

1 BEFORE THE ALPA ARBITRATION BOARD

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4 THE CREW MEMBERS OF US :

5 AIRWAYS :

6 Plaintiff, :

7 vs. :

8 THE CREW MEMBERS OF :

9 AMERICA WEST AIRLINES :

10 Defendant. :

11 - - - - -X

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13 HEARING, VOLUME IV

14

15 GEORGE NICOLAU, Chairman

16 CAPTAIN STEVE GILLEN, Pilot Neutral

17 CAPTAIN JIM BRUCIA, Pilot Neutral

18

19 Washington, DC

20 Monday, December 11, 2006

21 REPORTED BY:

22 DONALD R. THACKER

1 Hearing before the ALPA Arbitration Board,

2 on Monday, December 11, 2006, in Washington, D.C. at

3 the Marri ott Wardman Park, 2660 Woodl ey Road,
4 Northwest, at 9: 30 a.m. before DONALD R. THACKER, a
5 Notary Public wi thin and for the Di strict of
6 Columbi a, when were present on behal f of the
7 respecti ve parti es:

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9 DANIEL M. KATZ, ESQ.

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16 On behal f of US Ai rways

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-- conti nued --

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1 APPEARANCES (Conti nued):

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On behalf of America West Airlines

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1 PROCEEDINGS (10:07 A.M.)

2 MR. KATZ: We are going to call Philip
3 Carey as our next witness.

4 MR. FREUND: Before you do that I promised
5 that I would make copies for you all of the 1988
6 attrition reports to substitute for the three pages
7 or four pages that we passed out last time, and I
8 have those copies.

9 MR. BRUCIA: I thought we had the --

10 MR. FREUND: You had the four-page.

11 MR. BRUCIA: Are we he labeling this,
12 Jeff.

13 MR. FREUND: Yes, put it in the book that
14 is marked cross-examination exhibits and put it

15 under tab A. Just for the cross-examination
16 exhibits.
17 Whereupon,

18 PHILIP CAREY

19 was called as a witness and, having first been duly
20 sworn, was examined and testified as follows:

21 DIRECT EXAMINATION

22 BY MR. KATZ:

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1 Q Before we get into volume C on the Fleet
2 let me just ask you a few background questions.
3 Would you say your name and residence for the
4 record?

5 A Philip Carey, Jensen Beach, Florida.

6 Q And your employment?

7 A I am a captain at U.S. Airways.

8 Q What airplane do you fly?

9 A I fly the 737-300, and I have been there
10 for 21 years.

11 Q Where are you based?

12 A Pittsburgh.

13 Q So 21 years, you were hired in 1985?

14 A January '85.

15 Q And you have been employed continuously
16 U.S. Airways since that time?

17 A Yes, no furlough time.

18 Q And you were hired at U.S. Airways rather
19 than Piedmont or PSA or --

20 A Yes.

21 Q -- All American Aviation?

22 A No.

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1 Q And during that time per of time have you
2 been involved in any ALPA activities?

3 A Yes, for many years. I started as a
4 family awareness group leader during contract
5 negotiations back in the mid '90s, and I served on
6 the negotiating committee for five and a half years,
7 and now I have been on the merger committee for a
8 year and a half.

9 Q Were you for a while the chairman of the
10 negotiating committee?

11 A Yes.

12 Q Have you pulled together some exhibits on
13 fleet for the arbitration panel?

14 A Yes, I have.

15 Q Let's distribute those at this time, if we
16 could.

17 Would you turn to Exhibit 1, please, and
18 flip open that tab, U.S. Airways Timeline and with
19 the assistance of the merger committee and counsel
20 did you pull together this timeline and the
21 accompanying exhibits that are in Tab one?

22 A Yes.

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1 Q What was the purpose for that?

2 A Well, the purpose was to establish the
3 benchmark for the U.S. Airways fleet before, after
4 and during the merger procedure. And what we did
5 here was we showed that at the end of 2004 the U.S.
6 Airways fleet stood at 281 aircraft.

7 Q That is December 31, 2004?

8 A That is correct, and this refers to --
9 this fleet analysis here refers to Boeing and Airbus
10 aircraft. It does not include the EMB --

11 Q Embraer?

12 A -- on this sheet, the Embraer.

13 Q There is a separate sheet that deals with
14 the Embraer?

15 A Yes, sir.

16 Q And you have a record in the timeline of
17 going from 281 down to 221 airplanes during the
18 period of the timeline?

19 A Yes.

20 Q Would you take us through the steps of
21 that process, please?

22 A Sure. In November 26 of '04 U.S. Airways

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1 and General Electric entered into agreement that
2 called for the return of 25 aircraft, and that
3 return consisted of 10 A319s in the year of 2005,
4 and then 15 Boeing 737s in 2006 and 2007.

5 And I would ask everyone to keep those 15
6 airplanes in mind because later on we are going to
7 show how the return of those aircraft gets

8 accelerated due to the merger.

9 Q Okay, and this date, November 26, 2004,
10 was right in the midst of the bankruptcy case,
11 right?

12 A That is correct.

13 Q And then there is another entry a few
14 months later?

15 A Yes, in February, on February 25, '05,
16 U.S. Airways agreed to return another 11 737's
17 beginning in May of '05 to the leasing company,
18 for -- and that brought the total down to 245.

19 Q All right, and then you have got this date
20 marked here with no aircraft change in it, what is
21 the significance of that?

22 A The significance of that is on April 22nd

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1 U.S. Airways and America West publicly confirmed
2 that they were in merger discussions. Now, I will
3 show some documents later that showed that this had
4 been ongoing for many months but this is when they
5 both first publicly admitted that they were in
6 merger discussions.

7 Q Later in this tab and elsewhere in the
8 volume there are pieces of documentation for all of
9 the entries you have made in this timeline, right?

10 A That is correct, right behind here I have
11 documents that establish all of these transactions.

12 Q We are now getting very close to the date
13 of announcement of the merger May 4, 2005, what is

14 this entry, Captain Carey?

15 A Well, as I said previously, in April 22nd
16 they confirmed that the merger was ongoing and then
17 just a couple weeks after that U.S. Airways
18 announces that they are going to reduce their fleet
19 by an additional 10 aircraft in the August '05
20 schedule. And one of those airplanes was
21 subsequently not returned, so that brought the fleet
22 to 236 aircraft on the doorstep of the merger

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1 announcement.

2 Q Right, the merger was announced May 19th
3 and you have an entry for that?

4 A That is correct, the merger was announced
5 and the merger announcement contained reference to
6 25 additional aircraft to be returned as part of the
7 merger, and four days later on May 23rd, '05, I
8 attended a Labor Advisory Council meeting in Crystal
9 City --

10 Q What was the Labor Advisory Committee?

11 A That was made up of different
12 representatives from each labor group, you know,
13 pilots, mechanics, ticket agents, baggage people,
14 reservations, and they were called to Crystal City
15 to get a briefing by the company on the merger
16 transaction, and I attended that on behalf of the
17 merger committee.

18 Q That was a body that met with the top
19 management at U.S. Airways from time to time?

20 A Yes, present were Mr. Lakefield,
21 Mr. Ashby, Mr. Glass, and at that meeting we of
22 course, since the U.S. Airways pilots had been

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1 suffering some reductions in the fleet, one of the
2 main topics of conversation was the additional 25
3 aircraft, and all three of them told me separately
4 in different conversations that all the airplanes
5 were not going to come out of the U.S. Airways
6 fleet, that there were going to be -- the America
7 West fleet was also going to be reduced by a net of
8 10 aircraft, that they would suffer some pain in
9 this merger also.

10 Q So was there some description of this
11 sharing as an equitable sharing between the two
12 groups?

13 A Yes, there was. They said -- they were
14 also still taking some deliveries, they said, but in
15 the end it would be pretty fair and equitable
16 because we would be going down another 15 airplanes,
17 and their fleet in the end would be reduced by 10
18 aircraft.

19 Q And the CEO of the airline, Mr. Lakefield
20 told you that?

21 A Yes, he did, and so did Mr. Ashby and
22 Mr. Glass, and then a couple weeks later I attended

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1 an ALPA and company function in Phoenix where we had
2 dinner with Mr. Parker and Mr. McClellan and I had
3 dinner at my table with Mr. McClellan, and he
4 reiterated the same information.

5 Q Were there representatives of the American
6 West pilot group at this dinner?

7 A Yes, there was.

8 MR. FREUND: I guess I am going to object
9 to the testimony about what was told to this witness
10 by Mr. Lakefield and company, it is obviously
11 hearsay.

12 If there are documents that reflect it
13 that is fine, but it is uncross-examinable and it is
14 hearsay. So I don't, again I don't object to its
15 coming in so long as it is not coming in for the
16 truth of the contents.

17 CHAIRMAN NICOLAU: Let me ask you,
18 Captain, the 5-19-05 entry where it says 25
19 additional aircraft to be returned, is that 15 and
20 10, or is that 25 listed as U.S. Airways aircraft.

21 THE WITNESS: It is, lists 25 U.S. Airways
22 in the document. It doesn't break it down.

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1 CHAIRMAN NICOLAU: Okay.

2 BY MR. KATZ:

3 Q That is the document that is the
4 announcement of the merger, right?

5 A Yes, it is.

6 Q And that is the one that we went over on
7 cross-

8 Examination in great detail with Kevin
9 diagraming sentences and so forth?

10 A Yes, it is. And in the end we will show
11 later in the fleets that is exactly what the company
12 did, they took 15 aircraft from U.S. Airways and the
13 America West fleet shrunk by 10 aircraft.

14 Q We do have some documents on that later?

15 MR. FREUND: Yes, we have no --

16 CHAIRMAN NICOLAU: That happened.

17 MR. FREUND: Yes, that happened. We don't
18 quarrel with the fact that happened.

19 BY MR. KATZ:

20 Q Okay. Why don't we hit this last entry on
21 your timeline and then going into the documentation
22 that relates to these entries?

