircraft with an FAA certification of at least one hundred fifty (150) seats, the Company may add four (4) Small Jets for use in Express Carrier Flying beyond two hundred seventy-four (274) Small Jets.

Part 5 - Complementary Carriers and Foreign Air Carriers

A. Subject to the limitations and provisions contained in this Part 5, the Company is authorized to:

1. Enter into and maintain Code-Share Agreements, Express Agreements, and Reciprocal Livery Agreements with Domestic Air Carriers, and, as specified in Paragraph C.4. below, Marketing Agreements with Domestic Air Carriers;

2. Enter into and maintain Code-Share Agreements, Reciprocal Livery Agreements, and Revenue/Profit Sharing Agreements with Foreign Air Carriers.

B. The Company or a Company Affiliate may not:

1. Enter into or maintain a Marketing Agreement with a Domestic Air Carrier other than an agreement for performance of Express Carrier Flying or performance of flying pursuant to Paragraph C.4 below;

2. Enter into or maintain a Revenue/Profit Sharing Agreement with a Domestic Air Carrier other than an agreement for performance of Express Carrier Flying.

C. Complementary Carrier Flying

1. System Flying

For each Complementary Carrier, a ratio (the "Complementary Carrier ASM Ratio") will be determined by dividing the number of ASMs scheduled to be operated by the Complementary Carrier in aircraft other than Small Jets and Small Turboprops by the number of ASMs of all flights scheduled to be operated by the Company either:

a. During the twelve full calendar months immediately prior to the effective date of the Agreement (if the Complementary Carrier was a party to a Code-Share Agreement on the effective date of the Collective Bargaining Agreement), or

b. During the twelve full calendar months immediately prior to the effective date of the Code-Share Agreement with the Complementary

Carrier (if the Complementary Carrier was not a party to a Code-Share Agreement on the effective date of the Collective Bargaining Agreement).

The last day of the applicable twelve-month period will be the "Ratio Date" with respect to such Complementary Carrier. For each rolling four-quarter period measured at the beginning of each calendar quarter that commences following the Ratio Date (*e.g.*, if the Ratio Date were to be 6/30/04, then the first rolling four-quarter period would be 7/1/04 - 6/30/05 and the second rolling four-quarter period would be 10/1/04 - 9/30/05, etc.), the ratio between the number of ASMs of Code-Share Agreement Flights scheduled by the Complementary Carrier bearing the Company's designator code in aircraft other than Small Jets and Small Turboprops and the number of ASMs of Code-Share Agreement Flights scheduled by the Company bearing the Complementary Carrier's designator code (the "Complementary Carrier Schedule Ratio") will not exceed one hundred and fifteen percent (115%) of the Complementary Carrier ASM Ratio. For example, if the Complementary Carrier ASM ratio is 1.5 (i.e., the Complementary Carrier had fifty percent (50%) more scheduled ASMs in aircraft other than Small Jets and Small Turboprops than the Company in the measurement period), then the number of ASMs scheduled to be operated by the Complementary Carrier bearing the Company's designator code in aircraft other than Small Jets and Small Turboprops may not be more than 1.725 times the number of ASMs scheduled to be operated by the Company bearing the Complementary Carrier's designator code. As a further example, if the Complementary Carrier ASM ratio is 0.5 (i.e., the Complementary Carrier has one-half (1/2) of the scheduled ASMs of the Company in the measurement period in aircraft other than Small Jets and Small Turboprops), then the number of ASMs scheduled to be operated by the Complementary Carrier bearing the Company's designator code in such aircraft may not be more than 0.575 times the number of ASMs scheduled to be operated by the Company bearing the Complementary Carrier's designator code.

2. The provisions of Paragraph C.1. will have been satisfied in connection with a Code-Share Agreement with a Complementary Carrier that at the time operates fewer than one-half (1/2) of the number of ASMs operated by Continental, if the number of ASMs of Code-Share Agreement Flights scheduled by the Company bearing the Complementary Carrier's designator code equals at least eighty percent (80%) of the number of ASMs of Code-Share Agreement Flights scheduled by the Complementary Carrier bearing the Company's designator code.

3. The limitations and requirements of this Part will apply to the ASMs scheduled to be operated under the Delta/Continental Code-Share Agreement in aircraft other than Small Jets and Small Turboprops, except that Paragraphs C.1 and C.6 will not apply to those Code-Share Agreement Flights prescribed in the U.S. Department of Transportation's Order dated March 31, 2003, so long as that prescription remains in force. The Company's efforts to maintain a

balance in the code sharing on such prescribed flights will be examined by the Review Committee at each of its quarterly meetings.

4. Complementary Carriers Operating Aircraft Smaller than Eighty (80) Seats.

A Domestic Air Carrier that only operates aircraft with an FAA certification of fewer than eighty (80) seats may engage in Complementary Carrier Flying on jet aircraft with an FAA certification of less than eighty (80) seats and may operate such flights under a Marketing Agreement, without inclusion of such flights in a Complementary Carrier ASM Ratio specified in Paragraph 1 above, provided that the Domestic Air Carrier:

a. Does not operate such Complementary Carrier Flying to or from a Company Hub;

b. Is not an Affiliate of another Complementary Carrier;

c. Does not operate any flights under the designator code of another Complementary Carrier; and

d. Does not operate any flights under a Revenue/Profit Sharing Agreement with another Complementary Carrier.

5. Company Hub Flights.

The Company will not permit Complementary Carrier Flying between Company Hubs or to or from a Company Hub (except for Hub to Hub Flights).

6. Hub to Hub Flights.

For each Complementary Carrier, a ratio (the "Complementary Hub ASM Ratio") will be determined by dividing the number of ASMs of all Hub to Hub Flights (*i.e.*, between the applicable Carrier Hubs and Company Hubs) scheduled to be operated by such Complementary Carrier on aircraft other than Small Jets and Small Turboprops by the number of domestic ASMs of all Hub to Hub Flights scheduled to be operated by the Company either:

a. During the twelve (12) full calendar months immediately prior to the effective date of this Agreement (if the Complementary Carrier was a party to a Code-Share Agreement on the effective date of the Collective Bargaining Agreement), or

b. During the twelve (12) full calendar months immediately prior to the effective date of the Code-Share Agreement with the Complementary Carrier (if the Complementary Carrier was not a party to a Code-Share Agreement on the effective date of the Collective Bargaining Agreement).

The last day of the applicable twelve-month period will be the "Ratio Date" with respect to such Complementary Carrier. For each rolling four-quarter period measured at the beginning of each calendar quarter that commences following the Ratio Date (e.g., if the Ratio Date were 6/30/04, then the first rolling four-quarter period would be 7/1/04 - 6/30/05 and the second rolling four-quarter period would be 10/1/04 - 9/30/05, etc.), the ratio between the

number of domestic ASMs of Hub to Hub Flights scheduled by the Complementary Carrier bearing the Company's designator code and the number of ASMs of Hub to Hub Flights scheduled by the Company bearing the Complementary Carrier's designator code (the "Complementary Schedule Ratio") will not exceed one hundred twenty percent (120%) of the Complementary Hub ASM Ratio.

7. International Flights.

The Company will not permit Complementary Carrier Flying on a non-stop flight operated on an International Route into or out of a Company Hub.

8. No Code Share Agreement with a Complementary Carrier will be entered into or continued unless the Company is in compliance with the provisions of Part 5, Paragraph F of this Section.

D. Foreign Air Carrier Agreements

1. The Company will not permit Code-Share Agreement Flights, or non-stop flights pursuant to a Reciprocal Livery Agreement or Revenue/Profit Sharing Agreement with the Company or Company Affiliate, if such flights are operated by a Foreign Air Carrier to or from a Company Hub, other than non-stop flights between a Company Hub and a Carrier Hub of the Foreign Air Carrier or between a Company Hub and another airport in a country containing a Carrier Hub of the Foreign Air Carrier.

2. For each Foreign Air Carrier which is a party to a Code-Share Agreement, Reciprocal Livery Agreement, or Revenue/Profit Sharing Agreement with respect to International Routes on which the Company has scheduled service, a differential (the "Foreign Air Carrier Flight Differential") will be determined by comparing the average number of scheduled flights per day operated on an International Route by the Company with the average number of scheduled flights per day operated on the International Route by the Foreign Air Carrier either:

   a. During the twelve (12) full calendar months immediately prior to the effective date of this Agreement (if the Foreign Air Carrier was a party to a Code-Share Agreement on the effective date of the Collective Bargaining Agreement), or

   b. During the twelve (12) full calendar months immediately prior to the effective date of the Code-Share Agreement with the Foreign Air Carrier (if the Foreign Air Carrier was not a party to a Code-Share Agreement on the effective date of the Collective Bargaining Agreement).

The Company may not place its code or Livery, or engage in Revenue/Profit Sharing on any Foreign Air Carrier flight on the shared International Route which would exceed the Differential number of flights by more than two (2) (also accounting for the number of such flights of the Company on this Route bearing the Foreign Air Carrier's code). For example, if the Company had two (2) regularly scheduled daily flights and the Foreign Air Carrier had six (6)

between EWR and CDG during the applicable twelve-month measurement period, and if the Company's two flights had the Foreign Air Carrier's code, then the Company could place its code on eight (8) of the Foreign Air Carrier flights between EWR and CDG; but the Company could not place its code on Foreign Air Carrier flights in excess of eight (8) scheduled flights in the EWR-CDG market unless the Company had three (3) such flights bearing the Foreign Air Carrier's code (in which case the Company could place its code on no more than eleven (11) Foreign Air Carrier flights between EWR and CDG).

3. In the event the Company or a Company Affiliate enters into or maintains a Revenue/Profit Sharing Agreement with a Foreign Air Carrier, the scheduled ASMs of Company flying between the United States and Territories and a country containing a Carrier Hub of such Foreign Air Carrier, in each twelve (12) month period, measured quarterly from the date of March 1, 2005 (with respect to any Revenue/Profit Sharing Agreement with a Foreign Air Carrier in effect on such date) or the date of the first day of the month following the effective date of the Revenue/Profit Sharing Agreement, will be not less than ninety percent (90%) of the scheduled ASMs of Company flying between the two (2) countries in the same three (3) months of the twelve (12) month period prior to the month in which the Company first entered into a Revenue/Profit Sharing Agreement with that Foreign Air Carrier; but in no event during the term of such Revenue/Profit Sharing Agreement will there be fewer than six (6) scheduled non-stop flights of the Company per week between the U.S. and that country.

4. The Company will not allow Company Livery to be placed on a flight operated by a Foreign Air Carrier except under a Reciprocal Livery Agreement.

5. The Company will not enter into or maintain a Code Share Agreement, Revenue/Profit Sharing Agreement or Reciprocal Livery Agreement with a Foreign Air Carrier unless the Company is in compliance with the protections set forth in Part 5, Paragraph F of this Section.

E. Enforcement and Mergers

1. If in any three (3) consecutive calendar month period following the applicable Ratio Date, the flight or ASM ratio requirements of Paragraphs C.1, C.2, C.6, D.2, or D.3 above are not satisfied, then the Company will promptly take one of the following actions:

   a. Remove the Company designator code from one (1) or more applicable flights of the applicable air carrier(s) as of the Next Published Schedule Change Date (as defined below),

   b. Add Company flights bearing the designator code of the applicable air carrier(s) as of the Next Published Schedule Change Date (or in the case of Paragraph D.3 above, add scheduled ASMs of Company flying between the two countries as of the Next Published Schedule Change Date), or

c. Add the designator code of the applicable air carrier(s) to existing Company flights not previously bearing that air carrier's designator code as of the Next Published Schedule Change Date.

For the purposes of this Paragraph, the "Next Published Schedule Change Date" is defined as the immediately following date on which a major schedule change is loaded into any publicly available data base, provided that such schedule change must take effect no later than three (3) months following the date the schedule change is loaded.

2. The Company will be excused from compliance with Paragraphs C.1, C.2, C.6, D.2, and D.3 above for the period of time that a Circumstance Beyond the Company's Control is the cause of such non-compliance.

3. If the Company, a Complementary Carrier or a Foreign Air Carrier merges with another air carrier so as to form a single carrier with a single pilot seniority list and a single pilot collective bargaining agreement, the ASM Ratios, the Hub ASM Ratios and the Foreign Air Carrier Flight Differential provided for in Paragraphs C or D above, will be appropriately adjusted by adding the relevant numbers of the other air carrier party to the merger (and any flights of Complementary Carrier Flying scheduled to be operated by the Complementary Carrier in aircraft other than Small Jets or Small Turboprops whose ASMs are counted as Complementary Carrier ASMs pursuant to Part 5, Paragraph C above) to the relevant numbers of the Company or the Complementary Carrier, as the case may be, with such numbers to be measured during the six (6) full calendar months immediately prior to the effective date of the merger. In connection with such adjustment, in addition to Carrier Hubs and Company Hubs as defined in Part 2, Paragraphs C and G above, each hub of the air carrier party to the merger will be considered a Company Hub or a Carrier Hub, as the case may be, if such air carrier scheduled during any month in such six (6) month period an average of fifty (50) or more daily departures therefrom, provided that such an airport will not be considered a Hub of the air carrier if, in any two (2) months during the six (6) months prior to the month for which the measurement is being made, the air carrier scheduled an average of thirty-five (35) or fewer daily departures from that airport.

F. During the period any Code-Share Agreement, Reciprocal Livery Agreement, Marketing Agreement, or Revenue/Profit Sharing Agreement remains in effect:

1. In any rolling twelve (12) months, there will be no reduction in the Company's scheduled block hours below the aggregate scheduled block hours of the Company measured as an arithmetic average of the scheduled block hours for the twelve (12) months prior to the initial implementation of the then most recent such agreement entered by the Company; and

2. There will be no reduction in

a. The total number of Continental Pilot positions below the number measured monthly as an arithmetic monthly average of the level for the

twelve (12) months prior to the initial implementation of the then most recent applicable agreement entered by the Company, or

b. The Equipment and Status of any Continental Pilot; and

3. There will be no reduction in the number of aircraft in the Company's fleet FAA certificated for one hundred twenty-five (125) or more passenger seats,

Unless such reductions are attributable to economic or other reasons not related to the applicable agreement.

G. The Company will not be required to take any of the actions described in Part 5, Paragraph E.1 if, as a result of such actions or cure, the Company would trigger a termination provision or incur a material liability under a Code-Share Agreement; provided that the Code-Share Agreement has been in place at least since March 1, 2005. If the requirement to take such actions or otherwise cure is excused by the first sentence of this Paragraph, the parties will meet to make a good faith effort to develop other ways to address the issues related thereto.

Part 6 - Labor Disputes

A. It will not be a violation of the Agreement, and it will not be cause for discharge, permanent replacement or any other disciplinary action if any Continental Pilot:

1. Refuses to operate "struck-work Company Flights," meaning that:

a. The pilots of a carrier party to a Code-Share Agreement, Marketing Agreement, Reciprocal Livery Agreement, or Revenue/Profit Sharing Agreement are engaged in a lawful strike, and

b. In any rolling thirty (30) day period following the commencement of the strike, the Company increases flights under the applicable agreement and/or flights operated under the designator code of the struck carrier or its Affiliates, measured against such Company flying during the thirty (30) day period that ends two (2) full months before the commencement of the strike; provided that this provision will not apply to increased flights that were scheduled by the Company prior to and irrespective of the existence of the lawful strike.

Provided, that it will not be considered to be performing struck-work Company Flights to expand Company flying from Company Hubs or to continue to transport passengers and/or cargo or mail within its route structure on its own aircraft so long as the code or other designation of the struck carrier is not placed on additional Company flights as described in Paragraph 1, and for any such expanded flying of the Company:

a. The Company receives all of the revenue for the services it performs, and

b. No financial benefit accrues to the struck carrier as a result of the Company's performance of such services, and

c. City pairs operated by the struck carrier are not initiated by the Company during the strike at the request of the struck carrier, or

2. Refuses to cross or chooses to honor the lawful picket lines of employees employed by the Company, or any Affiliate of the Company; or

3. Refuses to undergo training or perform pilot work or services on the property of another carrier during a lawful strike by that carrier's pilots; or

4. Refuses to perform training of pilots for service as strike replacement pilots.

B. From the effective date of the Agreement through thirty (30) days following the date, if any, that the parties are released from mediation by the National Mediation Board in connection with negotiations for a successor Agreement (the "Release Date"), the Association, including but not limited to its directors, officers, representatives and agents, will not engage in, promote, or cause any strike or work stoppage at the Company or Continental Micronesia, Inc., including but not limited to sympathy strikes or recognition of picket lines at the Company or Continental Micronesia, Inc., and the Association will not otherwise support picket lines established at the Company or Continental Micronesia, Inc., or cause any other organized job action at either such company, provided, however, that this Paragraph B does not restrict the Association and its directors, officers, representatives, and agents, from advising the Pilots of the existence of a strike, picket line, or other labor dispute, and their rights with respect thereto, or engaging in, promoting or causing any strike, work stoppage, refusal to perform work or training, or refusal to cross a picket line permitted under Paragraph A, and provided further that this Paragraph B applies to Continental Micronesia, Inc. only as long as Continental Micronesia, Inc. flying is covered by the Agreement under Part 3, Paragraph A.

C. The commitment stated in Paragraph B above will be inapplicable as of the Release Date without regard to whether the parties are then engaged in collective bargaining under the Act. The Company waives any claim that the commitment stated in Paragraph B above remains applicable on or after the Release Date pursuant to the Act's status quo provisions or otherwise. During the period that the commitment in Paragraph B above remains inapplicable, it is acknowledged that the Agreement will contain no contractual prohibition on the ability of the Association and the pilots to honor lawful picket lines.

Part 7 - Successorship, Asset Sales and Mergers

A. Successorship

1. The Agreement will be binding upon any successor, Affiliate, assign, assignee, transferee, administrator, executor and/or trustee or a successor of any of them (a "Successor") of the Company resulting from any transaction that involves:

a. A "Complete Transaction," defined as

i. A transaction whereby an Entity acquires all or substantially all of the assets of the Company, or which establishes a Parent of

the Company, to which transaction the Company or a Company Affiliate is a party;

ii. A transaction whereby the Company acquires Control of another air carrier or acquires all or substantially all of the assets of another air carrier (except in both instances (i) and (ii) an air carrier that operates only Small Jets and Small Turboprops); or

b. A "Partial Transaction" defined as the transfer to another Entity (other than in a Complete Transaction) of ownership and/or Control of a portion of the assets of the Company in a Substantial Asset Sale.

2. No contract or other legally binding commitment involving a Complete Transaction or a Partial Transaction will be signed or otherwise entered into by the Company unless it is agreed as a material and irrevocable condition of entering into, concluding and implementing such transaction that the Successor will assume the employment of the pilots on the Continental System Seniority List (or such portion of the pilots transferred in a Partial Transaction) in accordance with the rates of pay, rules and working conditions set forth in the Agreement.

3. The Company will give written notice of the existence of the Agreement to any proposed Successor before the Successor and the Company execute a definitive agreement with respect to a Complete Transaction or a Partial Transaction. If one has not been earlier provided, a copy of the notice will be provided to the Association when the definitive agreement is executed.

B. In the event of a Complete Transaction that includes the Company and another air carrier, the following procedures will apply:

1. If the Company acquires Control of another air carrier, the Company will:

a. Integrate the two pilot groups in accordance with Association Merger Policy or, if the pilots of the other carrier are not represented by the Association, then in accordance with Sections 3 and 13 of the Allegheny Mohawk LPPs, and the Company will accept the pilot seniority list obtained through either process as the pilot seniority list of the merged carrier; and

b. Protect all Continental Pilots who are on the Continental Pilots' Seniority List on the date of the consummation of the definitive agreement resulting in the Complete Transaction against furlough, effective on the date of signing of such agreement and ending no earlier than the date one year after the operations of the Company and the acquired carrier are merged.

2. If an Entity that is another air carrier or that Controls another air carrier acquires Control of the Company, the Company will secure the irrevocable, written commitment of such Entity:

a. To employ all pilots on the then current Continental System Seniority List in accordance with the terms and conditions of the Agreement; and

b. To integrate the two pilot groups in the same manner as stated in Paragraph B.1.a above; and

c. To provide the same furlough protection stated in Paragraph B.1.b above.

3. In the event of a Complete Transaction involving another air carrier in which the Company is the acquiror, then, at the discretion of the Company or Association, the Agreement will become amendable under Section 6 of the Act within sixty (60) days following the date of consummation of the Complete Transaction.

4. In the event of a Complete Transaction involving another carrier in which the Company is not the acquiror, then, at the discretion of the Association, the Agreement will become amendable under Section 6 of the Act within sixty (60) days following the date of consummation of the Complete Transaction.

5. The Company will be deemed to be the acquiror in a Complete Transaction if:

a. The holders of common stock of the Company immediately prior to consummation of the Complete Transaction own, upon consummation of the Complete Transaction, securities in the combined Entity resulting from the Complete Transaction that constitute either a majority in vote or value of the then outstanding equity securities of such combined Entity; or

b. The Company or the holders of common stock of the Company immediately prior to consummation of the Complete Transaction possess the power, right or authority to select a majority of the board of directors of the combined Entity resulting from the Complete Transaction; or

c. The Company acquires all or substantially all of the assets of the other air carrier in the Complete Transaction.

C. A "Substantial Asset Sale" means any transaction by which the Company disposes of all or substantially all of any of the assets designated below:

1. The IAH hub operation (meaning seventy-five percent [75%] or more of the Company's IAH gates and facilities).

2. The EWR hub operation (meaning seventy-five percent [75%] or more of the Company's EWR gates and facilities).

3. The CLE hub operation (meaning seventy-five percent [75%] or more of the Company's CLE gates and facilities).

4. The Continental Micronesia, Inc. operation (meaning seventy-five percent [75%] or more of the Continental Micronesia Guam gates and facilities).

5. A single transaction or a series of related transactions for value by which the Company disposes of more than fifty-five (55) aircraft or disposes of aircraft, route authority, gates or slots which produced the equivalent of five hundred fifty (550) daily scheduled block hours.

Provided that the forfeiture or return of assets to their owner pursuant to the terms of a pre-existing finance agreement, lease, security agreement, pledge, or similar contract will not be construed to be a Substantial Asset Sale.

D. In the event of a Substantial Asset Sale, the Company will not furlough any Continental Pilot in anticipation of the Substantial Asset Sale and will not furlough any Continental Pilot from the date of consummation of the definitive agreement resulting in the Substantial Asset Sale and ending no earlier than one year after the date of the first transfer of assets under the agreement.

E. In the event of a Fragmentation Sale between the Company and another air carrier (defined as a Substantial Asset Sale by the Company to another carrier or acquisition by the Company of assets of another carrier, where, in each case, the acquiring carrier agreed to hire and integrate pilots of the selling carrier associated with those assets), the following procedures will apply:

1. If the Company is the acquiring carrier under the circumstances described in Paragraph E, the Company will:

   a. Integrate the two pilot groups in the manner stated in Paragraph B.1.a above; and,

   b. Provide the furlough protection stated in Paragraph D above.

2. If the Company is not the acquiring carrier, the Company will secure the irrevocable written commitment of the acquiring carrier:

   a. To offer employment at the closing of the acquisition to that number of pilots covered by the Agreement whose identity will be determined by posting and awarding a system bid for a new "asset sale base." No Freeze will apply to bids for the asset sale base, and bids will be awarded consistent with the seniority provisions each pilot then enjoys. The number of positions posted and awarded for such employment will be the average monthly pilot staffing actually utilized in the operation of the transferred assets over the twelve (12) months prior to the posting of the system bid; and,

   b. To negotiate, and to arbitrate under Allegheny-Mohawk Section 13 any differences regarding the identity or number of transferring Continental Pilots that may arise with the surviving carrier (disputes with the Company regarding either the number or identity of transferring pilots will be resolved using the procedures described in Part 8 below); and

   c. To integrate the two pilot groups in the same manner as stated in Paragraph B.1.a above; and

   d. Provide the furlough protection stated in Paragraph D above to any Continental Pilot so hired by the acquiring carrier.

F. In the event of a Complete Transaction or a Fragmentation Sale, the Company and the other Entity will each irrevocably commit in writing that it will:

1. Enter into a complete operational merger (*i.e.*, the combination of all or substantially all of the assets and operations of the Company and the Entity [or its air carrier Affiliate], or in the case of a Fragmentation Sale, the operations and assets of the acquirer [or its air carrier Affiliate] with the acquired assets) within twenty-four (24) months following the consummation of the definitive agreement resulting in the Complete Transaction or Fragmentation Sale, provided that, in the case of a Complete Transaction, such complete operational merger will not be required to take effect until the later of the consummation date of the definitive agreement resulting in the Complete transaction or the date six (6) months following the negotiation of a Merged Employment Agreement under Paragraph F.2 below;

2. In a Complete Transaction, negotiate with the Association (and no other representative) a merged collective bargaining agreement governing pilot rates of pay, rules, and working conditions applicable to the merged carrier (the "Merged Employment Agreement"), such negotiations to take place in accordance with Section 6 of the Act if the Agreement is amendable. If another Entity acquires Control of the Company, however, these negotiations will also include the representative under the Act, if any, of the pilots of the other Entity (or its Affiliate air carrier). The effective date of the Merged Employment Agreement will be the date agreed by the parties.

Provided, however, that the Company will not be required to enter into a complete operational merger with an air carrier that does not engage in the common carriage of passengers or with an air carrier which the Company sells during the twenty-four (24) months following the Complete Transaction with respect to that air carrier.

G. In the event of a Complete Transaction or a Fragmentation Sale (as defined in Paragraph E, above), during any period of separate operation prior to integration of the pre-merger operations, the Company and the other Entity involved in the transaction will each irrevocably commit in writing that it will:

1. Keep separate the operations of the Company and any other carrier party to the transaction at all times prior to such merger of operations and the concomitant integration of pilot collective bargaining agreements (if applicable) and of pilot seniority lists, whichever is latest; and

2. Conduct the operations of the Company with the Continental Pilots and Flight Instructors performing all work covered by the Agreement; and

3. Forbear from interchanging or transferring pilots or aircraft:

   a. In the case of a Complete Transaction, between the Company and the other carrier, and

   b. In the case of a Fragmentation Sale, between the assets disposed of or acquired and the acquiring company,

   In each case without the Association's written consent; and

4. Assure that, in the event of a Complete Transaction, or a Fragmentation Sale in which the Company is the acquiring carrier, the Continental Pilots on the Company's System Seniority List prior to the acquisition operate, in accordance with this Agreement, all aircraft on hand at the Company, all aircraft on firm order to the Company and all aircraft acquired by the Company after the public announcement of the acquisition (other than as a result of the transaction or any subsequent transaction); provided however that nothing herein will be construed to prevent fleet reductions which the Company can demonstrate are attributable to economic reasons not related to the Complete Transaction or Fragmentation Sale, or the retirement of existing aircraft in the normal course of business or as a result of casualty loss; and

5. Meet promptly with the Association to negotiate the implementation of the provisions of Paragraphs G.1 through G.4 above and other possible "Fence Agreements" to be in effect during the period, if any, the two carriers' operations are to be operated separately without integration of the pilot workforce.

6. Assure that in the event of a Complete Transaction, in each consecutive calendar quarter during separate operations, the ratios of block hours of (1) Company flying scheduled to be flown on single-aisle aircraft to block hours of the other carrier scheduled to be flown on single-aisle aircraft and (2) Company flying scheduled to be flown on twin-aisle aircraft to block hours of the other carrier scheduled to be flown on twin-aisle aircraft will in each case equal or exceed the same ratios determined for the same three (3) month period during the twelve (12) consecutive calendar months immediately prior to the closing of such Transaction. The Company will be excused from compliance with such minimum scheduled aircraft block hours for the period of time that either a Circumstance beyond the Company's Control or the previously-scheduled retirement of aircraft in the normal course of business causes the Company to reduce or cancel service, or a governmental agency requirement causes the Company to reduce or cancel service as a condition of approval of the Transaction, and that the listed event is the cause of such non-compliance.

H. Subject to applicable securities and other laws and regulations, the Company will review with the Association the details of any material agreements relating to a Complete Transaction, Partial Transaction, or a Fragmentation Sale in a timely manner; provided that financial or other confidential business information will only be disclosed under suitable agreements for protecting the confidentiality and use of such information.

Part 8 - Expedited Board of Adjustment Procedures

The Company agrees to arbitrate any grievance filed by the Association alleging a violation of this Section 1 on an expedited basis directly before the System Board of Adjustment, sitting with a neutral arbitrator mutually acceptable to both parties. If a mutually agreed upon arbitrator cannot be selected within three (3) days of the filing, an arbitrator will be selected pursuant to the last three sentences of Section 21, Part 2.B.2 of the Agreement. The dispute

will be heard no later than thirty (30) days following the filing of the grievance (subject to the availability of the arbitrator), and will be decided no later than thirty (30) days following commencement of the hearing, unless the parties agree otherwise in writing.

Part 9 - Foreign Domiciles, and Company Location and Operations

A. The Company will not establish any pilot domiciles outside of the United States or its Territories, without providing advance written notice to and bargaining with the Association at least ninety (90) days prior to any System or Adjustment Bid establishing such domicile.

B. In the event the Company opens a pilot crew domicile outside of the United States or its Territories, pilots assigned to such domicile will be covered by all terms of the Agreement, and will continue to enjoy all the rights, privileges and immunities of the Act during their foreign service.

C. Disputes concerning pilots based at foreign domiciles will be heard by the System Board of Adjustment pursuant to Section 21 of this Agreement and Part 8 of this Section, as appropriate, and the decision of the System Board in such cases will be enforceable in any court of competent jurisdiction in the United States to the same extent and in the same manner as other cases arising pursuant to Section 21 of this Agreement and/or Part 8 of this Section.

D. The Company will maintain its world headquarters, executive offices, and offices for senior flight operations personnel in the United States.

Part 10 - Cabotage

A. The Company will not allow its code to be used on flights of Foreign Air Carriers carrying local revenue passengers or cargo or mail traffic between airports within the United States or its Territories.

B. The Company will not promote or support any change in the laws of the United States that would permit Foreign Air Carriers to engage in cabotage.

Part 11 - Retained Management Rights and Furlough Protection

A. Except as restricted by the Agreement, the Company will retain its rights to manage and operate its business, including but not limited to the right to sell or discontinue all or part of the business; to acquire assets or securities; to sell or lease aircraft or facilities; to determine where and when to operate scheduled or unscheduled flights; to determine its marketing methods and strategies, and to enter into code sharing, affiliation or Marketing Agreements with other carriers; to invest (including equity investments) in other business entities including, without limitation, other air carriers; and to determine the type of aircraft it will utilize.

B. The exercise of any right reserved herein to the Company or the Association in a particular manner, or the non-exercise of such right, will not operate as a waiver of the Company’s or Association’s respective rights hereunder, or preclude the Company or Association, respectively, from exercising the right in a different manner.

C. The Company will not place on furlough any pilot on the Continental Pilots' Seniority List as of the effective date of the Agreement.

D. The Company will be excused from compliance with the provisions of Paragraph C if a Circumstance beyond the Company's Control is the cause of such noncompliance.

Part 12 - Provision of Information

A. The Company will provide the Association information reasonably necessary to monitor and enforce the terms and conditions established in this Section 1.

B. A standing committee (the "Review Committee") consisting of two (2) Association representatives and two (2) Company representatives will meet no less than quarterly to review and discuss operations and activities under the several Parts of this Section 1.

C. Access to, use, and distribution of information provided to the Association under this Part 12 will, to the extent the information involves proprietary or confidential information, be disclosed under suitable agreements for protecting the confidentiality and use of such information.

APA Exhibit 503

Excerpt from Delta Pilot Working Agreement.

DELTA

PILOT WORKING AGREEMENT

Agreement

Between

DELTA AIR LINES, INC.

And

THE AIR LINE PILOTS IN THE SERVICE OF DELTA AIR LINES, INC.

As Represented by the

AIR LINES PILOTS ASSOCIATION, INTERNATIONAL

Duration October 30, 2008 – December 31, 2012

SECTION 1

SCOPE

A. Recognition

1. In accordance with the certification issued by the National Mediation Board in Case No. R-7191, 36 NMB No. 21, January 22, 2009, the Company recognizes the Air Line Pilots Association, International, as the duly designated and authorized representative of the Flight Deck Crewmembers in the service of the Company for the purposes of the Railway Labor Act, as amended.
2. Nothing in this PWA will be construed to limit or deny any pilot hereunder any rights or privileges to which he may be entitled under the provisions of the Railway Labor Act, as amended.

B. Definitions

1. "Affiliate" means:
   a. any subsidiary, parent or division of the Company,
   b. any other subsidiary, parent or division of either a parent or a subsidiary of the Company, or
   c. any entity that controls the Company or is controlled by the Company whether directly or indirectly through the control of other entities.
2. "Alaska" means Alaska Airlines, Inc.
3. "Alaska hub" means SEA, ANC, LAX and any other airport having a monthly average of at least 100 Alaska scheduled flight departures per day.
4. "Alaska marketing agreement" means the document titled "Marketing Agreement" signed on March 1, 2004 by Delta, Alaska and Horizon Air Industries, Inc., as from time to time amended.
5. "AS" means Alaska Airlines, Inc. and any carrier to the extent of its category B operations using the AS code.
6. "Category A operation" means the operation of a flight segment by a Delta Connection Carrier:
   a. that is an affiliate, or
   b. using the DL code under an agreement with Delta that is not a prorate agreement.
7. "Category B operation" means the operation of a flight segment by a domestic air carrier:
   a. that:
      1) controls Continental or Alaska, or
      2) is controlled by Continental or Alaska whether directly or indirectly through the control of other entities, or
      3) is under common control with Continental or Alaska, or
      4) operates such flight segment under any of the CO or AS code(s) under an agreement with Continental or Alaska respectively, other than a prorate agreement,
      and,
   b. that only operates:

1) aircraft that:
   a) are certificated for operation in the United States for 70 or fewer passenger seats, and
   b) have a maximum certificated gross takeoff weight in the United States of 85,000 or fewer pounds; and/or
2) Bombardier Q-400 aircraft (under the terms and conditions of the Alaska Pilot Working Agreement).

8. "Category C operation" means the operation of a flight segment (other than a category B operation) by a Delta Connection Carrier under the DL code pursuant to a prorate agreement with Delta.
9. "Circumstance over which the Company does not have control," for the purposes of ***Section 1***, means a circumstance that includes, but is not limited to, a natural disaster; labor dispute; grounding of a substantial number of the Company's aircraft by a government agency; reduction in flying operations because of a decrease in available fuel supply or other critical materials due to either governmental action or commercial suppliers being unable to provide sufficient fuel or other critical materials for the Company's operations; revocation of the Company's operating certificate(s); war emergency; owner's delay in delivery of aircraft scheduled for delivery; manufacturer's delay in delivery of new aircraft scheduled for delivery. The term "circumstance over which the Company does not have control" will not include the price of fuel or other supplies, the price of aircraft, the state of the economy, the financial state of the Company, or the relative profitability or unprofitability of the Company's then-current operations.
10. "CO" means Continental and any carrier to the extent of its category B operations using the CO code.
11. "Code" means the unique two character designator code assigned to an airline by the International Air Transport Association (IATA). If IATA assigns or has assigned more than one designator code for use by Delta, Continental, Alaska, or Hawaiian or by a subsidiary of Delta, Continental, or Alaska then such additional designator code(s) will be included within the DL code, CO code, AS code, or HA code, respectively.
12. "Company" means Delta Air Lines, Inc.
13. "Company flying" means all flying reserved under ***Section 1 C.*** for performance by pilots.
14. "Continental" means Continental Airlines, Inc. (and Continental Micronesia, Inc. to the extent that Continental Micronesia, Inc. operates pursuant to the collective bargaining agreement between Continental Airlines, Inc. and the Association).
15. "Continental hub" means IAH, EWR, CLE and any other airport having a monthly average of at least 100 Continental scheduled flight departures per day.
16. "Control" for the purposes of ***Section 1***, will exist by entity A over entity B, only if A, whether directly or indirectly through the control of other entities:
    a. owns securities that constitute and/or are exchangeable into, exercisable for or convertible into more than:
       1) 30 percent (49 percent with respect to the Company's interest in a foreign air carrier) of B's outstanding common stock, or if stock in addition to common stock has voting power, then

2) 30 percent (49 percent with respect to the Company's interest in a foreign air carrier) of the voting power of all outstanding securities of B entitled to vote generally for the election of members of B's Board of Directors or similar governing body, or

b. has the power or right to manage or direct the management of all or substantially all of B's air carrier operations, or

c. has the power or right to designate or provide all or substantially all of B's officers, or

d. has the power or right to provide a majority of the following management services for B: capacity planning, financial planning, strategic planning, market planning, marketing and sales, technical operations, flight operations, and human resources activities, or

e. has the power or right to appoint or elect or prevent the appointment or election of a majority of B's Board of Directors, or other governing body having substantially the powers and duties of a Board of Directors, or

f. has the power or right to appoint or elect or to prevent the appointment or election of a minority of B's Board of Directors or similar governing body, but only if such minority has the power or right to appoint or remove B's Chief Executive Officer, or President, or Chief Operating Officer, or the majority membership of the Executive Committee or similar committee on B's Board of Directors, or the majority membership of at least one-half of B's Board committees.

17. "Delta" means the Company.
18. "Delta Connection Carrier" means a domestic air carrier that conducts flying under ***Section 1 D.***
19. "Delta Connection flying" means flying conducted by a Delta Connection Carrier for the Company.
20. "Delta hub" means ATL, CVG, LAX, SLC, MSP, DTW, MEM and any other airport having a monthly average of at least 100 Delta scheduled flight departures per day. Exception: SEA is not a Delta hub, regardless of the number of scheduled flight departures.
21. "DL" means:
    a. Delta,
    b. its affiliates, and
    c. any other carrier to the extent of its category A operations of flight segments using the DL code.
22. "Domestic air carrier" means an air carrier as defined in 49 U.S.C. Section 40102(a)(2).
23. "Entity" means a natural person, corporation, association, partnership, trust or any other form for conducting business, and any combination or concert of any of the foregoing.
24. "Flight segment", for the purposes of ***Section 1,*** means the operation of an aircraft with one takeoff and one landing.
25. "Foreign air carrier" means an air carrier other than a domestic air carrier.
26. "Fragmentation transaction" means a transaction (other than a successor transaction) in which the Company or an affiliate (other than an affiliate performing flying only on permitted aircraft types) disposes of aircraft, route authority or slots (net of aircraft, route authority or slots acquired within the 12 month period preceding such transaction or acquired in a related transaction), which produced 12% or more of the operating revenue, block hours or available seat miles of the Company (excluding revenue, block hours or

available seat miles of affiliates performing flying only on permitted aircraft types) during the 12 months immediately prior to the date of the agreement resulting in the fragmentation transaction.

27. "Hub to hub" means a flight segment between a Delta hub and a Continental or Alaska hub.
28. "Hub to hub baseline ratio"
    a. "CO hub to hub baseline ratio" means the ratio of X divided by Y where:
        1) X is the aggregate number of DL flight segments scheduled to operate between Delta hubs and Continental hubs during 2002, and
        2) Y is the aggregate number of flight segments scheduled to operate under the CO code between Delta hubs and Continental hubs during 2002.
    b. "Continental hub to hub baseline ratio" means the ratio of X divided by Y where:
        1) X is the aggregate number of Delta flight segments scheduled to operate between Delta hubs and Continental hubs during 2002, and
        2) Y is the aggregate number of Continental flight segments scheduled to operate between Delta hubs and Continental hubs during 2002.
29. "Industry standard interline agreement" means an agreement or other arrangement between or among two or more carriers, such as the International Air Transport Association's "multilateral interline traffic agreements", or an "interline ticket and baggage agreement", establishing rights and obligations relating to the acceptance and accommodation of interline passengers and shipments.
30. "International operation" means a flight segment to or from an airport, or between airports, located outside the contiguous 48 states of the United States.
    Exception: A flight segment to or from an airport located in Canada or Alaska will not be considered an international operation.
31. "International partner flying" means flying performed by any foreign air carrier (which is not an affiliate):
    a. under or utilizing a designator code, trade name, brand, logo, trademarks, service marks, aircraft livery or aircraft paint scheme currently or in the future utilized by the Company or any affiliate, and/or
    b. on aircraft on which the Company or any affiliate has purchased or reserved blocked space or blocked seats for sale or resale to customers of the Company or any affiliate.
32. "Mainland United States", for the purposes of ***Section 1***, means the contiguous 48 states of the United States.
33. "Material change" means an amendment to the Northwest/Continental marketing agreement, the Alaska marketing agreement or the Hawaiian marketing agreement that:
    a. affects the codeshare or prorate terms or conditions of the Northwest/Continental marketing agreement, the Alaska marketing agreement, or the Hawaiian marketing agreement and,
    b. has or would have an adverse material economic impact on:
        1) the structure or benefits of the Northwest/Continental marketing agreement, the Alaska marketing agreement, or the Hawaiian marketing agreement to Delta, or
        2) a substantial number of the Delta pilots.
34. "Month", for the purposes of ***Section 1,*** means calendar month.
35. "Northwest" means Northwest Airlines, Inc.

