

EXHIBIT 6

**ARBITRATION PROCEEDINGS BEFORE THE MCCASKILL-BOND
BOARD OF ARBITRATION**

**In the Matter of the Seniority Integration Involving
the Pilots of**

NEW AMERICAN AIRLINES

Subject: Procedural Questions Submitted Pursuant to Protocol Agreement ¶ 7

BOARD OF ARBITRATION

Dana E. Eischen, Esq,
Ira F. Jaffe, Esq.
M. David Vaughn, Esq.

Appearances

For American Airlines:	O'MELVENY & MYERS LLP By Robert A. Siegel, Esq. Paul D. Jones, Esq. Senior Vice-President and General Counsel
For APA:	JAMES & HOFFMAN, PC. By Steven K. Hoffman, Esq. Edgar James, Esq. Daniel M. Rosenthal, Esq. Mark R. Myers, Esq. Attorney, APA
For AAPSIC:	ALLISON SLUTSKY & KENNEDY,PC By Wesley A. Kennedy, Esq.
For the West Committee:	BREDHOFF & KAISER, P.L.L.C. By Jeffrey R. Freund, Esq. Roger Pollak, Esq. Joshua B. Shiffrin, Esq. Marty Harper, Esq. ASU Alumni Law Group

BACKGROUND

On Friday June 26, 2015, virtually the eve of the opening day of ISL arbitration hearings scheduled in accordance with collectively negotiated terms of the Protocol Agreement and Ground Rules, *infra*, the Court of Appeals for the Ninth Circuit issued its opinion in *Addington, et al. v. US Airlines Pilot Association, et al., No. 14-15757*.

Because the Board concluded that issues raised by that decision and related communications from the Parties significantly compromised our ability to begin the scheduled hearings on June 29, we notified all parties as follows:

On behalf of the Panel, this is notification to all concerned that, after careful consideration of the 9th Circuit decision of June 26 and related communications from the Parties, the Panel will not convene the opening session of the hearing when we meet with you on Monday morning, June 29.

Instead, we ask Counsel for each of the Merger Committees, the Company and the APA to plan for a meeting with the Panel beginning at 11:00 am on Monday June 26, at the designated hearing location, for an off the record conference to discuss these developments and consider the appropriate way(s) to proceed.

All other scheduled hearing dates remain in place until further notice from the Panel, pending the outcome of those discussions and any necessary rulings by the Panel.

* * *

The Panel is well aware of the strictures at page 54 of the 9th CA Opinion in D.C No. 2:13-cv-00471-ROS. None of the of the attending Parties in that meeting will be asked to advocate any substantive ISL position or waive any legal rights to other recourse. Our purpose simply is to become as fully informed as possible of the views of all Parties to our proceeding, before we address your own pending motion to suspend the presently scheduled hearing dates.

At the outset of the Board's June 29 conference with Counsel for each of the Merger Committees, the APA and American Airlines, Counsel for the USAPA Merger Committee announced that the USAPA Committee was irrevocably withdrawing from any and all further participation in these ISL proceedings. That oral notification was formally confirmed, in a letter that reads as follows:

Arbitration Panel, Seniority List Integration Dispute Involving the Pilots of New American Airlines, Inc.

Re: Withdrawal of the USAPA Merger Committee

Gentlemen:

The decision of the United States Court of Appeals for the Ninth Circuit in Addington, et al v. USAPA, requires that the USAPA Merger Committee permanently withdraw from this proceeding. The order directed by the court of appeals prohibits USAPA from participating in the McCaskill-Bond process subject to an exception that the position of the USAPA Merger Committee submitted to the Panel does not satisfy. The USAPA Merger Committee is therefore prohibited by the court of appeals' decision from further participation.

Moreover, the USAPA Merger Committee is not an adequate representative of US Airways (East) pilots in this proceeding. Those pilots have a statutory right as "covered employees" under the McCaskill-Bond Amendment to a representative who is free to formulate a position that is in the best interest of the US Airways (East) pilots. Both the premerger American pilots and the premerger US Airways (West) pilots have SLI representatives who are unrestricted in the positions they are permitted to take before the Panel. The USAPA Merger Committee, however, is restricted by the decision of the Ninth Circuit from taking any position other than to "advocate for the Nicolau Award." It therefore cannot be an adequate representative of US Airways (East) pilots and must withdraw from this proceeding.

The USAPA Merger Committee's withdrawal includes withdrawal as a party under the Seniority Integration Protocol Agreement and the Ground Rules entered by the Panel. The USAPA Merger Committee will not seek to reenter the seniority list integration process at a later point, irrespective of any further ruling by the United States Court of Appeals for the Ninth Circuit.

cc: J. Freund, S. Hoffman, W. Kennedy, M. Meyers, R. Siegel

A few hours later, on June 29th, the Board received the following letter from Steve Bradford, President of the US Airline Pilots Association:

Arbitration Panel, Seniority List Integration Dispute involving the Pilots of New American Airlines, Inc.