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1 A Okay, on February 10th, '06, the last
2 aircraft was returned from the east fleet pursuant
3 to the merger, and that left the east fleet at 221
4 aircraft.

5 Q Okay. That we have labeled the timeline
6 exhibit C-1(a) and if you flip past the blue divider
7 page there is a small print document called C-1(b)
8 would you tell us what this is, please?

9 A Yes, this confirms the first piece of the
10 timeline for November 26, '04, that U.S. Airways and
11 General Electric entered into an agreement and, if

12 you go down to the bottom of the second paragraph,
13 the agreement calls for the return of 10 Airbus 319s
14 in 2005, and 15 737-300s in the '06 and '07.

15 Q Okay, let's flip over the divider --

16 CHAIRMAN NICOLAU: Excuse me, what
17 paragraph.

18 MR. KATZ: It is just a before the list of
19 settlement A, B, C, D, E.

20 THE WITNESS: Exhibit C-1(b).

21 CHAIRMAN NICOLAU: I am with you, thank
22 you.

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1 THE WITNESS: And I was referring to --

2 CHAIRMAN NICOLAU: I got it.

3 THE WITNESS: Okay.

4 CHAIRMAN NICOLAU: Go ahead.

5 BY MR. KATZ:

6 Q All right. C-1(c) is a February 25, 2005,
7 and it says U.S. Airways to adjust system capacity
8 in May. What portion of this document did you want
9 to refer to specifically?

10 A Well, it shows on February 25th that U.S.
11 Airways makes agreement with the leasing company to
12 return an additional 11 aircraft, 737s.

13 Q That is the first paragraph?

14 A Correct.

15 Q Let's flip to C-1(d), this has got some
16 color on it, it is a reprint of a Dan Fitzpatrick,
17 Pittsburgh Post-Gazette article from two days after

18 the last entry?

19 A Correct, and about two months before the
20 merger confirmation. And it just reads the first
21 part that the "Odds are good that U.S. Airways will
22 make it out of bankruptcy again this summer, defying

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1 predictions of its imminent demise. But if it
2 survives U.S. Airways will likely do so with a new
3 set of owners." And it goes on to set that two
4 substantial investors and another 100,000,000 to
5 275,000,000 beyond the contributions of regional
6 carrier Air Wisconsin which recently agreed to put
7 in 125,000,000 in exchange for an air services
8 partnership.

9 Q Okay, and I see it goes on to quote Duane
10 Woerth, the president of ALPA, later in the article?

11 A Yes, it does.

12 Q Okay, and this is some interesting
13 background on John Luth, Seabury spokesman --

14 A Right, it talks about one link on the
15 third page, three-page, 3 of 4, the second
16 paragraph, it says, "One link between America West
17 and U.S. Airways is John Luth, CEO of New York
18 consultancy Seabury Group, a specialist in aircraft
19 finance and airline restructurings. Luth helped
20 U.S. Airways through its first bankruptcy and is
21 doing the same in its second, making at least \$15
22 million in fees for his firm."

1 Q And I understood he made something like
2 \$20 million in fees, his firm did, in the first
3 bankruptcy, is that right?

4 A That is correct.

5 Q Now, there was a reference to Mr. Luth in
6 Kevin Barry's exhibits, Exhibit A-18 talked about
7 him at the MCI Center watching the Wizards game from
8 a U.S. Airways sky box. Do you recall that?

9 A Yes, Mr. Luth was watching the game with
10 executives from America West and U.S. Airways when
11 he got a message on his Blackberry that the last
12 piece of the needed investment for the merger had
13 come into place from Air Canada, and that the merger
14 was on.

15 Q Okay. He was the one who was raising the
16 funds for U.S. Airways to emerge from bankruptcy?

17 A Yes, he was, and raising funds for the
18 merger.

19 Q Okay. There is another Dan Fitzpatrick
20 article from the Pittsburgh Post-Gazette in exhibit
21 C-1(e), this one is dated April 12, 2005. Why did
22 you include this item, Captain Carey?

1 A Well, the second paragraph talks about J P
2 Morgan airline analyst Jamie Baker fueled the latest
3 round of rumors in a research note Friday, and this
4 was written on April 12th '05, 10 days before the

5 parties acknowledged that the merger talks were
6 ongoing, and that referred to early speculation
7 about a proposed linkage between Phoenix-based
8 America West and Arlington, Virginia based U.S.
9 Airways.

10 Then if you go down to the last paragraph,
11 "Baker said in his research note Friday that America
12 West's cash could fall as low as \$60 million by the
13 end of the year without a new infusion of capital.
14 U.S. Airways also has little in the till, despite a
15 \$125 million investment from commuter carrier Air
16 Wisconsin and \$125 million commitment from Republic
17 Airways."

18 Q And this was by way of an explanation that
19 the combination, I am reading from the paragraph
20 above the one you just quoted, this fellow Laurer
21 said that a combination between U.S. Airways and
22 America West is not possible without the

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1 intervention of a third party willing to put up
2 enough money to carry the relationship forward and
3 protect against a continued rise in fuel prices?

4 A That is correct.

5 Q So, that is what John Luth was doing
6 there?

7 A Right, John Luth, he had already gotten
8 the first piece of the financing, whether U.S.
9 Airways stood alone or merged, and often the first
10 piece is the toughest to get, and that first piece

11 was \$125 million commitment from Air Wisconsin.

12 Q And --

13 MR. FREUND: I guess I would object to the
14 characterization of "often the first piece is the
15 toughest to get." I don't think that it advances the goal
16 any, but this witness certainly is not in a position
17 to testify about that unless he is an expert on
18 corporate financing.

19 CHAIRMAN NICOLAU: He doesn't claim to be.

20 BY MR. KATZ:

21 Q They had a second piece, too, on
22 April 12th, didn't they?

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1 A Yes, Republic Airways had also signed an
2 agreement that committed \$125 million in equity, and
3 also the sale of Embraer aircraft at U.S. Airways'
4 option for another \$110 million.

5 Q All right, Exhibit C-1(f) follows the one
6 we have just been looking at, and it is the
7 April 22nd entry you mentioned in connection with
8 the timeline, isn't it?

9 A Yes, this confirms America West and U.S.
10 Airways confirm that they are in discussions about a
11 merger.

12 Q Okay, let's look at C-1(g) which is dated
13 May 4, 2005?

14 A Yes, on May 4th, '05, this confirms that
15 effective with the August schedule change that U.S.
16 Airways will reduce the main line fleet by an

17 additional 10 aircraft. Now, keep in mind this is,
18 you know, a couple weeks after the rumor of the
19 merger, so we could argue that these airplanes might
20 be merger related also.

21 Q Is it the position of the U.S. Airways
22 pilot merger committee that these 10 airplanes are

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1 merger related?

2 A No, we have not made that ascertainment.

3 Q But this is where it falls in the
4 chronology?

5 A That is correct.

6 Q Okay, Exhibit C-1(h) is the announcement
7 of the merger; right?

8 A Yes, it is. And it says America West and
9 U.S. Airways to merge. If you go down to the last
10 bullet point, "The new airline will operate under a
11 single brand of U.S. Airways."

12 Q Okay.

13 A On the third page it talks about, on the
14 third paragraph down it starts with \$350 million in
15 new equity, it talks about who put those pieces in,
16 and it talks about the Eastshore holdings which is
17 Air Wisconsin putting in their \$125 million.

18 Q That is the same company that was
19 committed to investing that same amount of money in
20 U.S. Airways standing alone?

21 A That is correct.

22 Q Okay, anything else in this merger

1 announcement that you want to point us to?

2 A Just the next page at the very bottom
3 under fleet and routes it talks about U.S. Airways
4 projects returning 25 additional aircraft by the end
5 of '06, in addition to the 46 aircraft that U.S.
6 Airways has already announced to return.

7 And then it goes on to talk about how some
8 of the orders have been delayed for new aircraft.

9 Q Okay, anything else in the merger
10 announcement?

11 A No, nothing else.

12 Q And is it your view that anything that was
13 announced in the merger announcement itself is in
14 fact a merger related transaction?

15 A Yes, it is.

16 Q So that would refer to those 25 airplanes?

17 A Yes.

18 Q All right, the next tab, I mean it is not
19 a tab but after the next blue divider, you have a
20 document that has been marked as exhibit C-1(i).
21 Would you tell us what this document is, please?

22 A Yes, this is the U.S. Airways main line

1 fleet plan, so it doesn't talk about the Embraers
2 but it talks about the Boeing and the Airbus

3 aircraft on March 7th, 2005.

4 And if you look at the end of '06,
5 December, it shows the fleet at 251 aircraft, and
6 then it shows further reductions through '07 with
7 the last aircraft leaving in August of '07. If you
8 look at the minuses down in that second area, and
9 then they end with a fleet of 245 aircraft on
10 December of '07.

11 Now, keep in mind U.S. Airways also
12 announced on May 4th that there were going to be an
13 additional 10 aircraft, and then as part of the
14 merger there were going to be an additional 15
15 aircraft to our fleet.

16 Q So, after this March 7th, 2005 document,
17 another 10 reduction was announced.

18 A Right.

19 Q That was in April, wasn't it?

20 A No, that was May 4th.

21 Q That was May 4th?

22 A Yes.

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1 Q Then on May 19th in the merger
2 announcement itself was the announcement of 25
3 airplanes which were ultimately shared, 15 for U.S.
4 Airways and 10 reduced from the America West fleet?

5 A That is what happened, yes.

6 Q Okay, and then the following document is
7 C-1(j) which is a follow-up from the document we
8 have just been looking at; right?