36. "Continental marketing agreement" means the document titled "Marketing Agreement" signed on August 22, 2002 by Delta and Continental, as from time to time amended.
37. "Interim period" means the period between the closing date of the corporate transaction pursuant to which the Company or any affiliate acquires control of the acquired airline (the "closing date") and the later of the effective date of an integrated seniority list or the effective date of a single collective bargaining agreement covering the pilots and airmen involved.
38. "NW" means:
    a. Northwest,
    b. an affiliate of Northwest as of the day preceding October 30, 2008 to the extent it remains an affiliate after October 30, 2008, and
    c. any other carrier to the extent of its operations of flight segments for Northwest under other than a prorate agreement.
39. "Parent" means any entity that controls another entity.
40. "Permitted aircraft type" means:
    a. a propeller-driven aircraft configured with 70 or fewer passenger seats and with a maximum certificated gross takeoff weight in the United States of 70,000 or fewer pounds, and
    b. a jet aircraft certificated for operation in the United States for 50 or fewer passenger seats and with a maximum certificated gross takeoff weight in the United States of 65,000 or fewer pounds, and
    c. one of up to 255 jet aircraft configured with 51-70 passenger seats and certificated in the United States with a maximum gross takeoff weight of 86,000 pounds or less ("70-seat jets"), and
    d. one of up to 120 jet aircraft configured with 71-76 passenger seats and certificated in the United States with a maximum gross takeoff weight of 86,000 pounds or less ("76-seat jets"). The number of 76-seat jets may be increased above 120 by three 76-seat jets for each aircraft above the number of aircraft in the baseline fleet operated by the Company (in service, undergoing maintenance and operational spares) as of October 30, 2008. The baseline fleet number will be 440+N, in which N is the number of aircraft (in service, undergoing maintenance and operational spares but not including permitted aircraft types) added to the Company's baseline fleet from NWA. The number and type of all aircraft in the Company's fleet on October 30, 2008 will be provided to the Association. The number of 70-seat jets plus 76-seat jets permitted by ***Section 1 B. 40.*** may not exceed 255.
    Exception: Up to the 36 EMB-175s that were operated and/or ordered by Northwest prior to October 30, 2008 may continue to be operated with up to a maximum gross takeoff weight of 89,000 pounds.
    e. once the number of permitted 76-seat jets is established, it will not be reduced.
    Exception one: If a pilot on the seniority list with an employment date prior to September 1, 2001 is placed on furlough, the Company will convert all 76-seat jets for operation as 70-seat jets.
    Exception two: In the event the flow provisions of NWA LOA 2006-10 and LOA 2006-14 cease to be available, either at the feeder carrier affiliate referenced in such LOAs or at another carrier, the number of jet aircraft configured with 71-76 passenger seats specified in ***Section 1 B. 40. d.*** will revert to 85.

f. a carrier that operates any of the 70- or 76-seat jets not being operated as of November 1, 2004, may do so only if that carrier and the Company have agreed to terms for a preferential hiring process for pilots furloughed by the Company (i.e., a pilot furloughed by the Company will be given preferential hiring at a Delta Connection Carrier if he completes all new hire paper work, meets all new hire airman and medical qualifications, satisfies background checks and successfully completes an interview). The Company will offer preferential interviews for employment to airmen employed by a Delta Connection Carrier that offers preferential hiring to such furloughed pilots, subject to the Company's objectives for diversity and experience among newly hired pilots, and subject to the Company's hiring obligations under the NWA CBA LOAs as they appear in LOA #9 (i.e., NWA LOA 2006-10, 2006-14, and 2008-01). A pilot hired by a Delta Connection Carrier operating any of the 70- or 76-seat jets not being operated as of November 1, 2004 will not be required to resign his Delta seniority number in order to be hired by such carrier. Preferential hiring rights at Delta Connection Carriers for pilots furloughed by the Company provided herein will be in addition to any flow down rights such furloughed pilots may have pursuant to the NWA CBA LOAs as they appear in LOA #9 (i.e., NWA LOA 2006-10, 2006-14, and 2008-01). These provisions will apply to carriers that operate 70- or 76-seat jets for the Company as a result of a merger transaction no later than one year after the closing date.

g. the Company will offer preferential interviews for employment to airmen employed by carriers (whose airmen were represented by the Association) at the time those carriers ceased operations, subject to the Company's objectives for diversity and experience among newly hired pilots and subject to ***Section 1 B. 40. f.***

41. "Pilot Working Agreement" or "PWA" means the basic collective bargaining agreement between Delta Air Lines, Inc. and the air line pilots in the service of Delta Air Lines, Inc. as represented by the Air Line Pilots Association International, together with all effective amendments, supplemental agreements, letters of agreement, and letters of understanding between the Company and the Association.
42. "Profit/loss sharing agreement" means an agreement or arrangement (other than an industry standard interline agreement) that provides for the sharing of profits or losses between or among the Company or an affiliate and another carrier or other carriers in connection with the Company's and other carrier or carriers' carriage of passengers. The arrangement between the Company and any affiliate Delta Connection Carriers is not a profit/loss sharing agreement.
43. "Prorate Agreement" means an agreement between the Company and another carrier for the proration of interline revenue between them, under a standard interline prorate formula, and in a manner that provides no economic benefit to the Company other than from the carriage of passengers by the Company. The term "economic benefit" does not include the reimbursement of distribution costs or industry standard interline service charges.
44. "Scheduled block hour" means an hour of scheduled block time.
45. Reserved
46. "Subsidiary" means any entity that is controlled by another entity.
47. "United States" means the United States and its possessions and territories including but not limited to the Commonwealth of Puerto Rico.

48. "Pilot" means an employee of Delta Air Lines, Inc. whose name appears on the Delta Air Lines Pilots' system seniority list.
    Note one: The defined term "pilot" when used with respect to allocations under LOA #14 (Carryover LOA paragraph 4. C., referencing Bankruptcy Protection Covenant, 2006 PWA) on account of the ALPA Claim or the ALPA Notes does not limit the authority of the Delta MEC to determine eligibility for allocation of the ALPA Claim or the ALPA Notes among persons who are pilots, former pilots, or their survivors.
    Note two: For ease of reading in ***Section 1***, the defined term "pilot" may be modified by the word "Delta." Such modification does not change the meaning of the defined term "pilot."
49. "Merger agreement" means the agreement between Delta Air Lines, Inc. and Northwest Airlines Corporation, described in the Transaction Framework Agreement, dated as of April 14, 2008, by Delta Air Lines, Inc and the Air Line Pilots Association, International.
50. "Hawaiian" or "HA" means Hawaiian Airlines, Inc.
51. "Hawaiian marketing agreement" means the document titled "Marketing Agreement" signed on June 11, 2007 by Delta and Hawaiian as from time to time amended.

C. Scope

Except as provided in ***Sections 1 D.***, ***E.***, ***N.***, ***O.*** and ***Q.***:

1. All flying performed by or for the Company or any affiliate will be performed by pilots in accordance with the terms and conditions of this PWA.
2. ***Section 1 C. 1.*** includes without limitation all passenger flying, cargo flying, freight flying, positioning flights and ferry flights (scheduled and non-scheduled, revenue and non-revenue) and non-scheduled flights as defined in ***Section 2*** of this PWA:
    a. performed by or for the Company or any affiliate on aircraft owned, leased or operated by the Company or any affiliate;
    b. performed on aircraft under the operational control of the Company or any affiliate (excluding advisory flight planning and following services provided by the Company on a fee for service basis to other air carriers);
    c. performed for the Company or any affiliate by any affiliate or other air carrier;
    d. performed by any air carrier under or utilizing a designator code, trade name, brand, logo, trademarks, service marks, aircraft livery or aircraft paint scheme currently or in the future utilized by the Company or any affiliate, or performed on aircraft on which the Company or any affiliate has purchased or reserved blocked space or blocked seats for sale or resale to customers of the Company or any affiliate;
    e. performed by Delta pilots for any other air carrier.
3. There will be no contracting or subcontracting of any Company flying to any other air carrier or performance of Company flying by pilots of any other air carrier without the prior written consent of the Delta MEC.
4. Nothing in ***Section 1 C.*** will be interpreted to cover flying performed by an air carrier other than the Company or an affiliate, merely because of its participation in industry standard interline agreements.
5. Nothing in ***Section 1 C.*** will be interpreted to cover flying performed by an air carrier other than the Company or any affiliate, merely because of its participation in the Company's or any affiliate's frequent flyer miles program under which passengers of

such other carrier by frequent travel on board the aircraft of that carrier, may earn travel or other awards.

6. Neither the Company nor any affiliate will establish or maintain a pilot base at any point outside the United States unless all Company flying to and from such base is conducted by pilots who continue at all times to be covered in all respects by this PWA and the Railway Labor Act. Bidding and staffing for such base will be governed by the PWA without regard to visa or immigration requirements.
7. The Company and its affiliates will not train, or contract for training of, persons other than Delta pilots to perform Company flying.
8. The Delta name will be prominently displayed on all Company aircraft performing Company flying.
9. As of October 30, 2008 and so long as Northwest is an affiliate operating as an air carrier:
   a) the Company may, without limitation, place the DL code on NW flights and such flights may be operated under or utilizing a designator code, trade name, brand, logo, trademarks, service marks, aircraft livery or aircraft paint scheme currently or in the future utilized by the Company, and
   b) ***Section 1 C. 1.*** and ***Section 1 C. 2.*** do not apply to operations of Northwest, nor do they apply to operations of an affiliate of Northwest on a permitted aircraft type.

D. Permitted Arrangement with Respect to Category A and C Operations

1. ***Section 1 C.*** will not apply to category A or C operations on any permitted aircraft type. Exception: If a permitted aircraft type meets the certificated passenger seat requirement of ***Section 1 B. 40. b.*** when first placed into service by a Delta Connection Carrier but is subsequently certificated for operation in the United States with a maximum passenger seating capacity in excess of 50 passenger seats, this permitted aircraft type may continue to be operated by Delta Connection Carriers as long as all Delta Connection Carriers operate such permitted aircraft type with no more than 50 passenger seats and with a maximum certificated gross takeoff weight in the United States of 65,000 or fewer pounds at all times.
2. If a domestic air carrier operates both permitted aircraft types and aircraft other than permitted aircraft types, the exemption for that domestic air carrier provided by ***Section 1 D. 1.*** will not apply unless:
   a. the flying on aircraft other than permitted aircraft types is not performed for the Company within the meaning of ***Section 1 C.***, and
   b. there is no reduction in the level of the Company's then existing system scheduled aircraft block hours of flying as the result of the performance of such flying on other than a permitted aircraft type, and
   c. the aircraft other than a permitted aircraft type, is either a jet aircraft certificated for operation in the United States for 106 or fewer passenger seats and configured with 97 or fewer passenger seats (provided that any jet aircraft configured with between 71 and 97 passenger seats is not flown for the Company or any affiliate and is not flown on a city pair that is served by the Company or an affiliate) or a propeller driven aircraft configured with 72 or fewer passenger seats, and is operated on its own behalf or pursuant to agreement with an air carrier(s) other than the Company or an affiliate.

Exception: If a carrier that performs category A or category C operations acquires an aircraft that would cause the Company to no longer be in compliance with the provisions of ***Section 1 D. 2. c.***, the Company will terminate such operations on the date that is the later of the date such aircraft is placed in revenue service, or nine months from the date that the Company first became aware of the potential acquisition.

3. ***Section 1 C.*** will not apply to flying performed by any affiliate on permitted aircraft types.
4. At least 85% of all category A and category C operations each month will be under 900 statute miles.
5. At least 90% of all category A and category C operations each month will operate to or from Delta hubs, defined for this purpose as being Atlanta, Boston, Cincinnati, Washington, D.C. (DCA and IAD), Orlando, Los Angeles, Salt Lake City, New York (LGA and JFK), Fort Lauderdale and Tampa regardless of the number of daily departures of Company flying at such airports, and Minneapolis, Detroit, Memphis, Seattle and any other airport in a month in which such airport has more than 50 daily departures of Company flying.
6. No more than 6% of category A and category C operations each month will be between Delta hubs (as defined in ***Section 1 D. 5.***). For purposes of ***Section 1 D. 6.***, Delta Connection flying operated between FLL and TPA, FLL and MCO, TPA and MCO will not be considered flying between Delta hubs.
7. Delta Connection flying aircraft will only bear the name "Delta" as part of a phrase referencing a Connection-type operation.
8. ***Section 1 C.*** will not apply to prevent the Company or any affiliate from acquiring control of a domestic air carrier that operates aircraft other than permitted aircraft types (a domestic air carrier that the Company or any affiliate acquires control of is referred to for purposes of ***Section 1 D. 8.*** as an "acquired airline") and operating such acquired airline pending a merger of the Company and the acquired airline, provided that:
   a. the Company agrees to operationally merge with the acquired airline and become a single corporation, a single carrier under the Federal Aviation Act and the Railway Labor Act, with a single air carrier certificate, a single pilot class or craft, not later than six months after the later of:
      1) the effective date of issuance of a final and binding integrated pilot seniority list, or
      2) the effective date of a single bargaining agreement.
   b. the pilot seniority lists of the Company and the acquired airline will be integrated pursuant to Association merger policy if both groups are represented by the Association, or if the airmen of the acquired airline are not represented by the Association, then pursuant to a method to be determined by the Delta MEC.
      1) However, in either case, the integrated seniority list produced by the Association, including any attendant conditions and restrictions, will be subject to the approval of the Company, and will be submitted to the Company for approval within twelve months of the date the Company or any affiliate acquired control of the acquired airline. The Company will provide the Association with its decision as to approval or disapproval (including its reasons for disapproval) of the integrated seniority list produced by the Association within two months following receipt of

the integrated seniority list. If the Association does not without good cause produce and present an integrated seniority list to the Company for approval within twelve months of the date the Company or any affiliate acquired control of the acquired airline, the pilot and airman seniority lists of the Company and the acquired airline, respectively, will be integrated pursuant to the arbitration procedures set forth in ***Section 1 D. 8. b. 2)***.

2) If the Company rejects the list produced by the Association, the Association may modify the list and resubmit it to the Company for approval within three months after the date of such rejection, or at the election of the Association, the Association and the Company will submit to an arbitrator mutually selected by the Association and the Company for a final and binding decision, the choice of a list produced by the Association and a list produced by the Company. If the seniority list integration issue is to be submitted to an arbitrator and the Company and the Association cannot agree on the selection of an arbitrator, the arbitrator will be selected from the list of arbitrators referred to in ***Section 19***, utilizing the alternate strike-off method, with the right to first strike a name from such list determined by the toss of a coin.

3) If the Association does not resubmit a modified list within the permitted time period or does so resubmit a modified list but it is rejected by the Company, then the matter will be decided through the arbitration procedure set forth in ***Section 1 D. 8. b. 2)***.

c. wages and benefits for the airmen of the acquired airline, to be effective upon the integration of the two seniority lists, will be negotiated between the Company and the Association. Nothing herein will entitle either the Company or the Association to negotiate any other provision of this PWA except as this PWA otherwise permits.

d. during the interim period the aircraft (including owned aircraft, leased aircraft, and all orders to purchase aircraft) of each pre-merger airline will remain separated. Such pre-merger aircraft of the Company will be operated by pilots in accordance with the terms and conditions of this PWA. Such pre-merger aircraft of the acquired airline will be operated by airmen on its seniority list. Nothing in ***Section 1 D. 8. d.*** will apply to prevent the Company from removing any aircraft from the fleet of either airline. In the event aircraft are removed from either fleet prior to the operational merger the Company and its affiliates will make reasonable efforts consistent with the then existing financial and operational needs of the service, to ensure that the ratio of the total number of aircraft block hours operated by pilots to the aircraft block hours operated by airmen of the acquired airline ("block hour ratio") is not reduced below the block hour ratio that existed on the date the Company or any affiliate acquired control of the acquired airline.

1) during the interim period, any aircraft delivered to the Company which are of an aircraft type operated by pilots in a Delta category (excluding any orders by the acquired carrier, as listed in the most recent 10-K filing of that carrier (or an affiliate of that carrier) preceding the merger announcement date), will be operated by pilots in accordance with the terms and conditions of this PWA.

2) during the interim period, no less than *X* percent of all aircraft delivered to the Company of each type not operated by the Company prior to the closing date (excluding any orders by the acquired carrier, as listed in the most recent 10-K

filing of that carrier (or an affiliate of that carrier) preceding the merger announcement date), will be operated by pilots in accordance with the terms and conditions of this PWA. *X* percent will equal the aggregate number of Company aircraft block hours divided by the combined aircraft block hours of the Company and the acquired carrier in the full twelve month period prior to the closing date.

e. during the interim period, the scheduled pilot block hours in any month will not be less than the scheduled pilot block hours in the same month of the twelve-month period prior to the closing date of the corporate transaction. The Company will be excused from compliance with such minimum scheduled aircraft block hours requirement if either a circumstance over which the Company does not have control**,** or a governmental agency requirement causing the Company to reduce or cancel service as a condition of approval of the transaction, is the cause of such non-compliance.

E. Permitted Arrangements with Foreign Air Carriers

1. ***Section 1 C.*** will not apply to international partner flying.
2. Without the consent of the Delta MEC, neither the Company nor any affiliate will enter into or maintain an agreement or arrangement with any foreign air carrier performing international partner flying that permits the Company or any affiliate to book or ticket under the Company's or affiliate's designator code, reserve, block, and/or purchase for resale:
   a. more than 50% of the passenger seats in any month on any pair of flight segments in a city pair (e.g., CDG-ATL-CDG) of such foreign air carrier,
   b. a monthly average of more than 175 passenger seats per flight segment (e.g., CDG-ATL or ATL-CDG) of such foreign air carrier to and from destinations other than Mexico, the Caribbean, Canada or Central America, or
   c. a monthly average of more than 100 passenger seats per flight segment of such foreign air carrier to and from Mexico, the Caribbean, Canada or Central America, and
   d. passenger seats on any Fifth Freedom flight segment between Japan and Asian cities beyond Japan, unless 316 weekly NRT slots are scheduled to be utilized in Company flying.

   Exception: Through October 30, 2011, the Company will be deemed in compliance with this provision if it schedules not less than 85% of such 316 weekly NRT slots.
3. If the Company's ownership level (i.e., the percentage of ownership referred to in ***Section 1 B. 16. a.***) in a foreign air carrier exceeds 25%, the Company flying block hours scheduled in any month between the United States and the country of the foreign air carrier, will not be less than the Company flying block hours scheduled between the two countries in the same month of the twelve-month period prior to the month in which the Company's ownership level first exceeds 25%. The Company will be excused from compliance with this provision in the event a circumstance over which the Company does not have control is the cause of such non-compliance.
4. No foreign air carrier will in the performance of international partner flying take on for hire, persons, property or mail at any point within the United States that is destined to be transported by such foreign air carrier to any other point within the United States.

5. Neither the Company nor an affiliate will place its code on the flight of a foreign air carrier in any city pair where the foreign air carrier operates a flight in which it takes on for hire persons, property or mail at any point in the United States that is destined to be transported to any other point within the United States.
6. The Company will join the Association in opposing any change in U.S. law that would permit foreign air carriers to engage in cabotage.
7. In addition to all other restrictions specified in ***Section 1***, the Company or an affiliate may only enter into or maintain a profit/loss sharing agreement with a foreign air carrier engaged in international partner flying the home country of which is served by at least four Company roundtrips per week between the U.S. and that country (for purposes of ***Sections 1 E. 7.*** and ***8.***, the "home country" means the foreign country from which a foreign air carrier primarily operates).
8. In the event the Company or an affiliate enters into or maintains a profit/loss sharing agreement with a foreign air carrier, Company flying between the United States and the home country of such foreign air carrier will, in each rolling three month period, be no less than the Company's scheduled block hours between the two countries in the same three months of the twelve-month period prior to the month in which such agreement first became effective. The Company will be excused from compliance with this provision in the event a circumstance over which the Company does not have control is the cause of such non-compliance.

F. Affiliates and Successors

1. The PWA will be binding upon any affiliate. The Company will not conclude any agreement or arrangement that establishes an affiliate unless such affiliate agrees in writing as an irrevocable condition of such agreement or arrangement to be bound by the PWA and if the affiliate is an air carrier or parent or subsidiary of an air carrier, to operate as part of a single carrier with the Company under the PWA, unless the affiliate operates only permitted aircraft types.
2. The PWA will be binding upon any successor, including without limitation, any merged company or companies (as defined in Section 2. (a) of the Allegheny-Mohawk Labor Protective Provisions), assignee, purchaser, transferee, administrator, receiver, executor and/or trustee of all or substantially all of the equity securities and/or assets of the Company or any affiliate (a "successor") whether as a result of a single transaction or multi-step transactions (a "successorship transaction"). Neither the Company nor any affiliate will conclude any agreement with a successor for a successorship transaction, or that will result in or create a successor, unless the successor agrees in writing to assume and be bound by the PWA, to recognize the Association as the representative of the pilots consistent with the Railway Labor Act, and to agree that the employment of such pilots will be pursuant to the terms of the PWA.
3. If an affiliate or successor is an air carrier or controls or is controlled by an air carrier (other than an air carrier that operates only permitted aircraft types), the requirements of ***Section 1 D. 8. a. – e.*** will govern the resulting operational merger, provided that the following specific provisions will apply to such affiliate or successor if the affiliate or successor controls or acquires control of the Company, and provided further that this provision will not affect the relationship between the Company and Song, and the

Company and any of its non air-carrier affiliates:

a. Subject to ***Section 1 F. 3. b.***, ***c.*** and ***d.***, the provisions of ***Section 1 D. 8. a. – e.*** will be construed so that those procedures will apply to ***Section 1 F. 3.*** as in the circumstances where the Company is the acquiring entity.
b. If an affiliate or successor did not employ a pre-existing airmen group (as defined in ***Section 1 F. 3. d.)***, the resulting seniority list of the merged operation will consist of the pilot seniority list, followed by airmen hired by the affiliate or successor whether before or after the date of the operational merger.
c. If an affiliate or successor employed a pre-existing airmen group, the pilot and airmen seniority lists of the Company and the affiliate or successor will be integrated pursuant to Association merger policy if both groups are represented by the Association (in which case ***Section 1 D. 8. b. 1)***, ***2)*** and ***3)*** will apply), or if the airmen of the affiliate or successor are not represented by the Association, then pursuant to Sections 2, 3 and 13 of the Allegheny-Mohawk Labor Protective Provisions.
d. For purposes of ***Section 1 F. 3.***, the phrase "employed a pre-existing airmen group" means that the entity involved (or any entity that it controls or is controlled by) employed airmen continuously from a date at least sixty days prior to the date of the agreement resulting in the entity becoming an affiliate or successor.

4. Before concluding any agreement or arrangement which would result in a successorship transaction or establish an affiliate, the Company will provide advance notice to the Association (to the extent consistent with the Company's legal obligations regarding disclosure of information related to the agreement or arrangement) of the successorship transaction or establishment of an affiliate.

G. Change in Control

1. In the event that through a single transaction or multi-step related transactions, any entity acquires control of the Company or any affiliate air carrier that operates other than permitted aircraft types (any such transaction, a "change in control"), the Association will have the right in its sole discretion upon written notice to the Company within 60 days of receiving written notice of the change in control, to either:
   a. serve a Section 6 notice to reopen the PWA in whole or in part, or
   b. extend the duration of the PWA for one, two or three years, at the Association's option, past the amendable date with 3% annual wage increases on the amendable date and on the subsequent anniversary date(s) of the amendable dates, if applicable.
2. ***Section 1 G. 1.*** will not apply if the transaction that constitutes a "change in control" consists solely of a corporate form restructuring that creates a parent holding company of the Company, whose shareholders and Board of Directors at the closing of the transaction are substantially the same as the shareholders and Board of Directors of the Company immediately preceding the transaction. ***Section 1 G. 1.*** also will not apply to a transaction during the Company's Chapter 11 reorganization or to a plan of reorganization resulting in emergence from Chapter 11.
   Exception: If, as a result of a transaction during the Company's Chapter 11 reorganization or plan of reorganization resulting in emergence from Chapter 11, the acquiring entity is an air carrier or controls or is controlled by an air carrier, the

Association will have the right in its sole discretion upon written notice to the Company, within 60 days of receiving written notice of the change in control, to extend the duration of the PWA for one, two or three years, at the Association's option, past the amendable date, with 3% annual wage increases on the amendable date and on the subsequent anniversary date(s) of the amendable dates, if applicable.

3. ***Section 1 G. 1.*** will not apply to any entity that is an IRS qualified employee benefit plan of the Company (or a parent), or a trustee or other fiduciary of such plan acting in its capacity as such, provided that the plan is one in which (i) all pilots who meet the general service requirements applicable to all participants are entitled to participate; (ii) stock of the Company or affiliate allocated to accounts of participants is voted in accordance with the instructions of the participants if any are given and (iii) the trustee voting unallocated stock is a nationally recognized bank or financial institution. If stock in the plan which is not required to be voted in accordance with directions of the participants is tendered to an entity outside the plan, such stock will be deemed to be no longer owned by the plan for purposes of ***Section 1 G. 3.***

H. Opportunity to Make Competing Proposal

In the event the Company receives a proposal for a transaction that would, if completed, result in a successor or change in control, and the Company determines to pursue or facilitate the proposal the Company and/or affiliate will in good faith seek to provide the Association with the opportunity to make a competing proposal at such time and under such circumstances as the Board of Directors of the Company and/or affiliate reasonably determines to be consistent with their fiduciary duties.

I. General Furlough Protection

1. No pilot on the seniority list as of the December 8, 2008 will be placed on furlough on less than 90 days advance written notice.
2. No pilot on the seniority list as of the December 8, 2008 will be placed on furlough if the staffing at the time of notice or at time of furlough is less than the PBS Staffing Formula (***Section 22 C.***) for any position.
3. For a period of 24 months following December 8, 2008, no pilot on the seniority list will be placed on furlough as a result of the merger between the Company and Northwest.
4. The Company will be excused from compliance with the provisions of ***Section 1 I. 1.***, ***2.*** and ***3.*** in the event a circumstance over which the Company does not have control is the cause of such noncompliance.

J. Fragmentation Transaction

As a condition of any fragmentation transaction, the Company will, at the request of the Association, require the transferee of assets to:

1. employ a certain number of Delta pilots based on the number of crewmembers that will be required by the transferee for the operation of the transferred assets (not counting airmen employed by the transferee);

2. offer employment to such Delta pilots according to eligibility criteria determined by agreement between the Company and the Association or, in the absence of such agreement, by a neutral arbitrator;
3. provide that the transferring pilots will be integrated with the transferee's pilots pursuant to Association Merger Policy if the transferee's pilots are represented by the Association or, if otherwise, pursuant to Sections 3 and 13 of the Allegheny-Mohawk Labor Protective Provisions.

K. Labor Dispute

During a labor dispute involving an air carrier (other than the Company):

1. the Company will not perform training of airmen for service as employees of the air carrier (replacement airmen) in connection with a labor dispute, and
2. an affiliate will not perform training of airmen for service as employees of the air carrier (replacement airmen) other than itself.

Exception: With respect to labor disputes other than those involving a codeshare partner of the Company, this provision will not prevent the training of airmen by the Company at the current training rate pursuant to agreements entered into prior to October 1, 2004.

L. Pilot Member of the Board of Directors and Information Sharing

1. The Delta Master Executive Council (the "Delta MEC") of the Association will be entitled to appoint a full voting member of the Company's Board of Directors (the "Pilot Member") to attend and participate in all regular and special meetings of the Company's Board of Directors in accordance with ***Section 1 L. 1.***
   a. The Company agrees that at any annual or special meeting of stockholders of Delta at which directors of Delta are to be elected, and at which the seat held by a Qualified ALPA Member (as defined below) is subject to election, Delta shall renominate the Pilot Member, or nominate another Qualified ALPA Member (the "Pilot Nominee") designated by the Delta MEC to be elected to the Board of Directors of Delta (the "Delta Board"), and shall use its reasonable best efforts to cause such person to be elected to such position (it being understood that efforts consistent with, and no less extensive than, in all material respects, the efforts used by Delta to solicit proxies in favor of the election of the rest of the director nominees of the Delta Board shall be deemed reasonable best efforts). The Delta MEC shall notify Delta of its proposed Pilot Nominee to the Delta Board, in writing, no later than 60 days prior to the first anniversary of the mailing of the proxy statement related to the previous year's annual meeting of stockholders, together with all information concerning such Pilot Nominee reasonably requested by Delta. In the event of the death, disability, disqualification, resignation, removal or failure to be elected of the Pilot Member or Nominee, the Delta Board will promptly elect to the Delta Board a replacement Qualified ALPA Member designated by the Delta MEC to fill the resulting vacancy, which individual shall then be deemed a Pilot Nominee for all purposes hereunder. For purposes of this section, "Qualified ALPA Member" means an individual who, at the time of nomination and at all times thereafter until such individual's service on the Delta Board ceases, (a) shall be a Delta pilot, (b) shall meet any applicable

requirements or qualifications under applicable law or stock exchange rules to be a member of the Delta Board, (c) shall not be a member or an officer of the Delta MEC or an officer of the Association and (d) shall, prior to being nominated, agree to comply with the requirements of ***Section 1 L. 1. b***. In accordance with Delta's corporate governance policy with respect to the compensation of directors who are employees of Delta, the Pilot Member shall not be compensated for his or her service on the Delta Board. The Pilot Member will have the same powers, rights and duties as the other members of the Delta Board, and Delta will indemnify the Pilot Member to the same extent it provides indemnification to other members of the Delta Board, including the provision of directors and officers liability insurance. Nothing herein shall be deemed to require that any party hereto, or any affiliate thereof, act or be in violation of any applicable provision of law, legal duty or requirement or stock exchange or stock market rule.

b. Each of the Association and the Delta MEC acknowledge that, under applicable law, all members of the Delta Board are required to act in accordance with their fiduciary duties to Delta and to its stockholders and accordingly acknowledge that (1) the Pilot Member's fiduciary responsibilities may require that he or she be excused from time to time from portions of meetings of the Delta Board or committees thereof and be recused from voting upon certain matters presented to the Delta Board for consideration in accordance with the policies and practices of the Delta Board applicable to all members of the Delta Board and (2) the Pilot Member shall be bound by the confidentiality obligations of the members of the Delta Board with respect to all discussions, deliberations and decisions of the Delta Board and any committees thereof in accordance with the policies of the Delta Board applicable to all members of the Delta Board, provided that, the Pilot Member may from time to time, with the knowledge of the Chairman of the Delta Board or Chief Executive Officer of Delta, exercise his reasonable discretion to provide such information to the Delta MEC, its officers, relevant committees, and advisors who have executed confidentiality agreements approved by Delta for that purpose. Delta and the Delta MEC hereby acknowledge that, at any time, for any reason, at the request of the Delta MEC, the Pilot Member shall resign from the Delta Board to be replaced by a replacement Qualified ALPA Member designated by the Delta MEC, that the Pilot Member has agreed with the Delta MEC to so resign, and that if, under such circumstances, the Pilot Member fails promptly to so resign, the Delta Board may remove the Pilot Member from his or her position on the Delta Board (to be replaced by a replacement Qualified ALPA Member designated by the Delta MEC).

c. All obligations of Delta hereunder shall terminate, and the Delta MEC shall cause the Delta MEC's Pilot Member to resign from the Delta Board and any committees thereof immediately upon the date on which the Association (or any successor by reorganization of the Association) ceases to be the authorized representative of the Delta Pilot Group or the pilots of a successor to Delta for purposes of collective bargaining. At any time that the Pilot Nominee does not satisfy the conditions set forth in the "Qualified ALPA Member" definition, the Delta MEC shall cause such individual to resign from the Delta Board and any committees thereof.

d. Delta hereby agrees that if, at any time, a publicly-held parent company of Delta were to be formed (the "Parent Company"), the rights of Delta MEC hereunder to appoint a

Pilot Member to the Delta Board, and the corresponding obligations of Delta hereunder, will apply, mutatis mutandis, to the right of the Delta MEC to appoint a Pilot Director to the board of directors of the Parent Company, and the corresponding obligations of the Parent Company.

e. ***Section 1 L. 1.*** became effective on April 14th, 2008, and will remain in effect until and unless changed by written agreement of the parties. ***Section 1 L. 1.*** will not be subject to the grievance and/or System Board of Adjustment procedures of Sections 18 and 19 and will be governed by the laws of the State of Delaware, and each of the parties knowingly waives, relinquishes, and agrees that it will not assert any claim or argument (whether in court or elsewhere) that the terms of ***Section 1 L. 1.*** may be modified or in any way set aside (except by written agreement of the parties hereto) during any period after the amendable date of the PWA or of any successor PWA, including any period during which Delta and the Association have been released to engage in lawful self-help pursuant to the Railway Labor Act, as amended.

2. The Company will provide the Association on a periodic basis and, in addition, at its reasonable request, with detailed historical operating and financial information on the Company and its affiliates and detailed projected operating and financial information on the Company and its affiliates.
   a. Access to, use and distribution of, information provided to the Association under ***Section 1 L. 2.*** will be conditioned upon and governed by reasonable confidentiality agreements deemed appropriate by the Company and Association.
   b. Information provided to the Association under ***Section 1 L. 2.***, will include all information reasonably necessary to enable the Association to monitor Delta's compliance with the terms of ***Section 1*** (including copies of all codeshare and prorate agreements between Delta and Delta Connection Carriers and between Delta and carriers engaging in category B operations, and the number and type of aircraft in Category A operations will be provided to the Association at the scheduled quarterly financial update), as well as Delta's compliance with the terms of the Company's Profit Sharing Plan and the Company's Monthly Performance Incentive Program . The Company will also provide all operational and financial information, historical and projected, concerning the Air France joint venture. Information related to codeshare limitations (i.e., ***Section 1 N. 2. - 7.*** and ***Section 1 O. 2. – 6.*** and ***9. b. 2)*** and ***Section P 5.*** (if applicable)) will be provided within 30 days after the conclusion of the applicable measurement period.
   c. Delta will also provide to the Association documentation of each flight segment that has been published by the Company (in print or electronically as of the first day of the current month) bearing both the DL code and one or more of NW, CO, AS or HA code for each of the two months following the current month. Such documentation will be provided to the Association, in electronic form, by the end of each such current month.
   d. The detailed historical operating information referenced in ***Section 1 L. 2.*** will be provided to the Association concurrent with the ***Section 1 N. 2. - 7.*** and ***Section 1 O. 2. – 6.*** and ***9. b. 2)*** and ***Section P 5.*** (if applicable) information, at the end of each month, for the prior month.

3. The Company will not make any contribution to any employee grantor trust established by a Delta employee in connection with the 2002 Delta Excess Benefit Plan or the 2002 Delta

Supplemental Excess Benefit Plan or contribute to any employee grantor trust established in the future in connection with such plans or any successor plans.

M. Remedies

The Company at the written request of the Association will arbitrate any grievance filed by the Association alleging a violation of ***Section 1*** on an expedited basis directly before the Five Member System Board of Adjustment. Such expedited arbitration hearing before such Board will be completed no later than 60 days following the filing date of the grievance and the grievance will be decided by the System Board no later than 90 days after the filing of the grievance, unless the parties agree otherwise in writing.

N. Permitted Arrangements Pursuant to the Continental Marketing Agreement

1. ***Section 1 C.*** will not apply to flying performed by CO under the DL code provided that the DL code may only be placed on CO flight segments:
   a. for the sole purpose of passenger service,
   b. pursuant to the Continental marketing agreement,
   c. under a prorate agreement, and
   d. consistent with ***Section 1 N.***
2. The DL code will not be placed on CO flight segments between Delta hubs whether or not a Delta hub is also a Continental hub.
3. The DL code will not be placed on CO flight segments to or from a Delta hub.
   Exception one: The DL code may be placed on hub to hub flight segments of CO without regard to the limitations of ***Section 1 N. 3. Exception two***.
   Exception two: The DL code may be placed on CO hub to hub flight segments, provided that the following limitations are satisfied (measured at the end of each month on a rolling 12 month average):
      a. the ratio of the aggregate number of scheduled hub to hub flight segments of DL bearing a CO code, to the aggregate number of scheduled hub to hub flight segments of CO bearing a DL code, must equal or exceed the CO hub to hub baseline ratio,

      and
      b. the ratio of the aggregate number of scheduled hub to hub flight segments of Delta bearing a CO code, to the aggregate number of scheduled hub to hub flight segments of Continental bearing a DL code, must equal or exceed the Continental hub to hub baseline ratio.

   Note: Each requirement in ***Section 1 N. 3. Exception two a. - b.*** will be satisfied if, with respect to such requirement, the number of scheduled flight segments of Delta or DL, as applicable, bearing the CO code, is no more than two average daily scheduled flight segments below the minimum number of such flight segments specified by such requirement. It is understood that “average daily scheduled flight segments” will be computed with respect to the applicable rolling time period.
4. Mainland/Hawaii
   a. The DL code may not be placed on any Continental flight segments between the mainland United States and Hawaii unless the ratio of the number of Delta scheduled

flight segments between the mainland United States and Hawaii bearing the CO code to the number of Continental scheduled flight segments between the mainland United States and Hawaii bearing the DL code, is no less than 97.5% of the ratio of the number of Delta scheduled flight segments between the mainland United States and Hawaii to the number of Continental scheduled flight segments between the mainland United States and Hawaii during 2002.

b. The ratio in ***Section 1 N. 4. a.***, will be measured at the end of each month, on a rolling 12 month average.

5. In the absence of consent of the MEC Chairman, Delta will not permit its code to be placed on:
   a. Continental flight segments between the mainland United States and Japan in a bid period in which the number of scheduled Delta flight segments between the mainland United States and Japan is less than 50.
   b. If Delta is in breach of the limitations in ***Section 1 N. 5. a.***, in a bid period, it will remove its code from all Continental scheduled flight segments in the next bid period between the mainland United States and Japan.
   c. Delta will be excused from compliance with ***Section 1 N. 5. a.*** if the cause for such non-compliance was a "circumstance over which the Company does not have control" as defined in ***Section 1 B. 9.***
6. With respect to flight segments of CO in a city pair in international operations (as defined in ***Section 2***) no more than:
   a. 50% of the passenger seats may be occupied by passengers traveling under the DL code in any month, or
   b. a monthly average of:
      1) 175 passenger seats may be occupied by passengers traveling under the DL code per flight segment to or from destinations other than Mexico, the Caribbean, Canada or Central America, or
      2) 100 passenger seats may be occupied by passengers traveling under the DL code per flight segment to and from Mexico, the Caribbean, Canada or Central America.
7. Delta will, in each rolling three month period, place its code on no greater number of:
   a. Continental flight segments than 108% of the number of Delta flight segments bearing the CO code,
   b. CO flight segments than 108% of the number of DL flight segments bearing the CO code.
8. Delta will not purchase or reserve seats on CO on a block space basis (i.e., on the basis of the purchase or reservation by Delta of a block of seats on aircraft operated by CO, at a contractually agreed price, that are then available for resale by Delta to its customers).
9. If Delta is in breach of any of the limitations on hub to hub (***Section 1 N. 3.***) or Mainland/Hawaii (***Section 1 N. 4.***) flight segments or the limitations based on reciprocity (***Section 1 N. 7.***), the following will apply:
   a. Delta may cure any such breach by (within 60 days after the date of written notification from the MEC Chairman to the Company of such breach):
      1) removing the DL code from, as applicable, CO, or Continental flight segment(s), and/or

2) increasing the number of DL or Delta, as applicable, flight segment(s) bearing the CO code, as applicable.

b. Delta may defer the cure of any such breach for up to 90 days beyond such 60 day period if the cause of such breach was a "circumstance over which the Company does not have control", as defined in ***Section 1 B. 9.***

10. Consolidation

a. If Delta or Continental acquires an air carrier and integrates that air carrier so as to form a single carrier, the applicable limitations and parameters in ***Section 1 N.*** will be adjusted to include the increase in scheduled flight segments that result from the acquisition and integration of the acquired air carrier.

b. The scheduled flight segments of the acquired carrier and its subsidiaries will be measured for the 12 consecutive months prior to the month in which the parties executed the agreement under which Delta or Continental (as applicable) agreed to acquire the other air carrier. Such flight segments will be added to the number of 2002 Delta, Continental, DL, and CO (as applicable) flight segments used to calculate the original hub to hub baseline and mainland/Hawaii ratios.

c. The Association will have the right to terminate ***Section 1 N.*** upon 60 days written notice to the Company, if Continental, without the prior written approval of the Association, acquires control of Delta, either directly or through another individual, entity or trust, or as part of a group.