Re: USAPA Merger Committee

Gentlemen:

It has come to the attention of USAPA that USAPA Merger Committee Counsel unilaterally submitted its position of USAPA in regards to the McCaskill-Bond seniority list integration process and its party status under the Seniority List Integration Protocol Agreement. USAPA disavows any representations made in the letter that was submitted and the USAPA Merger Counsel has no authority to bind the Association or make any further representations on its behalf.

In addition, USAPA is currently weighing its options in regards to its further participation in the McCaskill-Bond process and may wish to participate at later date.

cc: Brian O'Dwyer, Esq., Gary Silverman, Esq.

In the wake of these developments, Counsel for the AAPSIC, APA and American Airlines propounded three (3) procedural questions and invoked the following provisions of Protocol Agreement ¶ 7 (emphasis added):

7. The Arbitration Board shall have the authority to establish a fair and equitable integrated seniority list as required by the McCaskill Bond Act; provided, that any such integrated seniority list shall comply with the conditions set forth in paragraph 10.b. of the MOU. The Arbitration Board shall also have authority to resolve any dispute regarding the employment data exchanged pursuant to paragraphs 3 and 4 above; to resolve all procedural matters regarding the arbitration; and, subject to paragraph 8.b. below, to resolve any dispute regarding the interpretation and application of this Protocol Agreement arising prior to issuance of the final award under paragraph 13 below.

Counsel for the West Committee declined to join in that submission and advocated against consideration of the questions. After due consideration of these positions, the Board accepted the submitted questions and agreed to render an expedited decision by Monday, July 6, 2015. We heard oral argument on the record on June 30, 2015, followed by written briefs on July 1, 2015; whereupon the record was closed.¹

¹ The Board then received the following July 2nd letter from USAPA President Bradford:
Arbitration Board Pilot Seniority List Integration
Re: USAPA Merger Committee

Dear Arbitrators Eischen, Jaffe, and Vaughn:

Upon further review, USAPA withdraws its letter of June 29, 2015 signed by President Stephen Bradford. The letter of withdrawal sent to you by counsel for the USAPA Merger Committee on June 29, 2015 is effective and stands as the position of USAPA concerning the withdrawal of the USAPA Merger Committee from the McCaskill-Bond proceeding.

Thank you very much for the opportunity to clarify USAPA's position to the Panel

THE SUBMITTED QUESTIONS

1. Whether APA should engage in best efforts to establish a new merger committee to represent legacy U.S. Airways East pilots (“East Merger Committee”)?
2. Whether a new East Merger Committee, if any, should be deemed bound by the Ninth Circuit’s decision in *Addington*?
3. What shall be the revised schedule for the ISL hearing (including, without limitation, the schedule for establishing a new East Merger Committee, if any)?

GOVERNING AGREEMENTS AND STATUTORY PROVISIONS

The McCaskill-Bond Act Amendments to the Federal Aviation Act

SEC. 117. LABOR INTEGRATION.

(a) LABOR INTEGRATION.-

With respect to any covered transaction involving two or more covered air carriers that results in the combination of crafts or classes that are subject to the Railway Labor Act (45 U.S.C. 151 et seq.), sections 3 and 13 of the labor protective provisions imposed by the Civil Aeronautics Board in the Allegheny-Mohawk merger (as published at 59 C.A.B. 45) shall apply to the integration of covered employees of the covered air carriers; except that-

(1) if the same collective bargaining agent represents the combining crafts or classes at each of the covered air carriers, that collective bargaining agent's internal policies regarding integration, if any, will not be affected by and will supersede the requirements of this section; and

(2) the requirements of any collective bargaining agreement that may be applicable to the terms of integration involving covered employees of a covered air carrier shall not be affected by the requirements of this section as to the employees covered by that agreement, so long as those provisions allow for the protections afforded by sections 3 and 13 of the Allegheny-Mohawk provisions.

Allegheny-Mohawk Labor Protective Provisions (59 C.A.B 45)²

Section 1.

The fundamental scope and purpose of the conditions hereinafter specified are to provide for compensatory allowances to employees who may be affected by the proposed

² Congress expressly incorporated the CAB’s labor protective provisions in Sections 3 and 13 into McCaskill-Bond. *See Thomas v. Republic Airways Holdings, Inc.*, No. 11-cv-01313-RPM, 2012 WL 683525, at *2 (D. Colo. 2012) (Under McCaskill-Bond, “[S]ections 3 and 13 of the CAB’s labor protective provisions in the Allegheny–Mohawk merger became statutory law.”)

merger of Allegheny Airlines, Inc., and Mohawk Airlines, Inc., approved by the attached order, and is the intent that such conditions are to be restricted to those changes in employment due to an resulting from such merger. Fluctuations, rises and falls, and changes in volume or character of employment brought about by other causes are not covered by or intended to be covered by these provisions.