9 A Right, this is a company fleet plan in
10 June when they had finalized the transaction, the
11 merger related transactions with General Electric.

12 And what this shows is that if you look
13 down at the bottom of the first set of data there
14 and if you look at February, 06, it shows our fleet
15 being reduced to 221.

16 Okay, so what this shows is that we went
17 down an additional 15 aircraft. And if you remember
18 on that previous page that the last aircraft didn't
19 leave until August of '07, so this also shows how
20 those airplanes were accelerated so that all the
21 airplanes are gone a year and a half earlier than
22 previously planned.

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1 But as part of the merger their return was
2 accelerated and an additional 15 aircraft. So you
3 are talking about two sets of 15 aircraft. One set
4 was accelerated and the other set was new as part of
5 the merger.

6 So it shows, if you start in the beginning
7 of January '05 at 281 aircraft, you can show the
8 rapid decline in the U.S. Airways fleet of 60
9 aircraft in just a little over a year, but our
10 attrition was powerful enough that we did not have
11 to furlough any pilots. We were able to downsize 60
12 aircraft and had the attrition to go along with it.

13 Q And if you compare the document C-1(i) and
14 C-1(j) you can identify the acceleration of these

15 737 departures from the fleet?

16 A That is correct.

17 Q Okay. Let's look at exhibit C-1(k), would
18 you describe what this document is, please?

19 A Yes, this is the document entered into on
20 June 13th, 2005, so that is about four weeks after
21 the merger, and it shows the parties involved, it
22 shows U. S. Airways Group, U. S. Airways, Inc.,

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1 America West Holdings, America West Airlines, and
2 General Electric Corporation.

3 So it shows that these five parties,
4 shortly after the merger agreement were entering
5 into a combined agreement for the reduction in the
6 fleet that we talked about earlier that were merger
7 related and aircraft that were accelerated.

8 And it shows that it wasn't just U. S.
9 Airways doing this on their own, it wasn't just
10 America West doing it on their own, it was the new
11 management in Phoenix that was in on the
12 decision-making process, and returning these
13 aircraft.

14 Q Can you show us where in the documents
15 the --

16 A On the second page it just talks about
17 the, a little bit about the document, and it talks
18 about U. S. Airways and America West lease and
19 finance arrangements, and the third page talks about
20 the general conditions.

21 The fourth page talks about the
22 obligations or commitments of U.S. Airways, GE and

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1 America West, nothing really on the 5th page, 6th
2 page.

3 When you get to the 7th page it starts to
4 show who the signatures were on the document, and
5 for U.S. Airways Group and U.S. Airways we have
6 Stephen Morrell.

7 On the next page it shows that America
8 West also signed the document. We have for Holdings
9 Derek Kerr, and for America West airlines we have
10 Derek Kerr, and then the next page shows that
11 General Electric was also signing the document.

12 And the next page talks about some of the
13 conditions. The next page that only has writing on
14 about half of the page. No. 11, talks about cross
15 guarantees by Group, U.S. Airways, Holdings, America
16 West, and Newco.

17 And then the next page has schedule C. It
18 talks about milestones that need to be met so that
19 it satisfies the conditions of this document.
20 General Electric had set up a timeline for the
21 reorganization and for the merger that the companies
22 had to follow, and this timeline was considered to

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1 be pretty aggressive and the airline met it and they
Page 22

2 met it early. They emerged from bankruptcy and
3 merged on September 27th, and GE called for that to
4 happen by October 31st.

5 Q Okay, the following page has some
6 additional conditions?

7 A Yes.

8 Q And then Exhibit A follows that, and this
9 is the early, Aircraft Early Removal Term Sheet,
10 right?

11 A That is correct. And it talks about U.S.
12 Airways removals and it goes on to specify certain
13 types of airplanes and the number, you know, 11
14 737-400s, seven, and if you add up that page it
15 comes to 30, and these are the 15 additional, and
16 the 15 that got accelerated.

17 And page 3 talks about the two airlines
18 being involved in this. Page 4 -- page 5 is
19 schedule A to Exhibit A, and the top set of aircraft
20 is another set of early terminations that were moved
21 up from '09. So '07 and '08 but we haven't talked
22 about those as merger related because they are so

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1 far out in the future.

2 We will show later in several documents
3 that the America West likes to time their aircraft
4 retirements with their deliveries of new aircraft so
5 they have the flexibility to either, you know,
6 shrink, grow or stay the same. And that is exactly
7 what they were doing here with U.S. Airways

8 aircraft, they were lining these up with Airbus
9 deliveries in the future.

10 If you go through the document, the next
11 set, you can see seven aircraft for U.S. Airways,
12 the next set you have return dates of six aircraft
13 for U.S. Airways. Another two have dates, another
14 eight have dates, and if you flip the page there is
15 another seven with dates for a total of 30.

16 If you go one more page you will see
17 schedule B to Exhibit A and it talks about the early
18 removal, AWA early removal dates, and those are for
19 11 aircraft.

20 And that is about it for that document.

21 Q Okay. Now let's look past the next blue
22 divider sheet to exhibit C-1(I) which seems to be an

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1 SEC filing of some sort. Would you describe that
2 document, please?

3 A Yes. This is a U.S. Airways Group, Inc.
4 form S-1/A filing and it was done on September 20th,
5 '05, and it is published by Edgar Online, and the
6 first sentence says, "The following is a description
7 of the material aspects of the merger."

8 So what it is, it is a better overview
9 with a lot more explanation of what actually
10 happened through the process of the merger.

11 Q Okay, are there particular entries in this
12 SEC filing that are of significance to this
13 arbitration board?

14 A Yes, I will just take you through a few of
15 them. On the next page which is labeled page 76 at
16 the bottom, the third paragraph down talks about
17 "Even before the petitions were filed in '04, one of
18 the alternatives U.S. Airways Group explored to
19 address its problems and return to profitability was
20 a possible merger with America West Holdings."

21 I will skip down a little bit, they
22 "conducted due diligence during the period of

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1 February through July '04" but, "Ultimately, these
2 discussions ended due to the parties' view that a
3 number of issues, including those related to labor,
4 pension and benefit costs, made a merger
5 impractical."

6 Q Can you tell us what was going on at U.S.
7 Airways in the period February to July 2004?

8 A Well, U.S. Airways was in the process of
9 trying to negotiate new agreements with their labor
10 groups but those were unsuccessful and they filed
11 for bankruptcy in September of '04.

12 Q So management, before filing for
13 bankruptcy in September 2004, management approached
14 the unions and attempted to negotiate additional
15 concessions?

16 A Yes, they did. So then they filed for
17 bankruptcy in September. Remember they made that
18 deal to return 25 aircraft to General Electric in
19 November 24th of '04, and then in December of '04,

20 hal fway through the paragraph, "during this period
21 executives of U. S. Airways group and America West
22 holdi ngs di scussed the possi bi lity of resumi ng

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1 merger di scussi ons. "

2 Q So they were back at it?

3 A Yes. Now, if you go to the next page,
4 hal fway through the paragraph, it says, "as part of
5 the plan of reorgani zati on U. S. Airways group would
6 have greater flexi bi lity to combi ne i ts network wi th
7 Ameri ca West holdi ngs network i n a more effi ci ent
8 and more cost-effective manner than it had prior to
9 fili ng bankruptcy peti ti on i n '04. "

10 Q Do you know whether there were hearings
11 during December 2004 on the U. S. Airways secti on
12 1113 moti ons relati ng to some of the uni ons at U. S.
13 Airways?

14 A Yes, there were. U. S. Airways was tryi ng
15 to push the negoti ati ons al ong and fi led 1113 moti on
16 i n the bankruptcy court.

17 Q And ul ti matel y those were resolved i n
18 December and January?

19 A Yes, they were.

20 Q Okay, please conti nue.

21 A At the second paragraph says U. S. Airways
22 i mproves i ts cost structure and l i qui di ty fol lowi ng

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1 a plan of reorganization; and that with better
2 liquidity and more efficient operations than either
3 airline could achieve on its own.

4 Beginning in January of '05, U.S. Airways
5 and America West resumed discussions. On
6 January 20th the board of directors of America West
7 renewed merger talks with U.S. Airways, and in late
8 February U.S. Airways group management and its
9 financial advisor made a presentation regarding a
10 combined America West to the U.S. Airways Group
11 board of directors.

12 Q So there are entries here that show that
13 they were talking, America West and U.S. Airways
14 were talking merger in --

15 A Right.

16 Q -- December 2004, January 2005,
17 February 2005?

18 A Correct, and you remember, if you think
19 back to the fleet plan, that on February 25th, U.S.
20 Airways made a deal to get rid of another 11 737's
21 during this same time period.

22 Q Then you have an entry here for March 2005

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1 on the next page?

2 A Right.

3 Q What is the significance of that?

4 A Well, if you go down to the last few
5 lines, "U.S. Airways group had entered into new

6 agreements with its labor groups and had obtained
7 significant reductions in pension and retiree
8 benefit costs with the result that these issues no
9 longer made a merger impractical."

10 Then on March 4th America West board of
11 directors meets, and on March 10th the America West
12 board of directors was updated on the proposed
13 structure of the transaction. So there is quite a
14 bit going on through this time period.

15 On March 11th U.S. Airways board of
16 directors meets.

17 Next page, March 21st Seabury and
18 Greenhill company, Greenhill was America West
19 Holdings' financial advisor, met to discuss the
20 potential economic terms of a possible transaction.

21 Q And Seabury was John Luth?

22 A John Luth was the person for Seabury that

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1 was working with U.S. Airways.

2 Q Okay.

3 A Next paragraph on March 30th, further
4 meetings with the U.S. Airways group board of
5 directors.

6 In April of '05 the parties and their
7 advisors participated in active negotiations
8 regarding the merger. And then once again keep in
9 mind, May 4th we decide to get rid of another 10
10 airplanes.