11. There will be no direct or indirect transfer to CO of any aircraft owned, leased, operated or on order or option by or on behalf of Delta or an affiliate, other than in the normal course of business (e.g., lease returns or sale of aircraft, orders or options on arm's length market terms).

12. Delta will maintain a separate operating and corporate identity from Continental, including, but not limited to, name, trade name, logo, livery, trademarks or service marks, but permitting (in addition to the separate name, trade name, logo, livery, trademarks or service marks) the use of designator codes, frequent flyer program information, and other name, trademarks, trade name, logo, livery or service marks that reflect the alliance relationship. The foregoing will not preclude Delta from acquiring and integrating Continental under ***Section 1 D. 8.***, but will apply until the closing date of any corporate transaction pursuant to which Delta or any affiliate acquires control of Continental.

13. To the extent that any of the terms of ***Section 1 N.*** are inconsistent with any of the terms of the Continental marketing agreement, the terms of ***Section 1 N.*** will take precedence and will remain in full force and effect. Delta will not be excused from compliance with any of the terms of ***Section 1 N.*** based on its obligations under the Continental marketing agreement.

14. Amendments to the Continental marketing agreement

a. No amendment to the Continental marketing agreement (other than a termination) that constitutes a material change will be made without the written consent of the Delta MEC Chairman.

b. A copy of each amendment to the Continental marketing agreement will be promptly delivered to the office of the Delta MEC Chairman. A copy of each such amendment that affects a codeshare or prorate term or condition will be delivered to the office of the Delta MEC Chairman, for his review and comment, at least 30 days prior to implementation.

1) If the Delta MEC Chairman believes that the amendment is a material change, he may dispute such amendment by submitting a grievance to the Company for expedited determination under ***Section 1 M.*** To be valid, such grievance must be so submitted within 30 days of the date of delivery of the amendment to the office of the Delta MEC Chairman.
2) If the System Board of Adjustment determines that the amendment is a material change, then at the written request of the Delta MEC Chairman, Delta will cancel or void the disputed amendment to the Continental marketing agreement and will take all other action necessary to restore the status quo that existed prior to such amendment within 30 days of receipt of such written request by the Company. In addition, the System Board may award such other and further relief as appropriate to provide a make-whole remedy to pilots harmed by such material change.
3) If Delta does not comply with such request within such 30 day period, the Delta MEC Chairman will have the right to terminate ***Section 1 N.*** upon 60 days advance written notice to the Company.

15. Termination
    a. In the event that the Continental marketing agreement is terminated in whole, for any reason, Delta and the MEC Chairman, each, will have the right to declare ***Section 1 N.*** null and void upon 30 days advance written notice to the other.
    b. If Delta or Continental serves a notice of termination of its participation in the Continental marketing agreement, and such notice of termination of participation is accepted by another party, the Delta MEC Chairman will have the right to terminate ***Section 1 N.*** upon 60 days advance written notice to the Company, with such termination to be effective upon the date of termination of such party's participation in the Continental marketing agreement.
16. Rulings of Government Authority
    If, as a result of any action or rulings of any governmental authority, or in response thereto, any amendment that is a material change is required to be made to the Continental marketing agreement, and is made without the written consent of the Delta MEC Chairman, then the Delta MEC will have the right to terminate ***Section 1 N.*** upon 60 days advance written notice to the Company.
17. Labor Disputes
    a. There will be no increased use of the DL code (i.e., an increase over and above that which was loaded in Deltamatic in the 90 day period prior to the commencement of the cooling off period) by CO during a cooling off period (under Section 5, 6 or 10 of the Railway Labor Act) applicable to Delta pilots. In the event of a lawful primary strike against Delta by the Delta pilots, the DL code will not be used by CO at any time during such strike.
    b. There will be no payments other than those payments occurring during the ordinary course of business to Delta from CO during a cooling off period (under Section 5, 6 or 10 of the Railway Labor Act) applicable to Delta pilots or a lawful strike by Delta pilots.
    c. No airman trained by CO in the prior 12 months will be hired to serve as a Delta pilot during a cooling off period (under Section 5, 6 or 10 of the Railway Labor Act) applicable to Delta pilots or a lawful strike by Delta pilots.

Note: For ease of reading in ***Section 1 N. 17.,*** the defined term "pilot" is modified by the word "Delta." Such modification does not change the meaning of the defined term "pilot."

18. The provisions of ***Section 1 N. 14. - 17.*** will be effective in all respects without regard to whether the parties are then engaged in collective bargaining pursuant to Section 6 of the Railway Labor Act. Delta expressly waives any and all rights whatsoever to argue that the Association's rights under these provisions or exercise of such rights should be affected in any way by virtue of the status quo provisions of the Railway Labor Act.
19. Transactions between Delta and CO will be at arm's length (as would be conducted by independent, unaffiliated parties).

O. Permitted Arrangements Pursuant to the Alaska Marketing Agreement

1. ***Section 1 C.*** will not apply to flying performed by AS under the DL code provided that the DL code may only be placed on AS flight segments:
   a. for the sole purpose of passenger service,
   b. pursuant to the Alaska marketing agreement,
   c. under a prorate agreement, and
   d. consistent with the terms of ***Section 1 O.***
2. The DL code will not be placed on AS flight segments between Delta hubs whether or not a Delta hub is also an Alaska hub.
3. The DL code will not be placed on AS flight segments to or from a Delta hub.
   Exception one: The DL code may be placed on AS flight segments to or from LAX, subject to ***Section 1 O. 2.*** Any such flight segments between LAX and an Alaska hub will be included in the calculations in ***Section 1 O. 3. Exception two***.
   Exception two: The DL code may be placed on AS hub to hub flight segments, provided that the following limitations are satisfied (measured at the end of each month on a rolling 12 month average):
   a. the ratio of the aggregate number of scheduled hub to hub flight segments of DL bearing an AS code, to the aggregate number of scheduled hub to hub flight segments of AS bearing a DL code, must equal or exceed 4.0, and
   b. the ratio of the aggregate number of scheduled hub to hub flight segments of Delta bearing an AS code, to the aggregate number of scheduled hub to hub flight segments of Alaska bearing a DL code, must equal or exceed 4.0.

   Note: Each requirement in ***Section 1 O. 3. Exception two a.*** and ***b.*** will be satisfied if, with respect to such requirement, the number of scheduled flight segments of Delta or DL, as applicable, bearing the AS code, as applicable, is no more than two average daily scheduled flight segments below the minimum number of such flight segments specified by such requirement. It is understood that "average daily scheduled flight segments" will be computed with respect to the applicable rolling time period.
4. In the absence of consent of the MEC Chairman, Delta will remove its code from AS flight segments between the State of Alaska and the mainland United States in a bid period immediately following a period of twelve consecutive bid periods in which the total number of scheduled Delta flight segments between the State of Alaska and the mainland United States was less than 1419. The Company will be excused from

compliance with ***Section 1 O. 4.*** if the cause for such non-compliance was a "circumstance over which the Company does not have control" as defined in ***Section 1 B. 9***.

5. With respect to flight segments of AS in a city pair, no more than:
   a. 50% of the passenger seats may be occupied by passengers traveling under the DL code in any month, or
   b. a monthly average of 86 passenger seats may be occupied by passengers traveling under the DL code per flight segment.
6. Reserved.
7. Delta will not purchase or reserve seats on AS on a block space basis (i.e., on the basis of the purchase or reservation by Delta of a block of seats on aircraft operated by AS, at a contractually agreed price, that are then available for resale by Delta to its customers).
8. If Delta is in breach of any of the limitations on hub to hub (***Section 1 O. 3.***) flight segments the following will apply:
   a. Delta may cure any such breach within 60 days of the date of written notification from the MEC Chairman to the Company of such breach by:
      1) removing the DL code from, as applicable, AS or Alaska flight segment(s), and/or
      2) increasing the number of DL or Delta, as applicable, flight segment(s) bearing the AS code, as applicable.
   b. Delta may defer the cure of any such breach for up to 90 days beyond such 60 day period if the cause of such breach was a "circumstance over which the Company does not have control", as defined in ***Section 1 B. 9.***
9. Consolidation
   a. If Delta or Alaska acquires an air carrier and integrates that air carrier so as to form a single carrier, the applicable limitations and parameters in ***Section 1 O.*** will be adjusted to include the increase in scheduled flight segments that result from the acquisition and integration of the acquired air carrier.
   b. The Association will have the right to terminate ***Section 1 O.*** upon 60 days written notice to the Company, if Alaska, without the prior written approval of the Association, acquires control of Delta, either directly or through another individual, entity or trust, or as part of a group.
10. There will be no direct or indirect transfer to AS of any aircraft owned, leased, operated or on order or option by or on behalf of Delta or an affiliate, other than in the normal course of business (e.g., lease returns or sale of aircraft, orders or options on arm's length market terms).
11. Delta will maintain a separate operating and corporate identity from Alaska, including, but not limited to, name, trade name, logo, livery, trademarks or service marks, but permitting (in addition to the separate name, trade name, logo, livery, trademarks or service marks) the use of designator codes, frequent flyer program information, and other name, trademarks, trade name, logo, livery or service marks that reflect the alliance relationship. The foregoing will not preclude Delta from acquiring and integrating Alaska under ***Section 1 D. 8.***, but will apply until the closing date of any corporate transaction pursuant to which Delta or any affiliate acquires control of Alaska.
12. To the extent that any of the terms of ***Section 1 O.*** are inconsistent with any of the terms of the Alaska marketing agreement, the terms of ***Section 1 O.*** will take precedence and will remain in full force and effect. Delta will not be excused from compliance with any

of the terms of ***Section 1 O.*** based on its obligations under the Alaska marketing agreement.

13. Amendments to the Alaska marketing agreement
    a. No amendment to the Alaska marketing agreement (other than a termination) that constitutes a material change will be made without the written consent of the Delta MEC Chairman.
    b. A copy of each amendment to the Alaska marketing agreement will be promptly delivered to the office of the Delta MEC Chairman. A copy of each such amendment that affects a codeshare or prorate term or condition will be delivered to the office of the Delta MEC Chairman, for his review and comment, at least 30 days prior to implementation.
        1) If the Delta MEC Chairman believes that the amendment is a material change, he may dispute such amendment by submitting a grievance to the Company for expedited determination under ***Section 1 M.*** To be valid, such grievance must be so submitted within 30 days of the date of delivery of the amendment to the office of the Delta MEC Chairman.
        2) If the System Board of Adjustment determines that the amendment is a material change, then at the written request of the Delta MEC Chairman, Delta will cancel or void the disputed amendment to the Alaska marketing agreement and will take all other action necessary to restore the status quo that existed prior to such amendment within 30 days of receipt of such written request by the Company. In addition, the System Board may award such other and further relief as appropriate to provide a make-whole remedy to pilots harmed by such material change.
        3) If Delta does not comply with such request within such 30 day period, the Delta MEC Chairman will have the right to terminate ***Section 1 O.*** upon 60 days advance written notice to the Company.
14. Termination
    a. In the event that the Alaska marketing agreement is terminated in whole, for any reason, Delta and the MEC Chairman, each, will have the right to declare ***Section 1 O.*** null and void upon 30 days advance written notice to the other.
    b. If Delta or Alaska serves a notice of termination of its participation in the Alaska marketing agreement, and such notice of termination of participation is accepted by the other party, the Delta MEC Chairman will have the right to terminate ***Section 1 O.*** upon 60 days advance written notice to the Company, with such termination to be effective upon the date of termination of such party's participation in the Alaska marketing agreement.
15. Rulings of Government Authority
    If, as a result of any action or rulings of any governmental authority, or in response thereto, any amendment that is a material change is required to be made to the Alaska marketing agreement, and is made without the written consent of the Delta MEC Chairman, then the Delta MEC will have the right to terminate ***Section 1 O.*** upon 60 days advance written notice to the Company.
16. Labor Disputes
    a. There will be no increased use of the DL code (i.e., an increase over and above that which was loaded in Deltamatic in the 90 day period prior to the commencement of the cooling off period) by AS during a cooling off period (under Sections 5, 6 or 10 of

the Railway Labor Act) applicable to Delta pilots. In the event of a lawful primary strike against Delta by the Delta pilots, the DL code will not be used by AS at any time during such strike.

b. There will be no payments other than those payments occurring during the ordinary course of business to Delta from AS during a cooling off period (under Sections 5, 6 or 10 of the Railway Labor Act) applicable to Delta pilots or a lawful strike by Delta pilots.

c. No airman trained by AS in the prior 12 months will be hired to serve as a Delta pilot during a cooling off period (under Sections 5, 6 or 10 of the Railway Labor Act) applicable to Delta pilots or a lawful strike by Delta pilots.

Note: For ease of reading in ***Section 1. O. 16.,*** the defined term "pilot" is modified by the word "Delta." Such modification does not change the meaning of the defined term "pilot."

17. The provisions of ***Section 1 O. 13. – 16.*** will be effective in all respects without regard to whether the parties are then engaged in collective bargaining pursuant to Section 6 of the Railway Labor Act. Delta expressly waives any and all rights whatsoever to argue that the Association's rights under these provisions or exercise of such rights should be affected in any way by virtue of the status quo provisions of the Railway Labor Act.
18. Transactions between Delta and AS will be at arm's length (as would be conducted by independent, unaffiliated parties).

P. Delta / Air France Joint Venture

1. Delta and Air France are partners in a series of agreements establishing a long-term alliance between them, linking their route networks and enabling them to market globally integrated air transportation services. The U.S. Department of Transportation has granted certain of these agreements immunity from the U.S. antitrust laws, subject to certain conditions, to facilitate the integration of the DL and AF route networks.
   a. "Air France joint venture" or "AF JV" means the business relationship between Delta and Air France in which the costs and revenues of international flights within the AF JV are shared between or among the air carrier partners, as typified by the business relationship between Air France and Delta that is embodied in the AF JV agreement.
   b. "Air France JV agreement" or "AF JV agreement" means the Transatlantic Joint Venture Agreement Between Delta Air Lines, Inc. and Societe Air France in effect on the date of signing of that agreement.
   c. "Summer season" means the International Air Transport Association summer season (which currently begins on the last Saturday in March and ends on the last Saturday in October).
      Exception: For the first measurement period following full implementation, the summer season will begin on April 1, 2010 and end November 4, 2010.
2. A transition leading to full implementation of the AF JV is anticipated to commence on or about April 1, 2008, and end on or about March 31, 2010. Full implementation of the AF JV will commence on or about April 1, 2010. Should the dates specified for transition or full implementation change, the Company will advise the Association and meet and confer with the Association, as soon as possible.

3. Each party's economic share of the AF JV will be determined in accordance with the formula delineated in the AF JV agreement.
4. The amount of flying subject to the AF JV flown by each partner will be determined from a summer season baseline period commencing in the summer season immediately preceding the full implementation date. All growth ASMs flown above the baseline figure by the partners will be aggregated and shared between the partners on a 50/50 basis, subject to ***Section 1 P. 5.***
5. Compliance will be measured for each summer season period, commencing at the end of the first summer season following full implementation. If the Company's share of the AF JV growth ASMs above the baseline is at least 47% for the applicable summer season period, the Company will be deemed in compliance with the growth ASM measurement.
6. If the Company is not in compliance with the growth ASM measurement for any summer season measurement period, the Company may cure any such breach by (within 90 days after the date of written notification from the MEC Chairman to the Company of such breach) increasing the number of Delta growth ASMs or decreasing the number of AF growth ASMs at the beginning of the next summer season.
7. Labor Disputes
    a. There will be no increased use of the DL code (i.e., an increase over and above that which was loaded in Deltamatic in the 90-day period prior to the commencement of the cooling off period) by AF during a cooling off period (under Section 5, 6 or 10 of the Railway Labor Act) applicable to Delta pilots. In the event of a lawful primary strike against Delta by the Delta pilots, the DL code will not be used by AF at any time during such strike.
    b. There will be no payments other than those payments occurring during the ordinary course of business to Delta from AF or during a cooling off period (under Section 5, 6 or 10 of the Railway Labor Act) applicable to Delta pilots or a lawful strike by Delta pilots.
    c. No airman trained by AF in the prior 12 months will be hired to serve as a Delta pilot during a cooling off period (under Section 5, 6 or 10 of the Railway Labor Act) applicable to Delta pilots or a lawful strike by Delta pilots.
    d. There will be no increased use of the AF code (i.e., an increase over and above that which was loaded in Deltamatic in the 90-day period prior to the commencement of the strike) by Delta during a lawful strike by the AF airmen.
    e. Without the consent of the Delta MEC Chairman, there will be no increase of gauge on any Delta route which carries the AF code (i.e., an increase over and above that which was loaded in Deltamatic in the 90-day period prior to the commencement of the strike) during a lawful strike by the AF airmen.
8. The Company will review with the Association the Company's plans for consolidating the AF JV agreement and the KLM JV agreement into a new consolidated alliance agreement. Before a new consolidated alliance agreement is finalized, the parties will meet for the purposes of negotiating terms applicable to such alliance agreement.

Q. Permitted Arrangements Pursuant to the Hawaiian Marketing Agreement

1. ***Section 1 C.*** will not apply to flying performed by Hawaiian under the DL code provided that the DL code may only be placed on Hawaiian flight segments:

a. for the sole purpose of passenger service, and
b. pursuant to the Hawaiian marketing agreement, and
c. within the state of Hawaii, and
d. under a prorate agreement, and
e. consistent with the terms of ***Section 1 Q.***

2. Delta will not purchase or reserve seats on HA on a block space basis (i.e., on the basis of the purchase or reservation by Delta of a block of seats on aircraft operated by HA, at a contractually agreed price, that are then available for resale by Delta to its customers).
3. The Association will have the right to terminate ***Section 1 Q.*** upon 60 days written notice to the Company, if Hawaiian, without the prior written approval of the Association, acquires control of Delta, either directly or through another individual, entity or trust, or as part of a group.
4. There will be no direct or indirect transfer to Hawaiian of any aircraft owned, leased, operated or on order or option by or on behalf of Delta or an affiliate, other than in the normal course of business (e.g., lease returns or sale of aircraft, orders or options on arm's length market terms).
5. Delta will maintain a separate operating and corporate identity from Hawaiian, including, but not limited to, name, trade name, logo, livery, trademarks or service marks, but permitting (in addition to the separate name, trade name, logo, livery, trademarks or service marks) the use of designator codes, frequent flyer program information, and other name, trademarks, trade name, logo, livery or service marks that reflect the alliance relationship. The foregoing will not preclude Delta from acquiring and integrating Hawaiian in accordance with ***Section 1 D. 8.***, but will apply until the closing date of any corporate transaction pursuant to which Delta or any affiliate acquires control of Hawaiian.
6. To the extent that any of the terms of ***Section 1 Q.*** are inconsistent with any of the terms of the Hawaiian marketing agreement, the terms of ***Section 1 Q.*** will take precedence and will remain in full force and effect. Delta will not be excused from compliance with any of the terms of ***Section 1 Q.*** based on its obligations under the Hawaiian marketing agreement.
7. Amendments to the Hawaiian marketing agreement
   a. No amendment to the Hawaiian marketing agreement (other than a termination) that constitutes a material change will be made without the written consent of the Delta MEC Chairman.
   b. A copy of each amendment to the Hawaiian marketing agreement will be promptly delivered to the office of the Delta MEC Chairman. A copy of each such amendment that affects a codeshare or prorate term or condition will be delivered to the office of the Delta MEC Chairman, for his review and comment, at least 30 days prior to implementation.
      1) If the Delta MEC Chairman believes that the amendment is a material change, he may dispute such amendment by submitting a grievance to the Company for expedited determination under ***Section 1 M.*** To be valid, such grievance must be so submitted within 30 days of the date of delivery of the amendment to the office of the Delta MEC Chairman.
      2) If the System Board of Adjustment determines that the amendment is a material change, then at the written request of the Delta MEC Chairman, Delta will cancel

or void the disputed amendment to the Hawaiian marketing agreement and will take all other action necessary to restore the status quo that existed prior to such amendment within 30 days of receipt of such written request by the Company. In addition, the System Board may award such other and further relief as appropriate to provide a make-whole remedy to pilots harmed by such material change.

3) If Delta does not comply with such request within such 30 day period, the Delta MEC Chairman will have the right to terminate ***Section 1 Q.*** upon 60 days advance written notice to the Company.

8. Termination

a. In the event that the Hawaiian marketing agreement is terminated in whole, for any reason, Delta and the MEC Chairman, each, will have the right to declare ***Section 1 Q.*** null and void upon 30 days advance written notice to the other.

b. If Delta or Hawaiian serves a notice of termination of its participation in the Alaska marketing agreement, and such notice of termination of participation is accepted by the other party, the Delta MEC Chairman will have the right to terminate ***Section 1 Q.*** upon 60 days advance written notice to the Company, with such termination to be effective upon the date of termination of such party's participation in the Hawaiian marketing agreement.

9. Rulings of Government Authority

If, as a result of any action or rulings of any governmental authority, or in response thereto, any amendment that is a material change is required to be made to the Hawaiian marketing agreement, and is made without the written consent of the Delta MEC Chairman, then the Delta MEC will have the right to terminate ***Section 1 Q.*** upon 60 days advance written notice to the Company.

10. Labor Disputes

a. There will be no increased use of the DL code (i.e., an increase over and above that which was loaded in Deltamatic in the 90 day period prior to the commencement of the cooling off period) by Hawaiian during a cooling off period (under Sections 5, 6 or 10 of the Railway Labor Act) applicable to Delta pilots. In the event of a lawful primary strike against Delta by the Delta pilots, the DL code will not be used by Hawaiian at any time during such strike.

b. There will be no payments other than those payments occurring during the ordinary course of business to Delta from Hawaiian during a cooling off period (under Sections 5, 6 or 10 of the Railway Labor Act) applicable to Delta pilots or a lawful strike by Delta pilots.

c. No airman trained by Hawaiian in the prior 12 months will be hired to serve as a Delta pilot during a cooling off period (under Sections 5, 6 or 10 of the Railway Labor Act) applicable to Delta pilots or a lawful strike by Delta pilots.

Note: For ease of reading in ***Section 1. Q. 9.,*** the defined term "pilot" is modified by the word "Delta." Such modification does not change the meaning of the defined term "pilot."

11. The provisions of ***Section 1 Q. 6. – 9.*** will be effective in all respects without regard to whether the parties are then engaged in collective bargaining pursuant to Section 6 of the Railway Labor Act. Delta expressly waives any and all rights whatsoever to argue that the Association's rights under these provisions or exercise of such rights should be affected in any way by virtue of the status quo provisions of the Railway Labor Act.

12. Transactions between Delta and Hawaiian will be at arm's length (as would be conducted by independent, unaffiliated parties).

APA Exhibit 504

Excerpt from United Pilot Collective Bargaining Agreement.

Section 1

Recognition, Scope and Career Security

1-A Recognition

The Air Line Pilots Association, International (the ''Association''), has furnished the Company evidence that a majority of the airline pilots employed by the Company have designated the Association to represent them and in their behalf negotiate and conclude an agreement with the Company as to hours of labor, wages and other employment conditions covering the pilots in the employ of the Company in accordance with the provisions of Title II of the Railway Labor Act, as amended and the certification issued by the National Mediation Board in Case No. R-3463.

1-B SCOPE

The pilots on the Pilots' System Seniority List (the "United Pilots") shall have the sole and exclusive right to perform and be trained to perform Company Flying and operate Company Aircraft in accordance with the terms and conditions of this agreement or any other applicable agreement or agreements between the Company and the Association (together, the "Agreement").

1-B-1 Company Flying

Except as provided in paragraph 1-B-2, ''Company Flying'' includes without limitation all commercial flight operations of any sort whatsoever, whether revenue, nonrevenue, scheduled or unscheduled, conducted (i) by the Company or a Company Affiliate, or (ii) by the Company or a Company Affiliate for other air carriers, or (iii) by an Entity managed by or under the Control of the Company or a Company Affiliate, or (iv) by an Entity in which the Company or a Company Affiliate owns any Equity.

1-B-2 Exceptions to Company Flying

Company Flying does not include flight operations that are (i) normally performed by the Company's engineering and test pilots (other than ferry flights that are not diagnostic test flights) or (ii) conducted by a Feeder Carrier pursuant to paragraph 1-C-1 below, or (iii) conducted by a Domestic Air Carrier pursuant to paragraph 1-C-2 below, or (iv) conducted by a Foreign Air Carrier pursuant to paragraph 1-C-3 below

(including Foreign Air Carriers that are subject to paragraph 1-C-3-c below), or (v) conducted by an Air Carrier Purchaser during the operations following a Successorship Transaction but before an Operational Merger that are subject to paragraph 1-D below, or (vi) conducted by any other air carrier in accordance with an Industry Standard Interline Agreement.

1-B-3 Pilot Training

Neither the Company nor a Company Affiliate shall enter into any agreement or arrangement with any person who is not employed by the Company to conduct or supervise United pilot training or to utilize United training facilities to train other pilots, including without limitation all United pilot training historically performed at the Pilot Training Center, except that the Company may:

1-B-3-a Use retired or disability retired United pilots who perform the present duties of a flight technical instructor in the Pilot Training Center as consultants to the Company while under the Company's supervision;

1-B-3-b Permit aircraft manufacturers or other qualified organizations to conduct initial training of United flight training personnel on new aircraft equipment types;

1-B-3-c Sell its training services to third parties using United pilot instructors who are working as independent contractors on their days off;

1-B-3-d Dry lease training assets to another airline to perform training for its pilots.

1-C PERMITTED CODE SHARING, MARKETING, OWNERSHIP AND OTHER ARRANGEMENTS

1-C-1 Feeder Flying

The Company or a Company Affiliate may enter into code sharing with Feeder Carriers in conformance with the provisions of this paragraph 1-C-1. The Company or a Company Affiliate may create, acquire, Control, manage, take an Equity interest in, enter into code sharing arrangements with, or sell, lease or transfer aircraft to Feeder Carriers that comply with the provisions of this paragraph 1-C-1 below, without the flight operations of such air carrier being considered Company Flying or the aircraft of such air carrier being considered Company Aircraft.

1-C-1-a Key Cities

1-C-1-a-(1) A Feeder Carrier shall not operate a Feeder Flying Non-Stop between current or future Company Key Cities unless the Company demonstrates that a Company Round Trip operating in that Market instead of the Feeder Flying Round Trip would not pass the BIRR Test.

1-C-1-a-(2) As an exception to the foregoing, Feeder Carriers may operate in the IAD-LGA, IAD-EWR, and IAD-JFK Markets.

1-C-1-b Connecting Operations

Feeder Carriers as a group shall schedule at least ninety percent (90%) of their Feeder Flying Non-Stops into or out of the following airports: IAD, DCA, MIA, LGA, EWR, JFK, ORD, DEN, LAX, SFO, SEA, BOS, PDX, PHX, LAS, SJC, SAN, any airport within thirty miles of any of the foregoing, and any other airport that the parties later agree to add to this list. Up to five percent (5%) of Feeder Flying flights may be applied toward satisfying this requirement even if such flights include multiple stops, as long as such flights (i) originate or terminate at one of the foregoing airports, (ii) maintain a single flight number on a single aircraft for all the legs of such flight to or from such airport, and (iii) operate with scheduled intermediate stops of less than two (2) hours.

1-C-1-c Feeder Flying on Company Routes

1-C-1-c-(1) A Feeder Carrier shall not initiate a new scheduled Feeder Flying Round Trip in any Market operated by the Company at any time in the preceding twenty-four (24) months, unless the Company demonstrates that a Company Round Trip that may be initiated in the Market instead of the Feeder Flying Round Trip would not pass the BIRR Test.

1-C-1-c-(2) The Company shall not remove a scheduled Company Round Trip from any Market served by Feeder Flying unless the Company demonstrates that the Round Trip to be removed would not pass the BIRR Test in the absence of a Feeder Flying Round Trip scheduled to depart within thirty (30) minutes of the Company Round Trip.

1-C-1-d Number of Block Hours of Feeder Flying

In each calendar year, the number of scheduled block hours of Feeder Flying may not exceed the number of scheduled block hours of Company Flying.

1-C-1-e Feeder Carrier Branding

1-C-1-e-(1) Feeder Carriers may not conduct commercial flight operations under the name United Airlines or other names used by the Company except as provided in subparagraph 1-C-1-e-(2) below.

1-C-1-e-(2) Aircraft operated in Feeder Flying may bear the Company's logo or aircraft livery only if such aircraft bear the name United Express or similar name connoting a connection with United Airlines (other than the name United Airlines or other name used by the Company).

1-C-1-f Feeder Carrier Operation of Small Jets Larger than 50 Seats

A Feeder Carrier may perform Feeder Flying operating Small Jets with a certificated seating capacity in excess of fifty (50) seats if it also provides job opportunities to furloughed United Pilots in accordance with Letter of Agreement 03-22.

1-C-2 Other Domestic Code Sharing Agreements.

In addition to the code sharing permitted by LOA 03-06 (US Airways Code Share), the Company may enter into or maintain code sharing with Domestic Air Carriers ("Domestic Code Sharing Agreements") that permit such carriers ("Domestic Air Carrier Associates") to apply the Company's designator code to their operations. Prior to entering into such agreements the Company will meet and confer with the Association regarding the appropriateness of any labor terms relative to the particular circumstances of any proposed code share agreement. Following such discussions, the Company will negotiate with the prospective partner any labor protections that it deems appropriate to the circumstances consistent with its business judgment, which shall include a commitment to negotiate as much reciprocal code share as reasonably possible, subject however, to a reduction for circumstances and/or limitations that are beyond the Company's control.

1-C-3 International Code Sharing Agreements

In addition to the code sharing contained in any of the Company's agreements on the effective date of this Agreement, the Company may enter into or maintain code sharing agreements with Foreign Air Carriers (''International Code Sharing Agreements'') that permit such carriers to utilize the Company's designator code with the Company on such carriers' flight operations between the United States and

Territories and foreign points or between two foreign points ("International Flying"). Prior to entering into such agreements the Company will meet and confer with the Association regarding the appropriateness of any labor terms relative to the particular circumstances of any proposed code share agreement. Following such discussions, the Company will negotiate with the prospective partner any labor protections that it deems appropriate to the circumstances consistent with its business judgment, which shall include a commitment to negotiate as much reciprocal code share as reasonably possible, subject however, to a reduction for circumstances and/or limitations that are beyond the Company's control.

1-C-3-a Protection Against Reduction of Company Flights.

The Company shall not remove a scheduled Company Non-Stop from a Joint International Non-Stop Market unless the Company demonstrates that the Company Non-Stop to be removed does not pass the BIRR Test.

1-C-3-b Cabotage

The Company will join the Association in strongly opposing any changes in U.S. law that would permit Foreign Air Carriers to engage in cabotage. However, if cabotage is permitted, the Company shall not be prohibited from code sharing with any Foreign Air Carrier code share partner who engages in it.

1-C-3-c Acquisition of Equity of Foreign Air Carriers.

The Company or a Company Affiliate may acquire up to 50% of the Equity of any Foreign Air Carrier that is a member of the Star Alliance or any successor multi-airline network (the "Network") or of any other Foreign Air Carrier that, as a condition of such investment, commits within six months of the investment to become a member of the Network, without such investment by itself causing the flight operations of such air carrier to be considered Company Flying, the aircraft of such air carrier to be considered Company Aircraft or such Entity to be considered a Company Affiliate. However, the Company or its Affiliate, as the case may be, shall sell its Equity in a Foreign Air Carrier as soon as practicable if that Foreign Air Carrier ceases to be a member of the Network, or fails to become a member of the Network within eighteen months of the commitment to do so.

1-C-4 Code Sharing Agreements -General

Except as provided in paragraphs 1-C-1, 1-C-2, and 1-C-3 above, neither the Company nor a Company Affiliate shall enter into any agreement or arrangement that permits any other air carrier to conduct commercial flight operations under any designator code currently or in the future used by the Company or a Company Affiliate.

1-C-5 Block Space.

The Company may enter into block space arrangements with other carriers (i.e., the advance purchase or reservation of blocks of seats on other carriers for resale by the Company) only:

1-C-5-a On flights which carry the Company's designator code pursuant to paragraphs 1-C-1, 1-C-2 and 1-C-3 above;

1-C-5-b On a limited number of occasions where United Vacations or Mileage Plus from time to time purchases block seats in order to provide connecting service as part of group vacation packages where such service or seats on such service are not available from the Company; or

1-C-5-c On other occasions, limited in number and consistent with the Company's limited practices as of the date of this Agreement, where the Company from time to time purchases seats for connecting passengers over routes on which the Company does not maintain operating authority.

1-D SUCCESSORSHIP

1-D-1 Successorship Transactions

The Company and its Parent shall require any successor, assign, assignee, transferee, administrator, executor and/or trustee of the Company or of a Parent (a ''Successor'') resulting from the transfer (in a single transaction or in multistep transactions) to the Successor of the ownership of fifty percent (50%) or more of the Equity of the Company or Parent or fifty percent (50%) or more of the value of the assets of the Company (for the purpose of this paragraph, including the Low Cost Operation ("LCO") as described in Section 2-Y whether or not such operation is in a subsidiary of UAL or UA or contained within UA) (a ''Successorship Transaction''), to employ or cause the Company to continue to employ the United Pilots in accordance with the provisions of the Agreement and to assume and be bound by the Agreement, provided that, in order for a Successor to be required to employ or to cause the Company to continue to

employ any of the United Pilots in accordance with the provisions of the Agreement at any air carrier other than the Company, the Successor must be engaged in the operation of an air carrier; however, if the Successorship transaction is for less than all or substantially all of the Equity of the Company or a Parent, or assets of the Company (as defined above), paragraph 1-F-1, providing for minimum block hours, shall be modified and/or prorated to correspond to the size of the Company airline operations disposed of to the Successor and the size of the Company airline operations retained by the Company.

1-D-2 Successorship Agreements.

The Company and its Parent shall not consummate a Successorship Transaction unless the Successor agrees in writing, as an irrevocable condition of the Successorship Transaction, to assume and be bound by the Agreement, to recognize the Association as the representative of the Successor's pilots, and to guarantee that the pilots on the United Pilots' System Seniority List will be employed by the Successor in accordance with the provisions of the Agreement.

1-D-3 Air Carrier Successors.

In the event of a Successorship Transaction in which the Successor is an air carrier or Entity that Controls or is under the Control of an air carrier, the Successor shall provide the Company's pilots with the seniority integration rights provided in Sections 2, 3, and 13 of the Labor Protective Provisions specified by the Civil Aeronautics Merger Board in the Allegheny-Mohawk merger (''Allegheny-Mohawk LPPs''), except that the integration of the seniority lists of the respective pilot groups shall be governed by Association Merger Policy if both pre-transaction pilot groups are represented by the Association.

1-D-4 Competing Proposal

In the event the Company or its Parent receives a proposal (a ''Proposal'') for a transaction which would result in a Successor if completed, and the Company or its Parent determines to pursue or facilitate the Proposal, the Company or its Parent will in good faith seek to provide the Association with the opportunity to make a competing Proposal at such time and under such circumstances as the Board of Directors of UAL or the Company reasonably determines to be consistent with its or their fiduciary duties.

1-D-5 If the acquiring Entity in a Successorship Transaction is an air carrier or an Entity that Controls an air carrier ("Air Carrier Purchaser"), the flight operations of the Company and Air Carrier Purchaser shall be integrated but shall first remain separate until the implementation of an integrated seniority list pursuant to paragraph 1-D-3 above and a single collective bargaining agreement (the "Operational Merger Date").

1-E OTHER LABOR PROTECTIVE PROVISIONS

If the Company (for the purpose of this paragraph, including the Low Cost Operation ("LCO") as described in Section 2-Y whether or not such operation is in a subsidiary of UAL or UA or contained within UA) disposes of or transfers to an air carrier (the "Transferee") (by sale, lease or other transaction, whether directly or indirectly through an Affiliate of the Transferee) aircraft or route authority which produced twenty percent (20%) or more of the Company's operating revenues, block hours, or ASMs during the twelve (12) months immediately prior to the date of the agreement to transfer such aircraft or route authority (the "Transaction Date"), net of revenues, block hours or ASMs that are produced by aircraft or route authority that were placed into service during the same period (any such transfer, a ''Substantial Asset Sale''), then:

1-E-1 Offer of Employment to United Pilots.

The Company shall require the Transferee to offer pilot employment to eligible United Pilots. The eligibility criteria shall be determined by agreement between the Company and the Association and shall be reasonably related to the assets transferred, the interests of the United Pilots and the Company, and the nature and timing of the transaction among other issues. If the Association and the Company are unable to agree upon eligibility criteria that are consistent with the foregoing considerations, the System Board of Adjustment shall determine such eligibility criteria pursuant to the expedited procedures set forth in paragraph 1-J-1 below (the ''Transferring Pilots''). The number of pilot employment opportunities for Transferring Pilots shall be, as measured in the twelve (12) months prior to the Transaction Date, the sum of (i) the average monthly pilot staffing actually utilized in the operation of the aircraft transferred to the Transferee in connection with the Substantial Asset Sale plus (ii) the average monthly pilot staffing actually utilized in the operation of the route authority transferred to the Transferee in connection with the Substantial Asset Sale to the extent such pilot staffing is not included in the calculation of clause

(i) above. Offers of employment that are rejected by a United Pilot shall in turn be offered to other United Pilots under the eligibility criteria determined under the first sentence of this subparagraph 1, until such opportunities have been exhausted.

1-E-2 Seniority Integration.

The Company shall require the Transferee to provide the Transferring Pilots with the seniority integration rights provided in Sections 2, 3, and 13 of the Allegheny-Mohawk LPPs except that the integration of the Transferring Pilots into the Transferee's seniority list shall be governed by Association Merger Policy if both pre-transaction pilot groups are represented by the Association. The Company shall require each Transferee to provide the seniority integration rights specified in the preceding sentence in connection with a Substantial Asset Sale in a written document enforceable against the Transferee by the Association and/or the Transferring Pilots.

1-E-3 The Section of the Agreement providing for minimum block hours shall be modified and/or prorated to correspond to the size of the Company airline operations following the transfer to a Transferee who offers the United Pilots the transfer rights in paragraphs 1-E-1 and 1-E-2 above.

1-F SCHEDULED BLOCK HOURS

1-F-1 Block Hours Guarantee

The Company shall schedule no fewer than the following specified number of block hours of Company Flying during the term of this Agreement: 1.689 million hours.

1-F-2 Changed Circumstances

The following will govern the Company's obligations under this Section 1-F in the event the Company experiences changed economic circumstances beyond the Company's control:

1-F-2-a Substantial Economic Change

The block hour guarantee in paragraph 1-F-1 is based on an assumed annual Operating Margin of 8.1%. If the Operating Margin is forecast for the current calendar year to fall below 8.1% or, commencing January 1, 2008, actually fell below 8.1% for the prior calendar year, then the new block hour guarantee beginning with the then-current calendar year shall be the lesser of (x) the previous block hour guarantee and (y) 1.689 million hours

less 1% of the 1.689 million hours for each percentage point or partial percentage point by which the Operating Margin was projected to or did fall below 8.1%. The Company will make forecasts under this paragraph in good faith and will provide to the Association reasonable supporting documentation and access to the Company's personnel relevant to the forecast. A forecast under this paragraph must be generated in the ordinary course of business and adjusted only to satisfy the definition of Operating Margin included in this section. The Company can request relief based on one forecast, however, the relief becomes permanent based on the higher Operating Margin of two consecutive forecasts.