Section 2.

(a) The term "merger" as used herein means to join action by the two carriers whereby the unify, consolidate, merge, or pool in whole or in part their separate airline facilities or any of the operations or services previously performed by them through such separate facilities.

(b) The term "carrier" as used herein refers to either Allegheny or Mohawk or to the Corporation surviving after consummation of the proposed merger of the two companies.

(c) The Term "effective date of merger" as used herein shall mean the effective date and he amended certificates of public convenience and necessity transferred to Allegheny pursuant to be approved granted in the attached order.

(d) The term "employee" as used herein shall mean an employee of the carriers other than a temporary or part- time employee.

Section 3.

Insofar as the merger affects the seniority rights of the carriers' employees, provisions shall be made for the integration of seniority lists in a fair and equitable manner, including, where applicable, agreement through collective bargaining between the carriers and the representatives of the employees affected. In the event of failure to agree, the dispute may be submitted by either party for adjustment in accordance with section 13.

* * *

Section 13.

(a) In the event that any dispute or controversy (except as to matters arising under section 9) arises with respect to the protections provided herein which cannot be settle by the parties within 20 days after the controversy arises, it may be refined by any party to an arbitrator selected from a panel of seven names furnished by the National Mediation Board for consideration and determination. The parties shall select the arbitrator from such panel by alternatively striking names until only one remains, and he shall serve as arbitrator. Expedited hearings and decisions will be expected, and a decision shall be rendered within 90 days after the controversy arises, unless an extension of time it is mutually agreeable to all parties. The salary and expenses of the arbitrator shall be borne equally by the carrier and (i) the organization or organizations representing employee or employees or (ii) if unrepresented, the employee or employees or group or groups of employees. The decision of the arbitrator shall be final and binding on the parties.

(b) The above condition shall not apply if the parties by mutual agreement determine that an alternative method for dispute settlement or an alternative procedure for selection of an arbitrator is appropriate in their particular dispute. No party shall be excused from complying with the above condition by reason of having suggested an alternative method or procedure unless and until that alternative method or procedure shall have been agreed to by all parties.

* * * * *

**MEMORANDUM OF UNDERSTANDING REGARDING
CONTINGENT COLLECTIVE BARGAINING AGREEMENT**

* * *

10. a. A seniority integration process consistent with McCaskill-Bond shall begin as soon as possible after the Effective Date. . . .

* * *

c. The integrated seniority list resulting from the McCaskill-Bond process shall be final and binding on APA and USAPA (and/or the certified bargaining representative of the combined pilot group), the company(ies) and its(their) successors (if any), and all of the pilots of American/New American Airlines and US Airways.

d. During the McCaskill-Bond process, including any arbitration proceeding, US Airways, American or New American Airlines, or their successors (if any), shall remain neutral regarding the order in which pilots are placed on the integrated seniority list, but such neutrality shall not prevent said carriers from insuring that the award complies with the criteria in Paragraph 10(b)(i)-(v).

e. The obligations contained in this Paragraph shall be specifically enforceable on an expedited basis before a System Board of Adjustment in accordance with Paragraph 20, provided that the obligations imposed by McCaskill-Bond may be enforced in a court of competent jurisdiction.

f. A Seniority Integration Protocol Agreement ("Protocol Agreement") consistent with McCaskill-Bond and this Paragraph 10 will be agreed upon within 30 days of the Effective Date. The Protocol Agreement will set forth the process and protocol for conducting negotiations and arbitration, if applicable, and will include a methodology for allocating the reimbursement provided for in Paragraph 7. The company(ies) will be parties to the arbitration, if any, in accordance with McCaskill-Bond. The company(ies) shall provide information requested by the merger representatives for use in the arbitration, if any, in accordance with requirements of McCaskill-Bond, provided that the information is relevant to the issues involved in the arbitration, and the requests are reasonable and do not impose undue burden or expense, and so long as the merger representatives agree to appropriate confidentiality terms.

g. This Memorandum is not a waiver of any argument that participants may make in the seniority integration process . . .

h. US Airways agrees that neither this Memorandum nor the JCBA shall provide a basis for changing the seniority lists currently in effect at US Airways other than through the process set forth in this Paragraph 10.

* * * * *

SENIORITY INTEGRATION PROTOCOL AGREEMENT

This Agreement is made and entered into by and between the Allied Pilots Association (APA), US Airline Pilots Association (USAPA), American Airlines, Inc. ("American"), and US Airways, Inc. ("US Airways") (American and US Airways collectively, "American"), pursuant to the direction and provisions of paragraph 10.f. of the Memorandum of Understanding Regarding Contingent Collective Bargaining Agreement by and between US Airways, American Airlines, APA and USAPA (the "MOU").

