

EXHIBIT O

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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

DON ADDINGTON, et al.,)	
)	
Plaintiffs,)	
)	
vs.)	No. CV-13-00471-PHX-ROS
)	
US AIRLINE PILOTS ASSOCIATION,)	
et al.,)	
)	
Defendants.)	
)	

DEPOSITION OF KENNETH LEE HOLMES

Phoenix, Arizona
August 28, 2013
9:22 a.m.

REPORTED BY:
Kristy A. Ceton, RPR
AZ Certified Court Reporter No. 50200

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1 in Addington 2?

2 MR. HARPER: Form.

3 THE WITNESS: Can you be more specific on
4 what you mean by "interest"?

5 Q. BY MR. SILVERMAN: Does the West pilot
6 class have a reason or -- Withdrawn.

7 Does the West pilot class have certain
8 goals with respect to Addington 2?

9 A. Yes.

10 Q. And what are those goals?

11 A. To see that the Nicolau is implemented.

12 Q. Okay. What is the relationship between
13 Leonidas and the goals of the West pilot class as
14 you've just articulated?

15 A. Like I said before, Leonidas is a
16 fundraising mechanism to fund the legal effort for
17 counsel to pursue that endeavor.

18 Q. Does Leonidas represent the goal of the
19 West pilot class, as you've just articulated?

20 MR. HARPER: Form.

21 THE WITNESS: I thought my answer was
22 pretty clear on that.

23 Q. BY MR. SILVERMAN: Yes or no, sir?

24 MR. HARPER: It doesn't necessarily call
25 for a yes or no.

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1 that at some of the road shows.

2 Q. And did you object when you heard
3 Mr. Szymanski say that?

4 A. No.

5 Q. Are you aware of any misstatements or
6 inaccuracies by any USAPA representative made at any
7 of the road shows?

8 A. Are you referring to just officers and
9 NAC members that spoke or are you referring to
10 counsel that spoke?

11 Q. Anybody. Are you aware of any
12 inaccuracies with respect to the MOU --

13 A. Well --

14 Q. -- that you heard at any of the road
15 shows?

16 A. Well, I heard beginning on day two in
17 Charlotte, counsel changed what I thought was a
18 neutral section to something that was not neutral.

19 Q. And what counsel are you referring to?

20 A. Pat Szymanski.

21 Q. And what did Mr. Szymanski change?

22 A. Well, I don't have any notes in front of
23 me to go over, but a lot. He said that they were
24 going to do whatever they can to see that Nicolau
25 never sees the light of day. Got a round of applause

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1 out of the group in Charlotte on that. He made about
2 six other statements to the effect that the Nicolau
3 was essentially dead.

4 But, like I said, I do not have my notes,
5 so I can't give you the exact quotes, but I do have
6 them written down.

7 Q. So you made notes about what
8 Mr. Szymanski said at that road show?

9 A. I certainly did.

10 Q. Okay.

11 A. I wasn't planning to take notes, but as
12 soon as he started doing that, yes.

13 Q. Okay. Are you aware of anyone else who
14 took notes with respect to what was said?

15 A. Oh, I don't know. There were a couple of
16 other West pilots in there, and there was also a
17 couple of APA guys in there at the same time.

18 Q. But do you know --

19 A. I was approached by all of them when
20 Mr. Szymanski started doing this.

21 Q. Do you know whether or not they had --
22 they were taking notes?

23 A. I know John Scherff was there. He was
24 taking notes. Another pilot, Dave Button, he was
25 there. He was taking notes.

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1 Q. Have you seen --

2 A. There was another --

3 Do you want me to keep going?

4 Q. I'm sorry. Go ahead.

5 A. Eric McEldowney -- and I'm not sure on
6 the spelling -- I believe was there for a short
7 period of time and he was taking notes, too, because
8 he heard some of these comments.

9 One of the APA guys came over and asked
10 me, What is he doing? And I said, I have no idea.
11 He said, He has no right getting these guys all fired
12 up like this.

13 Q. And "he" refers to whom, Mr. Holmes?

14 A. Tim Hamel.

15 Q. And Tim Hamel is referring to whom
16 getting all --

17 A. Oh, Pat Szymanski.

18 Q. I see.

19 Have you ever seen Mr. Scherff's notes
20 with respect to what occurred at this meeting?

21 A. No, I haven't seen his notes. I saw a --
22 what do you call it? I don't know the legal term,
23 but he filed something. There was some filing to do
24 with that. I don't know.