11 On the next page which is marked page 77,

12 if you go down to the bottom, "Prior to the
13 announcement of the proposed merger on May 19th,
14 '05, four investors committed to investing in the
15 new U.S. Airways," and the first of those is
16 Eastshore. Air Wisconsin who was discussed before,
17 Ace, PAR Investments and Peninsula Investments.

18 Next page, at the bottom of that first
19 paragraph on April 19th the full board of directors
20 of U.S. Airways group met and reviewed the potential
21 transaction with U.S. Airways holding, on the same
22 day Wall Street journal published an article

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1 speculating about a possible merger.

2 And then three days later on April 22nd
3 America West and U.S. Airways confirmed that they
4 are in discussions for a merger.

5 Q We now see that had actually been going on
6 for some time?

7 A Yes, I don't know how the Wall Street
8 journal got any idea there were merger discussions
9 on April 19th, I mean they have been going on for
10 about four or five months.

11 Q All right. I guess somebody spilled the
12 beans?

13 A Yes.

14 Q Then April 29th what happened, the America
15 West board of directors met --

16 A To discuss the status of the discussions
17 and they updated their board of directors on the

18 merger agreement.

19 And then through May negotiations continue
20 back and forth. There is discussion about the stock
21 and several meetings of board of directors, and on
22 page 78, May 19th of '05, there is a regularly

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1 scheduled meeting of the board for America West, and
2 halfway down the paragraph it says "Greenhill," who
3 was the financial advisor for America West, made a
4 financial presentation and delivered its oral
5 opinion, subsequently confirmed in writing and they
6 said, if you skip down, toward the end, that they
7 thought the deal was fair from a financial point of
8 view to the stockholders.

9 And following discussions the board of
10 directors determined that the merger agreement and
11 the merger were fair, from a financial point of
12 view, and in the best interests of America West
13 Holdings and its stockholders and unanimously
14 approved the merger agreement and the merger.

15 Q Seems like they refer to it as a merger
16 agreement quite a few times?

17 A Yes.

18 Q Do you see any references to it as an
19 acquisition agreement?

20 A I do not.

21 Q Do you see any references to America West
22 putting in any cash into this transaction?

1 A No.

2 Q All right, please continue.

3 A All right, on the next page it talks about
4 the agreements with Eastshore, PAR, Peninsula and
5 Ace, and they are purchasing stock at \$15 a share,
6 and if you have been following the stock, last week
7 it was in the range of 60, so those original
8 investors, if they are still in could quadruple
9 their money in a very short time period.

10 Q So the merger is announced, and now we are
11 into May. Flipping the page you have marked,
12 "Shortly after the execution of the merger
13 agreement --"

14 A Yes, it talks about how other people are
15 interested in investing their money in the new
16 company and on May 27th U. S. Airways Group enters
17 into an agreement with Wellington Management Company
18 and Wellington is putting in an additional \$150
19 million in equity investment, at a price \$16.50 a
20 share. So the price of the stock is already headed
21 up.

22 On the next page it talks about on

1 July 7th that Tudor Proprietary Trading is
2 interested in investment and that they decided to
3 invest.

4 Q So Tudor and Wellington were two

5 additional investors --

6 A Correct.

7 Q -- to the tune of another 215 million in
8 equity that were not there on May 19th?

9 A Right, and then on June 23rd, '05 the
10 Department of Justice says that they have no further
11 requests for additional information on the merger so
12 that basically on June 23rd the Department of
13 Justice has approved the merger between America West
14 and U.S. Airways.

15 Q So that went by pretty swiftly?

16 A Very quickly, a little over a month. And
17 on that same day U.S. Airways told Republic Wexford
18 that they didn't need their \$125 million equity
19 investment, but that they would go ahead with the
20 sale of the Embraer aircraft, gates and slots, for
21 110 million.

22 Q And it is your understanding that was an

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1 option that U.S. Airways had?

2 A Yes, it was U.S. Airways option on both
3 pieces.

4 Q Okay. Flipping a couple pages more you
5 have got some markings on that page. Would you tell
6 us what that is for?

7 A Yes, down in the third paragraph "America
8 West holdings was required to obtain a waiver from
9 the ATSB of a prepayment obligation to complete the
10 merger."

11 Remember America West had an ATSB loan and
12 so did U.S. Airways and as part of the merger
13 agreement they were going to have to deal with the
14 ATSB and combine the two loans going forward, and we
15 will talk a little bit more about that in the
16 future.

17 Q But it says that there was 300 million
18 still outstanding on the America West airlines loan
19 as of June 30, 2005?

20 A That is correct.

21 Q So getting the ATSB to go along with this
22 was a condition to making the merger happen?

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1 A Yes.

2 Q And that fell into place as well?

3 A Yes, it did. And on the next page, next
4 to the last paragraph, "America West Holdings is
5 required to prepay the loan partially guaranteed by
6 the ATSB upon a change of control," so the new U.S.
7 Airways had to negotiate a new loan agreement
8 because the ATSB was looking at this as a change of
9 control of America West.

10 Q It was a change in control for America
11 West Holdings and America West Airlines. Do you
12 know whether it was considered a change of control
13 of the merger transaction with regard to U.S.
14 Airways and its union contracts?

15 A No, it was not.

16 Q Anything else in this SEC filing you

17 wanted to point us to?

18 A After page 80, the next page talks about
19 U. S. Airways, ASTB backed loan was approximately
20 \$708 million, less mandatory prepayments of
21 specified assets, and if you look at the full --
22 first bullet point it talks about what the -- what

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1 they are talking about here is that U. S. Airways
2 needs to get a new loan joining the two principals
3 together.

4 And the first requirement of obtaining
5 that loan is that certain prepayments from the
6 proceeds of specified asset sales U. S. Airways
7 Group, so the principal has to be paid down by sale
8 of U. S. Airways assets for the loan to go through.

9 Q So your understanding is ASTB was
10 insisting on the sale of these assets in order to
11 carry the two loans forward as one?

12 A That is correct, it is the first bullet
13 point.

14 Q Okay.

15 A Now, nothing on the next page, the next
16 page talks about --

17 Q There is a whole lot of bullet points
18 relating to the ATSB loans?

19 A Correct, then if you go to the next page
20 it talks about accounting treatment, for accounting
21 purposes only we will account for the merger as a
22 reverse acquisition.

1 Q Where is that?

2 A On the page after the bullet points, it
3 says accounting treatment, kind of in the middle of
4 the page looks like this.

5 Q Okay, I got it.

6 A It talks about for accounting purposes
7 only we will account for the merger as the reverse
8 acquisition.

9 Then the next page, the first paragraph
10 talks about completion of the merger constituted a
11 change of control under America West airlines, Inc.,
12 outstanding 7.25 percent senior exchangeable notes.
13 So under the note provision it was also deemed
14 change of control of America West.

15 Nothing on page 82, nothing on 83.

16 Q Do you know whether as a result of the
17 merger transaction on September 27, 2005 America
18 West airlines, Inc. became a subsidiary indirectly
19 of U.S. Airways group, Inc.?

20 A Yes, it did, it became a subsidiary of
21 U.S. Airways group.

22 Q So as a legal matter it was an

1 acquisition, is that your understanding?

2 MR. FREUND: Objection to the extent it

3 calls for a legal conclusion.

4 BY MR. KATZ:

5 Q Do you know?

6 MR. FREUND: Again objection.

7 CHAIRMAN NICOLAU: That is a legal
8 question.

9 MR. KATZ: It is. If the witness doesn't
10 know then we can ask someone else or find out some
11 other way.

12 CHAIRMAN NICOLAU: Let's move on.

13 BY MR. KATZ:

14 Q Did you want to tell us about Exhibit 2,
15 Captain Carey?

16 A Sure, Exhibit 2 is U.S. Airways fleet plan
17 and the first, the top half of the page is
18 premerger, and it is compiled from 10 K filings and
19 company documents. So this is the way that it
20 looked, you know, on the merger.

21 And if you start on the left-hand side
22 from the annual report, December 31st, '04, it shows

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1 the airplanes and then in 2005 it shows the
2 reductions of 30 airplanes, the addition of three
3 more EMB 170s, and then at the end of December 2005
4 U.S. Airways had 276 aircraft.

5 Now, if you go to the right, remember we
6 talked about those 15 airplanes that were
7 accelerated due to the merger, we had planned on
8 returning nine aircraft to General Electric in '06,

9 six more in '07, and then we had firm orders in '08
10 for 11 aircraft, and '09 we had 11, and 2010 we had
11 seven, for a total of 29 aircraft; 19 of those were
12 A 320 family and 10 were wide body A330 aircraft.

13 Q Now Captain Carey, with regard to this
14 document, who was it that pulled this information
15 together?

16 A The merger committee pulled this
17 information together.

18 Q Okay, from the SEC filings?

19 A Yes, and company documents.

20 Q Okay. And what is indicated on the bottom
21 of the page as of October 30, 2006?

22 A Yes, this is moving ahead to October 30th,

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1 '06, and this again was from company documents
2 attachment B and another company document that we
3 received in October on the main line fleet count.

4 Q When you say attachment B, can you tell us
5 what that was an attachment to?

6 A Yes, in the transition agreement with
7 America West and the U.S. Airways pilots it was part
8 of the requirement that the company would supply us
9 with attachment A and B, which talked about the
10 fleet plan for the company and reductions in
11 aircraft and deliveries and anything. Anytime
12 anything changes they reflect that in attachment B
13 and they forward it to ALPA.

14 Q And that lists the airplanes by tail

15 number; right?