* * *

1. APA, DSAPA, and American acknowledge that this Protocol Agreement constitutes the Protocol Agreement referred to in paragraph 10.f. of the MOU consistent with McCaskill Bond.

* * *

7. The Arbitration Board shall have the authority to establish a fair and equitable integrated seniority list as required by the McCaskill Bond Act; provided, that any such integrated seniority list shall comply with the conditions set forth in paragraph 10.b. of the MOU. The Arbitration Board shall also have authority to resolve any dispute regarding the employment data exchanged pursuant to paragraphs 3 and 4 above; to resolve all procedural matters regarding the arbitration; and, subject to paragraph 8.b. below, to resolve any dispute regarding the interpretation and application of this Protocol Agreement arising prior to issuance of the final award under paragraph 13 below.

* * *

8. a. Effective if and when the NMB certifies APA as the representative of the combined craft and class, the Merger Committees established by APA and USAPA shall continue in existence, solely for the purpose of concluding an integrated pilot seniority list pursuant to the MOU; provided, that all parties reserve their rights and/or positions with respect to the establishment of a separate Merger Committee to represent the interests of the pilots on the US Airways (West) seniority list referenced in paragraph 2(b) including, without limitation, APA's position that, following certification by the NMB as the single bargaining representative, it will have the discretion to designate such a committee, and USAPA's position that APA will have no such legal authority. APA shall not interfere in the deliberations and decision making of the Merger Committees. APA shall not interfere with any Merger Committee with respect to filling any vacancy, choosing legal counsel or other advisors and experts, or the manner in which legal and other expenses are financed. Nothing in this Protocol Agreement shall be deemed to modify or supersede any provision of the governing documents of any party existing as of the effective date of this Seniority Integration Protocol Agreement that governs the relationship between the party and a Merger Committee which it has established.

b. APA has received requests from pilots on the US Airways (West) seniority list referred to in paragraph 2(b) and/or their representatives that, following certification of APA by the NMB, a Merger Committee be designated to represent the interests of such pilots for purposes of this Seniority Integration Protocol. Upon such certification by the NMB, those requests will be referred to a "Preliminary Arbitration Board." The parties to such Preliminary Arbitration will be American, AP A, USAP A, the existing Merger Committees, and any committee of pilots on the US Airways (West) seniority list making such requests to APA or the Preliminary Arbitration Board not later than 14 days after certification of APA by the NMB. Within five business days following the selection of the Arbitration Board under paragraph 6 above, the selection of the Preliminary Arbitration Board shall be completed by American, APA and USAPA exchanging lists of five arbitrators, none of whom shall be a member of the Arbitration Board. Any names common to the lists will be appointed to the Preliminary Arbitration Board; if there are more than three common names, American, APA and USAPA shall rank order the common names, and the three arbitrators shall be designated based on the relative combined ranking. To the extent that positions on the Preliminary Arbitration Board remain unfilled and American, APA and USAPA are unable to agree on the remaining arbitrators, the remaining arbitrators shall be selected by alternate strike from the arbitrators proposed by American, AP A and USAP A. American, APA and USAPA shall determine by agreement or by lot the order of striking. The Preliminary Arbitration

Board shall establish an expedited schedule for a hearing on such requests at which the parties may present argument and/or evidence concerning the requests. The hearing shall consist of no more than five hearing days, and shall be concluded within 30 days of the Preliminary Arbitration Board's receipt of the requests, subject to the arbitrators' schedules. The Preliminary Arbitration Board shall issue an order granting or denying any such requests that APA designate the requested Committee. The order shall be issued within 30 days following the first day of the hearing, subject to the arbitrators' schedules. The order shall be final and binding on APA and USAPA, American and US Airways or their successors, and all of the pilots of American and US Airways. The record of the proceeding before the Preliminary Arbitration Board, and any supporting Opinion of the Preliminary Arbitration Board, shall not be presented to the Arbitration Board. The Preliminary Arbitration Board will have the authority to resolve any dispute regarding the interpretation or application of this Protocol Agreement arising in connection with the proceeding under this paragraph 8.b.

c. Any Merger Committee authorized by the Preliminary Arbitration Board pursuant to subparagraph b above shall thereafter be treated as a Merger Committee under this Seniority Integration Protocol Agreement for all purposes including, without limitation, the following:

(1) Within 14 days following the Preliminary Arbitration Board's order, American will provide to such Merger Committee all information theretofore provided to the existing Merger Committees established by APA and USAP A.

(2) Within 14 days following the Preliminary Arbitration Board's order, the existing Merger Committees established by APA and USAPA will provide to such Merger Committee all information theretofore exchanged by the Existing Merger Committees.

(3) At such Merger Committee's request, the Merger Committees will together reconsider any issues resolved pursuant to paragraphs 2 and 5 above.