1-F-2-b Circumstances beyond the Company's Control

In addition to the Company's ability to reduce flight operations under the terms and conditions described in paragraph 1-F-2-a (Substantial Economic Change), the commitments and protections described in paragraph 1-F-1 (Block Hours Guarantee) above may be modified if and only to the extent that the Company demonstrates that any such modification is a direct result of a circumstance beyond the Company's control. The phrase "circumstance beyond the Company's control" means only a natural disaster, a labor dispute within the Company involving a cessation of work, the grounding of a substantial number of Company Aircraft by a government agency, a reduction in flight operations directly caused by a supplier's inability to provide sufficient aircraft, fuel or other critical materials for the Company's operations, revocation of the Company's operating certificate(s), a declared or undeclared war emergency or terrorist act that causes the Company to cease conducting a substantial portion of its flight operations, compulsion by a domestic or foreign government agency, or court or legislative action. For purposes of clarification, the phrase "circumstance beyond the Company's control" does not include any economic or financial considerations including, but not limited to, the price of fuel, aircraft or other supplies, the cost of labor, the level of revenues, the state of the economy, the financial state of the Company, or the relative profitability or unprofitability of the Company's then-current operations in the absence of the circumstances described in the preceding sentence.

1-G LABOR DISPUTES

1-G-1 The Agreement contains no contractual prohibition whatsoever on the ability of ALPA and the United Pilots to honor lawful picket lines.

1-G-2 ALPA and/or the United Pilots are not prohibited from:

1-G-2-a Refusing to layover at a struck hotel or other struck facility;

1-G-2-b Refusing to deadhead on carriers whose employees are engaged in a lawful strike, as long as alternatives are reasonably available; and

1-G-2-c Engaging in a concerted refusal, called by the Association, to perform pilot work or services on flights where the Company, pursuant to an agreement or arrangement with another air carrier, is performing that air carrier's flying in response to a labor dispute and that air carrier's employees are engaged in a lawful strike.

1-H FOREIGN OWNERSHIP AND DOMICILES

1-H-1 The Company shall continue to be a Domestic Air Carrier subject to the Railway Labor Act, as amended.

1-H-2 The Company shall maintain its world headquarters, executive offices, and offices for senior Flight Operations personnel in the fifty United States.

1-H-3 In the event the Company opens a pilot domicile outside of the United States and Territories, United Pilots assigned to such domicile shall be afforded all rights under this Agreement and the Railway Labor Act.

1-I REVIEW COMMITTEE

1-I-1 A standing committee, consisting of two (2) Association representatives and two (2) Company representatives (plus additional representatives if deemed appropriate by the Association and the Company) (the "Related Carrier Review Committee" or "RCRC") shall be maintained by the parties. The RCRC may establish such subcommittees as it deems appropriate. The RCRC and its subcommittees will meet as often as they deem necessary, but no less than quarterly, in order to implement and monitor compliance with this Section 1.

1-I-2 The Company shall provide the RCRC, on a monthly basis, all information necessary to monitor and enforce the terms and conditions established in Section 1 of the

Agreement. When this information involves proprietary, sensitive or confidential information concerning either the Company or any other carrier, the RCRC will review such information under a confidentiality agreement with the same terms as the confidentiality agreement currently in effect between the Company and the Association with such modifications, if any, as are acceptable to the Association and Company.

1-I-3 The RCRC shall review all new and modified agreements concerning the Company's relationships with other air carriers as governed by this Section 1 in order to ensure compliance with the terms of this Section 1. In reviewing agreements with Feeder Carriers, the RCRC shall make such recommendations to the Company as the RCRC deems appropriate for the purpose of strengthening the Company's contractual relationships with Feeder Carriers and protecting the Company's feed.

1-I-4 The parties will utilize appropriate aspects of the NPDM procedures currently utilized by the System Schedule Committee in connection with a review of the Feeder Carriers aimed at ensuring that all Feeder Carriers maintain the highest possible quality assurance and flight safety programs and provide a product that meets the Company's high quality standards.

1-J REMEDIES

1-J-1 A grievance filed by the Association alleging a violation of Section 1 of the Agreement shall, at the request of either party, bypass the initial steps of the grievance process and shall be submitted and heard on an expedited basis directly before the System Board of Adjustment sitting with a neutral arbitrator. The dispute shall be heard by the System Board of Adjustment no later than fifteen (15) days following the submission of the grievance to the System Board and decided no later than twenty-one (21) days after such submission, unless the parties agree otherwise in writing.

1-J-2 If the System Board decides that the Company has violated any part of Section 1, the System Board will direct the Company to comply with the Agreement and will fashion an appropriate remedy for the harm caused by the Company's failure to comply with the Agreement.

1-K DEFINITIONS

The following definitions shall apply to the capitalized terms in Section 1 of the Agreement:

1-K-1 "Affiliate" of Entity A means, any other Entity which directly or indirectly Controls, is Controlled by or is under common Control with Entity A.

1-K-2 "Base Internal Rate of Return" or "BIRR" means the discount rate at which the net present value of the stream of Cash Flows generated by the Capital Resources measured by the Company's customary methods and time periods, equals zero:

1-K-2-a "Cash Flow" means the after-tax difference between:

1-K-2-a-(1) The actual or reasonably projected revenues generated by operating the applicable Round Trip (including the point to point segment revenues and all beyond revenues not otherwise carried by the Company's flight operations); and

1-K-2-a-(2) The fully allocated expenses incurred to produce those revenues (including the actual or reasonably projected cost of operating the Round Trip and a reasonably allocated portion of the beyond expenses attributable to the applicable Round Trip including flight variable, overhead, ownership and variable beyond traffic costs).

1-K-2-b "Capital Resources" means the assets necessary to operate the Round Trip consisting of the cost of the aircraft and all supporting infrastructure such as gates, slots, ground equipment, spare parts and spare aircraft that are reasonably allocated to the Round Trip.

1-K-2-c When measuring the rate of return of a Round Trip, revenues and costs associated with connecting traffic will be allocated to the Company Round Trip using the established Company prorate method. Further, where appropriate, the revenues and costs for operating the aircraft used in the Round Trip over the course of the aircraft day or international flight cycle as applicable may be utilized as part of determining the Cash Flow for that Round Trip. This would include applying the BIRR Test to a Non-Stop where no Round Trip exists for the operation to be measured.

1-K-3 "Base Internal Rate of Return Test" or "BIRR Test" means a comparison of the BIRR to the Hurdle Rate. If the

BIRR is less than the Hurdle Rate on the operation to be measured, the BIRR Test is failed.

1-K-4 "Company" means United Air Lines, Inc.

1-K-5 "Company Aircraft" includes all aircraft owned or leased by the Company or a Company Affiliate. Company Aircraft do not include aircraft that have been sold, leased or transferred.

1-K-6 "Control": Entity A shall be deemed to ''Control'' Entity B if Entity A, whether directly or indirectly,

1-K-6-a owns securities that constitute, are exercisable for or are exchangeable into thirty (30%) or more of (i) Entity B's outstanding common stock or (ii) securities entitled to vote on the election of directors of Entity B; or otherwise owns thirty percent (30%) or more of the Equity of Entity B; or

1-K-6-b maintains the power, right, or authority--by contract or otherwise--to direct, manage or direct the management of all, or substantially all, of Entity B's operations or provides all or substantially all of the controlling management personnel of Entity B; or

1-K-6-c maintains the power, right or authority to appoint or prevent the appointment of a majority of Entity B's Board of Directors or similar governing body; or

1-K-6-d maintains the power, right or authority to appoint a minority of Entity B's Board of Directors or similar governing body, if such minority maintains the power, right or authority to appoint or remove any of Entity B's executive officers or any committee of Entity B's Board of Directors or similar governing body, to approve a material part of Entity B's business or operating plans or to approve a substantial part of Entity B's debt or equity offerings.

1-K-7 "Domestic Air Carrier" means an Air Carrier as defined in 49 U.S.C. Section 40102(a)(2).

1-K-8 "Entity" means any business form of any kind including without limitation any natural person, corporation, company, unincorporated association, division, partnership, group of Affiliated Entities acting in concert, trustee, trust, receivership, debtor-in-possession, administrator or executor.

1-K-9 "Equity" means: (i) common stock or other securities that carry the right to vote for one or more members of a board of directors or similar governing body, or shares or

interests in a partnership or limited partnership which shares or interests have general voting rights (all of the foregoing being collectively referred to as "Common Equity") and (ii) securities that are then currently or in the future exchangeable into, exercisable for, or convertible into Common Equity.

1-K-10 "Feeder Carrier" means a Domestic Air Carrier that, when engaged in code sharing with the Company:

1-K-10-a Does not operate any aircraft that utilizes an engine with an external propeller ("Turbo/Prop Aircraft") other than Turbo/Prop Aircraft that are certificated for seventy-eight (78) or fewer seats and have a maximum permitted gross takeoff weight of less than seventy-five thousand (75,000) pounds; and

1-K-10-b Does not operate any aircraft that utilizes a turbine-driven engine without an external propeller ("Jet Aircraft"), other than Small Jets.

1-K-11 "Feeder Flying" means flight operations conducted by a Feeder Carrier pursuant to paragraph 1-C-1.

1-K-12 "Foreign Air Carrier" means an air carrier that is not a Domestic Air Carrier.

1-K-13 "Gateway" (used with or without capitalization) means an airport in the United States from which the Company engages in non-stop flights to and from foreign points.

1-K-14 "Key City" means DCA, MIA, LGA, EWR, JFK, and SEA and any other city that is identified as a hub (currently IAD, ORD, DEN, SFO and LAX) in the Company's Annual Report on Form 10-K.

1-K-15 "Hurdle Rate" means the internal rate of return established by the Company for allocating capital resources for airline related expenditures.

1-K-16 "Industry Standard Interline Agreement" means an agreement or other arrangement between two carriers or among three or more carriers, such as the International Air Transport Association's "multilateral Interline Traffic Agreements," establishing rights and obligations relating to the transportation of through passengers and/or through shipments by the party carriers.

1-K-17 "Joint International Non-Stop Market" means a Non-Stop Market in which parties to an International Code Share Agreement may apply their respective designator codes to each other's flight(s).

1-K-18 "Market" means a pair of airports, e.g., ORD-MSP.

1-K-19 "Non-Stop" means a flight in a Market that does not include a scheduled intervening take off and landing.

1-K-20 ''Parent'' refers to UAL Corp. (''UAL'') or any other Entity that has majority control of the Company, whether directly or indirectly, through the majority control of other Entities that have majority control of the Company.

1-K-21 "Round Trip" means a pair of flights to and from one city in a Market to the other, e.g. ORD-STL-ORD.

1-K-22 "Small Jets" means (a) Jet Aircraft that are certificated in the United States of America for seventy (70) or fewer seats and a maximum permitted gross takeoff weight of less than eighty thousand (80,000) pounds and (b) up to eighteen (18) specific aircraft with certificated seating capacity in excess of seventy (70) seats operated by Feeder Carrier Air Wisconsin Airlines Corp. ("AWAC"). These eighteen aircraft are identified as the "AWAC Quota". Currently, the AWAC Quota is filled by BAe-146 aircraft with the following tail numbers: N463AP, N179US, N181US, N183US, N606AW, N607AW, N608AW, N609AW, N610AW, N611AW, N612AW, N614AW, N615AW, N616AW, N290UE, N291UE, N292UE, and N156TR. AWAC may replace any aircraft within the AWAC Quota with: (i) any other BAe-146 or AVRO 85 aircraft each with no more passenger seats than were carried in the actual operation of the replaced aircraft, or (ii) any other aircraft with a maximum certificated seating capacity in the United States of eighty-five (85) seats and a maximum certificated gross takeoff weight in the United States of up to ninety thousand (90,000) pounds.

1-K-23 "United States" when referring to geographical extent means only the States of the United States of America and the District of Columbia.

1-K-24 "United States and Territories" means the United States and its territories and possessions including but not limited to the Commonwealth of Puerto Rico.

1-K-25 For the purposes of paragraph 1-F the following definitions will apply:

1-K-25-a Consolidated UAL Corp Total Operating Revenue - United Airlines and Regional Affiliates passenger revenue, cargo, and other operating revenues

1-K-25-b Consolidated UAL Corp Total Operating Expense - Salaries and related costs, Aircraft fuel, Regional Affiliates expense, Purchased services, Landing

fees and other rent, Depreciation and amortization, Aircraft maintenance, Cost of sales, Aircraft rent, Commissions, and Other operating expenses

1-K-25-c Operating Profit - Consolidated UAL Corp Total Operating Revenue minus Consolidated UAL Corp Total Operating Expense, and excluding: 1) consolidated federal, state and local income tax expense (or credit); 2) unusual, special, or non-recurring charges; 3) charges with respect to the grant, exercise or vesting of equity, securities or options granted to UAL and United employees; 4) expense associated with the profit sharing contributions

1-K-25-d Operating Margin - Operating Profit divided by Consolidated UAL Corp Total Operating Revenue.

US Airways Code Share

LETTER OF AGREEMENT
between
UAL CORPORATION,
UNITED AIR LINES, INC.
and
THE AIR LINE PILOTS
in the service of
UNITED AIR LINES, INC.
as represented by
THE AIR LINE PILOTS ASSOCIATION, INTERNATIONAL

THIS LETTER OF AGREEMENT is made and entered into in accordance with the Railway Labor Act by and between UAL CORPORATION ("UAL"), UNITED AIR LINES, INC. (hereinafter referred to as the "Company") and the AIR LINE PILOTS ASSOCIATION, INTERNATIONAL (hereinafter referred to as "ALPA" or the "Association").

WHEREAS the Company has a code share and marketing relationship with US Airways, Inc. ("US Airways") and US Airways Express carriers (including without limitation the carriers listed on Schedule 1 to this Letter of Agreement) ("USX Carriers") that operate under the US Airways designator code (the "US Code"), or successors to US Airways or USX Carriers, each pursuant to the terms of the commercial agreements between the Company and US Airways listed in Schedule 2 to this Letter of Agreement and future agreements between the Company and USX Carriers (collectively, the "Code Share Agreements");

THEREFORE the parties to this Letter of Agreement hereby agree as follows:

1. Enabling Agreement Notwithstanding changes to Section 1 of the 2003 collective bargaining agreement between the Company and the Association (the "Pilot Agreement"), the parties desire to extend certain terms of Letter 02-11 as restated herein.

2. System Flying The Company shall measure and report the total number of mainline available seat miles ("ASMs") scheduled to be operated by US Airways each month under the UA Code. The Company shall not permit the number of mainline ASMs scheduled to be operated by US Airways under the UA Code to exceed 41% of the mainline ASMs operated by the Company in any rolling twelve-month period.

3. Domestic Flying

a. The Company may permit US Airways to operate domestic, mainline flights under the UA Code other than point-to-point flights between (i) any of IAD, ORD, DEN, SFO or LAX and

(ii) any of the Company's Key Cities or Gateway Cities as defined in Section 1-K of the Pilot Agreement (currently IAD, ORD, DEN, SFO, LAX, MIA, LGA, EWR, JFK, DCA, BOS and SEA).

b. The Company shall measure and report the total number of ASMs scheduled to be operated by US Airways and USX Carriers each month under the UA Code between (i) any of PIT, PHL or CLT and (ii) any of the Company's Key Cities or Gateway Cities. The Company shall not permit the aggregate number of mainline ASMs scheduled to be operated by the Company on such routes to fall below 16.85% of the aggregate number of ASMs scheduled to be operated by US Airways and the USX Carriers under the UA Code on such routes in any rolling twelve-month period.

4. International Flying

a. The Company shall only permit US Airways or the USX Carriers to operate the following international flights under the UA Code:

i. any flights that begin or end in PIT, PHL or CLT; and

ii. any flights on Latin American Routes (i.e., routes to or from the continental United States and any of Mexico, Central America or the Caribbean Islands (including the US Virgin Islands and Puerto Rico)) that begin or end in BOS, DCA or LGA and any USX Carrier flights on Latin American Routes that begin or end in MIA.

b. The Company shall measure and report the total number of mainline ASMs scheduled to be operated by US Airways under the UA Code each month on Transatlantic Routes (i.e., routes between North America and Europe). The Company shall not permit the number of mainline ASMs scheduled to be operated by US Airways under the UA Code on Transatlantic Routes to exceed 42% of the mainline ASMs scheduled to be operated by the Company on Transatlantic Routes in any rolling twelve-month period.

c. The Company shall measure and report the total number of mainline ASMs scheduled to be operated by US Airways under the UA Code each month on Latin American and Transatlantic Routes. The Company shall not permit the number of mainline ASMs scheduled to be operated by US Airways under the UA Code on Latin American Routes to exceed 12.97% of the mainline ASMs scheduled to be operated by the Company on Latin American and Transatlantic Routes in any rolling twelve-month period.

5. USX Flying

a. The Company shall only permit the UA Code to be used on the following USX Carrier flights:

i. any flights to or from PIT, PHL or CLT provided that any such flights that stop at DEN, LAX, SFO,ORD or IAD shall be point-to-point flights from PIT, PHL or CLT and shall not be operated on jet aircraft with a maximum certificated seating capacity in excess of 70 seats;

ii. flights to or from BOS or MIA provided that such flights may not be operated on jet aircraft with a maximum certificated seating capacity in excess of 70 seats, and none of such flights stop at IAD, ORD, DEN, SFO or LAX;

iii. flights to or from LGA, EWR and JFK (collectively, "NYC") provided that (x) such flights may not be operated on jet aircraft operated with a maximum certificated seating

capacity in excess of 70 seats, and no such flights stop at IAD, ORD, DEN, SFO or LAX, and (y) the Company shall not permit the number of ASMs operated by US Airways and USX Carriers to or from NYC under the UA Code to exceed 28.1% of the ASMs operated by the Company to or from NYC; and

iv. flights to or from DCA and BWI provided that (x) such flights may not be operated on jet aircraft operated with a maximum certificated seating capacity in excess of 70 seats, and no such flights stop at IAD, ORD, DEN, SFO or LAX, and (y) the Company shall not permit the number of ASMs operated by US Airways and USX Carriers to or from IAD, DCA and BWI (collectively "WAS") under the UA Code to exceed 21.1% of the ASMs operated by the Company to or from WAS.

b. The Company shall hold each USX Carrier that operates flights under the UA Code to the same safety, operational performance and passenger service standards imposed on United Express carriers (including the annual safety audits of such USX Carriers performed by the Company).

6. Reciprocal Code Share Arrangements

a. The Company shall make commercially reasonable efforts to place the US Code on all of the ASMs operated by the Company within twelve (12) months of the effective date of this Letter of Agreement (the "Phase-In Period"), except to the extent the Company (i) fails to receive required government approval for code sharing on flights despite its best and continuing efforts to obtain such approval; or (ii) is prohibited by the collective bargaining agreement(s) between the Company, US Airways and/or USX Carriers and any of their unions in effect as of the effective date of this Letter of Agreement and (iii) the airport facility, airport authority, or other physical restrictions on airport locations make such implementation impossible or unreasonably expensive in relation to the benefit of the code share at such location.

b. If, after the conclusion of the Phase-In Period, the Company fails to place the US Code on 100% (minus the exclusions provided for in paragraph 6.a above) of the Company ASMs, in any scheduling month, then, for the next scheduling month, the Company shall limit the number of US Airways ASMs operated with the UA Code to a percentage of US Airways ASMs calculated as 105% minus [100% *(A-B) / A], where A is the number of UA ASMs that should have been operated under the US Code and B is the number of UA ASMs actually operated under the US Code. For example, if the Company was required to operate 16 billion ASMs under the US Code in a given month but only operated 14 billion under the US Code during the month, the Company would be required to limit the UA Code to 92.5% of US Airways ASMs -[105% minus (100%*(16-14)/16]. For the purposes of all calculations in this paragraph, all ASMs for both carriers will be net of exclusions in paragraph 6.a. above.

7. Block Space Arrangements The Company will not enter into any block space arrangements (i.e., the advance purchase or reservation of blocks of seats on other carriers for resale by the Company) with US Airways or any USX Carrier.

8. Pro Rate Arrangements The Company shall not engage in any form of revenue sharing, profit sharing, margin sharing, or fee-for-departure arrangements with US Airways or USX Carriers for passengers carried on US Airways or USX Carrier flights other than the form of standard interline remuneration arrangements described in the Code Share Agreements in Schedule 2 to this Letter of Agreement. In addition, without the prior written consent of the Association, the Company shall not adopt any amendment or revision to the Code Share

Agreements or any other agreement with US Airways that materially changes the proration of interline revenue between the Company and US Airways under the Code Share Agreements in a way that provides economic benefits to the Company from passengers carried on flights operated by US Airways or USX Carriers under the UA Code.

9. Equity Arrangements The Company and its Affiliates (as defined in Section 1-K of the Pilot Agreement) will not purchase or acquire any equity securities, debt securities or other capital securities of US Airways or any Affiliate of US Airways (other than the receipt of securities of US Airways or any Affiliate of US Airways in settlement of bona fide bankruptcy claims (excluding any purchased claims) of the Company or any Affiliate of the Company).

10. Separate Marketing Identity; Transactions The Company may conduct joint marketing efforts with US Airways and USX Carriers in support of the Code Share Agreements (including the use of trade names, promotional materials, logos and marks that reflect the code share) but the Company shall nonetheless maintain a primary, separate operating, corporate and marketing identity (including an independent name, trade name, logo, aircraft livery, trademark, livery and service marks). Neither the Company nor any Company Affiliate shall transfer any of the Company's aircraft (owned, lease or under option), international routes, or international route authorities to US Airways or any Affiliate of US Airways.

11. Labor Disputes The Company shall not permit US Airways or any USX Carrier to operate any flight under the UA Code at any time during a lawful strike by the Company's pilots. The Company shall not operate any flight under the US Code during a lawful strike by the pilots of US Airways.

12. Information Sharing The Company shall provide monthly information concerning the Code Share Agreements to the Related Carrier Review Committee under the terms and conditions described in Section 1-K of the Pilot Agreement.

13. Dispute Resolution Disputes under this Letter of Agreement shall be resolved in accordance with Section 1-J of the Pilot Agreement; provided that Company shall be permitted to cure, and shall cure, a breach of Paragraphs 3, 4, 5 and 6 of this Letter of Agreement on the earlier of (i) 30 days after such breach or (ii) the next published schedule change in the Official Airline Guide for which the Company has not yet transmitted its schedule to the OAG.

14. Duration This Letter of Agreement shall become effective upon its execution and shall run concurrently with the Pilot Agreement as described in Section 23-D of the Pilot Agreement; provided, however, that paragraph 11 of this Letter Agreement (Labor Disputes) shall remain in full force and effect unless and until revised in a future written agreement between the Company and the Association irrespective of whether the Company's pilots are engaged in a lawful primary strike under the Railway Labor Act, and the Company hereby waives any claim, right or privilege to change, breach or disregard paragraph 11 under the Railway Labor Act or otherwise; and

Notwithstanding the foregoing, the Company may elect to terminate this Letter of Agreement if (i) the Company decides to no longer apply the UA Code to flights operated by US Airways and USX Carriers, or (ii) the Code Share Agreements are terminated. If this Letter of Agreement is terminated pursuant to this paragraph, it shall become null and void and shall no longer run concurrently with the Pilot Agreement.

IN WITNESS WHEREOF, the parties have signed this Letter of Agreement this 1st day of May, 2003.

Witness:
/s/David Laubhan
David Laubhan

For United Air Lines, Inc.
/s/Peter B. Kain
Peter B. Kain
Vice President-Labor Relations

/s/Charles H. Vanderheiden
Charles H. Vanderheiden
Director of Labor Relations-Flight

/s/Glenn F. Tilton
Chairman & Chief Executive Officer
(also for UAL Corporation)

Witness:
/s/Wendy J. Morse
Wendy J. Morse

/s/Tim D. Brown
Tim D. Brown

/s/Brian J. Graver
Brian J. Graver

For The Air Line Pilots Association
/s/Duane Woerth
Duane Woerth
President

/s/Paul Whiteford
Captain Paul Whiteford, Chairman
United Master Executive Council

/s/Chuck Pierce
Captain C.J.Pierce, Chairman
ALPA Restructuring Committee

SCHEDULE 1

Air Midwest Airlines, Inc.
Allegheny Airlines, Inc.
CCAIR, Inc.
Chautauqua Airlines, Inc.
Colgan Air, Inc.
Mesa Airlines, Inc.
Mid-Atlantic Airlines, Inc.
Midway Airlines, Inc.
Piedmont Airlines, Inc.
PSA Airlines, Inc.
Republic Airlines, Inc.
Shuttle America, Inc.
Trans States Airlines, Inc.

SCHEDULE 2

Code Share and Regulatory Cooperation Agreement
United Mileage Plus and US Airways Carrier Participation Agreement
US Airways Dividend Miles Program and United Air Lines Carrier Participation Agreement
Star Alliance Participation Agreement
Passenger Prorate Agreement
United Air Lines, Inc. and US Airways, Inc. Reciprocal Airport Lounge Agreement

Embraer 170

Captain Paul R. Whiteford, Chairman
UAL-MEC Air Line Pilots Association
6400 Shafer Court, Suite #700
Rosemont, IL 60018

Dear Paul,

In discussions leading up to the 2003 Agreement, the parties agreed that the Embraer 170, certificated to a maximum seating of seventy-eight (78), with a maximum gross takeoff weight of less than eighty-two thousand one hundred (82,100) pounds would be an exception to definition #22 of Section 1 of the 2003 Agreement. The Company further commits that should one or more of our Feeder Carrier partners select this aircraft for operation, it will not be configured for operation with more than seventy (70) seats.

If this letter accurately reflects our agreement, please sign and return two (2) copies for our file.

Sincerely,

/s/Peter B. Kain
Peter B. Kain
Vice President - Labor Relations

Accepted and agreed to this
1st day of May 2003

/s/Paul R. Whiteford
Captain Paul R. Whiteford, Chairman
UAL-MEC Air Line Pilots Association

APA Exhibit 505a

Excerpts from US Airways Agreements.

LETTER OF AGREEMENT

Between

US AIRWAYS, INC.

and

THE AIRLINE PILOTS
in the service of
US AIRWAYS, INC.

as represented by
THE AIR LINE PILOTS ASSOCIATION INTERNATIONAL

CONSOLIDATED SMALL JET AGREEMENT

THIS LETTER OF AGREEMENT is made and entered into in accordance with Title II of the Railway Labor Act, as amended, by and between US Airways, Inc. (hereinafter referred to as the "Company") and the Airline Pilots in the service of US Airways, Inc. as represented by the Air Line Pilots Association (hereinafter referred to as the "Association").

WHEREAS the Association and Company entered into a RESTRUCTURING AGREEMENT effective July 1, 2002, Letter of Agreement #83, ACCELERATED SMALL JETS, Letter of Agreement #84, SUPPLEMENTARY COST REDUCTIONS, and Letter of Agreement #86, ADJUSTMENTS TO RESTRUCTURING AGREEMENTS, and

WHEREAS the above named Agreements all contain language regarding the authority of US Airways to operate Small Jets which utilize the name, designator code, logo, marks or marketing identity used by the Company but are operated by US Airways Express Operators, and

WHEREAS the parties have agreed that it is in their mutual best interest for the Company to have additional flexibility in the deployment of Small Jets in order to maximize the financing options available to the Company, and

WHEREAS the parties have entered into THIS LETTER OF AGREEMENT entitled CONSOLIDATED SMALL JET AGREEMENT in order to consolidate the various Letters of Agreement that pertain to these issues.

NOW THEREFORE the parties mutually agree as follows:

ATTACHMENT A	Miscellaneous Issues (with attachment entitled "Alternative Access Letter")
ATTACHMENT B	Small Jets (master document)
ATTACHMENT B -1	Affected Pilot List (master document)
ATTACHMENT B -2	Authority to Operate MDA
ATTACHMENT B -3	Jets for Jobs Protocol
ATTACHMENT C	Principles to be included in US Airways/PSA Four Party SJ Agreement

This Letter of Agreement shall become effective on the date of signing and shall remain in effect concurrent with the Agreement between the Association and US Airways, Inc., as extended by the Restructuring Agreement effective July 1, 2002.

IN WITNESS WHEREOF, the parties hereto have signed this Letter of Agreement this ___ day of May, 2004.

FOR THE AIR LINE PILOTS ASSOCIATION, INTERNATIONAL

Duane E. Woerth, President

William D. Pollock
MEC Chairman

WITNESS for the Air Line Pilots Association, International

Douglas L. Mowery
Negotiating Committee Chairman

F. Theodore Schott
Negotiating Committee Vice Chairman

John A. Greenhall
Negotiating Committee

FOR US AIRWAYS, INC.

Jerrold A. Glass
Sr. Vice President, Employee Relations

WITNESS for US Airways, Inc.,

Edward W. Bular
Vice President, Flight Operations

Anthony J. Bralich, Jr.
Managing Director, Labor Relations-Flight

John H. McFall
Manager, Labor Relations-Flight

Attachment B to LOA #91
("Consolidated Small Jet Agreement")

Note: Bold type within paragraphs denotes new language. Language moved from other documents (Restructuring Agreement, LOA #83, 84, and 86) is in standard type.

Attachment B

Small Jets

The Agreement will be amended to authorize the operation of Small Jets by US Airways Express operators under the following terms and conditions:

Definitions of Small Jets	• A "Small Jet" will be defined as a jet aircraft that is a Small SJ, Medium SJ, or Large SJ, as defined below. • "Small SJs" are defined as jet aircraft with a certificated maximum seating capacity of 44 seats and a certificated maximum gross takeoff weight of 46,600 pounds. In addition, Small SJs include the CRJ-240/400 aircraft with a maximum certificated seating capacity of 50 seats and a certificated maximum gross takeoff weight of 53,000 pounds, provided, however, that every such CRJ-240/400 aircraft will only be configured for operation with a seating capacity of no more than 40 seats. Any CRJ-240/400 aircraft configured for more than 40 seats shall be defined as a Medium SJ. • "Medium SJs" are defined as jet aircraft with a certificated seating capacity of no less than 45 seats and no more than 50 seats and a certificated maximum gross takeoff weight not greater than 65,000 pounds, except for the CRJ-240/400 aircraft as described in the foregoing bullet point when configured for operation with a seating capacity of no more than 40 seats. • "Large SJs" are defined as jet aircraft having a certificated seating capacity of 51-70 seats and a certificated maximum gross takeoff weight not greater than 75,000 pounds. In addition Large SJs include (a) the EMB-170 aircraft with a maximum certificated seating capacity of 78 seats and a certificated maximum gross takeoff weight of 82,100 pounds and (b) the EMB-175 aircraft with a maximum certificated seating capacity of 86 seats and a certificated maximum gross takeoff weight not greater than 86,000 pounds, provided, however, that every such EMB-170 and EMB-175 aircraft will only be configured for operation with a seating capacity of no more than 76 seats. Any jet aircraft configured for operation with more than 76 seats or with a certificated maximum gross takeoff weight greater than 86,000 pounds shall be operated by US Airways.
Authority:	• 1. US Airways will be authorized to permit US Airways Express operators to operate up to 150 Small SJs, provided, however, that any CRJ-240/400 aircraft configured for more than 40 seats shall be defined as a Medium SJ as set forth above.

	• 2. In addition to the foregoing 150 Small SJs, US Airways will be authorized to permit US Airways Express operators to operate up to an aggregate of 315 Medium SJs and Large SJs. • 3. When the Company's active Group 2 or higher Mainline fleet exceeds 315 aircraft, the Company may add 2 additional Medium SJs or Large SJs for each additional Group 2 or higher aircraft in the Company's active fleet above the 315 number and one additional Medium or Large SJ for each Group 3 aircraft in the Company's active fleet. • 4. The first group of up to 70 Medium SJs may continue to be placed at any carrier under the terms of the existing Section One and LOA 79 of the Agreement. • **5. Additional Medium SJs may be placed at any Participating Affiliate, Participating Wholly Owned Carrier or MDA**. • **6. Up to 55 Large SJs (CRJ-700/701 aircraft only) may be placed into revenue operation by Participating Affiliate Carriers, provided that they are placed into revenue service no later than December 31, 2006, and provided further that they are subject to the Jets for Jobs Protocol with a 50% Jets for Jobs Percentage. The foregoing does not preclude the placement of Large SJs in MDA or Large SJs at a Participating Wholly Owned Carrier pursuant to the following bullet point (paragraph 7). If it becomes evident to the Company that it or a Participating Affiliate Carrier may not be able to comply with the above in-service dates for SJs, the parties agree to meet and discuss alternatives acceptable to the parties.** • **7. Up to 60 Large SJs, specifically limited to the CRJ-700/701, may be placed into revenue operations at a Participating Wholly Owned Carrier, other than MDA. All Large SJ positions created by operation of this paragraph shall be filled by US Airways pilots in accordance with the Jets for Jobs Protocol at a 50% Jets for Jobs Percentage and with staffing, pay and seniority for bidding procedures agreed by the Association and the Company as specified in Attachment C, contained herein.**
Authority in the Event of Sale or Lease of Participating Wholly	**In the event that SJ aircraft operated by a Participating Wholly Owned Carrier or MDA, or on order by US Airways Group, Inc. or one of its subsidiaries, as of the date of this agreement, are subsequently sold or**

Owned Carrier Aircraft or MDA Aircraft	**leased, or contracted orders are transferred, for subsequent operation by another airline (an "Aircraft Sale Event"), as a condition of operating any such aircraft as US Airways Express, the airline acquiring such aircraft must:** **(i) be or become a Participating Affiliate Carrier (i.e., such airline must comply with the Jets for Jobs Protocol subject to a minimum 50% Jets for Jobs Percentage with respect to such aircraft); and** **(ii) offer Jets for Jobs positions for vacancies created by such Participating Affiliate Carrier for aircraft that are operated as US Airways Express pursuant to the Jets for Jobs Protocol at a minimum 50% Jets for Jobs Percentage** **In the event the Aircraft Sale Event includes aircraft flown as US Airways Express by the acquiring Participating Affiliate Carrier for which U Pilots have already been hired to be employed by the Participating Wholly Owned Carrier involved in the Aircraft Sale Event, the Company will require the Participating Affiliate Carrier to offer Jets for Jobs vacancies related to such aircraft first to those U Pilots already hired in seniority order until achieving at least a 50% Jets for Jobs Percentage, and then to staff any additional Jets for Jobs vacancies at a minimum 50% Jets for Jobs Percentage under the Jets for Jobs Protocol.** **In the event the Aircraft Sale Event includes aircraft flown as US Airways Express by the acquiring Participating Affiliate Carrier for which pilots have already been hired to be employed by MDA ("MDA Pilots"), the Company will:** **a. require the Participating Affiliate Carrier to offer all Jets for Jobs vacancies first to those MDA Pilots in seniority order until achieving at least a 50% Jets for Jobs Percentage, and then to staff any additional Jets for Jobs vacancies at least a 50% Jets for Jobs Percentage under the Jets for Jobs Protocol;** **b. request that the Participating Affiliate Carrier agree to offer any additional Jets for Jobs vacancies created as a direct result of the Aircraft Sale Event under the Jets for Jobs Protocol, giving first consideration to those MDA Pilots, up to a total 100% Jets for Jobs Percentage;** **c. in the event the Participating Affiliate Carrier does not offer Jets for Jobs vacancies in a sufficient number to provide offers of employment to all those MDA Pilots, require that the Participating Affiliate Carrier agree to**

	offer preferential consideration to any remaining MDA Pilots after the filling of vacancies pursuant to (a) and (b) above. For the purposes of this paragraph, "preferential consideration" means to offer employment to those MDA Pilots prior to offering employment to applicants other than its own furloughees, if applicable, with an offer of employment to fill such a vacancy to be subject to an MDA Pilot successfully completing such airline's normal selection process; and **d. Provided that the Participating Affiliate Carrier is able to implement the following adjusted bidding seniority procedure without incremental costs to the Company, other than nominal costs, require that the Participating Affiliate Carrier agree that for all former US Airways pilots filling Jets for Jobs vacancies at such carrier, such pilots shall have their relative bidding seniority (i.e., bidding seniority as compared to other former US Airways pilots, but not to other pilots employed by the Participating Affiliate Carrier) reflect their US Airways Pilot System Seniority List date of hire, rather than their date of hire at the Participating Affiliate Carrier.** **e. Require that the Participating Affiliate Carrier provide an MDA Pilot filling a Jets for Jobs vacancy at such carrier with longevity for pay purposes only at such MDA Pilot's MDA longevity (e.g., a three-year MDA captain filling a Jets for Jobs captain vacancy at the acquiring airline would be paid as a three-year captain under such acquiring airline's rate of pay; in the case of first officers, the first officer would be paid at top of scale under the Jets for Jobs Protocol); provided, however, that in the event an MDA Pilot filling such Jets for Jobs vacancy would, upon reporting for his first day of employment at the Participating Affiliate Carrier, cease to be eligible for MDA furlough pay; and provided, further, that if such MDA Pilot reports for his first day of employment at the Participating Affiliate Carrier during a month in which such MDA Pilot is also receiving furlough pay, the amount of furlough pay the MDA Pilot would receive would be prorated to reflect the portion of the month (measured in days) prior to his first day of employment at the Participating Affiliate Carrier.** **For aircraft not operated as US Airways Express, the acquiring airline involved in the Aircraft Sale Event has no obligations to comply with the Jets for Jobs Protocol. However, at the time of the Aircraft Sale Event the Company will request that such airline agree to give**

	preferential consideration (as defined in the sub-paragraph (c) of the preceding paragraph) to U Pilots and/or MDA Pilots already hired to staff such aircraft involved in the Aircraft Sale Event. **The limits on Large SJs that may be operated by Participating Affiliate Carriers described in the sixth bullet point under "Authority" above shall be automatically revised to increase the number of, and to include the type of (e.g., CRJ-700/701, EMB-170, EMB-175, etc.), Large SJs that may be operated by Participating Affiliate Carriers by the number and type of aircraft sold or leased, or contracted orders transferred, for subsequent operation by another airline pursuant to this provision; provided, however, that such revision shall not affect the total number of Medium SJs and Large SJs that may be operated by US Airways Express operators pursuant to the second and third bullet points under "Authority" above. With respect to aircraft sold or leased or contracted orders transferred, the Company may substitute types of aircraft sold, leased or transferred (e.g., EMB-170 for EMB-175, CRJ-200 for CRJ-700/701), provided that the Company does not exceed its Authority for such aircraft in so doing.** **Illustrative examples of transactions allowed include, but are not limited to:** **a. Up to 60 Wholly Owned CRJ-200s and CRJ-701s (either already delivered or future orders) are sold and operated by a Participating Affiliate as US Airways Express. The Company may contract with the Participating Affiliate for the operation of up to 60 CRJ-701s pursuant to the 7th bullet point under "Authority" above. Because Participating Wholly Owned Carriers do not have Authority to operate EMB-170/175s, the Company may not contract with a Participating Affiliate to operate EMB-170/175s as backfill aircraft for Wholly Owned CRJ-200/700/701s.** **b. Up to 60 Wholly Owned CRJ-200s and CRJ-701s (either already delivered or future orders) are sold but not operated as US Airways Express. Company may contract with any Participating Affiliate to operate up to 60 CRJ-700/701s as US Airways Express. Because Participating Wholly Owned Carriers do not have Authority to operate EMB-170/175s, the Company may not contract with a Participating Affiliate to operate EMB-170/175s as backfill aircraft for Wholly Owned CRJ-200/700/701s.**

	c. 25 EMB-170/175s from MDA (either already delivered or future orders) are sold to a Participating Affiliate and operated as US Airways Express. **d. 60 EMB-170s from MDA (either already delivered or future orders) are sold to an airline that operates only 40 of the aircraft as US Airways Express. The Company may contract with any Participating Affiliate to operate up to 20 EMB-170 or EMB-175s to "backfill". Because MDA has the Authority to operate Medium SJs and CRJ-700/701 equipment as well, the Company could contract with any Participating Affiliate to operate up to 20 Medium SJs and/or CRJ-700/701s instead of EMB-170/175s.** **e. 20 EMB-170s from MDA (either already delivered or future orders) are sold to an airline that does not operate the aircraft as US Airways Express. The Company may contract with any Participating Affiliate to operate up to 20 EMB-170 or EMB-175s to "backfill". Because MDA has the Authority to operate Medium SJs and CRJ-700/701 equipment as well, the Company could contract with any Participating Affiliate to operate up to 20 Medium SJs and/or CRJ-700/701s instead of EMB-170/175s.** **f. One hundred percent of the deliveries and firm orders of Participating Wholly Owned Carriers and MDA (currently 170 total SJs) could be sold, leased or transferred to one or more Participating Affiliates, or, if not operated as US Airways Express, backfilled by aircraft operated by Participating Affiliates, subject to the relevant Authority and Jets for Jobs provisions above.**
Authority in the Event of Change in Status of Participating Wholly Owned Carrier other than MDA:	**In the event a Participating Wholly Owned Carrier operating SJs, other than MDA, is no longer a wholly owned subsidiary of US Airways Group, Inc., through a transaction or transactions in which such Participating Wholly Owned Carrier remains an operating airline providing regional jet service as US Airways Express (a "PWOC Affiliate Event"), such operating airline may continue to operate as a US Airways Express carrier only if it agrees to:** **(i) become a Participating Affiliate Carrier (i.e., it must comply with the Jets for Jobs Protocol subject to a minimum 50% Jets**

	for Jobs Percentage); and **(ii) offer Jets for Jobs positions for vacancies created by such Participating Affiliate Carrier for aircraft that are operated as US Airways Express pursuant to the Jets for Jobs Protocol at a minimum 50% Jets for Jobs Percentage.** **For aircraft not operated as US Airways Express, such airline has no obligations to comply with the Jets for Jobs Protocol.** **The limits on Large SJs that may be operated by Participating Affiliate Carriers described in the sixth bullet point under "Authority" above shall be automatically revised to increase the number of, and to include the type of (e.g., CRJ-700/701), Large SJs that may be operated by Participating Affiliate Carriers by the number and type of aircraft operated or on order by such Participating Wholly Owned Carrier pursuant to this provision; provided, however, that such revision shall not affect the total number of Medium SJs and Large SJs that may be operated by US Airways Express operators pursuant to the second and third bullet points under "Authority" above. With respect to aircraft sold or leased or contracted orders transferred, the Company may substitute types of aircraft within the family of aircraft sold, leased or transferred (e.g., CRJ-200 for CRJ-700/701), provided that the Company does not exceed its Authority for such aircraft in so doing.** **Illustrative examples of transactions allowed include, but are not limited to:** **a. A Participating Wholly Owned Carrier operating CRJ-200s and/or CRJ-701s (either already delivered or future orders) is sold and continues to operate all such aircraft as US Airways Express as a Participating Affiliate.** **b. A Participating Wholly Owned Carrier operating CRJ-200s and/or CRJ-701s (either already delivered or future orders) is sold and continues to operate only some of such aircraft as US Airways Express as a Participating Affiliate. The Company may contract with any Participating Affiliate to operate the number of aircraft (which may be either CRJ-200s or CRJ-700/701s, subject to the number of aircraft or orders sold, leased or transferred and the Company's Authority for Large SJs at the Participating Wholly Owned Carrier) not operated as US Airways Express by the former wholly owned carrier as US Airways Express as "backfill".**

	c. A Participating Wholly Owned Carrier operating CRJ-200s and/or CRJ-701s (either already delivered or future orders) has some of its aircraft sold or leased, or orders transferred, pursuant to an Aircraft Sale Event as defined above, and then the Participating Wholly Owned Carrier is sold and continues to operate only some of its remaining aircraft as US Airways Express as a Participating Affiliate. The Company may contract with any Participating Affiliate to operate the number of aircraft (which may be either CRJ-200s or CRJ-700/701s, subject to the number of aircraft or orders sold, leased or transferred and the Company's Authority for Large SJs at the Participating Wholly Owned Carrier) not operated as US Airways Express by the former wholly owned carrier as US Airways Express as "backfill".
Authority in the Event of Change in Status of MDA:	**In the event MDA is no longer a division of US Airways Inc. or under the Control (as defined in Attachment B-2 "Change in Control of MDA and Fragmentation") of US Airways Group, Inc., through a transaction or transactions in which MDA becomes an operating airline providing SJ service as US Airways Express (an "MDA Affiliate Event"), such operating airline must comply with the provisions related to a change in Control of MDA (as defined in Attachment B-2 "Change in Control of MDA and Fragmentation") and may continue to operate as a US Airways Express carrier only if it agrees to be or become a Participating Affiliate Carrier (i.e. such airline must comply with the Jets for Jobs Protocol for New Vacancies and Backfill Vacancies as such terms are defined in Attachment B-3, subject to a minimum 50% Jets for Jobs Percentage with respect to such New Vacancies or Backfill Vacancies not filled by MDA pilots, on aircraft operated as US Airways Express, as defined below).** **The Company will request:** **(i) that the Participating Affiliate Carrier formerly operating as MDA agree to offer any additional Jets for Jobs vacancies created as a result of the MDA Affiliate Event under the Jets for Jobs Protocol, up to a total 100% Jets for Jobs Percentage; and** **(ii) that the Participating Affiliate Carrier formerly operating as MDA agree that for all former US Airways pilots filling Jets for Jobs vacancies, such pilots shall have their relative bidding seniority (i.e., bidding seniority as compared to other former US Airways pilots, but not to other pilots employed by the**