16 A Yes.

17 Q Okay. What is shown in the bottom of the
18 chart?

19 A All right, on the bottom of the chart it
20 continues to follow the reductions from
21 December 31st '04, it follows it through '05, and
22 you could see that now in oh five if you look above

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1 pre merger by the end of '05 we are supposed to be
2 at 276 aircraft. Now post merger by '05 we are
3 already down to 250 aircraft, and then it follows
4 through reductions through '06 where 11 737's, the
5 last of those leave the fleet. Remember up above we
6 talked about some of those weren't leaving until '06
7 and '07, now they are all gone by February of '06.

8 It talks about three 757s that the company
9 picked up, and then the last of the E 170 aircraft
10 leave the property and in December we are taking
11 two, just about right now, we are taking delivery of
12 two E 190 aircraft.

13 On the right it traces the firm orders and
14 the reductions that are in the fleet coming forward,
15 next year in February and April, the company is
16 returning three 757s so we just got three 757s last
17 year, but three are leaving in '07.

18 We have nine Embraer 190s coming, in '08
19 we have 14 coming, in '09 if you look at those minus
20 the 11, remember the first line of 11 aircraft in

21 the General Electric document, it talked about
22 moving those airplanes forward and lease

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1 expirations, those are those 11 aircraft. And then
2 as part of the merger there were reconfirmation of
3 Airbus 320, 330 and 350 aircraft, and it lays those
4 out from '09 and '10 and the delivery stream for
5 those aircraft.

6 Q And those 29 airplanes in the A320 and
7 A330 category are still listed as on firm order?

8 A That is correct.

9 Q What this footnote you have got about
10 modified cancellation rights on the wide body A330s?

11 A Well, the company hasn't really decided
12 whether they are going to, you know, replace 767s
13 with additional 330s as demand increases or whether
14 they are going to take some of the 330 orders and
15 turn them into 350 orders, or, you know, whether the
16 350 is actually going to become an airplane and we
17 stay with A 330s. So there is flexibility in there,
18 which kind of airplane fits our needs at that time.

19 Q The A 350s were announced on May 19th,
20 2005 in the same press release as the merger,
21 weren't they?

22 A Right, we are going to be the launch

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1 customer on that but Airbus seems to be encountering
Page 39

2 some problems with the delivery schedule. It has
3 already been pushed back.

4 Q All right. So the cancellation rights
5 occur, are they contingent on the A350 coming in, do
6 you know?

7 A I think it is contingent on a couple
8 things, I think contingent on the airplane being
9 ready and the airplane doing what Airbus said it was
10 going to do, and it also is contingent on U.S.
11 Airways making progress payments on those aircraft.

12 Q Okay, so it is unclear which route the
13 company is going to go, the A350 or the A330?

14 A That is correct.

15 Q All right.

16 CHAIRMAN NICOLAU: Let's take 10 minutes.

17 MR. KATZ: Okay, let's take a break now.

18 (11:10 a.m. -- recess -- 11:23 a.m.)

19 CHAIRMAN NICOLAU: Okay, let's go.

20 BY MR. KATZ:

21 Q Captain Carey, we are up to the next time
22 line in Exhibit 3; would you tell us what

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1 information you pulled together here?

2 A This is a time line that traces the
3 history of the Embraer aircraft, the deliveries, the
4 subsequent sale, the new deliveries, and takes you
5 through it.

6 Q And it relates all of those events
7 together?

8 A Yes.

9 Q Please explain it to us then?

10 A Okay, May 2003 U.S. Airways announces an
11 order for 85 aircraft from the EMB 170-190 family,
12 and I will skip some of these along the way.

13 March 3rd, 04, U.S. Airways takes delivery
14 of the first two aircraft; in May 2004 U.S. Airways
15 accepts the EMB 170-190 simulator, and then moves it
16 to Charlotte where it stands today. And it is
17 currently training our EMB 190 pilots today for the
18 first flights on the Embraer 190s that are being
19 delivered.

20 Q Maybe this is a good time to ask you
21 whether the Embraer 170 and 190 have a single type
22 rating?

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1 A They do, you can use the same simulator
2 for both of them. And what is interesting is the
3 company originally was going to sell the simulator
4 along with the aircraft to Republic Wexford. In the
5 end the airplanes went and the simulator stayed and
6 it is owned by us. So it was cut out of the deal
7 and retained U.S. Airways.

8 Q And it is still in use?

9 A It is still in use today.

10 Q Go ahead, please?

11 A March 15th, 2005, there is an option
12 agreement announced U.S. Airways and Republic
13 Wexford to sell EMB aircraft, two months later

14 May 19th, the merger announcement between U. S.
15 Airways and America West.

16 We talked about the June 23rd, '05 data
17 few minutes ago, that it was DOJ approval. On that
18 same date U. S. Airways announced intent to exercise
19 the option to sell the EMB aircraft to Republic
20 Wexford, and on that same day they declined the
21 equity investment of 125 million by Republic
22 Wexford, because they had other monies lined up as

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1 far as the merger.

2 Q Okay?

3 A September 22, that is five days before the
4 merger, U. S. Airways finally completes the sale of
5 the Embraer aircraft to Republic.

6 Q That date September 22nd, is in between
7 the bankruptcy court's approval of the merger and
8 emergence from bankruptcy and the actual
9 consummation of those transactions; is that correct?

10 A That is correct. And remember a little
11 bit ago I spoke of the ATSB loan that needed to be
12 combined and new loan approval process and the sale
13 of assets and the pay down of the loan?

14 Q Yes?

15 A Here is the sale of some of those assets.

16 September 22, the merger is completed,
17 about four months later in February of '06, this is
18 after the merger, U. S. Airways announces the
19 amendment to the original EMB order and orders 25

20 EMB 190 aircraft with 32 additional firm orders on
21 190 aircraft, and then deliveries will resume in
22 November of '06.

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1 So the last flight takes place on the
2 Embraer aircraft right down below, May 27th, '06,
3 and six months later 190 deliveries are coming. So
4 May 27 the last flight is flown, May 31st all the
5 Embraer pilots are furloughed and then in October we
6 start bringing pilots back in for training on the
7 190 aircraft.

8 Q Okay. And then behind exhibit C-3(a) the
9 timeline, you have got some of the back up
10 documentation for that time line don't you?

11 A That is correct.

12 CHAIRMAN NICOLAU: Excuse me, Mr. Carey.
13 Despite the fact that I like to listen to Mr. Carey
14 is there any reason why we have to go through all
15 the back-up documents?

16 I mean, counsel for America West can read
17 them, if he has any questions about them, certainly
18 the board can read them. I assume that the
19 documents there are documents which back up the time
20 line.

21 MR. KATZ: They are, but there are a few
22 of them that also have other interesting nuggets

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1 that I think Captain Carey wants to particularly
2 draw your attention to.

3 CHAIRMAN NICOLAU: I am ready for the
4 nuggets.

5 BY MR. KATZ:

6 Q Okay, do you want to proceed directly to
7 the nuggets, Captain?

8 A I shall. If you go to C-3(d), the second
9 paragraph there, the proposed 125 million equity
10 investment is contingent upon U.S. Airways securing
11 350 million in new cash investment, and it talks
12 about the 125 million from Republic and 125 million
13 from Eastshore. And then down we below it talks
14 about the sale of the aircraft for 110 million, and
15 flight simulator, and that kind of covers that.

16 Q Okay. Any others that are --

17 A C-3(e) just quickly down in the second
18 paragraph, subsequently U.S. Airways notified
19 Republic Wexford today it does not intend to request
20 Republic Wexford to purchase new common stock in
21 connection with the reorganization and the merger,
22 but it does wish to proceed with the asset sale. So

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1 that was June 23rd.

2 Q Which paragraph is that?

3 CHAIRMAN NICOLAU: Second.

4 MR. KATZ: Second paragraph, thank you.

5 THE WITNESS: That will pretty much do it.

6 C-3(h) talks about the EMB delivery
7 schedule, C-3(i) is a furlough letter for Captain
8 John Greenhall from the EMB 170 fleet effective
9 May 31st, '06.

10 And then we are into document C-3(j) --
11 BY MR. KATZ:

12 Q That is an interesting document, number J,
13 was attached to the 10Q for the second quarter of
14 2006, right?

15 A That is correct.

16 Q And in that document under Embraer
17 purchase commitments on page 76, they explain that
18 on February 16th, 2006, the bankruptcy court, now
19 this is still the same bankruptcy court that was
20 overseeing U.S. Airways Chapter 11, right?

21 A That is correct, and even though the
22 emergence from bankruptcy had been completed there

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1 were a couple of agreements that the parties agreed
2 would be post effective date, and that they would be
3 settled later after the end of the bankruptcy, and
4 this is one of those, and --

5 Q So it says in the middle of the paragraph
6 the bankruptcy court authorized the assumption of
7 the purchase agreement as amended by the term sheet,
8 so that it was approving the earlier 2003 agreement
9 at that time as modified?

10 A That is correct. And it goes on to say
11 that the purchase agreement and the amended term

12 sheet, Embraer will retain and apply approximately
13 18 million in nonrefundable progress and deposit
14 payments, PDP, previously paid by the company.

15 Q So who paid that \$18 million?

16 A U.S. Airways. And the company has agreed
17 to place an initial firm order for 25 190 aircraft,
18 and the outstanding PDP will be applied to those
19 orders.

20 Q And then after page 76 we have part of
21 Exhibit 103 that was an exhibit 2 the same 100,
22 right?

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1 A That is correct.

2 Q And this is in fact the purchase agreement
3 redacted to protect the confidential proprietary
4 information that the airline and the manufacturer
5 wanted to shield us from?

6 A That is correct, and it talks about the
7 amendments to that agreement and post effective date
8 determination schedule from bankruptcy court.