9. The parties to the seniority integration arbitration before the Arbitration Board will be the Merger Committees and American; provided, that the participation of American shall conform to Paragraph 10.d of the MOU.

* * *

18. This Protocol Agreement may be amended, supplemented or modified, either directly or indirectly, only by written agreement of the parties (American, USAPA and APA until NMB certification of APA; American, APA and the Merger Committees following NMB certification of a single bargaining representative).

* * * * *

PROCEDURAL GROUND RULES

The following procedures shall apply to the seniority integration arbitration under the Parties' Memorandum of Understanding (the "MOU") and Protocol Agreement (the "Protocol Agreement"), copies of which are attached hereto. The Parties are the Merger Committees established by the Protocol Agreement and designated by the Allied Pilots Association (the "APA"), namely the AA Pilots Seniority Integration Committee ("AAPSIC"), the USAPA Merger Committee ("USAPA Committee"), the West Pilots Merger Committee ("West Committee") (collectively the "Merger Committees");

American Airlines and US Airways (collectively the "Company" and, together with the Merger Committees, the "Parties").

I. Arbitrator Selection.

Pursuant to paragraph 6 of the Protocol Agreement, the Parties have selected Dana Eischen, Ira Jaffe and M. David Vaughn to serve as an Arbitration Board (the "Board") in accordance with the MOU and the Protocol Agreement. The Board shall select a Chairman from among the members of the Board, to serve as the chief presiding officer at any prehearing conference and the arbitration hearing.

II. Authority of Arbitration Board.

The issues and the Board's authority shall be as set forth in Paragraph 7 of the Protocol Agreement.

III. Arbitration Hearings.

A. Location and Timing of Arbitration Hearings.

This matter has been submitted to arbitration before the Board pursuant to Paragraph 6 of the Protocol Agreement; provided that the Merger Committees may engage in negotiations in accordance with Paragraph 5 of the Protocol Agreement.

Arbitration hearings are scheduled for the following periods: June 29,30, July 1,2, 3,13,14,15 and 16, September 29, 30, October 1,2,12,13,14,15 and 16,2015, in Washington, D.C.

* * *

G. Administration of Hearing Schedule.

The Board shall administer the scheduling provisions above keeping in mind that nothing in the scheduling of these proceedings should jeopardize any Party's ability to make a full and careful presentation of the evidence and arguments necessary and appropriate for the important matters at issue and to permit a reasoned and orderly development of a fair and equitable integrated seniority list. To that end, while the Board will administer the schedule in accordance with these procedures to see to it that the hearing is completed within sixteen (16) hearing days as provided for in Section D, the Board may, at the request of any Party, schedule longer or additional hearing days to permit a Party to complete its presentation if the Board, in its sole discretion, determines that such additional time is required.

* * *

XII. Interpretation of MOU, Protocol Agreement and Ground Rules.

These Ground Rules will be interpreted in a manner consistent with the MOU and the Protocol Agreement. In the event of any conflict, the terms of the Protocol Agreement will prevail.

XIII. Modification of Ground Rules.

These Ground Rules may be suspended or modified by agreement of the Parties or order of the Board

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OPINION OF THE BOARD

The Board's Jurisdiction and Authority: Source and Scope

This Board's jurisdiction and authority to accept the proffered submission and respond to the procedural questions presented are established clearly by the McCaskill-Bond Act ("McCaskill-Bond"), the Seniority Integration Protocol Agreement ("Protocol Agreement" or "Protocol") and the negotiated Procedural Ground Rules ("Ground Rules").³

Paragraph 7 of the Protocol Agreement provides three specific grants of authority, all of which apply here. First, "[t]he Arbitration Board shall have the authority to establish a fair and equitable integrated seniority list as required by the McCaskill-Bond Act." Second, "[t]he Arbitration Board shall also have the authority to ... resolve all procedural matters." Third, "[t]he Arbitration Board shall also have the authority to ... resolve any dispute regarding the interpretation and application of this Protocol Agreement."

Ground Rules Section II reiterates and affirms the Board's authority granted by Protocol Agreement ¶ 7 and Section III.G further specifies: "The Board shall administer the scheduling provisions above keeping in mind that nothing in the scheduling of these proceedings should jeopardize any Party's ability to make a full and careful presentation of the evidence and arguments necessary and appropriate for the important matters at issue and to permit a

³ The Parties to the negotiated Procedural Ground Rules are the Merger Committees established by the Protocol Agreement and designated by the Allied Pilots Association (the "APA"), namely the AA Pilots Seniority Integration Committee ("AAPSIC"), the USAPA Merger Committee ("USAPA Committee"), the West Pilots' Merger Committee ("West Committee") (collectively the "Merger Committees"); American Airlines and US Airways (collectively the "Company" and, together with the Merger Committees, the "Parties").

reasoned and orderly development of a fair and equitable integrated seniority list." Ground Rules Section XIII authorizes the Board to order suspension or modification of the Ground Rules for good cause shown. Finally, Ground Rules Section XII requires that all such Board authority be exercised "in a manner consistent with the MOU and the Protocol Agreement" [but] "in the event of any conflict, the terms of the Protocol Agreement will prevail."