	Participating Affiliate Carrier) reflect their US Airways Pilot System Seniority List date of hire, rather than their date of hire at the Participating Affiliate Carrier. **For aircraft not operated as US Airways Express, the acquiring airline involved in the MDA Affiliate Event has no obligations to comply with the Jets for Jobs Protocol.** **The limits on Large SJs that may be operated by Participating Affiliate Carriers described in the sixth bullet point under "Authority" above shall be automatically revised to increase the number of, and to include the type of (e.g., CRJ-700/701, EMB-170, EMB-175, etc.), Large SJs that may be operated by Participating Affiliate Carriers by the number and type of aircraft operated or on order by MDA pursuant to this provision; provided, however, that such revision shall not affect the total number of Medium SJs and Large SJs that may be operated by US Airways Express operators pursuant to the second and third bullet points under "Authority" above. With respect to aircraft sold or leased or contracted orders transferred, the Company may substitute types of aircraft sold, leased or transferred (e.g., EMB-170 for EMB-175, or EMB-170/175 for CRJ-700/701, or Large SJ for Medium SJ), provided that the Company does not exceed its Authority for such aircraft in so doing.** **Illustrative examples of transactions allowed include, but are not limited to:** **a. MDA, operating EMB-170s and/or EMB-175s (either already delivered or future orders), is sold and continues to operate all such aircraft as US Airways Express as a Participating Affiliate.** **b. MDA, operating EMB-170s and/or EMB-175s (either already delivered or future orders) is sold and continues to operate only some of such aircraft as US Airways Express as a Participating Affiliate. The Company may contract with any Participating Affiliate to operate the number of aircraft not operated as US Airways Express (which may be EMB-170/175s or CRJ-700/701s or Medium SJs) by the former MDA as US Airways Express as "backfill".** **c. MDA, operating EMB-170s and/or EMB-175s (either already delivered or future orders) has some of its aircraft sold or leased, or orders transferred, pursuant to an Aircraft Sale Event as defined above, and then MDA**

	is sold and continues to operate only some of its remaining aircraft as US Airways Express as a Participating Affiliate. The Company may contract with any Participating Affiliate to operate the number of aircraft not operated as US Airways Express (which may be EMB-170/175s or CRJ-700/701s or Medium SJs) by the former MDA as US Airways Express as "backfill".
Definition of US Airways Active Fleet	The aircraft in the then-current US Airways permanent bid plus 8% for maintenance and spares, with a minimum average daily utilization rate (measured on a monthly basis) of 10 hours measured by aircraft in the permanent bid of US Airways.
Jets larger than Small Jets but smaller than Group 2	Will be placed at US Airways under rates of pay determined by Section 6 of the Agreement (where applicable).
Placement of Small Jets	• Definitions: ➢ "**MDA": Mid-Atlantic Airways, a division of US Airways, Inc., or a carrier under the Control (as defined in Attachment B-2 "Change in Control of MDA and Fragmentation") of US Airways Group, Inc.** ➢ "Participating Wholly Owned Carrier": a carrier wholly owned by US Airways Group, Inc., other than MDA, that participates in the Jets for Jobs Protocol (Attachment B-3 below) and in the Restructuring Program ➢ "Participating Affiliate Carrier": a carrier that participates in the Jets for Jobs Protocol (Attachment B-3 below), other than a Participating Wholly Owned Carrier or MDA. • Participation ➢ Each of the Wholly Owned and Affiliate Carriers will be offered an opportunity to participate in this program based upon the terms stated herein. Should a Carrier elect not to participate, the program will continue with participation of the Carriers that wish to participate. • Placement of Small Jets: ➢ Large SJs: • **Will be placed only at MDA, a Participating Wholly Owned**

	Carrier or a Participating Affiliate Carrier, subject to the terms and conditions set forth in "Authority" above. • **EMB-170/175 equipment will be placed only at MDA unless placed at a Participating Affiliate Carrier pursuant to an Aircraft Sale Event or an MDA Affiliate Event as described above**. ➢ Medium SJs: ▪ The first group of up to 70 Medium SJs may continue to be placed at any carrier under the terms of the existing Section One and LOA 79 of the Agreement. • **Additional Medium SJs may be placed at Participating Affiliates, Participating Wholly Owned Carriers, or MDA subject to the terms and conditions set forth in "Authority" above.** ➢ Small SJs: ▪ May be placed at MDA, Participating Wholly Owned Carriers, and Participating Affiliate Carriers, **subject to the terms and conditions set forth in "Authority" above.**
Job Opportunities—Carriers Other than MDA	US Airways pilots on the Affected Pilot List as defined in Attachment B-1 below shall be eligible for no less than one-half of the job opportunities on Additional Small Jets (as defined in Attachment B-3 below) at Participating Wholly Owned Carriers and Participating Affiliate Carriers.
Job Opportunities—MDA	All MDA positions will be filled first by US Airways pilots, followed next by pilots from the Participating Wholly Owned Carriers on the Participating Wholly Owned Carrier Pilot List as defined in Attachment B-1 below, followed by new-hire pilots. A US Airways pilot on the Affected Pilot List who has stated MDA as a preference may displace into MDA if he is senior to the most junior MDA pilot.
Additional Bidding and Other Provisions	Notwithstanding any other provisions of the ALPA Restructuring Agreement, the following additional provisions apply to pilots on the US Airways pilot seniority list: • Provision will be made to permit a US Airways pilot who would otherwise not have been furloughed to bid to an MDA vacancy in order to eliminate the furlough of a junior pilot who is not then on furlough.

	(Subject to resolution of Mainline training holds/training early/TDY/moving expense issues applicable to these pilots). • In placing himself on the Affected Pilot List under Attachment B-1 below, he may express a preference for an MDA position limited to a Large Jet category. • If he is employed by a Participating Wholly Owned Carrier or Participating Affiliate Carrier, he may bid for a Large SJ MDA Captain vacancy and will be awarded such vacancy in order of his US Airways pilot seniority (subject to the training freeze and coverage hold provisions, below (see Recall to US Airways, paragraphs (a) and (b) and subject to early release based on the needs of the carrier). • He may bypass an offer of employment with MDA without losing his position on the Affected Pilot List, regardless of his preference. He may bypass an offer of employment with a Participating Wholly Owned Carrier or a Participating Affiliate Carrier without losing his position on the Affected Pilot List, regardless of his preference, so long as there are junior Affected Pilots available to accept such offer. • A pilot may bid or be displaced to a Large SJ position subject to reasonable holds and freezes to be negotiated. • A pilot displaced to an SJ position at US Airways will receive accrued furlough pay to be offset by SJ earnings. • A pilot may accept voluntary furlough in lieu of displacement to a Large SJ position and will receive accrued furlough pay and a pilot on furlough may bypass recall to a Large SJ position; in either case, the pilot will then be offered recall when his seniority entitles him to a position on an aircraft larger than a Large SJ. • Subject to the concurrence of the Participating Affiliate Carrier or Participating Wholly Owned Carrier (collectively, a "J4J Carrier"), the Company agrees that a future furloughee may displace a junior APL pilot from a Captain to First Officer position at a specific J4J Carrier provided the future furloughee (1) is not eligible for recall to an MDA vacancy, (2) accepts the first training date at the specified J4J Carrier that becomes available after his furlough date, and (3) does not cause the junior APL pilot to be displaced out of domicile.
Recall to US Airways	US Airways pilots shall be entitled to return to US Airways upon recall, except for the following provisions concerning holds: (a) A pilot who is trained to an SJ position will be subject to a 12-

	month training freeze effective upon commencement of training. (b) A pilot who has been recalled to US Airways but is prevented from accepting recall solely because he is being held at MDA, a Participating Affiliate Carrier or Participating Wholly Owned Carrier for coverage purposes may be held at that Carrier for a maximum of nine months from the effective date of recall but not less than the training freeze specified in (a) above. Example: Pilot A commences training as an SJ pilot on March 1, 2003. He is then recalled to US Airways effective September 1, 2003. He is subject to a total combined training freeze and hold until July 1, 2004. (c) The pilot who is recalled and under a training freeze or is being held under paragraphs (a) or (b) above, shall be made whole for pay and benefits to which he would have been entitled as an active pilot with US Airways. During the first four months he will be compensated at the rate of 76 hours per month. If the recalled pilot's training freeze or hold extends beyond four months, he shall receive 80 hours of pay if there is a junior pilot holding a line of time at US Airways. If no junior pilot is holding a line of time, the held pilot shall continue to receive 76 hours of pay.
Flows between Carriers	• Following the recall of all furloughed US Airways pilots, pilots employed by a Participating Wholly Owned Carrier shall be eligible to flow through to any new-hire US Airways pilot positions in order of their seniority position on the integrated seniority list of pilots of Wholly Owned Carriers ("Wholly Owned Pilot Seniority List"). • Pilots employed by a Participating Wholly Owned Carrier who become MDA pilots or US Airways pilots under this Attachment B, may flow back to their respective Participating Wholly Owned Carriers. US Airways pilots employed by MDA, if furloughed from MDA, may displace into positions at Participating Wholly Owned Carriers in order of their seniority as US Airways pilots **in accordance with the Flow Through Letter of Agreement (LOA #_tbd__) to be agreed to by the Company and the Association.**
Participating Affiliate Carrier Hiring	• The Company shall seek the agreement of each Participating Affiliate Carrier that it will not discriminate in hiring against any current or former US Airways pilot if a reason for such discrimination is his membership in, or his activities in or on behalf of, the Association. The Company shall require that Participating Affiliate Carriers recognize the rights of a pilot in respect to this clause. However, the Company shall not assume liability for the violation of the non-discrimination clause by

	a Participating Affiliate Carrier.
Restrictions:	• Maximum of 6% of US Airways Express flight segments nonstop each month between US Airways hubs, excluding nonstop operations between LGA and DCA, BOS and LGA, and DCA and BOS. As used in the Agreement US Airways hubs are Charlotte, Philadelphia, Pittsburgh, or any airport having a monthly average of at least 50 US Airways departures per day on equipment other than turboprops or Small Jets. • No more than 25% of US Airways Express flight segments nonstop each month between two non-US Airways hubs, except nonstop flight segments that originate and terminate west of the Mississippi or in Florida, or that originate or terminate in the Caribbean. • No more than 4% of US Airways Express nonstop flight segments scheduled in the same direction within the same city pairs with departure times 30 minutes or less apart. • At least 80% of Small Jet nonstop flight segments each month in stage lengths of 950 statute miles or less.
Labor Disputes	• During a US Airways Express Small Jet Operator pilot labor dispute involving lawful self-help activities pursuant to the Railway Labor Act, the Company will not perform training of pilots for service as employees of that US Airways Express Small Jet Operator in connection with such labor dispute, nor will the Company's pilots operate aircraft of the US Airways Express Small Jet Operator during such labor dispute. • During a US Airways pilot labor dispute involving lawful self-help activities pursuant to the Railway Labor Act, no US Airways Express Small Jet Operator will perform training of pilots for service as employees of US Airways in connection with such labor dispute nor will a US Airways Express Small Jet Operator's pilots operate aircraft of the Company during such labor dispute.
Duration	• **This Letter of Agreement shall supersede the following agreements regarding Small Jets Authority: Attachments B, B-1, B-2, and B-3 of the Restructuring Agreement effective July 1, 2002; LOA 83 in its entirety; LOA 84, Attachment A, paragraphs titled "Jets for Jobs Rates" and "SJs"; and LOA 86, paragraph 5.A. and 5.B., and such prior agreements have no further force and effect.** • **This Letter of Agreement shall become effective on the date of signing and shall remain in effect concurrent with the Agreement between ALPA and US Airways, Inc., as extended by the**

	Restructuring Agreement effective July 1, 2002.

LETTER OF AGREEMENT

between

AMERICA WEST HOLDINGS CORPORATION, AMERICA WEST AIRLINES, INC., US AIRWAYS GROUP, INC., and US AIRWAYS, INC.
and the

PILOTS

in the service of

AMERICA WEST AIRLINES, INC. AND US AIRWAYS, INC.

as represented by

THE AIR LINE PILOTS ASSOCIATION

TRANSITION AGREEMENT

THIS LETTER OF AGREEMENT is made and entered into in accordance with the provisions of the Railway Labor Act, as amended (the "Act"), by and between AMERICA WEST HOLDINGS CORPORATION ("AWHC"), AMERICA WEST AIRLINES, INC. ("AMERICA WEST"), US AIRWAYS GROUP, INC. ("US AIRWAYS GROUP"), US AIRWAYS, INC. ("US AIRWAYS"), and the AIR LINE PILOTS in the service of AMERICA WEST and US AIRWAYS, respectively, as represented by the AIR LINE PILOTS ASSOCIATION (hereinafter referred to as "the Association") by and through the Master Executive Councils of the America West and US Airways pilots ("America West MEC" and "US Airways MEC" respectively) (collectively referred to as the "Parties").

WHEREAS, US Airways Group and AWHC have entered into an Agreement and Plan of Merger dated as of May 19, 2005 (the "Merger Agreement"), and

WHEREAS, the Merger Agreement provides that, if it is consummated, US Airways Group will be reorganized and, as reorganized, will own and control America West and US Airways, and

WHEREAS, US Airways Group, AWHC, US Airways and America West (together, the "Airline Parties") intend that, following the consummation of the Merger Agreement, America West and US Airways will continue to operate with two separate pilot workforces until the two pilot workforces are integrated under the provisions herein, and

WHEREAS, the parties wish to provide orderly procedures for the merger of America West and US Airways.

requirements of sections 365 and 1123 of the Bankruptcy Code as of the Effective Date of the Second Amended Joint Plan of Reorganization. The assumption of the CBAs and the cure of all amounts owed under such CBAs, including but not limited to amounts owed as a result of arbitration awards, indemnification obligations, and the resolution of grievances, which shall all be paid when they become due in the ordinary course by the Reorganized Debtors, shall be in full satisfaction of all Claims and Interests arising under all CBAs between the parties thereto and their predecessors-in-interest. Upon assumption of the ALPA CBAs, all proofs of claim and requests for payment of administrative expenses filed by ALPA in the Debtors' Chapter 11 cases including but not limited to the claims and requests for payments of administrative expenses identified on exhibit -- hereto, shall be deemed withdrawn, without prejudice to the pursuit of grievances, arbitration awards, indemnifications, and related litigation in the ordinary course by ALPA and/or individuals."

VIII. Other Terms

A. The following terms apply to operation of the EMB 190 aircraft:

1. EMB 190 aircraft will be operated only by US Airways, America West, both carriers, or the Single Carrier.

2. EMB 190 aircraft will be operated under the respective operating air carrier's collective bargaining agreement as modified by this Letter of Agreement.

3. EMB 190 aircraft will be operated under the rates of pay and longevity scale set forth in Attachment D to this Letter of Agreement.

4. EMB 190 aircraft do not count toward the minimum aircraft numbers in the US Airways ALPA collective bargaining agreement or in Section II.B., paragraphs 4.b), 4.c) or 4.d) above.

5. A US Airways furloughed pilot offered recall to a position as an EMB 190 first officer at US Airways or offered a position as an EMB 190 first officer at America West pursuant to Section II., paragraph 6 of this Letter of Agreement, will be entitled to bypass the offer. In other words, he will not be subject to Section 23(I)4. of the US Airways collective bargaining agreement, without prejudice to his right to be offered recall in seniority order to any further US Airways pilot position (including but not limited to an EMB 190 first officer position) or to be hired for any position by America West under this Letter of Agreement.

B. Section 1.D.2 of the America West collective bargaining agreement will be modified to increase the maximum seating capacity of jet aircraft flown by Express carriers to a maximum seating capacity of 88 seats (or up to 90 seats if

there are no first class seats) and/or certificated maximum take off weight of up to 90,000 pounds.

C. The US Airways and America West collective bargaining agreements will be modified to allow for a combined maximum of ninety-three (93) CRJ-900, or other aircraft within the seating and maximum take-off weight limits specified in Paragraph B above, to be operated in revenue service at any given time at Express Carriers except that for every two (2) aircraft in excess of the combined 360 aircraft (excluding EMB 190 aircraft) operated at both US Airways and America West, that are added to revenue service in the mainline fleet, the Company may allow three (3) additional CRJ-900, or other aircraft within the seating and maximum take-off weight limits specified in paragraph B above, to be operated in revenue service at Express Carriers.

D. Subject to any applicable statutory limits, employer contributions to the Association's applicable 401(k), or Defined Contribution Plan, will be ten percent (10%) of the pilot's eligible earnings as defined in the applicable plan without an employee or employer matching contribution. Note: For America West pilots, contributions will be effective January 1, 2006.

E. Check Airmen from both America West and US Airways will be utilized to perform their customary duties and responsibilities for bridge training to a single FAA operating certificate in numbers that are proportional and a manner that is equitable to both groups of pilots. Pilots transitioning to the surviving FAA certificate will be trained to proficiency in accordance with Section 11.A. of the America West - ALPA collective bargaining agreement.

F. The parties acknowledge that grievances and disputes remain open and unresolved at both US Airways and America West. The parties further acknowledge that resolution of these and any new grievances and disputes would be in the best interests of all parties and would facilitate the smooth transition to a single airline. The parties therefore agree to utilize, to the maximum extent possible, expedited dispute resolution processes at each carrier in order to promptly resolve all open grievances and disputes.

IX. Administration and Expenses

A. Reasonable requests submitted for the release of pilots of each airline as designated by the respective MECs for participation in merger duties will be granted unless the release is not feasible due to operational considerations.

B. Airline Parties will establish a Merger Fund to help defray Association costs associated with merger activities as follows:

1. A Merger Fund in the amount of $300,000 will be established for each respective MEC.

IN WITNESS WHEREOF, the parties hereto have executed this Letter of Agreement effective this 23rd day of September, 2005.

AIR LINE PILOTS ASSOCIATION:

By:_____
Duane E. Woerth, President

By:_____
JR Baker, Chairman
America West Airlines MEC

By:_____
William D. Pollock, Chairman
US Airways MEC

AMERICA WEST HOLDINGS CORPORATION:

By:_____
W. Douglas Parker
Chairman, President, and Chief Executive Officer

AMERICA WEST AIRLINES, INC.:

By:_____
Jeffrey D. McClelland
Executive Vice President, Operations and Chief Operating Officer

US AIRWAYS GROUP, INC.:

By:_____
Bruce R. Lakefield
President and Chief Executive Officer

US AIRWAYS, INC.:

By:_____
Jerrold A. Glass
Executive Vice President and Chief Human Resources Officer

Witnesses:

By:_____
Kim Allen Snider, Vice Chairman
US Airways MEC

By:_____
David G. Seymour
America West Airlines, Inc.
Vice President Operations Control and Planning

By:_____
John McIlvenna, Vice Chairman
America West Airlines MEC

By:_____
E. Allen Hemenway
US Airways, Inc.
Vice President Labor Relations

By:_____
Douglas L. Mowery, Chairman
US Airways Negotiating Committee

By:_____
Beth Holdren
US Airways, Inc.
Managing Director Labor Relations

By:_____
Mark Burdick, Chairman
America West Airlines Negotiating Committee

By:_____
Todd F. Jewett
US Airways, Inc.
Manager Labor Relations

By:_____
Dan Scola
US Airways Negotiating Committee

By:_____
Tony Lozano
America West Airlines Negotiating Committee

ALPA Restructuring Agreement

US Airways Group, Inc. (the Company), US Airways, Inc. (US Airways) and Air Line Pilots Association (Association or ALPA) agree upon the following terms and conditions with respect to the Association's participation in the Company's restructuring program (Restructuring Program):

Effective Date:	• July 1, 2002, subject to the conditions specified under "Business Conditions" and "Documentation and Approvals" below.
Contract Extension:	• The amendable date of the 1998 US Airways pilot collective bargaining agreement (Agreement) will be extended to December 31, 2008. The parties will commence bargaining for a new collective bargaining agreement no later than January 15, 2008 and will make every reasonable effort to complete such bargaining in time to secure a new, fully ratified, collective bargaining agreement prior to the amendable date. If the parties have not reached a tentative agreement by August 1, 2008, they will, no later than August 10, 2008, jointly apply for mediation with the National Mediation Board.
Revisions to Hourly Pay Rates:	The hourly pay rates contained in Section 3 of the Agreement will be revised as follows: • The hourly pay rates in effect on June 30, 2002 will be known as the Book Rates. The actual rates will each be reduced on the Effective Date to the rates that were in effect on April 30, 2001. The parity review scheduled for May 1, 2003, and Letter of Agreement 47, as amended, will be canceled. • Eliminate the LOA #61 1% lump sum increase scheduled for 2003. • Hourly pay rates will be increased by a compounded 1% effective on May 1, 2003, May 1, 2004, May 1, 2005, and May 1, 2006, and further increased by a compounded 2% effective on May 1, 2007 and May 1, 2008, and 3% on May 1 of the succeeding status quo period (i.e., the period past the Agreement amendable date). • Covered Pilots to receive override of 9% (including seniors, except for line check instructors who will receive an override of 10% per hour when performing training.) • Pay Covered Pilots according to the equipment they are training on.

	• A330 equipment to be compensated at pre-parity rate of $205.85/hour (12th year captain rate/widebody LOA). • A320 and A321 equipment to be paid at Group 2 rates. • Upon a change in control as defined in Section 1(D)2. of the Agreement, hourly rates of pay will be the greater of the existing rates of pay or the Book Rates. In addition to such hourly rates of pay, the Association will have the same right specified in Section 1(D)2 of the Agreement to extend the duration of the ALPA Restructuring Agreement for one, two or three years at the Association's option, past the amendable date of the ALPA Restructuring Agreement, with across-the-board wage increases of four and one half percent (4.5%) on the amendable date and on each annual anniversary of the amendable date thereafter.
Small Jets:	US Airways may permit US Airways Express operators to operate Small Jets on terms described in Attachment B.
Domestic Code Share:	As separately agreed, US Airways will be permitted to enter into code share agreements with domestic air carriers on terms described in Attachment C.
International Code Share:	As separately agreed, US Airways will be permitted to enter into code share agreements with foreign air carriers on terms described in Attachment D.
Job Security:	Provisions for no-furlough and minimum block hours will be on terms described in Attachment E.
Grievances:	Association to settle the grievances identified in Attachment E on terms specified in that Attachment.
Fragmentation:	Section 1.(F) of the Agreement will be modified to provide improved fragmentation protection as described in Attachment F.
Financial Returns:	• Financial returns as described in Attachment G.
Exchange of Stock Options:	• Exchange of Stock Options as described in Attachment H.
Governance:	• The Association will be entitled to elect and remove a member of the US Airways Group, Inc. Board of Directors on terms as described in Attachment I. • Form a Labor Advisory Committee as described in Attachment I.

Association Contract Items	Additional Association contract items as described in Attachment J.
Company Contract Items	Additional Company contract items as described in Attachment J.
Health, Welfare and Pension	Changes as described in Attachment K.
Contingent Acquisition Rights:	The Contingent Acquisition Rights specified in Letter of Agreement 63 will be revised as described in Attachment L.
Information:	As described in Attachment M, the Company and US Airways will provide to the Association on no less than a quarterly basis certain information in order to permit the Association to monitor the pilots' investment.
Bankruptcy:	• The Company and US Airways will enter into a separate letter of agreement with the Association, as set forth in Attachment N. • In addition, from the date of filing of a bankruptcy petition concerning US Airways to the end of the twelfth month following such filing, temporary changes will be made in the ALPA Restructuring Agreement as described in Attachment N-1.
Fees and Expenses:	The Company will pay the fees and expenses incurred by the Association in connection with the review, design, negotiation, approval, ratification and implementation of the Restructuring Program, including the fees and expenses of outside legal, investment banking and other advisors up to a total of $2.5 million in addition to the flight pay loss of three members of the negotiating committee for work after June 15, 2002.

Business Conditions:	• The ALPA Restructuring Agreement will be contingent on the completion of the following business conditions at the option of the Association:
	
	  • The ATSB has committed to a loan facility for the Company sufficient to enable the Company to restructure on an out-of-court basis;
	
	  • The Company's other labor groups, MSP aircraft lessors, vendors and other creditors have agreed to meaningful participation in the Restructuring Program satisfactory to the Association.

Documentation and	The Association's participation in the Restructuring Program will

Approvals:	additionally be contingent on membership ratification at the option of the Association and signature of the Association's president.
Pension Contributions	• Commencing one month following the Date of Signing by the President of ALPA and continuing through the amendable date and any subsequent status quo period, the Company shall be required to make monthly contributions (to the extent they are tax-deductible) to the Retirement Income Plan for Pilots of US Airways, Inc. ("Plan") on a cumulative basis, an amount equal to 15% of the Company's total pilot payroll (not constrained by IRS funding limitations) for the applicable month. • Each such payment to the Plan shall be made no later than the 15th day of the month following the month to which the payment applies. • In the event of a bankruptcy proceeding concerning the Company, the first payroll month against which the foregoing payments shall be made shall be the 13th month following the month in which the bankruptcy petition was filed, and the cumulative requirement shall commence with such 13th month. • If the Company's Mainline PRASM measured as of the end of the calendar year has exceeded the Mainline PRASM Base Case for that year (the "Excess"), the pension contribution for that year will be increased as follows: 50% of the Excess will be allocated to increased pension contributions up to a maximum of 20% of the monthly pilot payroll. The Base Case for each year shall be the forecast levels as provided to the Association on May 21, 2002 in the Company's "020609 ATSB Submission Loan Application Plan A (v.20E)FINAL". The pension payment shall be made no later than April 30th of the following year payable on a monthly basis for 12 months.

Attachment C
Code Share Agreements With Domestic Air Carriers

Section 1 of the Agreement has been amended to permit US Airways to place its designator code on the flights of {Designated Domestic Carriers} (in addition to flights that operate as US Airways Express), under the following terms and conditions:

A. Authority:	To place the US Airways designator code on the flights of other [Designated] Domestic Air Carriers (OAL). This authority includes the authority to place the US designator code on the flights of the OAL's Express operators to or from the hubs of the OAL as described below.
B. Exclusions:	1. Not between any "US Airways Hubs", defined as the following cities or airports: Charlotte, Philadelphia, Pittsburgh, or any airport having a monthly average of at least 50 US Airways departures per day on equipment other than turboprops or Small Jets (as defined in Paragraph M below). 2. Not to or from a US Airways hub, except for "Hub to Hub Flights", defined as nonstop flights operated using any type of equipment between a US Airways Hub and "OAL Hubs", (defined as _____, _____, or any airport having an average of at least 50 OAL departures per day on equipment other than turboprops or Small Jets), provided that: a. A ratio will be determined by dividing the aggregate number of Hub to Hub Flights of US Airways by the aggregate number of Hub to Hub Flights of the OAL for the first six months of 2002. This will be called the "Hub to Hub Flight Baseline Ratio". Beginning with the first anniversary of the effective date of the code share agreement between US Airways and the OAL, the ratio in each month between the aggregate number of Hub to Hub Flights of US Airways bearing the OAL code and the aggregate number of Hub to Hub Flights of the OAL bearing the US Airways code will equal or exceed 95% of the Hub to Hub Flight Baseline Ratio, unless otherwise authorized in writing by the US Airways MEC. 3. A ratio will be determined by dividing the number of Covered Flights (as defined in Paragraph M below) of US Airways by the number of Covered Flights of the OAL for the six months prior to the first anniversary of the effective date of the Alliance Code Share Agreement. This will be called the Covered Flight Baseline Ratio. Beginning with the first anniversary of the

effective date of the Alliance Code Share Agreement, the ratio in each month between the number of Covered Flights of US Airways bearing the OAL code and the Covered Flights of the OAL bearing the US Airways code will equal or exceed 90% of the Covered Flight Baseline Ratio, unless otherwise authorized in writing by the US Airways MEC.

4. Not on feeder/express operators on behalf of the OAL except non-stop or one-stop to or from the OAL's domestic hubs, provided that one-stop operations may not touch a US Airways hub. Note: operations permitted by this paragraph do not count toward any of the numbers or restrictions in Attachment B.

5. The following limitation applies to "Atlantic Non-Hub Flights," defined as scheduled nonstop flights departing from each of (a) North America to Europe and (b) North America to the Caribbean Basin (as defined in Paragraph M below) from points other than (x) in the case of US Airways, a US Airways Hub and (y) in the case of OAL, an OAL Hub. A ratio will be determined by dividing the number of Atlantic Non-Hub Flights of US Airways by the number of Atlantic Non-Hub Flights of the OAL for the first six months of 2002. This will be called the "Atlantic Non-Hub Flight Baseline Ratio". Beginning with the first anniversary of the effective date of the Alliance Code Share Agreement, the ratio in each month between the number of Atlantic Non-Hub Flights of US Airways bearing the OAL code and the Atlantic Non-Hub Flights of the OAL bearing the US Airways code will equal or exceed 90% of the Atlantic Non-Hub Flight Baseline Ratio, unless otherwise authorized in writing by the US Airways MEC.

6. With respect to the limitations on Hub to Hub Flights, Covered Flights, and Atlantic Non-Hub Flights pursuant to paragraphs 2, 3 and 5 above, in the event US Airways is in breach of the applicable limitation in a given month, the following shall apply:

(a) US Airways can cure any such breach in a given month by promptly taking one of the following actions: (x) removing US Airways code from one or more applicable OAL flights as of the Next Published Schedule Change Date (as defined below), (y) adding applicable US Airways flights bearing the OAL code as of the Next Published Schedule Change Date, or (z) adding the OAL code to existing applicable US Airways flights not previously bearing the OAL code as of the Next Published Schedule Change Date. For the purposes of this Paragraph, the "Next Published Schedule

	Change Date" for a given month shall be defined as the subsequent calendar month's major schedule change date, for which a change that is loaded may have effectivity up to three months later (e.g., a breach in June is cured by a schedule change loaded on the 5th of July that becomes effective no later than the 5th of October). (b) US Airways may defer the cure of any such breach for up to three months beyond the timeframe specified in Paragraph a. above if the cause of such breach was an event or circumstance beyond the control of US Airways. The term "event or circumstance beyond the control of US Airways" means a natural disaster, labor dispute within the Company, grounding of a substantial number of the Company's aircraft by government agency or voluntary action by the Company for safety reasons in lieu thereof, which in either case could not be avoided or cured by the Company; reduction in flying operations because of suppliers being unable to provide sufficient critical materials for the Company's operations, revocation of the Company's operating certificate(s), war emergency or acts of terrorism. (c) US Airways shall not be required to cure any such breach if, as a result of such cure, US Airways would trigger a termination event condition with the OAL as defined in the Code Share Alliance Agreement between US Airways and the OAL. Any change to an Alliance Agreement that would cause such breach to trigger a termination event condition would be deemed to be a material change that materially adversely affects the interests of the US Airways pilots within the meaning of Paragraph G below. In addition, if the requirement to cure is excused by the first sentence of this Paragraph, the parties shall meet to make a good faith effort to develop other ways to address the concerns generated by the breach. 7. In the event that either US Airways or the OAL acquires another air carrier and integrates that air carrier so as to form a single carrier, each of the Baseline Ratios in Paragraphs 2, 3 and 5 above shall be adjusted to include the increase in nonstop scheduled flights that result from the acquisition and integration of the acquired air carrier.
C. Reciprocal Code Share Requirement:	US Airways shall use its commercially reasonable efforts to secure the placement of the OAL's designator code on the maximum number of US Airways departures, subject to the provisions of this

	Agreement, the provisions of the agreement between US Airways and the OAL, and any applicable laws, decrees, orders or regulations, flight number limitations, initial implementation constraints encountered in the first two years of the alliance agreement, unusual circumstances beyond the control of the Company or OAL, material breach or termination of the alliance agreements by OAL, or facility or other constraints that prevent US Airways from offering a code share product of sufficient quality to its customers.
D. Block Space Agreements:	1. US Airways shall not purchase or reserve Block Space seats with the OAL except on nonstop flights to or from the OAL's domestic hubs. 2. US Airways shall not purchase or reserve more Block Space seats on the OAL than the number of Block Space seats purchased or reserved on US Airways by the OAL, measured on a quarterly basis.
E. US Airways Aircraft:	No direct or indirect transfer to the OAL of any aircraft owned, leased, operated or on order or option by or on behalf of US Airways, other than in the normal course of business (e.g., lease returns or sale of aircraft, orders or options on arm's length market terms).
F. Marketing Identity:	US Airways and the OAL shall maintain separate operating and corporate identities, including, but not limited to, names, trade names, logos, liveries, trademarks, or service marks, but permitting (in addition to the separate marks and names) the use of designator codes, frequent flyer program information, and other trademark trade name, logo or service marks that reflects the alliance relationship.
G. Amendments to Alliance Agreements:	1. Amendments or Changes to Alliance Agreements. A copy of each amendment or change to any of the Alliance Agreements shall be provided to ALPA prior to implementation. If such amendment or change, written or oral would be reasonably likely to (i) have a material adverse effect (defined for the purpose of this paragraph 1 as an economic impact exceeding $10 million per year) on the economic structure or benefits of the alliance to US Airways or OAL or (ii) otherwise materially change any of the Alliance Agreements and such change materially adversely affects the interests of the US Airways pilots: a. The amendment or change shall be subject to review and

comment by ALPA for at least 14 days before it becomes effective.

b. In the event that ALPA objects to any such amendment or change on the ground that it is not consistent with a condition of Paragraph 1, within 21 days after receipt of the amendment or change ALPA shall submit any objection to the System Board of Adjustment for expedited determination under Section 1 of the US Airways Pilots' Agreement to determine whether the conditions set forth in Paragraph 1 above exist. In addition to any other remedies that are awarded, either:

(i) US Airways shall cancel or void the amendment or change to the Alliance Agreement(s) and take all other action necessary to restore the status quo that existed prior to the amendment or change to the Alliance Agreement(s) by a date no later than 15 days following the date of the arbitration decisions, or

(ii) If the Company does not cancel or void the amendment or change to the Alliance Agreement(s) within the 15 day period, ALPA shall have the right to terminate this Letter of Agreement upon 30 days written notice to the company.

The System Board of Adjustment shall retain jurisdiction to determine any dispute with regard to compliance with the Award, including whether the status quo has been restored.

c. Amendments or changes to the Alliance Agreements shall include a legend describing the provisions of this paragraph 1.

d. This Letter of Agreement shall remain in full force and effect until the exhaustion of the procedures set forth in paragraphs 1.a.-1.b.