25 MR. HARPER: It's an affidavit.

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1 THE WITNESS: Oh, okay. An affidavit.

2 Q. BY MR. SILVERMAN: I see.

3 And have you seen any notes that
4 Mr. Button was -- took at that meeting?

5 A. Not directly. I was sitting down in the
6 audience when most of this was going on, and Dave
7 Button was sitting next to me and he had a notepad.
8 I don't know what he specifically wrote. But he was
9 shocked. He says, I can't believe it. I thought it
10 was neutral.

11 Q. Okay.

12 A. And I said, So did I.

13 Q. Did you object to any statements that
14 were made by Mr. Szymanski at that meeting?
15 Verbally, to the meeting?

16 A. No. Not -- No.

17 Q. Okay. Afterwards, did you bring to
18 anyone's attention that you thought that the
19 information that Mr. Szymanski was putting out there
20 was improper or inaccurate?

21 MR. HARPER: Now, that's a yes-or-no
22 question. And he's talking about any time
23 afterwards, I think, unless you're limiting the time,
24 Gary?

25 Q. BY MR. SILVERMAN: At any time

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1 afterwards.

2 A. Did I talk to anybody and mention it?

3 Yeah, I mentioned it to a lot of people. I mean,
4 that --

5 Q. So the answer is yes?

6 A. Yes. The answer is yes.

7 Q. Okay. At any of the road shows, did you
8 -- Withdrawn.

9 Did you address this with Mr. Szymanski
10 directly --

11 A. I don't recall.

12 MR. HARPER: Let him finish the question.

13 Q. BY MR. SILVERMAN: -- directly after that
14 second day in Charlotte?

15 A. I don't recall if I did.

16 Q. Okay.

17 A. At day two. I'm not sure. I don't know.

18 Q. Were there road shows after day two in
19 Charlotte?

20 A. Yes. There was a day three in Charlotte.

21 Q. Okay.

22 A. Which was a carbon copy of day two.

23 Q. Okay. And then where were the road
24 shows?

25 A. Oh, I forgot where we went exactly after

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1 locations to talk to you about the East pilots.

2 Q. BY MR. SILVERMAN: Did you finish your
3 answer, Mr. Holmes?

4 A. Not completely, no.

5 Q. Go ahead.

6 A. Now I forgot where I was.

7 In Charlotte, at the airport where we did
8 day two and day three, Pat Szymanski started out
9 saying that it was neutral but then went immediately
10 into, well, it's this or that. You know, it's not.
11 We're not going to -- we're going to do everything we
12 can to defeat it. It won't see the light of day.

13 Like I said, there's about eight quotes,
14 and I just simply can't remember them now. But there
15 was a number of them that he said.

16 Q. Okay. Did he tell a different story to
17 the West pilots?

18 A. Completely.

19 Q. And what did he tell the West pilots?

20 A. The MOU is neutral. He didn't mention
21 anything about the stuff he said in day two or day
22 three about the Nicolau never seeing the light of
23 day. Any of that. Just that the whole thing was
24 neutral, the pilots should support it because it
25 wasn't going to have any effect on that.

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CERTIFICATE

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I, Kristy A. Ceton, Certified Court

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Reporter for the State of Arizona, certify:

5

That the foregoing proceedings were taken

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by me; that I am authorized to administer an oath;

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that the witness, before testifying, was duly sworn

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by me to testify to the whole truth; that the

9

questions propounded by counsel and the answers of

10

the witness were taken down by me in shorthand and

11

thereafter reduced to print by computer-aided

12

transcription under my direction; that review and

13

signature was requested; that the foregoing pages are

14

a full, true, and accurate transcript of all

15

proceedings and testimony had upon the taking of said

16

proceedings, all to the best of my skill and ability.

17

I FURTHER CERTIFY that I am in no way

18

related to nor employed by any of the parties hereto

19

nor am I in any way interested in the outcome hereof.

20

DATED this 10th day of September, 2013.

21

22

23

Kristy A. Ceton

24

Certified Court Reporter No. 50200

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For the State of Arizona