Question No. 1

Whether APA should engage in best efforts to establish a new merger committee to represent legacy U.S. Airways East pilots ("East Merger Committee")?

The Board answers Question No. 1 in the affirmative: APA should engage in best efforts to establish a new merger committee to represent legacy U.S. Airways East pilots.

It is the obligation of the Board under the Protocol Agreement and its incorporated McCaskill-Bond mandate to ensure a process which is fair and equitable in design and which also produces a fair and equitable integrated pilot seniority list. The groups of pilots whose seniority rights will be governed by that list each have interests separate and distinct from the others; and each of those groups, including East pilots, are presumptively entitled to have their interests represented in this SLI proceeding.

This is not a case in which the Board is asked to address whether an affected pilot group is entitled to be represented through one of the Merger Committees that are parties to this arbitration. The East Pilots were afforded that right and, after receipt of the decision of the Court of Appeals in *Addington*, the USAPA Merger Committee opted to withdraw permanently from this

proceeding. Nor is it a question of whether there is an advocate for the Nicolau Award in this proceeding – the West Committee obviously fills that role. The missing link caused by withdrawal of the USAPA Merger Committee is no advocate for those East pilots who are opposed to the Nicolau Award.

If necessary to avoid undue delay in finalizing the ISL, the Board is prepared to proceed in the event that a new Merger Committee to represent the East pilots is not created in sufficient time to participate in the arbitration process pursuant to the revised schedule set forth in connection with our answer to question 3. However, the Board is persuaded that it is desirable for a variety of reasons for the East pilots to have a designated Merger Committee representing them in the arbitration. Having representation and Counsel will, in our view, contribute to a process that is fair and equitable in design and also helps in achieving an integrated seniority list that is fair and equitable. Providing the East pilots with a voice increases the likelihood that their interests will be advocated to this Board and increases the likelihood that the final Award of this Board will be accepted by the pilots themselves as well as by any reviewing court.

Even if any newly appointed East Merger Committee is limited by the *Addington* Court in terms of the position that it can advocate with respect to the Nicolau Award and its application, there remain other areas in the position of an East Merger Committee that may vary from advocacy by the West Merger Committee, the AASPIC or the Company. To the extent that the restrictions on advocacy contained in *Addington* may be found inapplicable to any such newly created East Merger Committee, their participation is even more

important to ensure that advocacy and evidence in support of the interests of the East pilots are presented to the Board in the record upon which we will make our decision.

APA holds certification as exclusive representative of the several pilot groups which are the subjects of this proceeding, including East pilots. The Protocol Agreement, read as a whole, does not, in our judgment, bar APA from establishing or recognizing such a new East Merger Committee. USAPA has abandoned any continued role in the seniority integration process, regardless of whether the limitations contained in *Addington* are clarified, modified, or rescinded.

The Board has considered all arguments and authorities advanced by the Parties as to our jurisdiction and authority to pass on the question presented and as to the wisdom of doing so. The Board concludes that the cited provisions of the MOU, Protocol Agreement and Ground Rules, as well as the nature and purpose of the statutory mandate and court, CAB and arbitral precedent clearly establish our jurisdiction and authority to pass on Question No. 1.

The question whether, in the event that one of the designated Merger Committees withdraws from the proceedings, APA should exercise its authority to appoint a replacement Merger Committee is, in our view, a procedural question that we are authorized to address. Indeed, we hold not only that we are authorized to address and answer that question but obligated to answer it affirmatively under Protocol Agreement Section 7 and the McCaskill-Bond Act. Further, we have done so without running afoul of the provisions of Protocol Agreement Section 18.

The obligations to ensure representation of the interests of East pilots continue, notwithstanding the decision of the USAPA Merger Committee to irrevocably cease all participation in the proceeding and its apparent failure thusfar to participate in the appointment of a new or replacement Merger Committee. We are persuaded that APA enjoys the authority, consistent with the Protocol Agreement and its status as the certified bargaining representative for all of the pilots of the Company, to create or recognize such a new or replacement Merger Committee. For the reasons previously noted, we are further persuaded that APA should utilize best efforts to appoint such a Merger Committee.

Our recommendation in this regard, however, is conditional and must balance the interests of all affected Parties in light of the unique combination of circumstances with which we are confronted. The Company has a significant interest in ensuring that the seniority list integration proceed at an appropriate pace, so that the combined list may be promptly effected and the operating efficiencies associated with a single consolidated operation may be more fully achieved. One or more pilot groups may have similar interests in avoiding inordinate delays in the completion of this process. As noted in a number of the Civil Aeronautics Board decisions, there is also a public interest in having airline mergers completed in a timely fashion.