2. Termination Notice. In the event that either Company or OAL provides a Termination Notice pursuant to the Code Share Alliance Agreement or any other agreement relating to the Alliance, and the other party accepts termination of less than the entire agreements or agreements, and such action is material and materially adversely affects the interests of the US Airways pilots, ALPA shall have the right to terminate this Letter of

	Agreement upon 60 days written notice to the Company, with such termination to be effective upon termination of the portion of the relevant agreement or agreements relating to the Alliance. 3. Rulings of Government Authority. If, after the first anniversary of the Effective Date of the Alliance Code Share Agreement, as a result of any action or rulings of any governmental authority, or in response thereto, any material change is required to be made to any of the Alliance Agreements and such change materially adversely affects the interests of the US Airways pilots, the same procedures shall apply as in paragraph 1 above. 4. The provisions of paragraphs 1 through 3 above, regarding termination of this Letter of Agreement, shall be effective in all respects without regard to whether the parties are then engaged in collective bargaining pursuant to Section 6 of the Railway Labor Act. The Company expressly waives any and all rights whatsoever to argue that ALPA's rights under these provisions or exercise of such rights should be affected in any way by virtue of the status quo provisions of the Railway Labor Act.
H. Labor Disputes:	1. No increased use of US Airways designator code by OAL during a cooling off period applicable to US Airways pilots or a lawful strike by US Airways pilots. 2. No payments other than those payments occurring during the ordinary course of business to US Airways from the OAL during a cooling off period applicable to US Airways pilots or a lawful strike by US Airways pilots. 3. No pilots trained by OAL may be hired to serve during a cooling off period applicable to US Airways pilots or a lawful strike by US Airways pilots.
I. Arms' Length Transactions:	Transactions between US Airways or the Company and the OAL shall be at arms' length (as would be conducted by independent, unaffiliated parties).
J. Special Duration:	The Company waives its right under the Railway Labor Act to make unilateral changes to Paragraph H of this Letter of Agreement on Code Sharing during periods of lawful self-help by the pilots employed by the Company.
K. Terms of Alliance Agreement	[1. This proposal is based upon the terms of the proposed alliance agreements as described to ALPA by US Airways on June 18,

	2002, including but not limited to the description of prorate methodology for allocating revenue between US Airways and the OAL, which fundamentally determines that each carrier earns revenue from its carriage of passengers on its own flights. ALPA will review the actual alliance agreement to which this proposal applies when the alliance agreement has been completed, and this proposal depends upon conformance of the final agreement to the terms as described on June 18, 2002. 2. Prior to the final implementation of this tentative agreement permitting Domestic Air Carrier Code Share Agreements, the parties agree that the Company and ALPA will review and discuss the terms, conditions or restrictions as negotiated by the pilot group of the OAL to discuss whether any modifications to this tentative agreement are warranted. REMOVE THIS LANGUAGE PRIOR TO FINAL EXECUTION].
L. Enforcement	The terms of this Attachment C will be included in a Letter of Agreement amending Section 1 of the Agreement, and will be enforced in accordance with the terms of Section 1.
M. Definitions	1. "Small Jets" shall be defined as [conform to other agreements] 2. "Covered Flights" shall be defined as scheduled nonstop flights operated by US Airways or the OAL on equipment other than turboprops or Small Jets between points within the region of the United States consisting of the states of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, West Virginia, Virginia, North Carolina, South Carolina, Georgia and Florida [and certain other states in the Eastern half of the U.S. to be determined based upon the identification of the OAL]. 3. "Caribbean Basin" shall be defined as airports within Area 2 of the U.S. DOT World Area Code, and including the U.S. Virgin Islands, Puerto Rico, airports on the Gulf of Mexico coast of Mexico, and Belize. 4. The "Alliance Code Share Agreement" shall be defined as the _____ Agreement between US Airways, Inc. and OAL, Inc. dated _____, 2002. The "Alliance Agreements" shall be defined as the Alliance Code Share Agreement and the related agreements between the same parties also dated _____, 2002, consisting of the _____Agreement ("Prorate Agreement"), the _____ Agreement ("Frequent Flyer

	Agreement"), and the _____ Agreement ("Lounge Agreement"). 5. "Block Space" seats shall be defined as a quantity of seats purchased by US Airways on aircraft operated by the OAL, or purchased by the OAL on aircraft operated by US Airways, as applicable, at a contractually agreed price that are then available for resale at prices established by the purchasing carrier to the customers of such carrier.

CODE SHARE AGREEMENT WITH UNITED AIRLINES **LETTER #81**

LETTER OF AGREEMENT
Between and among
US AIRWAYS, INC.
and the
AIRLINE PILOTS
in the service of
US AIRWAYS, INC.
as represented by
THE AIR LINE PILOTS ASSOCIATION, INTERNATIONAL

CODE SHARE AGREEMENT WITH UNITED AIRLINES

THIS LETTER OF AGREEMENT is made and entered into in accordance with the provisions of Title II of the Railway Labor Act, as amended**,** by and between US Airways, Inc. (hereinafter referred to as "US Airways") and the Airline Pilots in the service of US Airways as represented by the Air Line Pilots Association, International (hereinafter referred to as the "Association").

WHEREAS US Airways has entered into a corporate and marketing relationship ("Code Share Agreement") with United Airlines, Inc. (hereinafter referred to as "UAL"); subject, among other things, to approval of the Association; and

WHEREAS the Company and Association have concluded that a Code Share Agreement, with UAL, subject to the terms and conditions set forth herein, can benefit the parties through enhanced passenger volume and revenue that should be generated through such an arrangement; and

WHEREAS the parties have negotiated terms and conditions which allows the Company to enter into such a Code Share Agreement on an equitable basis with UAL; and

WHEREAS the parties desire both to facilitate the Code Share Agreement and to provide protection for the legitimate job interests and expectations of the Company's pilots.

NOW THEREFORE, the parties mutually agree to amend Section 1(B)5 and 1(B)6 of the Agreement between US Airways and ALPA effective on 1/1/98 and as further amended by the Restructuring Agreement effective August 11, 2002, as follows:

A. Authority:

The Company may place the US Airways designator code on the flights of UAL subject to the terms and conditions of this Letter of Agreement. This authority includes the authority to place the US designator code on the flights of UAL's Express operators to or from the hubs of UAL as described below.

B. Exclusions:

(1) The Company may not place its designator code on flights of UAL or UAL Express carriers between any "US Airways Hubs," defined as the following cities or airports: Charlotte, Philadelphia, Pittsburgh, or any airport having a monthly average of at least 50 US Airways departures per day on equipment other than turboprops or Small Jets (as defined in Paragraph L below).

(2) The Company may not place its designator code on flights of UAL or UAL Express carriers on flights to or from a US Airways Hub, except for "Hub to Hub Flights", defined as nonstop flights operated using any type of equipment between a US Airways Hub and a "UAL Hub," (defined as DEN, ORD, IAD, LAX, SFO or any airport having an average of at least 50 UAL departures per day on equipment other than turboprops or Small Jets), provided that:

A ratio will be determined by dividing the aggregate number of Hub to Hub Flights of US Airways by the aggregate number of Hub to Hub Flights of UAL for the first six months of 2002. This will be called the "Hub to Hub Flight Baseline Ratio." Beginning October 4, 2003 (i.e., the first anniversary of the effective date of the code share agreement between US Airways and UAL), the ratio in each month between the aggregate number of Hub to Hub Flights of US Airways bearing the UAL code and the aggregate number of Hub to Hub Flights of UAL bearing the US Airways code will equal or exceed 95% of the Hub to Hub Flight Baseline Ratio, unless otherwise authorized in writing by the US Airways MEC.

(3) A ratio will be determined by dividing the number of Covered Flights (as defined in Paragraph L below) of US Airways by the number of Covered Flights of UAL for the six months prior to October 4, 2003 (i.e. the first anniversary of the effective date of the Alliance Code Share Agreement.) This will be called the Covered Flight Baseline Ratio. Beginning with October 4, 2003 (i.e. the first anniversary of the effective date of the Alliance Code Share Agreement,) the ratio in each month between the number of Covered Flights of US Airways bearing the UAL code and the Covered Flights of UAL bearing the US Airways code will equal or exceed 90% of the Covered Flight Baseline Ratio, unless otherwise authorized in writing by the US Airways MEC.

(4) The Company may not place its designator code on feeder/express operators on behalf of UAL except non-stop or one-stop to or from UAL's domestic Hubs, provided that one-stop operations may not touch a US Airways Hub, and provided further that no such UAL feeder/express operations carrying the Company's designator code may take place on turbo jets with a maximum certificated seating capacity in excess of 50 seats other than the BAe146 aircraft in UAL's fleet as of the date of signing of this Letter of Agreement, or turbo jet aircraft with a maximum certificated seating capacity of no more than 70 seats that UAL operates that does not originate or terminate in a US Airways pilot domicile. Note: Operations permitted by this paragraph do not count toward any of the numbers or restrictions in Attachment B of the Restructuring Agreement (Small Jets). Further, the intent of this paragraph is to create a reciprocal code share provision for the use of equipment with a certificated seating capacity in excess of 50 seats.

(5) The following limitation applies to "Atlantic Non-Hub Flights," defined as scheduled nonstop flights departing from each of (a) North America to Europe and (b) North America to the Caribbean Basin (as defined in Paragraph L below) from points other than (x) in the case of US Airways, a US Airways Hub and (y) in the case of UAL, a UAL Hub or a New York City Metropolitan Airport. A ratio will be determined by dividing the number of Atlantic Non-Hub Flights of US Airways by the number of Atlantic Non-Hub Flights of the UAL for the first six months of 2002. This will be called the "Atlantic Non-Hub Flight Baseline Ratio." Beginning with October 4, 2003 (i.e. the first anniversary of the effective date of the Alliance Code Share Agreement,) the ratio in each month between the number of Atlantic Non-Hub Flights of US Airways bearing the UAL code and the Atlantic Non-Hub Flights of UAL bearing the US Airways code will equal or exceed 90% of the Atlantic Non-Hub Flight Baseline Ratio, unless otherwise authorized in writing by the US Airways MEC.

The Atlantic Non-Hub Flight Baseline Ratio is .503. 90% of the Atlantic Non-Hub Flight Baseline Ratio is .452.

(6) With respect to the limitations on Hub to Hub Flights, Covered Flights, and Atlantic Non-Hub Flights pursuant to paragraphs 2, 3 and 5 above, in the event US Airways is in breach of the applicable limitation in a given month, the following shall apply:

(a) US Airways can cure any such breach in a given month by promptly taking one of the following actions: (x) removing US Airways code from one or more applicable UAL flights as of the Next Published Schedule Change Date (as defined below), (y) adding applicable US Airways flights bearing the UAL code as of the Next Published Schedule Change Date, or (z) adding the UAL code to existing applicable US Airways flights not previously bearing the UAL code as of the Next Published Schedule Change Date. For the purposes of this Paragraph, the "Next Published Schedule Change Date" for a given month shall be defined as the subsequent calendar month's major schedule change date, for which a change that is

loaded may have effectivity up to three months later (e.g., a breach in June is cured by a schedule change loaded on the 5th of July that becomes effective no later than the 5th of October).

(b) US Airways may defer the cure of any such breach for up to three months beyond the timeframe specified in Paragraph a. above if the cause of such breach was an event or circumstance beyond the control of US Airways. The term "event or circumstance beyond the control of US Airways" means a natural disaster, labor dispute within the Company, grounding of a substantial number of the Company's aircraft by government agency or voluntary action by the Company for safety reasons in lieu thereof, which in either case could not be avoided or cured by the Company; reduction in flying operations because of suppliers being unable to provide sufficient critical materials for the Company's operations, revocation of the Company's operating certificate(s), war emergency or acts of terrorism.

(c) US Airways shall not be required to cure any such breach if, as a result of such cure, US Airways would trigger a termination event condition with UAL as defined in the Code Share Alliance Agreement between US Airways and UAL. Any change to an Alliance Agreement that would cause such breach to trigger a termination event condition would be deemed to be a material change that materially adversely affects the interests of the US Airways pilots within the meaning of Paragraph G below. In addition, if the requirement to cure is excused by the first sentence of this Paragraph, the parties shall meet to make a good faith effort to develop other ways to address the concerns generated by the breach.

(7) In the event that either US Airways or UAL acquires another air carrier and integrates that air carrier so as to form a single carrier, each of the Baseline Ratios in Paragraphs 2, 3 and 5 above shall be adjusted to include the increase in nonstop scheduled flights that result from the acquisition and integration of the acquired air carrier.

C. Reciprocal Code Share Requirement:

US Airways shall use its commercially reasonable efforts to secure the placement of UAL's designator code on the maximum number of US Airways departures, subject to the provisions of this Agreement, the provisions of the agreement between US Airways and UAL, and any applicable laws, decrees, orders or regulations, flight number limitations, initial implementation constraints encountered in the first two years of the alliance agreement, unusual circumstances beyond the control of the Company or UAL, material breach or termination of the alliance agreements by UAL, or facility or other constraints that prevent US Airways from offering a code share product of sufficient quality to its customers.

D. Block Space Agreements:

US Airways shall not purchase or reserve Block Space seats with UAL or any UAL Express Carrier.

E. US Airways Aircraft:

There shall be no direct or indirect transfer to UAL of any aircraft owned, leased, operated or on order or option by or on behalf of US Airways, other than in the normal course of business (e.g., lease returns or sale of aircraft, orders or options on arm's length market terms). No transfer of International Routes or International Route Authorities shall be permitted to UAL or any affiliate of UAL.

F. Marketing Identity:

US Airways and UAL shall maintain separate operating and corporate identities, including, but not limited to, names, trade names, logos, liveries, trademarks, or service marks, but permitting (in addition to the separate marks and names) the use of designator codes, frequent flyer program information, and other trademark trade name, logo or service marks that reflects the alliance relationship.

G. Amendments to Alliance Agreements:

(1) Amendments or Changes to Alliance Agreements. A copy of each amendment or change to any of the Alliance Agreements shall be provided to ALPA prior to implementation. If such amendment or change, written or oral would be reasonably likely to (i) have a material adverse effect (defined for the purpose of this paragraph 1 as an economic impact exceeding $10 million per year) on the economic structure or benefits of the alliance to US Airways or UAL or (ii) otherwise materially change any of the Alliance Agreements and such change materially adversely affects the interests of the US Airways pilots:

(a) The amendment or change shall be subject to review and comment by ALPA for at least 14 days before it becomes effective.

(b) In the event that ALPA objects to any such amendment or change on the ground that it is not consistent with a condition of Paragraph 1, within 21 days after receipt of the amendment or change ALPA shall submit any objection to the System Board of Adjustment for expedited determination under Section 1 of the US Airways Pilots' Agreement to determine whether the conditions set forth in Paragraph 1 above exist. In addition to any other remedies that are awarded, either:

(i) US Airways shall cancel or void the amendment or change to the Alliance Agreement(s) and take all other action necessary to restore the status quo that existed prior to the amendment or change to the Alliance Agreement(s) by a date no later than 15 days following the date of the arbitration decisions, or

(ii) If the Company does not cancel or void the amendment or change to the Alliance Agreement(s) within the 15 day period, ALPA shall have the right to terminate this Letter of Agreement upon 30 days written notice to the company.

The System Board of Adjustment shall retain jurisdiction to determine any dispute with regard to compliance with the Award, including whether the status quo has been restored.

(c) Amendments or changes to the Alliance Agreements shall include a legend describing the provisions of this paragraph G1.

(d) Notwithstanding any earlier amendable date, this Letter of Agreement shall remain in full force and effect until the exhaustion of the procedures set forth in paragraphs 1(a) - 1(b) above.

(2) Termination Notice. In the event that either Company or UAL provides a Termination Notice pursuant to the Code Share Alliance Agreement or any other agreement relating to the Alliance, and the other party accepts termination of less than the entire agreements or agreements, and such action is material and materially adversely affects the interests of the US Airways pilots, ALPA shall have the right to terminate this Letter of Agreement upon 60 days written notice to the Company, with such termination to be effective upon termination of the portion of the relevant agreement or agreements relating to the Alliance.

(3) Rulings of Government Authority. If, after the first anniversary of the Effective Date of the Alliance Code Share Agreement, as a result of any action or rulings of any governmental authority, or in response thereto, any material change is required to be made to any of the Alliance Agreements and such change materially adversely affects the interests of the US Airways pilots, the same procedures shall apply as in paragraph 1 above.

(4) The provisions of paragraphs 1 through 3 above, regarding termination of this Letter of Agreement, shall be effective in all respects without regard

to whether the parties are then engaged in collective bargaining pursuant to Section 6 of the Railway Labor Act. The Company expressly waives any and all rights whatsoever to argue that ALPA's rights under these provisions or exercise of such rights should be affected in any way by virtue of the status quo provisions of the Railway Labor Act.

(5) In addition to the provisions stated above, if ALPA and UAL renegotiate the terms of the US Airways Code Share Agreement dated July 20, 2002, subsequent to the date of signing of this Letter of Agreement, the parties agree that the Company and ALPA will review and discuss the modifications in the terms, conditions or restrictions to determine whether such change(s) materially adversely affect the interests of the US Airways pilots. If such change(s) may materially adversely affect the interests of the US Airways pilots, the provisions of paragraph G. (1) above will be followed.

H. Labor Disputes:

The Company shall not permit UAL or any UAL Express Carrier to operate any flight under the US Code at any time during a lawful strike by the Company's pilots. The Company shall not operate any flight under the UA Code during a lawful strike by the pilots of UAL.

I. Arms' Length Transactions:

Transactions between US Airways or the Company and UAL shall be at arms' length (as would be conducted by independent, unaffiliated parties).

J. Special Duration:

The Company waives its right under the Railway Labor Act to make unilateral changes to Paragraph H of this Letter of Agreement on Code Sharing during periods of lawful self-help by the pilots employed by the Company. Paragraph H. shall remain in full force and effect unless and until revised in a future written agreement between the Company and the Association irrespective of whether the Company's pilots are engaged in a lawful primary strike under the Railway Labor Act, and the Company hereby waives any claim, right or privilege to change, breach or disregard paragraph 11 under the Railway Labor Act or otherwise.

K. Enforcement:

Section 1(I) Remedies of the basic pilot agreement, shall serve as the procedure for enforcement of the terms of this Letter of Agreement

L. Definitions:

(1) "Small Jets" shall be defined as stated in Attachment B of the Restructuring Agreement.

(2) "Covered Flights" shall be defined as scheduled nonstop flights operated by US Airways or UAL on equipment other than turboprops or Small Jets between points within the region of the United States consisting of the states of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, West Virginia, Virginia, North

Carolina, South Carolina, Georgia, Florida, Ohio, Indiana, Kentucky, Tennessee, Michigan, Alabama and Mississippi.

(3) "Caribbean Basin" shall be defined as airports within Area 2 of the U.S. DOT World Area Code, and including the U.S. Virgin Islands, Puerto Rico, airports on the Gulf of Mexico coast of Mexico, and Belize.

(4) The "Alliance Code Share Agreement" shall be defined as the Code Share and Regulatory Cooperation Agreement dated June 19, 2002, Passenger Prorate Agreement dated June 19, 2002, Star Alliance Participation Agreement dated June 19, 2002, United Airlines, Inc. and US Airways, Inc. Reciprocal Airport Lounge Agreement dated June 19, 2002, US Airways Dividend Miles Program and United Air Lines Carrier Participation Agreement dated June 19, 2002, and the United Mileage Plus and US Airways Carrier Participation Agreement dated June 19, 2002.

(5) "Block Space" seats shall be defined as a quantity of seats purchased by US Airways on aircraft operated by UAL or UAL Express, or purchased by UAL on aircraft operated by US Airways or US Airways Express, as applicable, at a contractually agreed price that are then available for resale at prices established by the purchasing carrier to the customers of such carrier.

M. Duration

This Letter of Agreement shall become effective upon its execution and shall remain in effect concurrent with the ALPA Restructuring Agreement signed by ALPA, the Company, and US Airways Group, Inc., on the 11th day of August,

2002 subject to the provisions of paragraphs G. and J. above.

IN WITNESS WHEREOF, THE PARTIES HAVE SIGNED THIS Agreement this _____ day of _____, 2002.

FOR THE AIR LINES PILOTS ASSOCIATION, INTERNATIONAL

_____
Duane E. Woerth, President

WITNESS:

_____
Chris Beebe
MEC Chairman

_____
B. Kelly Ison
Chairman, Negotiating Committee

_____
Philip P. Carey
Negotiating Committee

_____
Jeffrey L. Tokash
Negotiating Committee

_____
Gerry A. McGuckin
Negotiating Committee

_____
Donn K. Butkovic
Negotiating Committee

FOR US AIRWAYS, INC.

_____
Jerrold A. Glass
Sr. Vice-President - Employee Relations

_____
P. Douglas McKeen
Vice-President - Labor Relations

_____
Edward W. Bular
Vice President - Flight Operations

_____
Anthony J. Bralich, Jr.
Director, Labor Relations - Flight

_____
John H. McFall
Manager, Labor Relations - Flight

CODE SHARE AGREEMENT WITH FOREIGN CARRIERS **LETTER #82**

LETTER OF AGREEMENT
Between and among
US AIRWAYS, INC.
and the
AIRLINE PILOTS
in the service of
US AIRWAYS, INC.
as represented by
THE AIR LINE PILOTS ASSOCIATION, INTERNATIONAL

CODE SHARE AGREEMENT WITH FOREIGN CARRIERS

THIS LETTER OF AGREEMENT is made and entered into in accordance with the provisions of Title II of the Railway Labor Act, as amended**,** by and between US Airways, Inc. (hereinafter referred to as "US Airways") and the Airline Pilots in the service of US Airways as represented by the Air Line Pilots Association, International (hereinafter referred to as the "Association").

WHEREAS US Airways intends to enter into a corporate and marketing relationship ("Code Share Agreement") with Foreign Carriers (hereinafter referred to as "FC"); subject, among other things, to approval of the Association; and

WHEREAS the Company and Association have concluded that a Code Share Agreement, with FC, subject to the terms and conditions set forth herein, can benefit the parties through enhanced passenger volume and revenue that should be generated through such an arrangement; and

WHEREAS the parties have negotiated terms and conditions which allows the Company to enter into such a Code Share Agreement on an equitable basis with FC; and

WHEREAS the parties desire both to facilitate the Code Share Agreement and to provide protection for the legitimate job interests and expectations of the Company's pilots.

NOW THEREFORE, the parties mutually agree to amend Section 1(B)5 of the Agreement between US Airways and ALPA effective on January 1, 1998 and as further amended by the Restructuring Agreement effective August 11, 2002, as follows:

A. Authority:

The Company may place the US Airways designator code on the flights of FC to perform International Flying subject to the terms and conditions of this Letter of Agreement and without satisfying the minimum block hour requirements set forth in Section 1(B)5 of the 1998 Agreement.

B. Definitions:

(1) "Foreign Air Carrier" shall be defined as any carrier by air other than an air carrier that is a citizen of the United States within the meaning of 49 U.S.C. Sec. 40102(a)(15), as that statute defines citizenship on the effective date of this Letter of Agreement.

(2) "Foreign OAL" shall be defined as any Foreign Air Carrier, but shall not include Air Canada and such other Foreign Air Carriers certificated in North America that the parties may in the future agree in writing to add to this Letter of Agreement (each such listed carrier, a “Foreign North American OAL”, and collectively, “Foreign North American OALs”).

(3) “Foreign Baseline Ratio” for a Foreign OAL shall be defined as the ratio determined by dividing the aggregate number of Foreign Hub to US Airways Hub Flights of US Airways by the aggregate number of Foreign Hub to US Airways Hub Flights of each Foreign OAL for the twelve months of data available prior to US Airways' entry into a code share relationship with such Foreign OAL.

(4) “Foreign Covered Flights” shall be defined as scheduled nonstop flights operated by US Airways or a Foreign North American OAL on equipment other than turboprops or Small Jets between points within the country of citizenship of the Foreign North American OAL and points within the region of the United States consisting of the states of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, West Virginia, Virginia, North Carolina, South Carolina, Georgia, Florida, Ohio, Indiana, Kentucky, Tennessee, Michigan, Alabama, and Mississippi.

(5) “Small Jets” shall be defined as stated in Attachment B of the Restructuring Agreement.

(6) “International Flying” is defined as flying on nonstop flight segments between points in the U.S. and points outside the U.S. and flying on flight segments between points outside the U.S..

(7) "U.S." is defined as the United States, its territories and possessions.

(8) "US Airways Hub" is defined as Charlotte, Philadelphia, Pittsburgh or any airport having a monthly average of at least 50 US Airways (i.e. not including US Airways Express) departures per day on equipment other than turboprops or Small Jets.

(9) "Hub" of a Foreign OAL or Foreign North American OAL is defined as an airport having a monthly average of at least 50 departures per day of that specific airline on equipment other than turboprops or Small Jets.

C. Exclusions:

(1) The Company may not place the US Airways designator code on flights of Foreign OALs or Foreign North American OALs to or from a US Airways Hub (as defined in Attachment C), other than flights to or from a foreign hub of the Foreign OAL or Foreign North American OAL ("Foreign Hub to US Airways Hub Flights").

(2) Beginning with the effective date of the code share agreement between US Airways and a Foreign OAL, the ratio in each month between the aggregate number of Foreign Hub to US Airways Hub Flights of US Airways bearing the Foreign OAL code and the aggregate number of Foreign Hub to US Airways Hub Flights of the Foreign OAL bearing the US Airways code (the "Monthly Ratio") will equal or exceed 95% of the Foreign Baseline Ratio for such Foreign OAL, unless otherwise authorized in writing by the US Airways MEC. Notwithstanding the above, the Company shall have met its obligation in the preceding sentence in the event that both (x) the Monthly Ratio for a Foreign OAL does not equal or exceed 95% of the Foreign Baseline Ratio for such Foreign OAL, and (y) the Monthly Ratio for such Foreign OAL would equal or exceed 95% of the Foreign Baseline Ratio if either: (a) US Airways were to operate less than one additional daily flight from one of the US Airways Hubs to a foreign hub of the Foreign OAL, or (b) the Foreign OAL were to operate less than one fewer daily flight from one of the foreign hubs of the Foreign OAL to one of the US Airways Hubs.

(3) A ratio will be determined by dividing the number of Foreign Covered Flights of US Airways by the number of Foreign Covered Flights of each Foreign North American OAL for the twelve months prior to the effective date of the code share agreement between US Airways and such Foreign North American OAL. This will be called the Foreign Covered Flight Baseline Ratio for such Foreign North American OAL. Beginning with the effective date of the code share agreement between US Airways and a Foreign North American OAL, the ratio in each month between the number of Foreign Covered Flights of US Airways bearing the Foreign North American OAL code and the Foreign Covered Flights of the Foreign North American OAL bearing the US Airways code (the "Monthly Ratio" for such Foreign North American OAL) will equal or exceed 95% of the Foreign Covered Flight Baseline Ratio for such Foreign North American OAL, unless otherwise authorized in writing by the US Airways MEC. Notwithstanding

the above, the Company shall have met its obligation in the preceding sentence in the event that both (x) the Monthly Ratio for a Foreign North American OAL does not equal or exceed 95% of the Foreign Covered Flight Baseline Ratio for such Foreign North American OAL, and (y) the Monthly Ratio for such Foreign North American OAL would equal or exceed 95% of the Foreign Covered Flight Baseline Ratio if either: (a) US Airways were to operate less than one additional daily Foreign Covered Flight applicable to such Foreign North American OAL, or (b) the Foreign North American OAL were to operate less than one fewer daily Foreign Covered Flight.

(4) With respect to the limitations pursuant to paragraphs 2 or 3 above, in the event US Airways is in breach of the applicable limitation in a given month, the following shall apply:

(a) US Airways can cure any such breach in a given month by promptly taking one of the following actions: (x) removing US Airways code from one or more applicable Foreign OAL or Foreign North American OAL (collectively, for the purposes of this Paragraph a, “OAL”) flights as of the Next Published Schedule Change Date, (y) adding applicable US Airways flights bearing the OAL code as of the Next Published Schedule Change Date (as defined below), or (z) adding the Foreign OAL code to existing applicable US Airways flights not previously bearing the OAL code as of the Next Published Schedule Change Date. For the purposes of this Paragraph, the "Next Published Schedule Change Date" shall be defined as the next practicable date at which an international schedule change with respect to the applicable market or markets could be loaded in the ordinary course of business (i.e., taking into account frequency limitations and/or IATA seasons if frequencies, slot availability or timings are a schedule constraint; and otherwise taking into account such limitations as may apply in the ordinary course of business for international schedule changes) for effectivity up to six months later (e.g., a breach in June is cured by a schedule change loaded on the 5th of July that becomes effective no later than the 5th of January).

(b) US Airways may defer the cure of any such breach for up to twelve months beyond the time frame specified in Paragraph a. above if the cause of such breach was an event or circumstance beyond the control of US Airways. The term "event or circumstance beyond the control of US Airways" means a natural disaster, labor dispute within the Company, grounding of a substantial number of the Company's aircraft by government agency or voluntary action by the Company for safety reasons in lieu thereof, which in either case could not be avoided or cured by the Company; reduction in flying operations because of suppliers being unable to provide sufficient critical materials for the Company's operations, revocation of the Company's operating certificate(s), war emergency or acts of terrorism.

(5) In the event that either US Airways or the Foreign OAL or Foreign North American OAL acquires another air carrier and integrates that air carrier so as to form a single carrier, the applicable Baseline Ratios in Paragraph 2 or 3 above shall be

adjusted to include the increase in nonstop scheduled flights that result from the acquisition and integration of the acquired air carrier.

D. Terms of Alliance Agreement:

The Company may enter into code share agreements with Foreign OALs and Foreign North American OALs provided that US Airways' compensation in such agreements will be predominantly limited to provisions specifying reciprocal frequent flyer and lounge access programs, revenue prorates or, in the case of joint venture arrangements, contribution sharing, which in each case as applicable will compensate US Airways for passengers carried by US Airways or for capacity provided by US Airways, as the case may be.

E. Labor Disputes:

The Company shall not permit a Foreign OAL, a Foreign OAL Express Carrier, or a Foreign North American OAL or a Foreign North American OAL Express Carrier to operate any flight under the US Code at any time during a lawful strike by the Company's pilots. The Company shall not operate any flight under the Code of a Foreign OAL or a Foreign North American OAL during a lawful strike by the pilots of a Foreign OAL or a Foreign North American OAL.

F. Special Duration:

The Company waives its right under the Railway Labor Act to make unilateral changes to Paragraph E of this Letter of Agreement on Code Sharing with Foreign OALs or Foreign North American OALs during periods of lawful self-help by the pilots employed by the Company. Paragraph E. shall remain in full force and effect unless and until revised in a future written agreement between the Company and the Association irrespective of whether the Company's pilots are engaged in a lawful primary strike under the Railway Labor Act, and the Company hereby waives any claim, right or privilege to change, breach or disregard paragraph 11 under the Railway Labor Act or otherwise.

G. Enforcement:

Section 1(I) Remedies of the basic pilot agreement shall serve as the procedure for enforcement of the terms of this Letter of Agreement.

H. Duration

This Letter of Agreement shall become effective upon its execution and shall remain in effect concurrent with the ALPA Restructuring Agreement signed by ALPA, the Company, and US Airways Group, Inc., on the 11th day of August,

2002 subject to the provisions of paragraph (F) above.

IN WITNESS WHEREOF, THE PARTIES HAVE SIGNED THIS Agreement this _____ day of _____, 2002.

FOR THE AIR LINES PILOTS ASSOCIATION, INTERNATIONAL

_____
Duane E. Woerth, President

WITNESS:

_____
Chris Beebe
MEC Chairman

_____
B. Kelly Ison
Chairman, Negotiating Committee

_____
Philip P. Carey
Negotiating Committee

_____
Jeffrey L. Tokash
Negotiating Committee

_____
Gerry A. McGuckin
Negotiating Committee

_____
Donn K. Butkovic
Negotiating Committee

FOR US AIRWAYS, INC.

_____
Jerrold A. Glass
Sr. Vice-President - Employee Relations

_____
P. Douglas McKeen
Vice-President - Labor Relations

_____
Edward W. Bular
Vice President - Flight Operations

_____
Anthony J. Bralich, Jr.
Director, Labor Relations - Flight

_____
John H. McFall
Manager, Labor Relations - Flight

APA Exhibit 506

Excerpt from Arbitrator Goldberg's Opinion in the Canadian Scope Arbitration.

BEFORE THE SYSTEM BOARD OF ADJUSTMENT

In re:

American Airlines, Inc.	)	Case No. P-12-93
	)	
- and -	)	Canadian Scope Arbitration
	)	
Allied Pilots Association	)	

Appearances:

American Airlines: Harry A. Rissetto, Anne McCully Murphy, Donald L. Havermann, D. Michael Underhill (Morgan, Lewis & Bockius, Washington, D.C.). Of Counsel, Richard A. Malahowski, Michele Valdez (American Airlines Legal Department, Ft. Worth, Texas.)

Allied Pilots Association: Edgar N. James, David P. Dean, Marta Wagner (Guerreri, Edmond & James, P.C., Washington, D.C.)

System Board of Adjustment

Stephen B. Goldberg, Neutral Board Member

Joseph C. Maiden, Union Board Member

William L. Slikkerveer, Union Board Member

Jane G. Allen, Company Board Member

Jonathan Jordan, Company Board Member

EXHIBIT
J-9

I. FACTS

A. Introduction

This dispute between American Airlines and the Allied Pilots Association ("APA") arose after American negotiated a business transaction with Canadian Airlines International ("Canadian" or "CAI").[1] APA claims that its contractual "scope clause" prevents American from consummating the Canadian transaction without APA approval. The scope clause provides:

> All flying performed by the Company or by the Company's parent corporation, or by a subsidiary or affiliate directly or indirectly controlled by the Company or by the Company's parent corporation, or any successor in interest, or flying performed on behalf of the Company or the Company's parent as a result of any agreement to which the Company or the Company's parent corporation is a party or becomes a party, shall be performed by pilots named on the active American Airlines Pilots Seniority List.

American contends that the transaction at issue does not violate the scope clause, and filed the instant grievance seeking a declaratory judgment to that effect.

B. Events Preceding the Adoption of the 1983 Scope Clause

Long before the existence of any written provision on scope, American and APA shared an understanding regarding scope. As Charlie Pasciuto, American's vice-president of employee relations, put it "whatever American was certified to fly by the CAB, that was work that belonged to the American pilots, even absent the scope

[1] American Airlines, AMR Corporation, Aurora Investments and AMRIS all participated in the Canadian transaction. These participants will collectively be referred to as "American" or "AMR".

clause; it was just sort of a general understanding that both sides understood."

In 1972, APA made its first written proposal for a scope clause, providing that:

> it is agreed that all flying performed by the Company, a subsidiary, or a successor in interest, or as a result of any Agreement to which the Company is a party or becomes a party, shall be performed by pilots named on the current active American Airlines pilots Seniority List.

The same proposal was made by APA in the contract negotiations commencing in 1976. Neither of those proposals was accepted by American.

Despite the absence of a written scope clause, American's practice was to use only American pilots to fly its routes until 1976, when, after an accident at the St. Thomas, V.I., airport, American hired an independent carrier, Antilles Airboats, to fly American's routes between St. Croix and St. Thomas. The pilots used by Antilles Airboats were not American pilots. Subsequently, American and APA entered into an agreement dated March 30, 1977, excluding the St. Croix-St. Thomas route from the shared understanding of using only American pilots for American flying. The agreement was temporary, to last only as long as construction at the Harry S. Truman Airport in St. Thomas continued. Specifically, the agreement recognized the "APA policy" requiring American pilots to fly any "routes for which [American] has been certified or over which it operates."

A subsequent agreement, entered into by the parties in 1978, dealt again with the St. Croix-St. Thomas route. This agreement allowed American to operate the route through a wholly owned subsidiary, American Inter-Island Airlines, without using American pilots. Again, the agreement was to last only as long as the construction at the St. Thomas Airport continued. Also, American assured APA that it did not intend to further "separate the flying operation of its airline business into additional subsidiaries."

In the fall of 1978, Congress passed legislation deregulating the airline industry and providing for the termination of the Civil Aeronautics Board (CAB) by 1985. Prior to 1978, the airline industry was under extensive federal regulation under the provisions of the Federal Aviation Act. That Act, inter alia, prohibited anyone from acquiring "control" of an air carrier without CAB approval. Once the CAB determined that someone was getting control of an air carrier, Section 408 required it to decide whether that acquisition was "consistent with the public interest." If so, Section 408 required it to approve the transaction "upon such terms and conditions as it shall find to be just and reasonable and with such modifications as it may prescribe" provided, generally, that the transaction did not result in a restraint on competition.

For many years, the CAB often conditioned approval of acquisitions of control upon the parties' acceptance of "labor protective provisions" designed to provide generally that employees should be no worse off after a change in control than before. The CAB also mandated, where necessary, the "fair and equitable" integration of seniority lists.

Besides the "control" determination made by the CAB under Section 408, it was also required to address the issue of "control" in making citizenship determinations under Section 101 of the Civil Aeronautics Act.

In October 1978, as previously noted, Congress passed legislation deregulating the aviation industry. In 1979, the CAB decided that its labor protective provision doctrine had no place in the new regime, and

> put all labor parties on notice that labor protection in the future will be provided only if and when the board determines that it is required by special circumstances. LPPs will no longer be imposed as a matter of course, or because tradition dictates their use. We therefore advise labor to negotiate its own merger protections through the collective bargaining process at the first opportunity. Texas International - Pan Am - National Acquisition Case, 79-12-163/164/165.

Simultaneous with the dawn of deregulation, in August, 1978, Frank Lorenzo and Texas International Airlines ("TI") sought to take over National Airlines. Then, in September 1979, Lorenzo sought to take over Trans World Airlines. Both attempts failed,

but created concerns for both APA and American. According to Charlie Pasciuto, at the time the 1979 contract negotiations took place, the pilots and American "were both concerned with what would happen to the company with deregulation, and the pilots were concerned what would happen to their jobs and their security. So... there were a lot of concerns on both sides."

In the 1979 contract negotiations, APA proposed the following scope clause:

> It is agreed that all flying performed by the Company, a subsidiary, or affiliate directly or indirectly controlled by the Company, or successor in interest, or flying performed on behalf of the Company as a result of any other agreement to which the Company is a party or becomes a party, shall be performed by pilots named on the current active American Airlines pilots seniority list.

This proposal differed from APA proposals in 1972 and 1976 primarily because it added the language "any affiliate directly or indirectly controlled by the company" and "for flying performed on behalf of the company."

APA presented its scope proposal at the opening of negotiations, commenting only that it spoke for itself. According to then APA general counsel Martin Seham, who drafted the proposed scope clause, his reason for adding the new "affiliate" language was that "we were in the midst of... or at the beginning of the big corporate reorganization that flowed from deregulation and nobody knew, including myself and the negotiating committee, how far the fertile mind of financiers would take us...."

American, represented in the 1979 negotiations by Charlie Pasciuto, refused to discuss the proposed scope clause until the end of negotiations, when APA refused to close a deal without negotiating a scope provision. At that point, APA president Bob Malone presented the scope clause to Mr. Pasciuto's superior, senior vice president of operations Donald Lloyd-Jones. Malone explained to Lloyd-Jones that APA was insisting on scope language in the contract because of the effects of deregulation on the industry and the rise of a "new style of management." According to Malone, Lloyd-Jones asked technical questions about legal aspects of the document that Mr. Seham answered. Mr. Seham did not discuss with Lloyd-Jones his interpretation of the word "affiliate." Lloyd-Jones signed the proposed agreement as a side letter in the fall of 1979, but, as an accommodation to American in other negotiations, the letter was not included as a supplement to the 1979 basic agreement. Lloyd-Jones signed a redated letter on January 8, 1980.

During the summer of 1980, a dispute arose over the interpretation of the scope letter when American began to investigate the possibility of contracting out the transport of American freight from Cincinnati to Philadelphia. American eventually abandoned its plans, but it was obvious the parties disagreed about whether the freight work fell within the meaning of the scope letter.

Also that summer, Frank Lorenzo founded New York Air as a non-union carrier and second subsidiary of Texas Air, the newly organized holding company parent of Texas International, a unionized carrier. In Mr. Pasciuto's words, a "great hue and cry" went up from the pilots, who were "concerned about protecting themselves against what Frank Lorenzo had done with New York Air" and thus made scope "a big issue". Lorenzo's activities had been "well discussed among both sides" in Mr. Pasciuto's recollection.

In 1981, American again pursued plans for contracting out freight transport, this time in the Caribbean. Consequently, while early negotiations for the 1982 basic agreement were being held in the summer of 1981, the parties revisited the scope issue. APA took the position that the January 1980 scope letter applied to the freight routes at issue, while American claimed that those were new routes, and that the scope letter only protected American pilots on routes which existed at the time of the scope letter.

The parties resolved the freight operations dispute on July 28, 1981. APA granted American an exception from the scope letter for certain "freight feed" operations in exchange for protection for furloughed pilots. The July, 1981, agreement also provided that the scope language from the Lloyd-Jones letter would be incorporated in the contract as Section 1.B.

In October 1982, American established a holding company, AMR Corporation, and in 1983, the scope clause was amended to include AMR. According to Captain Malone, that was done to make sure that AMR was covered by the scope clause. According to Mr. Pasciuto, the amendment was intended to make sure that American could not establish a subsidiary non-union carrier, as Lorenzo had done at Texas Air.

C. Events Since the Adoption of the 1983 Scope Clause

In June, 1984, APA and American met to discuss American's plans for an "American Eagle" operation. In order to feed passengers into its hub operations, American planned to franchise its services, its facilities, the American Eagle name, and the American designator code to independently-owned commuter operations. While the Eagles would not employ pilots from the American seniority list, APA was assured that the Eagles would be used to develop routes, that if any Eagle route developed to the point that it could support an American jet, American would replace the Eagle, and that American had no intention of replacing any American flying with Eagle flying.