9 Q Where is that?

10 A That is on Amended and Restated Purchase
11 Agreement, it is at page 3 of 21.

12 Q And in the whereases it refers to this
13 original agreement from May 2003?

14 A That is correct, and then September 16th
15 the bankruptcy court and then the new order on
16 February 16th and February 9th.

17 Q And it was the 4th whereas that you just

18 referred to, where you said, "pursuant to the Plan,"
19 that is the plan of reorganization, "the Buyer,"
20 that is U.S. Airways, was authorized to place the
21 purchase agreement DCT-021/03 on a post effective
22 date determination schedule and that is the

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1 reference you made a minute ago in your oral
2 testimony?

3 A That is correct.

4 Q So it went through with this 2003
5 agreement as modified in February 2006?

6 A Yes.

7 Q Is that the long and short of it?

8 A Yes.

9 Q Okay --

10 A And there is really nothing else in that
11 document, it just has the entire document there and
12 --

13 Q After the blue sheet we have C-3(k), and
14 is there a short excerpt from this video that we
15 wanted to show. This is another Doug Parker talk to
16 the pilots in Phoenix?

17 A Yes, this is one of Doug Parker's
18 discussions where he comes and talks to the training
19 classes in Phoenix during lunchtime, and he talks
20 about the EMB aircraft.

21 CHAIRMAN NICOLAU: Is this a different --

22 MR. KATZ: This is a different video.

1 CHAIRMAN NICOLAU: Different day?

2 MR. KATZ: It is a different day, it is
3 approximately a month later than the other one.

4 CHAIRMAN NICOLAU: Is Mr. Parker getting
5 residuals for this?

6 MR. KATZ: He should, but we haven't paid
7 anything.

8 This is about four minutes --

9 CHAIRMAN NICOLAU: No, no, that is all
10 right.

11 MR. KATZ: Where in the transcript are we
12 going to show this excerpt from?

13 THE WITNESS: Start on page 7.

14 Q On page 7 --

15 A Yes, where you have the question Embraer
16 190s --

17 MR. KATZ: Okay, let's let it roll then.
18 (Showing of the video - not reported).

19 BY MR. KATZ:

20 Q That is it. The full transcript of the
21 entire meeting is in here, but I think that was the
22 part that we wanted to draw your attention to.

1 And Captain Carey, did you have some
2 comments about Mr. Parker's statements, his answers
3 to those questions.

4 A Yes. He shows what I was talking about
Page 48

5 earlier, how the 170s go away and --

6 MR. FREUND: I guess I am going to object.

7 We now have the transcript, we have the video --

8 CHAIRMAN NICOLAU: He is just making a
9 comment on it. Go ahead.

10 THE WITNESS: It shows about the 170s
11 going away and being shortly replaced by the EMB
12 190s.

13 CHAIRMAN NICOLAU: Go ahead, Dan.

14 BY MR. KATZ:

15 Q All right. Is it also your understanding
16 that the company's plan to stay the same size in
17 fleet is still the plan as of now?

18 A Yes, there is no growth.

19 Q And the 75s that were added were flown
20 internationally?

21 A Yes, they were.

22 Q Okay, let's flip through to Exhibit 4 and

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1 tell us, we switch to a new subject in exhibit C-4?

2 A Yes, we are going to the America West
3 fleet analysis, and what we have here is similar to
4 what we did for U.S. Airways. We started with the
5 2004 annual report, and in that report it shows that
6 America West total aircraft were 138 aircraft.

7 And then it shows the reductions and the
8 additions through 2005 and it shows their planned
9 fleet to be 148 by the end of '05, and that they had
10 22 Airbuses ordered, they got 11 of those, and that

11 some of those we will show later on were not firm
12 orders, and that they had firm orders remaining of
13 three beyond the year 2005.

14 Q And the bottom of the page, Captain Carey?

15 A The bottom of the page is similar to what
16 we did for U.S. Airways where we took October 30th,
17 '06, and used attachment B and company main line
18 fleet count. And we started again with the
19 information above of 138 aircraft for 2004. It
20 shows seven reductions, the 11 deliveries come in
21 that were planned up above, but with the reductions
22 at the end of '05 America West fleet is now at 142

706

1 aircraft.

2 Now if we follow the reductions and the
3 additions to the year 2006 we see 11 more reductions
4 and two additional deliveries and their fleet stands
5 today at 133 aircraft.

6 Now, that last box on the right shows they
7 have one more aircraft going back in '07, and those
8 deliveries of 11 were pushed out to 2009, of 11
9 Airbus aircraft.

10 Q All right. Exhibit 5, who created this
11 document?

12 A This is a company document that was sent
13 to both merger committees in September and it has a
14 very nice layout of the additions and subtractions
15 of the aircraft through the two years sometime
16 before the merger and the year and a half after the

17 merger announcement.

18 Q When you say it was sent to both merger
19 committees in September, was that September 2005?

20 A No, that was September 2006. And the gray
21 shading is projection, that is why it is gray. This
22 was done in September, and so those were projections

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1 for October, November and December, but there is
2 really not that much activity in those months.

3 It shows, for U.S. Airways it shows two of
4 the E 190s coming in where, which are about to be
5 delivered, and brings their fleet total to 226, and
6 on the America West side there is no more airplanes
7 leaving through October, November and December, and
8 so the fleet total ends up at 133 aircraft.

9 Q Let me just ask you about one other thing.
10 In the top part of the chart where U.S. Airways
11 fleet is shown, under February 2006 there is an
12 entry of three additional 757s?

13 A Yes.

14 Q Is that the three airplanes that
15 Mr. Parker was referring to in his February 2006
16 video that we just saw?

17 A Yes, those are the three airplanes that
18 came in to fly some international routes for the
19 summertime.

20 Q What is the plan with regard to those?

21 A Well, there are three 757s that are going
22 to leave the fleet in February and April of '07.

1 Q Okay. Anything else you wanted to comment
2 upon with regard to this document?

3 A No.

4 Q Let's flip to page Exhibit 6 then, and
5 this says in the top that it is an excerpt from the
6 America West 2003 Annual Report?

7 A That is correct. And what we wanted to
8 show here was just the America West fleet at the
9 bottom of the page, of 2003, of 139, and their
10 projection for 2004 is 137.

11 On the next page in the second paragraph
12 we expect that expirations of aircraft operating in
13 leases scheduled to occur over the next several
14 years will allow AWA the flexibility to manage the
15 growth of its fleet size and related financial
16 obligations in response to unfavorable economic
17 conditions.

18 And then at the bottom you can see that
19 they say leases for 57 of America West's aircraft
20 should be terminated by the end of 2008. So again
21 what I had discussed previously and how they like to
22 have the flexibility to either, you know, grow,

1 shrink or stay the same, and they have quite a few
2 aircraft coming up for lease expiration before 2008.

3 Q They in fact have more lease expirations
4 than they do firm orders, don't they?

5 A Well, if you go down and you look at the
6 firm order line that adds up to 19. So they have 19
7 firm orders and 57 lease expirations over the same
8 period. And then lastly, then all the lease
9 expirations are listed there also through the years.

10 Then lastly on the bottom you can see in
11 2003 that fuel was \$0.86 a gallon so it was quite
12 inexpensive in reference to today's terms.

13 Q Okay, that is the average cost for the
14 year 2003 as you understand it?

15 A That is correct.

16 Q Okay. Exhibit 7, please, this got a
17 little bit blurred. What is the handwritten entry
18 at the top of the page?

19 A This is also from the America West 2004
20 10K, we just looked at the 2003, now this is the
21 2004, and at the bottom of the page it says that
22 they began the year 2004 with 139 aircraft and

710

1 during the year they retired seven 737-200s.

2 They returned five leased aircrafts,
3 parked one and sold one, owned and took delivery of
4 one new 319 and five new A 320s for a total of 138
5 by year end. So they actually shrunk one airplane
6 by the end of the year.

7 The next page, shows their fleet of 138 at
8 the top of the page for the year 2004, and they are

9 projected to go to 148. But again at the bottom of
10 the page they talk about, the very last sentence, 50
11 two aircraft have lease expirations prior to the end
12 of '08.

13 If you go back up to the first paragraph
14 in August of '04 they amended a purchase contract to
15 acquire 22 Airbuses. But if you look down at the
16 firm orders you can see that 22 are not reflected in
17 the firm orders. So there is a question that eight
18 of those 22 have probably not be firm ed up yet.

19 Q As of the date of this -- as of
20 December 31, 2004?

21 A That is correct.

22 Q So you are showing 14 firm orders in the

711

1 chart, in table on the middle of the page and it
2 says something about acquiring --

3 A 22 Airbus aircraft and then below the firm
4 orders it lists their lease expirations through the
5 years, and then it goes on to say in January '05 AWA
6 retired its one remaining 737-200.

7 While this is the only forecasted 2005
8 retirement, AWA has the ability to return five
9 additional leased Boeing 737-300s and one leased
10 Airbus 320 and retire five owned 737-300 aircraft if
11 market conditions necessitate such a response.

12 So once again, they are speaking to their
13 flexibility and the ability to return aircraft.

14 Q Then on the next page?

15 A The next page just shows how the fuel
16 costs are going, starting to really rise, in 2003 it
17 was \$0.89 a gallon and by the end of 2004 it is up
18 to a \$1.24 a gallon.

19 The next page has page 11 on the bottom of
20 it, the next to the last paragraph down towards the
21 end --

22 Q This is under risk factors relating to the

712

1 company and industry related risk factors?

2 A Right, and the question is, we have
3 sustained and may continue to sustain significant
4 operating losses. And it goes on to say in the last
5 few sentences, moreover, our liquidity and borrowing
6 options are limited and we may not be able to
7 survive a prolonged economic downturn, decrease in
8 demand for air travel or further increase in fuel
9 costs.