The Parties bargained for a particular schedule as part of the negotiations that led to adoption of the Protocol Agreement. That schedule is one that is deserving of being maintained to the maximum extent feasible, consistent with providing a fair and equitable process for the determination of

a fair and equitable integrated seniority list. The recommendation, therefore, that APA use best efforts to create a new East Merger Committee, is conditioned upon it being able to do so promptly so that the modified schedule outlined in our response to question 3 may proceed without further adjustment and so that any new East Merger Committee will have sufficient time to fairly develop and present its position(s) and participate in a meaningful fashion in the examination and cross-examination of witnesses.

The Board is not persuaded that the relatively minor schedule adjustments that may follow from ensuring presentation of the legitimate interests of East pilots outweigh the benefits of more meaningful representation for those pilots. That having been said, it is the Board's admonition that APA's best efforts be promptly undertaken and that the designation of a merger committee to represent the interest of East pilots and their participation in the process be accomplished without disruption of the schedule established in our answer to Question No. 3. To the extent that USAPA and its Merger Committee have exited the process and have decided not to return, that is not the responsibility of the Board or the remaining Parties and should not materially prejudice their legitimate rights and expectations with respect to the timing of the seniority list integration arbitration proceeding in this case.

It must be noted that the Board's answer to the Question presented does not include either a mandate or a result. The question is limited: whether APA should use its best efforts to establish a new merger committee. We are persuaded that such efforts can and should be made. But if APA is ultimately unsuccessful in its efforts, we are comfortable with the arbitration proceeding in

accordance with the Ground Rule modifications in our answer to Question No. 3. Any loss of direct representation for the East pilot group will be the result of the actions of USAPA and the USAPA Merger Committee and not any action on the part of the Board or any other Party to this process.

Question No. 2

Whether a new East Merger Committee, if any, should be deemed bound by the Ninth Circuit's decision in *Addington*?

The Board declines to address this inquiry to the extent that it asks the Board whether it will require that any new East Merger Committee be bound by the Ninth Circuit's decision in *Addington* in terms of limiting the position that it may advocate in this arbitration. The precise question whether, or to what extent, any injunction ultimately issued by the District Court on remand will limit advocacy in this proceeding by a newly formed East Merger Committee is a legal question for the court itself to resolve. The response to that question will depend upon the precise wording of the injunction, when issued. Given the recency of the ruling of the Court of Appeals for the Ninth Circuit, the ultimate verbiage contained in such an injunction is not now known.

The Board answers Question No. 2 in the negative to the extent that this question seeks to inquire whether, irrespective of the ultimate determination of the Court and as a matter of presiding over a fair and equitable proceeding, the Board will condition such Merger Committee participation upon advocacy for adoption of the Nicolau Award as a basis for integrating the seniority of the former East and former West pilots.

There are a number of reasons for this determination. We start with the premise that the ultimate determination of how the Nicolau Award will inform our judgment as to what constitutes a fair and equitable integration of the seniority of the various pilot groups that together constitute the pilot workforce of the New American Airlines is unknown. That determination will be made by the Board only after we have had the opportunity to carefully review all of the relevant record evidence. Regardless of the precise positions advocated by the Merger Committees, including whether or not any Merger Committee for the East Pilots advocates for a methodology based upon the Nicolau Award or were to advocate for a different methodology, we ultimately will accord the Nicolau Award the weight that we believe it is entitled to receive in the context of the particular seniority integration methodology that we utilize to develop a fair and equitable integrated list.⁴

Absent some restriction imposed by a Court of competent jurisdiction, the ability to advocate to this Board that a particular methodology ought to be utilized to help construct a fair and equitable integrated seniority list is not something that the Board would limit in any way. There may be any number of methodologies that, if adopted, may be of use in developing an integrated seniority list that overall is fair and equitable. This Board has not yet had the opportunity to review and study the record evidence that will be introduced and,

⁴ While enjoining the USAPA Merger Committee from participating in the McCaskill-Bond seniority integration arbitration, except to the extent that it advocates the Nicolau Award, the Addington majority recognized that, given the requirement of a ratification vote by all pilots for any joint collective bargaining agreement, it was unclear whether the Nicolau Award would have been implemented fully but for USAPA's actions. Further, the court expressly declined to order that an unmodified Nicolau Award be used to order the seniority of the East and West pilots in the arbitration.

as a result, has not considered whether or to what extent weight appropriately ought to be given to the Nicolau Award in performing that function.

We recognize that the Addington Court imposed the injunction based upon its findings as to the historical behavior of USAPA and its adverse impact upon the West Pilots. It has been argued that there would be a certain ironic inequity in “rewarding” the actions of the USAPA Merger Committee by allowing their unilateral decision to withdraw from the arbitration to benefit those East pilots whose interests were advanced in some ways by the historical actions of USAPA. We do not believe, however, that limiting one or more Merger Committees in terms of the arguments that they may advance is a stricture that should be imposed by this Board.