Subsequently, at APA's request, it received written assurances from American president Bob Crandall that American would not make an equity investment in the Eagles, provide any seed money, or receive payments from the Eagles other than for designated services

and facilities. APA then advised American that it would not assert any claim to flying currently being performed by the Eagles in the belief that "the American Eagle flying currently being performed would not otherwise be performed under any circumstances by American Airlines."

Late in 1984, the scope clause surfaced again. To alleviate the problem of stranded passengers and freight during the busy holiday season, which was accompanied that year by severe weather, American chartered aircraft and crews from Braniff and Southern Air Transport to fly American passengers and freight on routes normally flown by American. American did not seek APA approval to charter these routes and APA objected. The parties agreed, in a letter dated January 3, 1985, that "henceforth, the Scope Clause shall be considered to cover all subcontracting or chartering of Company airline operations."

In September 1985, at American's request, APA president Fred Vogel and vice-president Wayne Guessford met with American president Crandall to discuss a possible transaction involving Frontier Airlines. According to Vogel, president Crandall informed them that American needed a hub between Dallas and Los Angeles, and requested APA permission to enter into an Eagle franchise type agreement with Frontier, or to acquire Frontier and operate it as a separate subsidiary. The following day, Vogel informed American that APA would not agree to American flying Frontier as an Eagle

franchisee or as a separate subsidiary. While APA agreed to study a full merger with Frontier, People's Express subsequently purchased Frontier.

In the course of negotiations for the 1987 contract, American proposed an exception to the scope clause for "all flying performed by independently owned companies under the provisions of agreements similar to American Eagle contracts" and a proposed exception for commuter carriers which would permit American to "create, acquire, or maintain an equity position up to 100% in a commuter carrier..." According to John Russell, American's managing director of employee relations, who was a member of the American negotiating committee, the reason for American's proposal was that considerable instability had developed among the commuter air carriers, and American decided that, in answer to that instability, it should have the ability to buy or create its own carriers.

Subsequent to the American proposal, the parties engaged in extensive negotiations, resulting in the adoption of Supplement S to the contract on March 1, 1987. Supplement S provides, in relevant part, as follows:

> 1. The primary purpose of a commuter air carrier under this Supplemental Agreement is either to provide passenger and cargo revenue feed to American Airlines flights and/or to enhance the Company's overall market presence. The following activities shall not be considered as violations of Section 1 of the Agreement, nor subject to the terms and conditions of the agreement:
>
> A. The Company may create a commuter air carrier, acquire a commuter air carrier,

> maintain an equity position in a commuter air carrier, or enter into franchise type agreements with independently owned commuter air carriers.
>
> B. If American Airlines Seniority List pilots are on furlough, the Company will give preference to such pilots in the filling of vacancies on commuter air carriers in which the Company owns a majority equity interest. The Company will also attempt to secure preference for such pilots for vacancies occurring at commuter air carriers in which the Company owns a minority equity interest and at independently owned air carriers involved in franchise type agreements with the Company.

According to Mr. Russell and Mr. Pasciuto, the reason that American included "maintain an equity position in a commuter air carrier and "enter into franchise type agreements with independently owned commuter air carriers" in paragraph 1A of Supplement S was so that no one could later argue that the company had lost those rights by not including them. American's intention in that respect was concededly not discussed with APA at the time. It is APA's position that Supplement S created an exception for these arrangements.

Following the signing of Supplement S, American acquired several commuter carriers, including Simmons, Wings West and Executive Airlines. American made its first equity investment in a non-commuter carrier in 1989. At that time, American acquired a 7.5% equity interest in the recently privatized Air New Zealand, as part of an international consortium of airlines,

including Quantas, which acquired approximately 20%, and Japan Air Lines, which acquired 7.5%. APA did not challenge this transaction as a violation of the scope clause.

Also, in 1989, American investigated a possible 20-25% equity investment in Wardair, a large Canadian carrier. APA president Vogel expressed APA concern that such a stake in many cases would have to be considered a controlling interest, and so pose problems under the scope clause. American disagreed, asserting that simply acquiring an equity interest in another carrier did not necessarily give rise to an issue under the scope clause. The deal fell through prior to resolution of the scope issue.

In November 1991, American made a proposal to a consortium of banks that were creditors of the Trump Shuttle to acquire a 40% economic interest in a new holding company that would wholly own the Shuttle. Besides its equity investment, American was to be manager of the Shuttle, and, together with the board of directors, was to have joint control over "significant actions" of the Shuttle. After a five-year management period, American had an option to purchase the Shuttle outright.

The parties agree that American told APA that it would not proceed with the Trump transaction without APA consent, but disagree as to the reasons for American's position. According to APA vice president Jim Sovich, American vice president of employee

relations Ralph Craviso told APA that the transaction would require an exception to the scope clause. (Mr. Craviso did not testify). American argues that it agreed not to proceed without APA support solely because the deal was on a "fast track". In any event, the deal did not go through.

In February 1993, American advised APA that it was engaged in discussions regarding possible joint marketing and management services agreements between it and America West. APA took the position that the totality of services proposed by American could result in its having control of America West, in which event it would need a scope exception to proceed. Once again, the deal did not go through, and the scope issue remained unresolved.

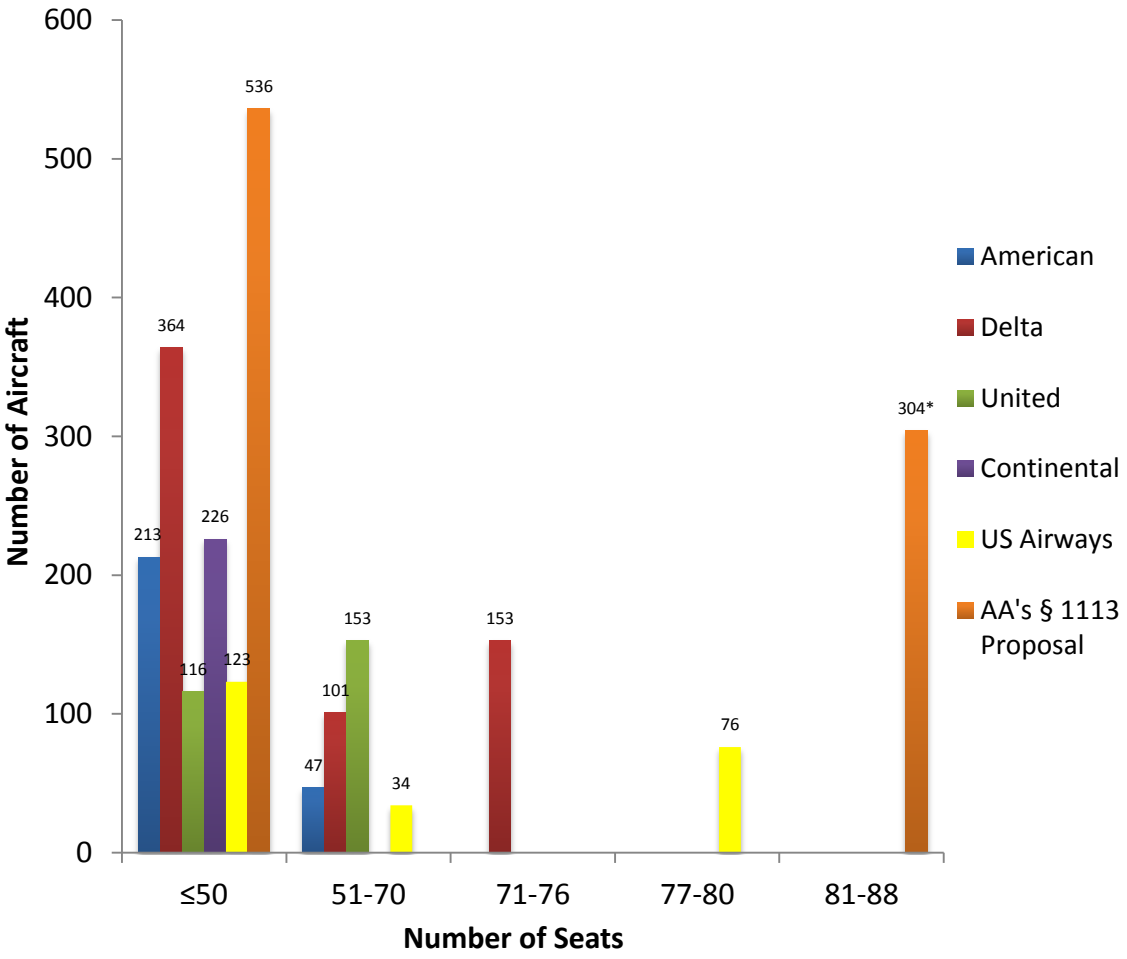
D. The Canadian Airlines Transaction

1. Background

Canadian Airlines International is a wholly owned subsidiary of PWA Corporation, a publicly held holding company whose shares are widely dispersed. (Pursuant to an Alberta statute, no person or group of associated persons may hold more than 10% of PWA's voting shares.)

APA Exhibit 507

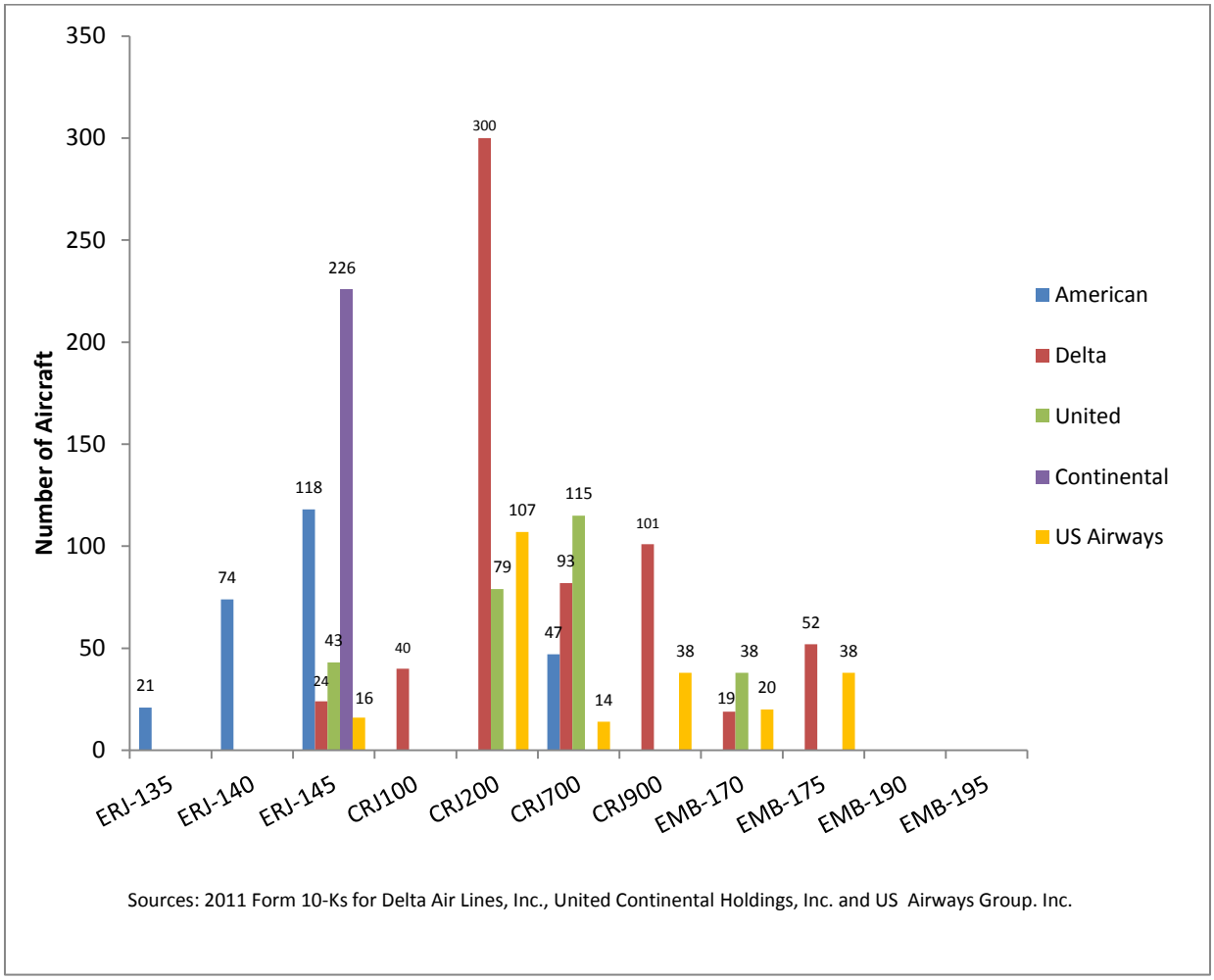
APA Exhibit 507: Number of Outsourced Regional Jets by Seat Numbers



*Under its March 21 § 1113 proposal, AA could have up to 304 RJs (50% of the mainline fleet) between 51 and 88 seats.
Sources: 2011 Form 10-Ks for Delta Air Lines, Inc., United Continental Holdings, Inc., and US Airways Group, Inc.; AA's § 1113 proposal

APA Exhibit 508

APA Exhibit 508: Number of Outsourced Regional Jets by Type



Sources: 2011 Form 10-Ks for Delta Air Lines, Inc., United Continental Holdings, Inc. and US Airways Group. Inc.

APA Exhibit 509

Embraer Aircraft

Variant	E-170	E-175	E-190
Passenger Capacity	80 (1-class, 29"/30") 78 (1-class, 30"/31") 70 (2-class, 36"/32")	88 (1-class, 30") 86 (1-class, 31") 78 (2-class, standard)	114 (1-class, 29"/30") 106 (1-class, 31") 99 (2-class, standard)
Length	29.90 m (98 ft 1 in)	31.68 m (103 ft 11 in)	36.24 m (118 ft 11 in)
Maximum takeoff weight	35,990 kg (79,300 lb) (STD) 37,200 kg (82,000 lb) (LR) 38,600 kg (85,000 lb) (AR)	37,500 kg (83,000 lb) (STD) 38,790 kg (85,500 lb) (LR) 40,370 kg (89,000 lb) (AR)	47,790 kg (105,400 lb) (STD) 50,300 kg (111,000 lb) (LR) 51,800 kg (114,000 lb) (AR)
Range	STD: 3,334 km (1,800 nmi) LR: 3,889 km (2,100 nmi) AR: 3,892 km (2,102 nmi)	STD: 3,334 km (1,800 nmi) LR: 3,889 km (2,100 nmi) AR: 3,706 km (2,001 nmi)	STD: 3,334 km (1,800 nmi) LR: 4,260 km (2,300 nmi) AR: 4,448 km (2,402 nmi)

Variant	ERJ135 ER	ERJ135 LR	ERJ140 ER	ERJ140 LR	ERJ145 LR	ERJ145 XR
Seating capacity	37		44		50	
Length	26.33 m (86 ft 5 in)		28.45 m (93 ft 4 in)		29.87 m (98 ft 0 in)	
Max Take Off Weight	19,000 kg (41,887 lb)	20,000 kg (44,092 lb)	20,100 kg (44,312 lb)	21,100 kg (46,517 lb)	22,000 kg (48,501 lb)	24,100 kg (53,131 lb)
Maximum range	2,409 km (1,300 nmi)	3,243 km (1,750 nmi)	2,317 km (1,250 nmi)	3,058 km (1,650 nmi)	2,873 km (1,550 nmi)	3,706 km (2,000 nmi)

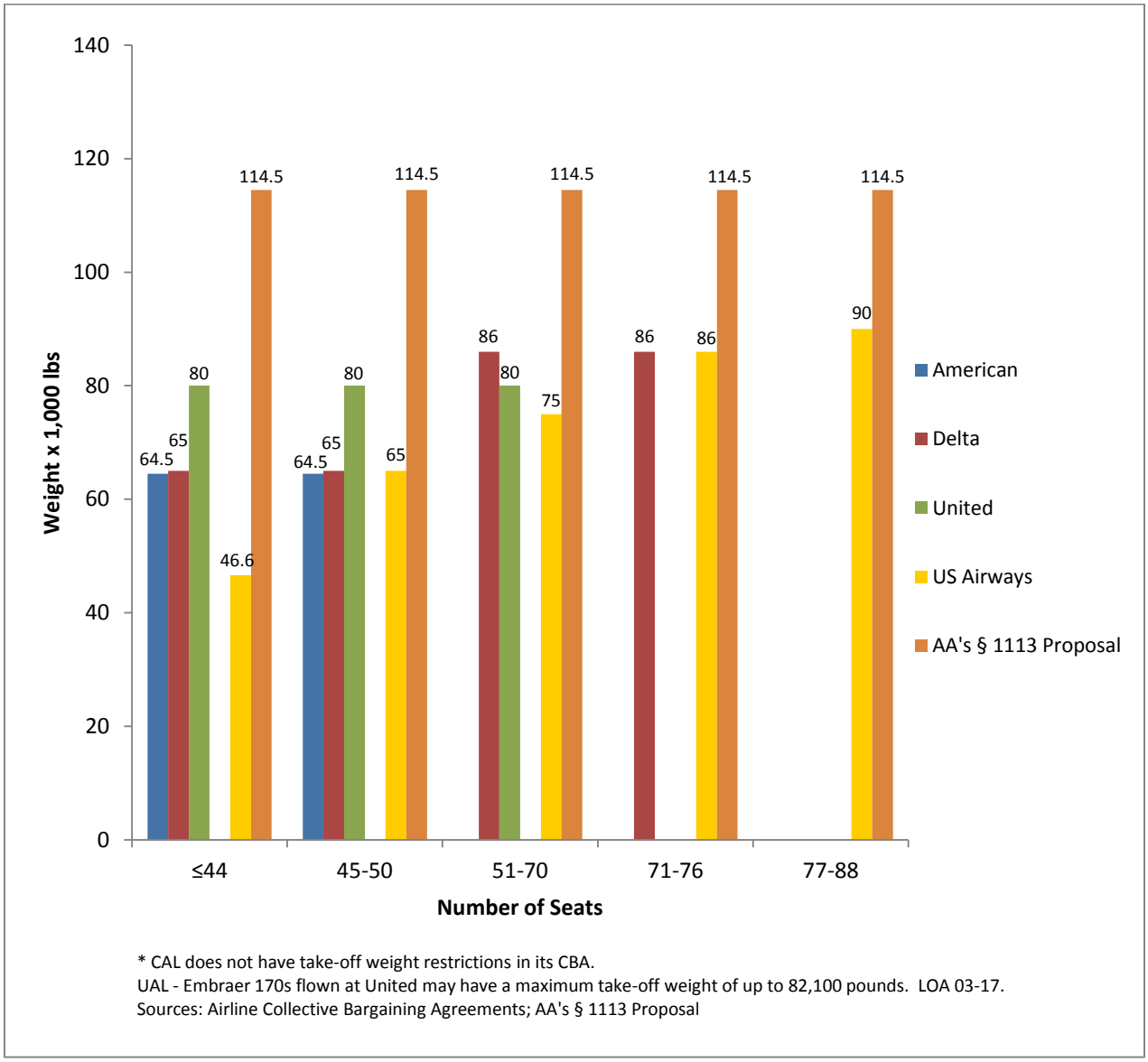
Bombardier Aircraft

Variant	CRJ700	CRJ900	CRJ1000
Passenger Capacity	78 (1-class, maximum) 70 (1-class, typical) 66 (2-class, typical)	90 (1-class, maximum) 86 (1-class, typical) 75 (2-class, typical)	104 (1-class, maximum) 100 (1-class, typical) 86 (2-class, typical)
Length	32.51 m (106 ft 8 in)	36.40 m (119 ft 4 in)	39.13 m (128 ft 4.7 in)
Maximum takeoff weight	ER: 34,019 kg (75,000 lb) LR: 34,926 kg (77,000 lb)	ER: 37,421 kg (82,500 lb) LR: 38,330 kg (84,500 lb)	40,824 kg (90,000 lb) ER: 41,640 kg (91,800 lb)
Range	ER: 1,732 nmi (1,993 mi) LR: 2,002 nmi (2,304 mi)	ER: 1,593 nmi (1,833 mi) LR: 1,828 nmi (2,104 mi)	1,345 nmi (1,548 mi) ER: 1,535 nmi (1,766 mi)

Variant	CRJ100 ER/LR	CRJ200 ER/LR
Seating capacity	50	
Length	26.77 m (87 ft 10 in)	
Max Take Off Weight (MTOW)	24,041 kg (53,000 lb)	
Maximum range	ER: 3,000 km (1,864 mi, 1,620 nmi) LR: 3,710 km (2,305 mi, 2,003 nmi)	ER: 3,045 km (1,895 mi, 1,644 nmi) LR: 3,713 km (2,307 mi, 2,004 nmi)

APA Exhibit 510

APA Exhibit 510: Regional Jet Maximum Take-Off Weight Allowances



* CAL does not have take-off weight restrictions in its CBA.
UAL - Embraer 170s flown at United may have a maximum take-off weight of up to 82,100 pounds. LOA 03-17.
Sources: Airline Collective Bargaining Agreements; AA's § 1113 Proposal

APA Exhibit 511

AA Scope Proposal to APA

November 14, 2011

The company proposes the following modifications to Section 1**:**

Section 1.C – Incremental jet flying on aircraft with greater than 50 seats will be flown by APA pilots**.**

Section 1.C.1 – Add language to reinstate the Excess Baggage letter, and discuss applicable origins and destinations.

Section 1.C.1.b.2. Comprehensive Marketing Agreement – Modify to conform to domestic codeshare provisions

Section 1.D. Commuter Air Carriers

- Existing Commuter restrictions continue to apply except:
- Section 1.D.5.g - Eliminate distinction between owned and non-owned by adopting owned restrictions for either owned or non-owned. Incorporate Letter VV.
- Section 1.D.5.h - Eliminate distinction between owned and non-owned 85/15% applies to all commuter air carriers
- Ability to modernize or replace 43 ATR turboprops with comparable equipment (such as the Q400).
- Ability to modernize or replace the 47 70 seat RJ's permitted at Eagle with comparable equipment
- Ability to migrate up to 47 large RJ's to another substitute commuter carrier.
- Incorporate Cape Air clarification letter dated 12/14/2010
- Permit regional airline codeshare (capacity purchase flying) with a carrier for 50 seats or less, even if the carrier has larger than 50 seat aircraft on their AOC, provided that the codeshare is only on the 50 seat or smaller aircraft (e.g. Chataqua situation; not changing definition of commuter air carrier)

Section 1.F – Hawaiian – Incorporate the Hawaiian codeshare LOA 08-02 to become amendable in conjunction with this agreement**.**

Section 1.H – Domestic Codeshare - Delete and replace as follows:

- Carriers subject to these 1.H provisions are not subject to the restrictions of Section 1.C.1.b.2
- No codeshare on a foreign carrier route operated by a domestic air carrier through a wet lease arrangement (WestJet issue)

For the purposes of feeding AA international growth at JFK, AA may place the Company code on a domestic airline based at JFK, subject to the terms and conditions set forth below:

a. Prior to starting a codeshare with the carrier, the company must first add 6 new mainline departures to JFK

    i. Half of the departures must be International destinations or Trans-Continental flying

b. Once the Company adds the flying, the Company may codeshare on 25 markets served from JFK

c. For each additional 6 daily AA departure from JFK (at least 4x/wk, half of which are International destinations or Trans-Continental), the Company may place its code on an additional 25 markets that are served from JFK.

d. The Company will seek to obtain reciprocal codesharing.

e. The AA code can only be placed on flights in the US48, Mexico, and the Caribbean

f. AA can place its code on overlapping routes, so long as no more than 50% of the passenger seats are occupied by passengers travelling on the AA code.

g. If the Company reduces any AA-operated departures in an overlap market, it must add a corresponding number of international or transcontinental departures in the same schedule season.

- Regional Jet flying at JFK by an AA commuter air carrier (Eagle or American Connection) will be capped at 2011 IATA Summer levels (39 daily departures).

- The ratio of AA departures to departures by AA commuter carriers for IATA Summer schedules will not exceed the 2011 IATA Summer schedule: 63% of departures by AA and 37% of departures by commuters. A similar ratio for Winter schedules will be developed based on the 2011/2012 IATA Winter schedule.

- If AA is unable to establish or continue the codeshare agreement with an airline at JFK, APA is open to discussing a single carrier replacement provision

- If Operating Authorities at JFK become more freely available to the Company through government action, then the Company shall promptly review with the Association the flows of passengers on the Company's code on the other airline, and shall repeat that review every year. If for any period of six consecutive months, the codeshare airline carries more than an average of X passengers per flight per day on the Company's code for any codeshared flight, then the Company shall not, without the Association's approval, continue to place the Company's code

on that flight. (X to be agreed that are minimally sufficient to earn an adequate return with an A319 aircraft).

Northeast Shuttle Codeshare

AA may place the Company code on a Shuttle between BOS, LGA, and DCA, provided that:

a. There shall be an annual baseline of 102 aggregate, scheduled daily AA departures at BOS, LGA and DCA; however,

    a. The company may fall below this baseline as a result of a slot exchange between JFK and either LGA or DCA, so long as the Company exchanges no more than 4 DCA/LGA slots for one JFK slot

    b. If AA falls below 90% of the baseline there will be a one year cure period

        i. If the company does not cure, AA will pull the AA code off the Shuttle

Alaska codeshare

American will be allowed to expand its code share agreement with Alaska Airlines

- The following restrictions will apply:

    i. There shall be an annual baseline of AA mainline block hours in the LA Basin and Bay area

    ii. The baseline will be Full Year 2011 (XXX)

    iii. For each 4160 mainline annual block hours scheduled above the baseline, AA will be able to add three (3) new markets.

    iv. If AA falls below 90% of the baseline there will be a one year cure period

If the company does not cure, AA shall pull the AA code off AS to return to the level that existed prior to the added markets.

- All other future domestic codeshares will be subject to APA approval, which will not be unreasonably withheld.

- In the event that circumstances prohibit the continuation of these domestic codeshare provisions, the Company may apply these provisions to a substitute carrier.
- These provisions subject to Force Majeure clause.

Section 1.J – International Baseline – Current book

Section 1.J.9 – Incorporate RDU-LHR letter received from APA dated May 17, 2011, regarding definition of JBA rationalization period, including Company examples, sent June 1, 2011.

Section 1. L. 2 – Seniority List merger – delete 2nd sentence regarding Company's acquisition of all or part of another air carrier.

Other Labor Protective Provisions In Substantial Asset Sale

"Aircraft-Related Assets" shall be defined to include aircraft, slots, and route authorities[,or other operating assets] that generate a direct and measureable amount of Company pilot block hours, and shall not include maintenance equipment and facilities, ground equipment and facilities, aircraft engines and spare parts, training equipment and facilities, reservation and computer systems, equipment and facilities, intellectual property, or other assets that do not generate a direct and measureable amount of Company pilot block hours.

In the event that, within any 12 month period, the Company transfers (by sale, lease, or other transaction) or otherwise disposes of Aircraft-Related Assets which, net of Aircraft-Related Asset purchases or acquisitions during the same 12 month period, generate 20% or more of the Company pilot block hours to an entity or to a group of entities acting in concert that is an Air Carrier or that will operate as an Air Carrier following its acquisition of the transferred Aircraft-Related Assets (any such entity or group, the "Transferee"; any such transaction, a "Substantial Aircraft-Related Asset Sale"):

1. the Company shall require the Transferee to proffer employment to pilots from the American Airlines Pilots Seniority List in strict seniority order (the "Transferring Pilots"). The number of Transferring Pilots shall be no fewer than the average monthly pilot staffing over the prior 12 months based on the pilot block hours generated by the Aircraft-Related Assets transferred to the Transferee in connection with the Substantial Aircraft-Related Asset Sale; and

2. the Company shall not finally conclude a transaction under this subsection unless the Transferee agrees to integrate the Transferring Pilots into the Transferee's pilot seniority list pursuant to either the McCaskill Bond Amendment, or if inapplicable, Sections 3. and 13. of the Allegheny-Mohawk LPPs

Foreign Domicile:

- In the event the Company opens a pilot domicile outside of the United States and its territories, American Airlines pilots assigned to such domicile shall be afforded all rights under this agreement and the Railway Labor Act. Incorporate Supp P.

APA would have certain protections in the event of a strike at a JBA carrier.

- No pilot shall be disciplined for refusing to operate Struck Work, refusing to undergo training on the property of a struck carrier, or refusing to perform training of pilots for service as strike replacement pilots.
- "Struck Work" is during a lawful strike on a JBA carrier (1) increased flying using another carrier's code when that carrier's pilots are on strike, as measured by codeshare ASMs comparing 30 day period prior to a strike and rolling 30 day post-strike period; or (2) increased flying, as measured by codeshare ASMs comparing 30 day period prior to a strike and rolling 30 day post-strike period, which is done at the request of the struck carrier. Provided, that it will not be considered to be performing struck-work to: (1) increase Company flying or to continue to transport passengers and/or cargo or mail within its route structure on its own aircraft so long as the code or other designation of the struck carrier is not placed on additional Company flights, and that any increase in Company flying does not result in a financial benefit accruing to the struck carrier, or (2) to increase flights where flights were scheduled by the Company prior to and irrespective of the existence of the lawful strike

Delete Letter JJ-4 Excess Baggage, (incorporated in Section 1.C.1)

Delete paragraph 13 of Supplement R (Alaska Codeshare) as no longer applicable.

Delete Letter SS – CRJ 700.

Delete LOA 05-12 and Excess Baggage Letters dated 05/19/2004 and 5/31/2005.

APA Exhibit 512

Excerpt from AMR Corporation 2011 10-K.

AMR CORP (AAMRQ)

10-K

Annual report pursuant to section 13 and 15(d)
Filed on 02/15/2012
Filed Period 12/31/2011

THOMSON REUTERS ACCELUS™

THOMSON REUTERS

ITEM 1B. UNRESOLVED STAFF COMMENTS

The Company had no unresolved Securities and Exchange Commission staff comments at December 31, 2011.

ITEM 2. PROPERTIES

Flight Equipment – Operating

Owned and leased aircraft operated by the Company at December 31, 2011 included:

Equipment Type	Average Seating Capacity	Owned	Capital Leased	Operating Leased	Total	Average Age (Years)
American Airlines Aircraft						
Boeing 737-800	157	88	-	79	167	6
Boeing 757-200	188	81	9	31	121	17
Boeing 767-200 Extended Range	168	4	10	1	15	25
Boeing 767-300 Extended Range	225	45	2	11	58	18
Boeing 777-200 Extended Range	247	44	3	-	47	11
McDonnell Douglas MD-80	140	83	36	81	200	20
Total		345	60	203	608	15
AMR Eagle Aircraft						
Bombardier CRJ-700	63/65	47	-	-	47	5
Embraer RJ-135	37	39	-	-	39	12
Embraer RJ-140	44	59	-	-	59	10
Embraer RJ-145	50	118	-	-	118	10
Super ATR	64/66	-	-	36	36	18
Total		263	-	36	299	11

Almost all of the Company's owned aircraft are encumbered by liens granted in connection with financing transactions entered into by the Company.

Of the operating aircraft listed above, 18 owned Embraer RJ-135 were in temporary storage as of December 31, 2011.

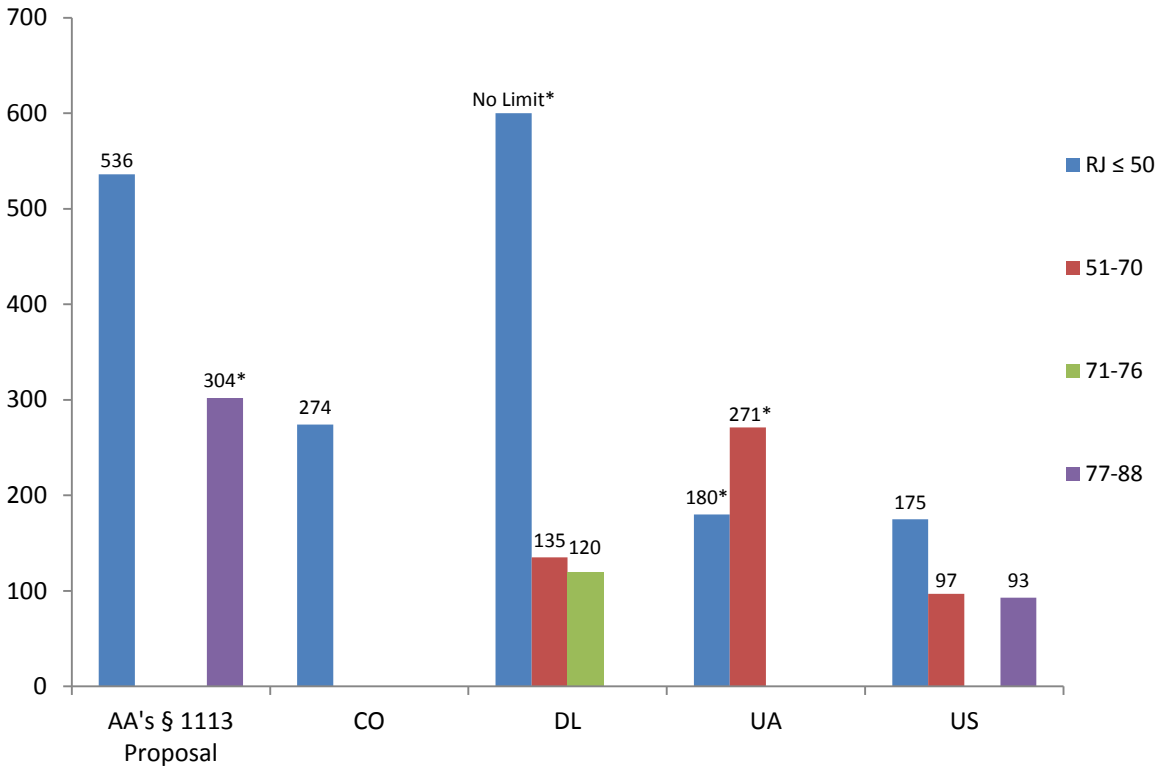
Flight Equipment – Non-Operating

Owned and leased aircraft not operated by the Company at December 31, 2011 included:

Equipment Type	Owned	Capital Leased	Operating Leased	Total
American Airlines Aircraft				
Airbus A300-600R	1	-	-	1
Fokker 100	-	-	4	4
Boeing 737-800	1	-	-	1
Boeing 757-200	3			3
McDonnell Douglas MD-80	33	12	11	56
Total	38	12	15	65
AMR Eagle Aircraft				
Saab 340B	41	-	-	41
Super ATR	-	-	3	3
Total	41	-	3	44

APA Exhibit 513

APA Exhibit 513: Regional Jet Allowances Under Pilot CBAs



Sources: Airline Collective Bargaining Agreements; AA's § 1113 Proposal

*Under its March 21 § 1113 proposal, AA could outsource up to 304 RJs (50% of the mainline fleet) between 51 and 88 seats and up to 536 RJs (110% of the narrowbody fleet).

*UA – Limit is based on RJ Aircraft total block hours not exceeding mainline (UAL only) aircraft total block hours with average RJ daily utilization rate of 9.0 hrs (avg. of Skywest and Republic). The total aircraft is 451 split (40/60) between the two seating configurations based on UAL's current regional fleet.

CAL – RJs ≤ 50 seats can increase above 274 when mainline aircraft count is above 384

DL – Maximum 255 RJs with 51-75 seats; any RJs > 70 ≤ 76 seats (max of 120) will reduce the number of 51-70s allowed

US Airways – 212 aircraft limit is for 51-76 seats; 93 aircraft limit is for > 76 seats

APA Exhibit 514

Changes to Section 1.D.

- To allow transfer of 43 ATR 72's among commuter carriers.
- Allow the 43 ATR72's to be replaced with comparable equipment (such as the Q-400) subject to a 70 seat configuration limit and the new Section 1.C.1.a. (1) This would allow the company to replace the ATRs with Q-400s.

Changes to Section 1.D.5.

- Regional affiliates may fly up to 150 jets configured between 51 and 70 seats and ≤ 80,500 lbs. as stated below.
  - Starting with 47 CRJ-700 jets at AE
  - Incrementally on a one for one basis:
    - For each 71-110 seat jet aircraft in service at the mainline the Company may operate an additional 51-70 seat jet ≤ 80,500 lbs at a regional affiliate above the existing 47, up to a total of 150 jets (including the 47 CRJ-700 jets currently operated).
    - No limit on the number of 71-110 seat jets at the mainline.

APA Examples

Date	Jets (71-110 seats) flown by APA Pilots	Jets (51-70 seats) allowed at Regional Affiliate
06/01/12	0	47
06/01/13	10	47 + 10
06/01/14	30	47 + 30
06/01/15	60	47 + 60
06/01/16	90	47 + 90
06/01/17	80	47 + 80

APA Exhibit 515

Entire Exhibit Under Seal

APA Exhibit 516

APA SCOPE PROPOSAL

02/15/12

Scope Valuation – This proposal will have a corresponding valuation applied. This Scope valuation is currently in progress.

Section 1.B.4. "Commuter Air Carrier" Definition – Current book. Incremental jet flying on aircraft with greater than 50 seats will be flown by APA pilots. Pay rates and work rules in accordance with APA Groups 1 & 2 Proposal dated 02/08/12.

Section 1.C.1. – Add language to reinstate the Excess Baggage letter, and discuss applicable origins and destinations.

Section 1.C.1.a. (1) – Aircraft owned or leased by the Company or an Affiliate shall not be flown at other Air Carriers (Association to grant exception, by tail number, for aircraft currently owned by the Company or leased to the Company and flown by Eagle pilots.)

Section 1.C.1.a. (2) - Company liveries (paint schemes, trade name, etc.) – Company may not allow OAL to use Company liveries without specific exceptions.

Section 1.C.1.b. (2) Comprehensive Marketing Agreement - Modify to conform to domestic codeshare provisions.

Section 1.C.2. - All flight training of American Airlines pilots in Company aircraft shall be performed by American Airlines pilots, with the understanding that initial training on a new fleet type may be done by non-seniority list pilots as in the past.

Section 1.D. – Add exception to allow the Company to place the code (and enter into capacity purchase agreements) on aircraft certificated with ≤ 50 seats and MTOW 64.5k lbs. at non-Commuter Air Carriers that fly only aircraft certificated for ≤ 90 seats.

Section 1.D.1. – Commuter Air Carrier Exception: Clarify that the exception does not cover flying at non-Affiliate Air Carriers on aircraft owned or leased by the Company or an Affiliate (as noted above, the Association to grant exception, by tail number, for aircraft currently owned by the Company or leased to the Company and flown by Eagle pilots.)

Section 1.D.2. / Letter SS - Eliminate some distinctions between American Eagle/owned and non-owned Commuter Air Carriers as below:

- Modify exceptions:
    - To allow transfer of 47 CRJ 700's and 43 ATR72's among commuter carriers

- So that the exception in Letter SS to allow 47 CRJ 700's to fly at Eagle (or, now, other carriers) would no longer be tail number specific, but so that an exception to the new Section 1.C.1.a. (1) Concerning owned or leased a/c would continue to be tail number specific.
- To allow the 43 ATR72's to be replaced with comparable equipment (such as the Q-400) subject to a 70 seat configuration limit and the new Section 1.C.1.a. (1)

Section 1.D.5.d. - Commuter Aircraft Count methodology - Current book.

Section 1.D.5.g. / 1.D.5.h. / Letter VV / LOA 04-04 - Current Book except eliminate owned/non-owned distinctions as specified below:

- To apply 85/15% restriction to all commuter air carriers combined whether owned or non-owned.
- To apply the "combined scheduled block hours of such service shall not exceed 1.25%" restriction to all commuter air carriers combined whether owned or non-owned.

Section 1.F. – Hawaiian – Incorporate the Hawaiian codeshare LOA 08-02 to become amendable in conjunction with this agreement.

Section 1.H. – Domestic Codeshare:

- Carriers subject to these 1.H provisions are not subject to the restrictions of Section 1.C.1.b.2
- Subject to agreement on the [redacted] below, eliminate current 1.H.
- Codeshare monitoring data will be shared at Quarterly Scope Meetings.
- The Company will seek to obtain reciprocal agreements for all codeshares.

JFK Domestic Codeshare

- For the purposes of feeding AA international growth at JFK, AA may place the Company code on [redacted] so long as the Company maintains at least the current number of total AA departures out of JFK and at least the current number of AA international departures out of JFK.
- The Company may place the AA code on flights into additional mutually agreed to, non-stop cities into and out of JFK on the following basis:
  - For each additional scheduled daily AA international departure from JFK (at least 4x/wk.), the Company may place its code on flights [redacted]

- AA can place or maintain its code on [redacted] so long as no more than 50% of the passenger seats are occupied by passengers traveling on the AA code on average over a rolling six month time period.
- If the Company reduces any AA-operated departures in an overlap market, it must add a corresponding number of international or transcontinental departures in the same schedule season.
- The process in this paragraph 2 also works in reverse, [redacted].