10 Well, we just showed how they are really
11 starting to rise. The inability to sustain
12 profitability may impair our ability to satisfy our
13 obligations as they become due, obtain future equity
14 or debt financing, respond to competitive
15 developments and otherwise sustain or expand our
16 business.

17 Q What about page 12, you have marked some
18 items with yellow highlighting there?

19 A Yes, in the first paragraph we cannot
20 predict whether it will have sufficient liquidity or

21 access to capital to withstand an adverse impact or
22 a prolonged decrease in passenger demand or a

713

1 substantial increase in cost caused by such global
2 events. That is the fuel costs.

3 Then the question down a couple paragraphs
4 down, "our high level of fixed obligations limits
5 our ability to fund general corporate requirements
6 and obtain additional financing, limits our
7 flexibility in responding to competitive
8 developments and increases our vulnerability to
9 adverse economic and industry conditions."

10 Then if you go down below the four bullet
11 points, our obligations also impair our ability to
12 obtain additional financing if needed and our
13 flexibility to conduct of our business. Our
14 existing indebtedness is secured by substantially
15 all of our assets, leaving us limited collateral for
16 additional financing.

17 Moreover, the terms of the government
18 guaranteed loan restrict our ability to incur
19 additional indebtedness or issue equity unless we
20 use the proceeds of those transactions to repay the
21 loan, require prepayment if our employee
22 compensation costs exceed a certain threshold,

714

1 require us to maintain a minimum cash balance of 100
Page 56

2 million and restrict our ability to take certain
3 other actions including mergers and acquisitions,
4 investments and asset sales.

5 Q So these were conditions that the ATSB was
6 insisting on?

7 A That is correct.

8 Q Okay, the next page is page 13?

9 A Yes, just one at the top it talks about
10 fuel goes up one cent a gallon that it costs America
11 West \$5.7 million for every penny. So you know,
12 with the fuel increases that is starting to become a
13 substantial amount.

14 It talks about their hedging and that West
15 Coast fuel prices are less correlated to heating
16 fuels and they are therefore more difficult to
17 hedge.

18 Down in the middle it talks about
19 negotiations with labor unions are ongoing, they
20 were in negotiations with the IDT, the AFA and they
21 might have, you know, cost increases associated with
22 those.

715

1 Q Let's look at Exhibit 8, Captain Carey.
2 This is an SEC form 425 filed the day after the
3 announcement of the merger, right?

4 A That is correct. And it is Doug Parker
5 talking about reducing the fleet, "again I mean
6 there will be some 59 airplanes reduced between the
7 two companies, so we certainly won't need as many

8 employees as exists today at the two companies.
9 However, how we get there is still to be seen. The
10 fact that there has been a good bit of attrition
11 over at U.S. Airways of late and they find
12 themselves now somewhat tight on operations, on
13 people, as it is. Much of the 59 airplanes that I
14 have already announced have actually been, that we
15 talked about have already been announced by U.S.
16 Airways. This is actually only an incremental 25
17 airplanes, so we don't -- we certainly do not
18 anticipate major reductions or at least certainly
19 don't anticipate major furloughs. We don't
20 anticipate furloughs at this point at America West
21 and U.S. Airways over and above where they have
22 been.

716

1 Q So the day after the merger he is
2 referring to the 59 airplanes as being reduced
3 between the two companies?

4 A Right, and it is obvious people at America
5 West are concerned or they wouldn't be asking about
6 furloughs.

7 Q Exhibit 9 is another form 425 filed a
8 little later, June 6, 2005, and this has more
9 questions and answers, these are written up
10 questions and answers, correct?

11 A Correct, and the one we have highlighted
12 "has America West's fleet return plan changed? I
13 thought we were going to return 8 Airbus and 2

14 Boeing aircraft, but more recently, I saw different
15 numbers.

16 There are two issues here, so let us
17 clarify. First we have aircraft returns to the
18 lessor and secondly, we have the deferral of future
19 aircraft deliveries from Airbus. And it is probably
20 a good idea to preface all of this with a note that
21 all of these items are still subject to change, very
22 fluid and being negotiated.

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1 On the aircraft return issue without the
2 merger we would likely plan to return seven
3 aircraft, four 737s and three A320s in the scenario
4 where the merger closes we would likely return 10,
5 six 737s and four A320s. Since negotiations on
6 either scenario are not complete this is subject to
7 change.

8 Q Then he talks about deferrals too?

9 A Yes, in the area of deferrals, even if the
10 merger does not close America West is negotiating
11 the deferral of some future Airbus deliveries.

12 Tentative plan is to defer the last 11
13 Airbus deliveries after the February 2006 delivery,
14 pushing those planes from March '06 to March '09.
15 In other words the delivery schedule stays the same
16 for those 11 aircraft, but they don't start coming
17 into the fleet until March '09 instead of March '06.

18 Q Okay, Exhibit 10 is one more of these SEC
19 form 425s, this one August 8, 2005, and this has

20 some interesting information about aircraft?

21 A Yes, it does. It says the remainder of
22 the 2000 fleet has us reducing to 142 aircraft by

718

1 the end of the year. We plan to still add five more
2 new Airbus aircraft during the year, three 319s, two
3 A320s delivered in the fourth quarter, but we also
4 plan to return six aircraft to the lessor's as part
5 of our merger with U.S. Airways, whether it goes
6 through or not, two 737's in September, two A320s in
7 September and December.

8 Then he goes on to say at the end of the
9 second quarter we had 143 airplanes, we returned the
10 two parked aircraft, AWA's last two 737-200s on July
11 '05, that they originally planned to return them on
12 December 31st '05, but I guess that was, might be
13 part of the GE deal, and they got together a little
14 early.

15 And then he says over the last part of the
16 year it would be adding five aircraft consisting of
17 three A319s and two 320s. And we are returning six
18 aircraft consisting of 737-300s, a 320 and three
19 A320s in the fourth quarter.

20 Q They are adding five and returning six?

21 A Yes.

22 Q Exhibit 11 is the 2005 America West 10 K

719

1 or U.S. Airways -- oh, U.S. Airways is the only 10 K
2 in 2005 right?

3 A Yes, the merger has taken place, there are
4 still separate accounting for America West and U.S.
5 Airways, but it is all under U.S. Airways Group.

6 Q Is there anything in this 10K that you
7 particularly wanted to show us?

8 A If you look about halfway through the
9 paragraphs it says during 2006 U.S. Airways Group
10 projects removing 22 aircraft and adding five
11 aircraft to the main line fleet, and then it goes on
12 to talk about the specifics of those.

13 And it talks about the deliveries and what
14 years they are going to come in, and that have
15 represented a combined commitment of AWA and U.S.
16 Airways prior to the merger.

17 Then it goes on to show the size of the
18 America West fleet. The next page shows that U.S.
19 Airways fleet is down to 232 aircraft, plus 18 EMB
20 170s, and then it talks at the bottom of the page
21 about the firm orders remaining for America West,
22 the two airplanes that they have received in '06,

720

1 and those orders out in the future, 11 for '09.

2 Q And the scheduled expirations of leases,
3 do you have a total on those?

4 A I did not add those up.

5 Q 65, maybe?

6 A As you can tell there is a substantial
7 amount of -- once again like we saw through every
8 annual report, a high number of scheduled
9 expirations.

10 The next page talks about U.S. Airways
11 orders and then in the middle of the page it talks
12 about the airplanes that America West returned, two
13 737-200s, two 300s and four A320s, and it renewed a
14 few leases, four 737s for four years, one A320 for
15 three years and one 757 for one year which ended up
16 leaving then in '06.

17 And then at the bottom of that same
18 paragraph in '06 AWA is expected to take delivery of
19 two more A319s and return eight 737-300s, two A320s
20 and one 757.

21 Says as of December 31st, '05 48 aircraft
22 have lease expirations prior to the end of '08, so

721

1 once again it talks about the flexibility.

2 And that is it for that page.

3 Q Okay, it does recap the U.S. Airways fleet
4 situation?

5 A Right, it talks about the orders and the
6 10 wide body airplanes and the 29 -- talks about the
7 29 deliveries that U.S. Airways had prior to the
8 merger.

9 Q And on page 29 of the 10K there is a long
10 paragraph about the GE Master Memorandum of
11 Understanding and other airplanes, right?

12 A Correct.

13 Q Anything else in this document?

14 A Well, on page 46 it talks about on
15 July 22nd of '05 in the middle of the page there,
16 U.S. Airways Group and America West Holdings
17 announced that the ATSB approved the proposed
18 merger, and it talked about the loan guarantees are
19 now U.S. Airways Group.

20 And then if you go down to the last
21 paragraph U.S. Airways was required to pay down the
22 principal of its loan with the first one 125 million

722

1 of net proceeds from specified asset sales
2 identified in connection with its Chapter 11
3 proceedings, whether completed before or after the
4 emergence from bankruptcy. And it just goes down to
5 say that -- then on the next page it talks about
6 that they paid, they made prepayments totaling 156
7 million in connection with the sale of assets during
8 '06.

9 So, it shows that they had some
10 substantial assets that they could sell and pay the
11 loan down, and remember, one of the first
12 requirements of the loan was that the specified
13 asset sales go to pay down the loan so the two
14 companies could have the new loan.

15 Q It ultimately became one ATSB-backed loan
16 for both America West and U.S. Airways?

17 A Correct.

- 18 Q Okay?
- 19 A And it was guaranteed U.S. Airways Group.
- 20 Q All right. Anything else in this 10K?
- 21 A No, that is it for that.
- 22 Q Exhibit 12, please?

723

1 A All right, Exhibit 12 is --

2 Q Is this another document that you and the
3 merger committee have pulled together?

4 A Yes, we did, and we used 10Q, 10K, form
5 425s and company reports. And it just shows that --
6 well, throughout the last year and a half we kept
7 hearing how, you know, America West was growing, and
8 so we decided to take a look at that growth.