Whether or not a Merger Committee is required to advocate in favor of adoption of the Nicolau Award, we are not only authorized but obligated, as a result of the provisions of McCaskill-Bond and the language of the Protocol Agreement, to consider and give appropriate weight to all relevant facts and history when determining both an appropriate methodology and when determining whether the resulting integrated seniority list is fair and equitable.

For all of these reasons, we decline to answer Question No. 2 to the extent that it seeks to have us opine on the applicability of a judicial restriction on advocacy by any newly appointed East Merger Committee. To the extent that it asks about whether there will be a Board-imposed limitation on advocacy by any newly appointed East Merger Committee, we answer the question in the negative.

Question No. 3

What shall be the revised schedule for the ISL hearing (including, without limitation, the schedule for establishing a new East Merger Committee, if any)?

The Board considered, evaluated, accommodated and balanced many legitimate but countervailing rights and equities in the exercise of our clear authority to modify Ground Rules Article III, Sections A and D.1. Indeed, such is precisely the nature of this Board's duty and responsibility under the "fair and equitable" standard which governs these proceedings. Whatever the desire of the Board and the Parties to adhere to existing schedules and deadlines, and however the Parties characterize the withdrawal of the USAPA Merger Committee, those considerations are overridden by a common interest in achieving a fair and equitable integrated seniority list through a fair and equitable process.

We recognize that this necessary modification of negotiated and established arrangements is painful, but our overriding imperatives must be the fairness of our process and the fairness and finality of the ISL which is the end product of that process. The Board is also mindful of the admonition in Ground Rules Article III, Section G: *"The Board shall administer the scheduling provisions above keeping in mind that nothing in the scheduling of these proceedings should jeopardize any Party's ability to make a full and careful presentation of the evidence and arguments necessary and appropriate for the important matters at issue and to permit a reasoned and orderly development of a fair and equitable integrated seniority list"*.

That said, the Board is acutely aware that the other Merger Committees and the pilots they represent, American Airlines and APA also have rights to

adherence, as much as possible and practicable, to the negotiated timelines laid down in the Protocol Agreement and the Ground Rules. Accordingly, we intrude upon those rights only to the extent we deem absolutely necessary to fulfill our obligations to properly preserve and protect the fairness of this arbitration proceeding and the finality of the awarded ISL.

Thus, we conclude that it is appropriate and necessary for the Board to modify the hearing timetable and order of appearances set forth in the Ground Rules to allow reasonable time: 1) For APA to seek, designate and empower a substitute representative in this ISL arbitration for those pilots effectively disenfranchised by the withdrawal of the USAPA Merger Committee and 2) For such representative, if appointed, to obtain legal counsel and perform the functions of a Merger Committee under the terms of the Procedural Ground Rules.

We believe that our limited modifications of the hearing calendar and order of appearances adequately provides for good faith accomplishment of all of those goals. The resulting schedule should afford more than sufficient opportunity for the full and informed participation of any newly appointed East Pilot Merger Committee in the proceedings, especially if its direct presentation is scheduled to occur after those of the other Pilot Merger Committees. All concerned are well advised to note that strict compliance will be required by the Board, unless otherwise agreed by the Parties and approved by the Board; or unless, in the sole judgment of the Board, compelling good cause is shown to justify any further modification.

PROCEDURAL AWARD OF THE BOARD

- 1) The Board answers Question No. 1 in the affirmative.
- 2) The Board declines to answer Question No. 2 to the extent that it seeks a legal opinion as to the scope of the judicial injunction on advocacy by any Merger Committee appointed to represent the East pilots. The Board declines to impose any restrictions on advocacy not imposed by a court of competent jurisdiction.
- 3) The Board's answer to Question No. 3 is (emphasis added):

By Order of the Board, Ground Rules Article III, Section A is modified to read as follows:

III. Arbitration Hearings.

A. Location and Timing of Arbitration Hearings.

This matter has been submitted to arbitration before the Board pursuant to Paragraph 6 of the Protocol Agreement; provided that the Merger Committees may engage in negotiations in accordance with Paragraph 5 of the Protocol Agreement.

Arbitration hearings (to the extent needed) are scheduled for the following periods: September 29, 30, October 1, 2, 12, 13, 14, 15 and 16, 2015; January 4, 5, 6, 7, 8, 11, 12, 13, 14,15, 2016, in Washington, D.C.

* * *

The Parties are directed to promptly meet and confer to make all other changes to the Ground Rules Agreement necessary to incorporate the change in schedule directed by the Board and to submit all agreed upon changes to the Board for review and adoption.

July 5, 2015



Dana Edward Eischen, Esq.



Ira F. Jaffe, Esq.



M. David Vaughn, Esq.