- Flying pursuant to Section 1.D. at JFK using the AA* will be capped at 2011 IATA Summer levels (39 daily departures).
- The ratio, for IATA Summer schedules, of AA departures to departures by an air carrier flying pursuant to Section 1.D. using the AA* will not exceed the 2011 IATA Summer schedule: 63% / 37%. A similar ratio for Winter schedules will be developed based on the 2011/2012 IATA Winter schedule.
- APA will negotiate in good faith a single carrier replacement provision, [redacted]
- If Operating Authorities at JFK become more freely available to the Company through government action, then the Company shall promptly review with the Association the flows of passengers on the Company's code [redacted] the Company shall not, without the Association's approval, continue to place the Company's code on that flight**.**

[redacted] **Shuttle Codeshare**

- AA may place the Company code on the [redacted] between BOS, LGA, and DCA, provided that:
  - There shall be a monthly baseline of 102 aggregate, scheduled daily AA departures at BOS, LGA and DCA;
  - If AA falls below a 12 month rolling average of 90% of the baseline for any month, there will be a six (6) month cure period.
  - If the company does not cure, AA will pull the AA code off the [redacted] for a period of one (1) year.
- APA will negotiate in good faith a single carrier replacement provision, if AA is unable to establish or continue a codeshare agreement [redacted]

[redacted] Codeshare

- American will be allowed [redacted] code share agreement with [redacted]
- The following restrictions will apply:
  - There shall be an annual baseline of AA mainline block hours [redacted]
  - The baseline will be Full Year 2011
  - For each 8760 mainline annual block hours scheduled above the baseline, AA will be able to add two (2) new markets.
  - If AA falls below 90% of the baseline there will be a one year cure period
  - If the company does not cure, AA shall pull the AA code off [redacted] to return to the level that existed prior to the added markets.

- APA will negotiate in good faith a single carrier replacement provision, if AA is unable to [redacted]

Section 1.J.3. – International Baseline – Current book

Successorship

- Successorship to cover both incoming and outgoing "Complete Transactions." A "Complete Transaction is any whereby all or substantially all of the assets of the Company (outgoing) or another non-commuter air carrier (incoming) are acquired.
- Provide, as an irrevocable condition of entering into an agreement for a Complete Transaction, that:
  - AA pilots shall be employed under CBA terms and conditions in an outgoing Complete Transaction, and shall not be furloughed in anticipation of an incoming Complete Transaction or until one year after an operational merger in a Complete Transaction;
  - Operations shall be kept separate and there shall be no interchange or transfer of aircraft or pilots until an operational merger is completed; and
  - AA pilots shall continue to operate aircraft on hand or on order at AA as of the date of the acquisition under CBA terms until the operational merger is complete.
- APA shall have the option of opening, extending (for up to three years) or maintaining the CBA upon occurrence of a Complete Transaction.
- The Company shall provide notice to the APA 30 days in advance of signing an acquisition agreement and a draft of the agreement prior to execution.
- APA and AA will establish procedural rules for the hearing and briefing process under the Allegheny Mohawk LPPs, including, but not limited to:
  - Using a panel of three arbitrators;
  - Establishing arbitrator minimum qualifications;

- Limiting the days of the hearing; and
- Limiting the length of the post-hearing briefs.

Other Labor Protective Provisions in Substantial Asset Sale

- Revise the current trigger in Section 1.N to 15% of Aircraft Related Assets. In addition, add as triggers: 15% of the Company's aircraft, or Aircraft Related Assets that generate 15% percent of daily block hours, ASMs, or revenue.
- AA pilots shall not be furloughed in anticipation of a sale and for 1 year afterward.
- The Association shall receive notice 30 days in advance of any sale and shall receive a draft sale agreement prior to AA execution.

JBVs

- APA will have the following capacity share protections for current and future JBAs:
  - Utilizing the capacity share metric specified in the JBA, AA shall seek to at least maintain its share of total scheduled capacity under the JBA, based on AA's Base Year proportion in that JBA.
  - Measurements will be made annually.
  - APA will review the metrics quarterly, and shall promptly be provided copies of any material changes to the JBA.
- APA would have certain protections in the event of a strike at a JBA carrier.
  - No pilot shall be disciplined for refusing to operate Struck Work, refusing to undergo training or perform services on the property of a struck carrier, or refusing to perform training of pilots for service as strike replacement pilots.
  - "Struck Work" is (1) increased flying using another carrier's code when that carrier's pilots are on strike; or (2) increased flying for which any financial benefit accrues to the struck carrier; or (3) increased flying which is done at the request of the struck carrier.
  - The Company shall not allow any increase in OAL code on AA for a carrier experiencing a strike, including any increase in OAL code on additional AA scheduled block hours or additional AA scheduled ASMs (i.e. no increased gauge on code shared frequencies during a strike).
  - The Company will not hire replacement pilots that have been trained by JBA partners.

APA Exhibit 517a

	• Average line value 72-83 hours • Rolling average line value 74-82 (twelve month average) • Line construction window ± 7 • Individual Monthly Max – 90 hours (twelve month average)
Scope	As of the Effective Date of the New APA CBA, the New American Airlines' code can be placed, without restriction, on any and all flights operated by US Airways and any and all flights operated by other carriers that are currently allowed to bear the "US" code. It is understood that placing the New American Airlines' code on flights operated by UAL bearing the "US" code pursuant to the US Airways and United code sharing agreement is permissible, shall not be subject to the 4% limit on new codeshares described below, and is not a violation of the New APA CBA during the period of time necessary to comply with the termination provisions of such code sharing agreement, provided that the New American Airlines gives UAL notice of termination within 2 months of the Effective Date of the New APA CBA and that the termination is effected within two years of the notice date. As of the Effective Date of the New APA CBA, the New American Airlines shall have full discretion to outsource or contract for flight aircraft (jet or turboprop) with 81 seats or fewer, as outlined in Appendix A. On the Effective Date of the New APA CBA, the maximum average number of aircraft that may operate under Section 1.D pursuant to the calculation set forth in Section 1.D.5.c shall be calculated to include the Narrowbody Aircraft at US Airways inclusive of the Embraer 190 aircraft. Aircraft inducted into service under Category C as outlined in Appendix A shall not be considered as Narrowbody Aircraft under Section 1.D.5.c. The New American Airlines shall provide to the APA a list of tail numbers for aircraft operating as of the Effective Date of the New APA CBA in each of the three categories outlined in Appendix A. The New American Airlines shall have full discretion to renew or replace such aircraft and shall be obligated to induct additional, incremental aircraft as specified below. For every four aircraft operating with less than 71 seats as of the Effective Date of the New APA CBA and for every two aircraft then operating with 71-81 seats that are subsequently replaced or added by the New American Airlines, one incremental aircraft will be inducted into service under Category C as outlined in Appendix A. The renewal or extension of

	the lease for an existing aircraft is not considered to be a replacement under this provision and will not trigger an obligation to induct aircraft into service under Category C. The New American Airlines will endeavor to coordinate a delivery schedule with manufacturers so that replacements or additions in Categories A and B are reasonably aligned with inductions of aircraft into Category C, and vice versa. Aircraft delivered and inducted into Category C in advance of replacements of aircraft in Categories A and B will be credited toward future replacements in Categories A and B, as applicable. The scheduling and tracking of replacements and inductions under this provision will be discussed in the quarterly scope meetings between the New American Airlines and the APA. In the event that American Airlines irrevocably commits to order and or replace any of its existing aircraft in Category A or B prior to the Effective Date of the New APA CBA, the New American Airlines shall not be required to induct an aircraft in Category C by such irrevocable commitment. In the event that American Airlines or the New American Airlines chooses to acquire temporary replacement aircraft so that it may remove 37-50 seat Embraer RJs from the American Eagle fleet, and those replacement aircraft operate with 50 or fewer seats, such temporary replacements shall not require the New American Airlines to induct an aircraft in Category C. In the event that US Airways orders new Category A or B aircraft prior to the Effective Date of the New APA CBA, the New American Airlines will be required to induct the appropriate ratio of aircraft in Category C and such aircraft will be ordered within 6 months of the Effective Date of the New APA CBA and shall be inducted into service at the New American Airlines within two years absent extraordinary circumstances. Domestic Code Sharing: As of the Effective Date of the New APA CBA: • The New American Airlines may code-share with Alaska Airlines and any of its affiliates without restriction except that there shall be no code-sharing on flight segments into and out of Hawaii. • The New American Airlines may code-share with Hawaiian Airlines (or its successor) without restriction on intra-Hawaii flights, so long as the New American Airlines in combination with US Airways shall maintain a minimum average of ten (10) flights per day between the mainland and Hawaii measured on a rolling look-back period of twelve (12) months.

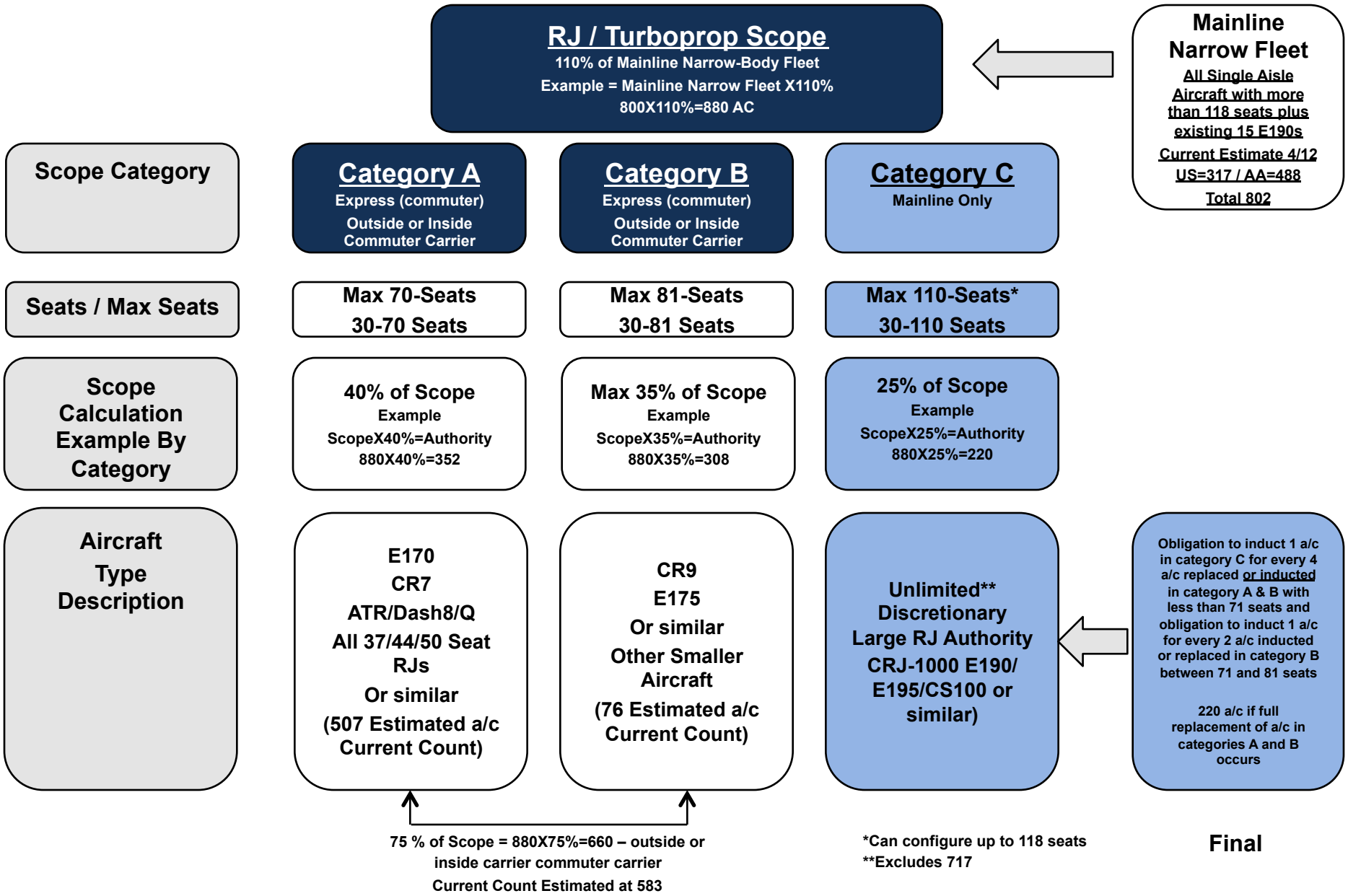
	Prior to the operational merger of the airlines, the allocation of such flights between US Airways and the New American Airlines shall be at the same ratio of such flights existing in the 12 months prior to the Effective Date of the New APA CBA. • Section 1.H. will be replaced with the following: The New American Airlines may enter into new code-sharing agreements with domestic mainline carriers so long as the total flying under these new code-sharing agreements shall be subject to a maximum of 4% of the New American Airlines' domestic ASMs. Joint Ventures: • The parties agree to work toward a fair allocation of flying for the New American Airlines in Joint Business Agreements (JBA). APA has the right to review the initial JBAs and any material changes going forward. During the parties' quarterly scope meetings, the New American Airlines will discuss and receive input from the APA regarding current and anticipated JBAs. The definition of "Commuter Air Carrier" in the New APA CBA shall be modified such that it will apply to any domestic air carrier that only operates aircraft in Categories A and/or B. If the New American acquires a carrier that operates aircraft in Categories A and/or B and also C or larger, but intends to maintain that carrier as a separate feed operation, it shall have two years from the date of acquisition to either dispose of the Category C and/or larger aircraft or transfer them to the New American Airlines' operating certificate. Non-owned regional partners' operation of aircraft for other airlines will not impact the New American Airlines' right to engage those carriers to operate Category A and B commuter aircraft on behalf of the New American Airlines. On a temporary as-needed basis (e.g., a maintenance or service disruption), commuter carriers may from time-to-time use a neutral livery aircraft to substitute for aircraft listed in Category A and B on Appendix A. Use of this provision will be reported at Quarterly Scope Meetings. The New APA CBA will eliminate the owned/non-owned distinction for the use of Category A and B commuter aircraft to fly on behalf of the New American Airlines.

	The Baseline for International Flying (in Section 1-J) will be modified as follows. As of the effective date of the New APA CBA, a new International Baseline shall be calculated based on the combination of US Airways' and American Airlines' scheduled mainline flights during the 12-month period prior to the first day of the month following the effective date of the New APA CBA. This Baseline shall include all scheduled international mainline block hours (including those flown by Category C aircraft) plus all scheduled mainline block hours to/from Alaska. This Baseline shall not include any scheduled mainline block hours between Hawaii and the mainland United States. The combination of US Airways' and the New American Airlines' annual scheduled mainline block hours will be at least 91 percent of the new International Baseline. If the annual scheduled mainline block hours are below 91% of the International Baseline and the deficiency is not cured at the next annual measurement, then the APA's concurrence shall be required for the Compan(y)(ies) to enter into new international codesharing agreements where the New American Airlines places its code on a foreign carrier's flights to/from the United States, except the APA's concurrence shall not be required if the new international codesharing agreement involves a new partner entering into a Joint Business Agreement (JBA). If the annual scheduled mainline block hours falls below 81% of the International Baseline and that deficiency is not cured at the next annual measurement, then the APA's concurrence shall be required (1) for entering or renewing international code-share agreements where the New American Airlines places its code on a foreign carrier's flights to/from the United States, except those flights conducted under an existing JBA; and (2) to add a new partner to an existing JBA. The International Baseline will be modified such that new routes will not be added to the Baseline until the third anniversary of New American Airlines' operation of the route on either a year-round or seasonal basis. The remaining provisions of Section 1.J of the 2003-2008 CBA apply. In addition, the following sections of the 2003-2008 CBA shall be treated as follows: Section 1.D.4. is deleted; Section 1.D.5.g is modified such that (1) it does not apply to the

	shuttle operation between DCA, LGA and BOS; (2) the flying restrictions will apply to airports where the average number of mainline daily departures scheduled by the New American Airlines exceeds 80 in the prior six-month period; (3) the "total scheduled block hours" number shall be increased to 2.55%; and (4) following the operational merger of US Airways and the New American Airlines, at least 65% of the shuttle operation flights on weekdays and Sunday, combined, will be operated by the surviving mainline carrier utilizing Category C or larger aircraft. The mainline percentage of shuttle operation flights shall be measured on a 12 month rolling average basis, aggregating flights between DCA, LGA, and BOS. Section 1.D.5.h is modified such that the airport restrictions will apply to airports where the average number of mainline daily departures scheduled by the New American Airlines exceeds 80 in the prior six-month period. The New APA CBA shall not contain any restrictions on oneworld or other alliance livery, except that the New American Airlines will not use its vote with the oneworld alliance to promote the livery of other carriers on New American Airlines' aircraft, but instead will use its vote to promote the livery of the New American Airlines on its aircraft along with a oneworld alliance trademark or logo. The parties confirm that the New APA CBA will contain no restrictions on New American Airlines' decision to enter into or exit from any markets, with commuter or mainline aircraft or via code-sharing, based on whether it could earn an adequate return on invested capital. "Excess Baggage." The New American Airlines will be permitted to utilize freighter service operated by other carriers between and among Miami and all destinations in the Caribbean, Central America, and South America between November 23 and January 6, and during four additional weeks each year to include Easter/Spring break and the month of July. These four additional weeks will be designated by the New American Airlines by no later than January 15 of each year. The purpose of this scope clause exception is to enable the New American Airlines to accommodate passenger baggage that cannot be accommodated on the same flight as the passenger. There will be no apportionment pay to the APA for using such charter services. The APA will be able to audit baggage activity up to 8 times per year after providing one week's notice. At that time, the New American

	Airlines shall provide the APA with access to all relevant information, facilities, personnel and documentation. The New American Airlines will provide a quarterly report to the APA about how often charter services were used, to where, and how many bags were transported. The New American Airlines will conduct an annual joint performance review in the first quarter of each year at the request of the APA.
Other	The New APA CBA shall be constructed using the 2003-2008 CBA as modified by the provisions in this Agreement. • The parties shall complete negotiation for the formal New APA CBA within 60 days of the date on which the APA provides its list of concessions and corresponding valuations or, failing agreement on the value of the APA's proposed concessions, the date on which the final and binding interest arbitration decision is issued (all as described in the "Cost Concessions" section above), whichever is later. If the parties are unable to complete such negotiations within this 60-day period, US Airways shall offer final and binding arbitration and the APA shall accept such proffer, to resolve the dispute over incorporation of new terms into the 2003-2008 CBA to satisfy the provisions of this Agreement (including how the cost savings required herein shall be achieved). The arbitration panel shall consist of three (3) arbitrators, with Richard Bloch serving as the neutral arbitrator. If Arbitrator Bloch declines to serve in this capacity or is not available to resolve the parties' dispute, the parties shall select another neutral arbitrator. The arbitration decision shall be issued no later than 30 days after the close of the 60-day negotiation period. • In the event that APA members fail to ratify the New APA CBA (as constructed through the process described immediately above), US Airways shall offer final and binding interest arbitration, and the APA shall promptly accept such proffer, to resolve the dispute over incorporation of new terms into the 2003-2008 CBA to satisfy the provisions of this Agreement (including how the cost savings required herein shall be achieved). The arbitration panel shall consist of three (3) arbitrators, with Richard Bloch serving as the neutral arbitrator. Any such arbitration shall be completed and a decision issued within 60 days of any ratification failure, and the arbitrator's decision shall constitute the final and binding resolution of the dispute without any further ratification process. • The Parties agree to ultra-long haul flying based upon the framework of the agreement APA had with American Airlines prior to its Chapter 11 filing. [provided to Beth Holdren on 4/7/12]

Appendix A – Scope – 4/13/2012



APA Exhibit 600

Filiberto Agusti
Joshua R. Taylor (admitted *pro hac vice*)
STEPTOE & JOHNSON LLP
1330 Connecticut Avenue, NW
Washington, DC 20036
Tel: 202-429-3000
Facsimile: 202-429-3902

Edgar N. James (admitted *pro hac vice*)
Kathy L. Krieger (admitted *pro hac vice*)
David P. Dean (admitted *pro hac vice*)
Darin M. Dalmat (admitted *pro hac vice*)
Daniel M. Rosenthal (admitted *pro hac vice*)
JAMES & HOFFMAN, P.C.
1130 Connecticut Avenue, NW, Suite 950
Washington, DC 20036
Tel: 202-496-0500
Facsimile: 202-496-0555

Charles R. Hairston (admitted *pro hac vice*)
Staff Attorney
ALLIED PILOTS ASSOCIATION
14600 Trinity Boulevard, Suite 500
Fort Worth, TX 76155-2512
Tel: (817) 302-2178
Facsimile: (817) 302-2187

Counsel for Allied Pilots Association

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	:	Chapter 11
	:	
AMR CORPORATION, *et al.*,	:	Case No. 11-15463-SHL
	:	
Debtors.	:	(Jointly Administered)

DECLARATION OF LAWRENCE ROSSELOT
IN OPPOSITION TO DEBTORS' MOTION TO REJECT
APA'S COLLECTIVE BARGAINING AGREEMENT
PURSUANT TO 11 U.S.C. § 1113(c)

Table of Contents

Exhibit List

No.	Exhibit Description
601	Summary of Differences Between Block Hours, Paid Hours and Credited Hours of Flying

I, LAWRENCE ROSSELOT, hereby declare under penalty of perjury and state as follows:

I. INTRODUCTION TO THE DECLARANT

1. I have been employed as a pilot at American Airlines ("American" or the "Company") since March 1991. Since March 1994, I have worked actively with the Allied Pilots Association ("APA" or "Association"). Prior to my employment with the Company, I served in the United States Air Force from October 1981 to February 1991. I have a Bachelor of Science in Aerospace Engineering from the University of Kansas and a Master of Science in Systems Administration from St. Mary's University in San Antonio, Texas.

2. Within APA, I have served as a member of several committees, most notably the Negotiating Committee and the Technical Analysis and Scheduling Committee ("TASC"), of which I have been Chairman since May 2000.

3. As Chairman of TASC, I direct a group of volunteer pilots that provide support and direction for the Association in the areas of scheduling, work rules, manpower and productivity. TASC is responsible for downloading and archiving the flight information for all American Airlines flights, which allows us to provide the Association with the ability to analyze flight schedules for performance, efficiency, contractual compliance, compliance with Federal Aviation Regulations ("FARs"), and issues that affect the quality of work life for pilots. TASC is also responsible for providing support for APA negotiators in analyzing contractual changes with respect to scheduling, productivity and manning. I am routinely called as a witness for the Association in arbitration hearings where a scheduling issue is concerned, and I worked extensively on the Presidential Emergency Board ("PEB") that ultimately resolved the 1997 contract disputes.

4. In late 2002 and early 2003, I was in charge of APA's labor costing models during the intensive negotiations that led to the April 2003 out of court restructuring. We went through multiple changes in the Company's team as a result of disputes over how to cost out a labor agreement, and analyze and time the financial effects of productivity changes.

5. During most of 2005, I represented APA in work with the Company through a program called the "Performance Leadership Initiative." The Company hired Bain Consulting to facilitate a discussion and analysis of contractual terms so that the parties would have a common labor costing methodology in order to avert the protracted valuation disputes that had marred the 2003 restructuring negotiations. The second purpose of this exercise was to analyze pilot productivity and other costs in relation to the pilots at our competitors. The Company and APA representatives assessed a range of possible contractual changes that would benefit both the pilots and the Company. In December, APA began a series of road shows in December 2005 to explain our findings to the pilots. Unfortunately, the executive compensation program known as the Performance Unit Plan ("PUP") destroyed whatever goodwill had developed between the parties.

II. INTRODUCTION TO PILOT SCHEDULING AND WORK RULES

6. In the airline industry, pilot scheduling and work rules are generally determined through collective bargaining agreements ("CBAs"), which are in turn developed against the backdrop of FARs. Collective bargaining agreements normally address issues such as maximum number of hours a pilot can be on duty in a day or month. Pilot CBAs also include "guarantees," which ensure a certain level of pay in the event of inefficient scheduling or unexpected events. A pilot may receive pay under a guarantee if the amount of scheduled or actual flying performed

by the pilot is less than some specified number (such as five hours per day) or ratio (such as one third of the time the pilot spends away from home).

7. Guarantees often include the following: a minimum amount of paid hours for a single duty period ("minimum day"), an average amount of paid hours for each duty period in a multi-day trip with multiple duty periods ("average day"), a set ratio of the amount of time on duty for a given duty period ("duty rig"), and a set ratio of the length of trip ("trip rig").[1] With the exception of Continental Airlines, most carriers – even non-union JetBlue – have all or nearly all of these guarantees. It is common for carriers to have a two hour "minimum day," a five hour "average day," a "duty rig" of one paid hour for every two hours on duty, and a "trip rig" of one paid hour for every 3.5 hours away from home.

8. Other contract terms related to scheduling include requirements for vacation and sick leave.

9. Finally, the most recent CBA between the APA and American, negotiated in 2003, establishes a system in which the Company creates monthly schedules (called "lines of flying") with a collection of single day and multi-day trips. Pilots then bid on these "lines" using their seniority. In recent negotiations, both the APA and American have agreed to transition to a different system called a "Preferential Bidding System" (or "PBS").

10. Under PBS, lines are generated dynamically based on pilots' preferences and scheduling criteria. The PBS system can therefore prevent conflicts between a pilot's schedule and his training, vacation or schedule from the previous month. Such conflicts cause pilots to "drop" trips, meaning that the pilot does not fly the trip he was scheduled for, and therefore create

[1] Pilots often use "duty period" and "day" interchangeably, although some "duty periods" span two days. This occurs when a pilot first goes on duty late in the evening and continues in the next morning.

"open time," or flying for which there is no scheduled pilot. As described in more detail below, a PBS system tends to increase productivity by decreasing drops and open time.

III. SCHEDULING AND VALUATION MODELS

11. As described in the Declaration of Neil Roghair, current contract negotiations started in 2006. In the spring of 2011, I was approached to help assess possible scheduling changes and determine their impact on pilot productivity and on American's costs.

12. Pilot productivity can be measured in different ways, but both APA and the Company have focused on improving the number of "block hours" that American pilots fly on a monthly and annual basis. "Block hours" can be defined as actual time at the controls of the aircraft while under movement. American has complained, both in bargaining and in Court, that American pilots on average fly too few block hours per month, causing the Company to employ more pilots than it would like. For a sense of context, an average American pilot flies approximately 50 block hours per month. The APA has proposed measures that would significantly increase this number.

13. In order to understand the scheduling issues, it is helpful to understand the relationship between "block hours," "credited hours of flying" and "paid hours." A pilot's **paid hours**, of course, is the number of hours used to determine that pilot's monthly compensation. Paid hours include all hours related to flying, including guarantees. They also include vacation, sick leave and training pay. An average American pilot accrues approximately 81 paid hours per month.

14. The related figure of **credited hours** is the measure relevant to the monthly maximums for flying in the contract, an important issue in negotiations. All credited hours are also paid hours, but in some cases, time can be paid although it is not credited. For example,

pilot training is often paid but not credited. An average American pilot accrues approximately 71 credited hours per month.

15. At a perfectly productive airline, block hours would equal credited hours, which would equal paid hours. This would mean *no* hours "wasted," meaning not used for flying. American would like to get as close as possible to that "1 to 1 to 1" ratio. In real life, however, block hours are always less than credited hours, which are always less than paid hours, at least on average.

16. The table below, APA Exhibit 601, summarizes the differences between block hours, paid hours and credited hours of flying.

APA Exhibit 601: Summary of Differences Between Block Hours, Paid Hours and Credited Hours of Flying

	Primary relevance	**Include time added by guarantees?**	**Include training?**	**Include vacation/sick leave?**
Block hours	Measuring productivity	No	No	No
Paid hours	Determining pay	Yes	Yes	Yes
Credited hours of flying	Contractual maximums of flying	Yes	Sometimes[2]	Sometimes[3]

[2] Training of five days or less is normally not credited. Longer training periods may cause pilots to be removed from scheduled trips, in which case a portion of the training time is credited.

[3] Vacation time may be credited when pilots use the time to actually take time off from work. In other cases, accumulated vacation time is cashed out through a variety of means. In those cases, vacation is paid but not credited.

A. The Company's Scheduling Model Was Adapted From the APA's Pre-PBS Model

17. When I met with the American in the Spring of 2011, the Company was using a rudimentary modeling approach that it had been using since 2003, in which the Company would assess scheduling proposals individually rather than as a comprehensive package. A problem with the old approach was that it was unable to accurately account for the interactions between changes to different contract terms.

18. In order to aid negotiations between the APA and the Company, I used historical data to build a model that would predict the average number of block hours per pilot and credited hours per pilot assuming a set of contract proposals. I shared the model with American in Spring 2011, and the Company adopted the model for its own use, realizing it was more sophisticated than the Company's existing model. Because both parties were using this model, it became known as the Joint Scheduling Model, even though each party made modifications that created slight differences. *See* AA Exhibit 700 ("McMenamy Decl."), ¶¶ 35-36. The Company continues to use this model.

19. The APA continued to use this model to value contract proposals until the Company filed for bankruptcy. After the filing, APA and the Company agreed to implement the PBS, or Preferential Bidding System. Consequently, starting in January 2012, just as I had with the Joint Scheduling Model, I built a new scheduling model from the ground up. My team and I refer to this model as the "PBS Model." Due to the significant changes associated with PBS, this new model was very different from the so-called Joint Scheduling Model. While the Joint Scheduling Model is based primarily on historical data and traditional lines of flying, the PBS Model is built using mathematical assumptions appropriate to a PBS system.

20. The Company continues to use the Joint Scheduling Model even after the parties agreed to implement PBS. The Company's valuations come from the older Joint Scheduling Model along with two other models: American Airlines Manpower Planning Model ("AAMPL") and American's Pricing Model. I discuss each of these models below.

B. The Company's Scheduling Model Has Significant Flaws

21. American's use of the old model I created has significant flaws. Most importantly, the model fails to adequately account for changes associated with the introduction of PBS. The adoption of PBS would have a number of ripple effects that would alter the effect of contract provisions on productivity.

22. PBS eliminates a large portion of dropped trips by dynamically accounting for each pilot's schedule and preferences *before* building a line. Dropped trips are harmful to productivity. A high number of dropped trips forces an airline to keep many pilots on "reserve" to pick up flying, thereby inflating the airline's pilot headcount.

23. Under the current system, a monthly schedule can start with 40,000 hours of open time which must be filled by reserves or voluntarily picked up other pilots. That number would be *dramatically* reduced under a PBS system, allowing the airline to employ many fewer reserve pilots.

24. In conjunction with the erroneous assumptions the Company has built into its model concerning PBS, the Company's models arbitrarily assume that the airline cannot reduce its number of reserves by more than fifty percent. That assumption may very well be incorrect. The model therefore understates the full value of the agreed upon implementation of PBS.

25. A further error in the Company's scheduling model is its failure to fully account for the elimination of guarantees. As described earlier, guarantees create time that is *paid* even

though it does not involve actual flying. For example, a pilot that flies a 4.5 hour trip in a day may nevertheless be paid five hours pursuant to a guarantee. Guarantees therefore push the ratio of block hours to paid hours lower than "1 to 1." In the current system, that ratio is approximately 0.95 to 1, ignoring paid time resulting from vacation, training and sick leave.

26. By eliminating guarantees, the Company's proposal would make the ratio approximately 0.99 to 1, a significant productivity enhancement.[4] Nevertheless, on the latest version of the Company's scheduling model shared with APA, the Company assumed that the ratio would continue to be 0.95 to 1.[5] This assumption is unjustifiable given the proposed elimination of guarantees.

27. As a result of this error, among others, American undervalues its proposals by $17 million in average annual savings and undervalues the APA's proposals by $48 million.[6]

C. The Company Has Refused to Share Its Manpower Planning Model, A Key Driver of Its Valuations

28. As noted, the Company uses an additional model called the American Airlines Manpower Planning Model or "AAMPL." This model determines the number of pilots that American projects to require over the following forty eight months, under various contract terms. That headcount number is a critical figure in calculating valuations.

29. APA has never been given access to the AAMPL model. Indeed, the very existence of the model was not disclosed to APA negotiators until March 6, 2012. When the

---

[4] The ratio is not 1:1 because the Company's proposal maintains deadhead time, which constitutes 0.6% of allocated hours.

[5] The model is IntraLinks document 22.7.

[6] American values its work rules and sick leave proposals at $100 million, but they will actually produce $117 million in average annual savings to the Company. The APA's proposals on work rules and sick leave, including its proposal on rapid reaccrual, will produce $70 million in average annual savings, but the Company acknowledges only $22 million of that savings.

APA learned of the model, we asked for access to the model so that we could assess its accuracy and legitimacy. On March 27, 2012, the Company allowed the APA to run just four scenarios on AAMPL. The Company has never provided us with the outputs from those scenarios despite numerous requests. The APA has had no further access to the AAMPL model.

30. APA has no way to verify the accuracy of assumptions embedded in AAMPL, and we believe these assumptions are flawed based on our own scheduling analysis and the minimal conversations we have had with the Company regarding AAMPL.

D. The Company's Models Have Produced Constant Changes to Its Headcount Projections

31. Over the course of negotiations, the Company has provided new figures for headcount reduction, some without making any changes to their scheduling proposal. The Company has failed to provide any explanation as to the reason for the change in headcount figure. It is possible that the Company has changed assumptions in the AAMPL model without informing APA of the prior or current assumptions in that model.

32. The Company's initial February 1, 2012 proposal was associated with a headcount savings of 1,179 pilots by 2014, according to the Company. On March 26, American presented charts showing that their proposal would reduce the headcount by 1,211 pilots. On March 27, they again revised the headcount savings to 1,481 pilots.

33. APA has been given no reason or documentation for these changes.

IV. APA'S PROPOSAL ON SCHEDULING AND WORK RULES

34. The APA's proposal on scheduling and work rules would fully satisfy the Company's productivity goals, leading American pilots to fly 59 block hours per month. *See* AA Exhibit 54 (comparing block hours per month at AA and other airlines). This would put American near the top of its competitors in pilot productivity, allowing the Company to

streamline its workforce. APA projects that its proposal will allow American to reduce its number of pilots by more than 800 by the second year of the agreement and 1100 by year six. Our models indicate that the APA's proposals on scheduling, work rules and sick leave will produce $70 million in average annual savings.[7]

35. APA's current scheduling proposal includes: (1) implementation of PBS, (2) allowing American to build lines to a monthly average between 72 and 81 hours with a rolling 12 month average maximum of 79 hours, and (3) allowing pilots to pick up flying up to the maximum allowed under the FARs, but limiting each pilot's rolling twelve month average to ninety hours per month. In addition, the APA and American have agreed to sequence protection, which is described in more detail in the Declaration of Neil Roghair. *See* APA Exhibit 400a ("Roghair Decl."), ¶ 68.

36. These proposals would significantly enhance productivity in a number of ways. Most significantly, as described above, PBS eliminates a huge amount of open time. APA's proposal leads to increased flying per pilot by allowing lineholders greater ability to pick up open time. Additional productivity enhancements in the APA's proposal include expanding the ability of reserve pilots to pick up open time on days off, enhanced ability of lineholders to trade whole and partial trips, greater amounts of vacation "floats" and the ability to schedule certain two-pilot flying to over eight hours per duty period.

37. In contrast, American goes too far by demanding work rules that are unnecessary and very different from the rules in place at American's competitors. For example, as of March 27, 2012, American had proposed to entirely eliminate duty day guarantees and trip rigs. That step has been taken by no other network airline except Continental.

[7] The $70 million includes $3 million for the APA's proposal on rapid reaccrual.

V. SICK LEAVE

38. American and APA differ significantly on sick leave proposals and on valuation of those proposals. Significant savings are at stake in reductions of sick usage. For example, the Company claims that its sick leave proposal will produce nearly $40 million in average annual savings. *See* APA Exhibit 412.

A. The Company's Assumptions About Sick Usage Are Completely Unfounded

39. Currently at American, 8.2% of paid hours are made up of sick leave. The Company's models are built on the assumption that, after implementation of its proposal, sick usage will immediately skyrocket to 9.2%. This assumption is based on the notion that pilots will take excessive sick leave in order to retaliate against the airline for implementing contract changes. Even more remarkably, the Company's models assume that the very same effect will occur *even if the Company accepts APA's proposals*. I find these assumptions utterly mystifying.

40. The Company's assumption is based on cherry picked historical data. The Company has arbitrarily chosen to focus on the twelve month period with the highest sick usage in the last decade. The Company claims that this period is the best prediction of how sick usage will change under its proposal. The Company has never been able to convincingly explain why this would be the case. And the Company has no possible explanation for how acceptance of APA's proposals would cause sick usage to skyrocket.

B. The APA's Proposal Will Satisfy the Company's Goals for Reduction of Sick Usage

41. The Company's goal is to reduce sick usage to 7.2%. The Company claims that, partly to counter what it assumes will be an immediate and drastic increase in sick usage, the

Company must implement a punitive sick leave program. This program is described in more detail in the declaration of Neil Roghair. *See* Roghair Decl. at ¶ 56.

42. The APA has made counterproposals that will fully satisfy the Company's goal by altering pilots' incentives in a positive rather than punitive way. For example, the APA has proposed a sellback program that would encourage pilots to accumulate sick leave and exchange it for cash. The Company's own expert admitted in negotiations that the proposal would likely reduce sick usage by 10%. That alone would nearly satisfy the Company's goal.

43. APA's proposal would also decrease sick usage in other ways. Both APA and American have identified current contract provisions that create unnecessary incentives to use sick leave. The APA has proposed to eliminate or modify every one of these provisions. For example, both the APA and American have proposed to implement "sequence protection," a system that would eliminate pilots' incentive to take sick leave when a trip is or may be cancelled. *See* AA Exhibit 900 ("Newgren Decl."), ¶¶ 101-102. Moreover, by harmonizing pilots' schedules with their schedules and obligations, the APA's proposal to implement PBS will eliminate situations in which pilots are forced to call in sick in order to attend important family or personal events.

C. The Company Assigns No Value to the Changes to "Rapid Reaccrual" of Sick

44. The Company has proposed elimination of "rapid reaccrual," a system that allows pilots to accrue sick leave at a faster rate if their sick bank has been depleted due to a long term medical absence of more than thirty consecutive days. The APA has also proposed modifying the current system by limiting the circumstances in which a pilot can reaccrue sick leave at an accelerated rate. APA identified almost 500 pilots in 2011 who would not have been on rapid reaccrual had APA's provision been in effect, equating to approximately $3 million in wages and

benefits per year. Nevertheless, the Company has refused to assign a value to either its proposal or the Union's.

VI. CONCLUSION

45. The APA and American agree that our new contract should facilitate greater productivity for American pilots. I have worked hard in the course of recent negotiations to provide both APA negotiators and the Company with accurate predictions of how the parties' proposals will or will not create progress towards that goal. I believe that APA's proposals will fully achieve our mutual goal of putting pilot productivity at American at the top of the industry. Unfortunately, my efforts have been stymied by the Company's unreasonable assumptions and refusal to share critical information. Nevertheless, the APA remains committed to working towards an agreement that satisfies the goals of both parties.

DECLARATION PURSUANT TO 28 U.S.C. § 1746

I declare, under penalty of perjury, that the foregoing is true and correct based on my personal knowledge and on information from the business records that are within the custody and control of the Allied Pilots Association ("APA" or "Association").

Date: May 6, 2012

Lawrence Rosselot

APA Exhibit 601

APA Exhibit 601: Summary of Differences Between Block Hours, Paid Hours and Credited Hours of Flying

	Primary relevance	**Include time added by guarantees?**	**Include training?**	**Include vacation/sick leave?**
Block hours	Measuring productivity	No	No	No
Paid hours	Determining pay	Yes	Yes	Yes
Credited hours of flying	Contractual maximums of flying	Yes	Sometimes[2]	Sometimes[3]

[2] Training of five days or less is normally not credited. Longer training periods may cause pilots to be removed from scheduled trips, in which case a portion of the training time is credited.

[3] Vacation time may be credited when pilots use the time to actually take time off from work. In other cases, accumulated vacation time is cashed out through a variety of means. In those cases, vacation is paid but not credited.