Exhibit “A” Maliga Declaration

ERIC FERGUSON

USAPA PRESIDENT

JEFFKOONTZ

USAPA VICE PRESIDENT

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Making the Nicolau Doug's Problem

Fellow Pilots,

The purpose of this communication is to speak not only from the perspective of a pilot running for the office of Vice President of USAPA, but also from the perspective of representing people as a divorce attorney. Divorces by their nature are highly emotional and can be quite explosive, and I think there is a correlation to the East/West seniority dispute.

What I have witnessed first hand is how expensive emotion can be in our legal system. The gravest mistake in divorces is when someone looks to the law not as a means to a resolution, but as a tool to redress past wrongs beyond which the law allows. When one spouse "goes there," the other spouse invariably has no other choice but to fight. Thus begins a legal battle that consumes vast amounts of time and money, with the result being little to no advantage being gained by either of the litigants

Our situation has all the elements of a bad divorce, except that when these proceedings are over we will be sharing a flight deck, rather than go our own ways: hard feelings, painful losses which the East brought into the marriage, an employer who does more to foment discontent and turmoil within the pilot ranks by whipsawing and playing one "spouse" against the other, and of course the whisperings of an unscrupulous attorney bent on selling a legal strategy that is clearly not workable. All of these elements have led to the quagmire in which we now find ourselves.

The first step in getting out is to objectively evaluate what has not worked, identify and correct the failures, and move on. The first place to start is the founding tenet of USAPA – DOH – as it is built upon a foundation of broad generalizations of the law that cannot support the weight of the facts. I will explain as briefly as possible why any list other than the Nicolau is legally impossible, and why pursuit of any seniority list other than the Nicolau will only result in LOA93 and C2004 for as far as the eye can see. Please do not take this communication as a West pilot trying to point a finger and say, "I told you so." It is imperative that both East and West strip emotion from our discourse, and especially from this election, and look at every fact objectively. Objectivity starts now.

I am speaking frankly when I say that the Nicolau is not going to disappear. The reason is that the (perceived) fairness of the Nicolau will never be a legal issue. What is at issue is USAPA's Duty to Fairly Represent. That analysis centers around USAPA's founding principle – to use the East's majority voting advantage to nullify the Nicolau, and replace it with another seniority list that clearly benefits the East over the West. This founding principle, however, is fatally flawed at its core and will never work. Allow me to explain why.

First, the founders of USAPA pointed to broad principles of labor law to create the illusion that vested in the majority is an absolute right to negotiate seniority. They cite to general labor principles but at the same time don't anchor those principles with facts. To say that a union has an "absolute right to negotiate seniority" is just flat wrong. There are no "absolute rights" anywhere in our legal system. Property can be taken, speech can be curtailed, and even a person's life can be extinguished. In pursuit of its non-Nicolau objective, the USAPA leadership erroneously conflates rights with power. There is a big difference between having the power to do something versus having the right to do something. Just because we have the power to act does not mean we have the absolute right to act; duties and obligations are but two avenues in which the state limits what we can do. We see limits on what we can do everywhere in the law, even in our most private and intimate relationships. For example, parents enjoy considerable dominion over their children, yet these parental rights are limited by obligations imposed by the law. In the context of a labor union, the union has wide latitude in how it bargains for its members, but, that power is limited by the union's Duty to Fairly Represent . With power comes limits, and here the limit is the DFR.

The second fatal flaw in USAPA's founding tenet is the appeal to general principles of law only, and without grounding the law to a set of facts. We have heard time and again from the founders of USAPA that unions are afforded a "wide range of reasonableness." In the abstract, that is a true statement. But, law in the abstract is virtually meaningless. Facts are what provide direction to the law. Facts establish dimensionality so the law can be effectively applied to a case. Like every other case in the legal universe, ours turns on the facts, and the facts here are quite onerous for USAPA's pursuit of a non-Nicolau. This is precisely why USAPA has all along maintained that what transpired prior to the formation of USAPA has no bearing on what USAPA does subsequently. One federal judge has already characterized this argument as offensive to common sense and the law. Changing unions did nothing to alter the facts in our dispute. Here, the Transition Agreement always has been and always will be

the fact-origin.

In addition to the above noted flaws in USAPA's founding tenet, there is one more complication heaped upon our situation, courtesy of USAPA's founding counsel. If there was any possibility of a negotiated compromise outside of the courts, that door was slammed closed by Seham's application for Single Transportation System (STS). The STS application was granted by the National Mediation Board in January of 2008 (35 NMB 20) and had the effect of eliminating separate East and West bargaining agents. ALPA objected, and for good reason, but eliminating separate representation was necessary to effect the DOH cram down. The price, however, was eliminating any chance of a negotiated solution. It is for this reason that the legal question is parsed in Nicolau versus non-Nicolau instead of Nicolau versus DOH or Nicolau versus DOH with C&Rs. There is no in-between

So, here we are. At this point, the only thing being accomplished by pursuing a non-Nicolau seniority list is that a lot of time and money is being wasted. Regardless of what Doug says at Crew News sessions, regardless of whether we merge with AMR, Southwest, or Aeroflot, pay attention to what Doug's lawyers are saying in court: USAPA's actions regarding seniority are directly tied to its Duty to Fairly Represent. That analysis tracks all the way back to ALPA Merger Policy, the signed Transition Agreement, execution and acceptance of the seniority arbitration, and a jury finding that there was no legitimate purpose for USAPA to negotiate away from the Nicolau. USAPA's aim for a non-Nicolau does not comport with the law, otherwise Doug would have had the "cost neutral" contract as promised by Lee Seham, and the East would have had DOH a long time ago. The sooner we accept the irreconcilability of non-Nicolau with the law, the sooner we can move on.

To date, Ferguson, Holmes and I are the only candidates articulating this legal reality. We want nothing more than to unify this group and take away the "free pass" that our internal strife has afforded US Airways management, and we do that by making the Nicolau Doug's problem.

Sincerely,

Jeff Koontz
www.koontzforvp.com

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