9 And if you start in 1999 they had 123
10 airplanes, 2000 they went to 138, got up to 146 and
11 then came down to 143 in '02, shrunk some more in
12 '03, shrunk some more in '04, and back up a little
13 in '05, and back down to 133 aircraft in '06. And
14 this just traces the deliveries they have had
15 through the years.

16 The third area talks about the returns
17 they have had through the years, the aircraft
18 utilization. They were able to raise that from in
19 the year 2003, have a nice increase in '04 through
20 2005, and then the percentage of fuel as an
21 operating expense has been rising rapidly. And then
22 the average cost of fuel through the year, through

1 the years, you know, has grown from at the end of
2 2003 of 96 annualized to almost double annualized in
3 2005, of 1.80.

4 You remember earlier that we talked about
5 5.7 million increase for every penny that fuel goes
6 up, and if you look at the last line there you can
7 see that fuel in March of '05 was 1.42 and by
8 September '05 it is up to 1.92. So you know, that
9 could easily be a couple hundred million dollars in
10 additional fuel costs. And maybe that is what Doug
11 Parker was worried about in that first video we saw
12 last week when he talked about running out of cash
13 in '05 and the beginning of '06 having those
14 payments due, and, you know. That could be causing
15 the cash crunch that he was referring to.

16 Q Looking at the airplane entries at the top
17 of the page, for year end '99 through 2006, is it
18 your view that this shows historical growth trend by
19 America West?

20 MR. FREUND: Objection; it shows what it
21 shows.

22 CHAIRMAN NICOLAU: We can read the number.

1 BY MR. KATZ:

2 Q Okay. Well, he has read the number, so
3 let's go on to Exhibit 13, which is another excerpt
4 from the 10K 2005.

5 A Yes, here, in this excerpt from the 10(k),
6 what we wanted to point out here was it talks about
7 America West Express, and why would we be discussing
8 that?

9 Well, if you remember the timeline on the
10 aircraft in the first exhibit we talked about a
11 reduction of 15 aircraft on the U.S. Airways side
12 and the acceleration of 15 aircraft. Well, what we
13 didn't talk about is that some of those aircraft
14 were back filled with CRJ 86 seat aircraft in
15 America West with their partnership with Mesa.

16 So, it is one thing when the airplanes go
17 away but another thing when 18 CRJ show up on the C
18 concourse in Charlotte and start doing your flying
19 that you had just been doing with 737's, and now has
20 18 of these 86 seat airplanes, in America West paint
21 jobs, flying some 50 some odd departures a day out
22 of Charlotte, so --

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1 Q Those are flown by Mesa and the Mesa
2 pilots; right?

3 A That is correct.

4 Q And those aren't America West pilots?

5 A That is correct. It was part of the code
6 share agreement and so America West Express is
7 flying those flights with 18 CRJ 900s.

8 Q Do you have more information on that in
9 Exhibit 14?

10 A Yes, I do. This is off the Mesa web site,
Page 66

11 and it shows, just gives you a general idea on July
12 of '06 what they were doing with those CRJ 900s out
13 of Charlotte and the routes they were flying. Many
14 are the same routes that I flew just before that
15 with the 737.

16 Q Which routes did you fly with the 737?

17 A I flew Charlotte-Kansas City, Charlotte to
18 Memphis, Charlotte-Sarasota, La Guardia, you know,
19 many of those.

20 Q Exhibit 15, does that relate to this as
21 well?

22 A Yes, Exhibit 15 just substantiates that

727

1 out of those, I think it was 38 CRJ 900s that
2 operated for America West, 18 of them did come and
3 fly out of Charlotte.

4 And what we did here is we took the
5 schedule effective today and showed the flights that
6 are being flown out of Charlotte. There is 53
7 departures out of Charlotte today, and if I have 45
8 arrivals for a total of 98 flights, with CRJ 900s
9 operated by Mesa in and out of Charlotte today, and
10 that basically half of those airplanes are still
11 flying for the America West in and out of Phoenix
12 and Las Vegas.

13 Q So, half of them are flying out of
14 Charlotte and half of them out of Phoenix and Vegas?

15 A That is correct.

16 Q Exhibit 16, is this kind of a recap?

17 A Yes, this is just a simple recap of the
18 hundreds of numbers that if, if you saw previously,
19 and it shows that on May 19th '05 U.S. Airways had
20 270 aircraft on hand, they had 34 Chapter 11
21 reductions in process, and the 15 merger related
22 aircraft.

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1 Now, remember we talked about some of the
2 airplanes that were, you know, announced to leave
3 the fleet and it is obvious that merger discussions
4 were ongoing and we could try to claim those also
5 but we are not, we are just saying the 15.

6 And so on July 1st, '06 that left us with
7 the 221 airplanes, and our firm orders on the
8 announcement date were 19 narrow bodies and 10 wide
9 bodies.

10 So you know, we have taken the approach in
11 our proposal that we don't want to invent airplanes
12 and put them into our fleet plan so we can invent
13 pilot jobs to fly those invented airplanes, that we
14 think it would be a much better process going
15 forward if each side kind of took their lumps, if we
16 took the number of jobs that were here today and we
17 decided how to put the seniority list together.

18 On the America West side at the merger
19 they had 144, they had fleet reduction of 10, and in
20 July they had 134 aircraft and today they have 133.

21 You know, we could go through an exercise
22 where we put 15 airplanes back in on top of 221, we

1 can put our 29 orders on top of that, and try to
2 figure out how many jobs that would equate to. We
3 could multiply it times the America West staffing
4 which is higher than ours, and create another 400
5 jobs, and in the process have, you know,
6 approximately 800 more jobs, which we don't have any
7 seats to fly, you know, for those jobs.

8 So that is just a general overview of our
9 approach to our proposal going forward.

10 Q Is it the position of the U.S. Airways
11 pilot merger committee that these reductions of 15
12 on the U.S. Airways side and 10 on the America West
13 side that were merger driven that are proportional
14 or are they in your view disproportionate toward one
15 side or the other?

16 A No, it is our view that they are
17 proportional to the size of the pilot groups and
18 that the pain matches the relative size of the
19 groups and it is fair.

20 Q July 1, 2006 is a decent starting place to
21 measure the equity?

22 A We view it as a very good starting point

1 that is fair and reasonable and uncomplicated.

2 Q All right, the last exhibit in your book

3 Captain Carey, would you tell us what that is?

4 A This is a U.S. Air reorganized timeline.
5 What we did here is John Luth works for the Seabury
6 Group, John got the money for the first bankruptcy,
7 he was getting the stand alone money for the second
8 exit from bankruptcy, and he also got the
9 investments for the merger. So this is something
10 off of the Seabury Group web site that just gives a
11 real nice overview of some of the transactions that
12 were in the merger timetable.

13 Q Do you have any you particularly want to
14 draw our attention to?

15 A Well, yes, a couple here. The first one
16 we filed for Chapter 11 on September 12th, 2004, and
17 some people have jokingly referred to that as
18 chapter 22. Well, I can think of another very
19 successful airline that went through chapter 22 and
20 that is Continental Airlines, and that is what it
21 looks like the path that U.S. Airways was on in
22 their second restructuring.

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1 Down the middle of the page it talks about
2 some of the sale and lease back commitments in
3 December with General Electric. A real good point
4 here about permanent labor relief, U.S. Airways had
5 their costs down 1.1 billion per year, wages and
6 work rules at AWA and Jet Blue levels. And that was
7 January 6, 2005.

8 Q Okay?

9 A Down toward the bottom Seabury Group gets
10 125 million equity from Air Wisconsin, Seabury Group
11 starts to solicit merger partners as a hedge to the
12 stand alone plan.

13 Q Both of those are in early February 2005?

14 A Correct, then February 18th the court
15 approves the Eastshore investment. February-March
16 U.S. Airways and America West are holding merger
17 discussions, March 14th Republic announces a deal
18 for an additional 125 million in equity commitments,
19 for a total of up to 325 million equity commitments.

20 Remember they said they needed that amount
21 to come out of bankruptcy. So between the two
22 equities and the sale of some of the assets they had

732

1 the 350 million that they needed for a stand alone
2 plan.

3 Oil is climbing through this time here.
4 We saw in the previous page oil was at \$44 a barrel
5 in September of '04, and it is up to 54 to 57, and
6 it talks in May it talks about the merger
7 announcement, and all the people that are putting
8 money in, after the merger announcement, people are
9 lining up to put some more money in.

10 Q There is Wellington and Tudor at the
11 bottom of the page?

12 A Right. They like what they see and they
13 are willing to invest. The DOJ completes the merger
14 review on June 23rd, we talked about that being the

15 same date that they told Wexford no thanks, we don't
16 need your 125 million, but we will sell you the
17 airplanes.

18 ATSB approval of the merger on July 22nd,
19 down in late July and August U.S. Airways sells some
20 more airplanes and raises some more capital to pay
21 down the ATSB loan. Hurricane Katrina hits New
22 Orleans, and down on the bottom of the page on

733

1 September 19th, U.S. Air obtains approval to sell
2 and lease back some more airplanes, and pay down the
3 ATSB loan some more with those proceeds.

4 September 22nd they complete the sale of
5 the EMB aircraft to mid Atlantic and get 100 million
6 in liquidity. Hurricane Rita hits, emergence from
7 Chapter 11 on September 27th and the merger goes
8 through. The ATSB loan is restructured and
9 reinstated, initial investors get \$15 a share. And
10 then on October 3rd U.S. Airways repurchases the
11 warrants that were part of the America West loan.
12 It has paid those off. And at the end of the page
13 U.S. Airways equity, the capitalization basis is up
14 to almost \$2 billion.

15 And then in the last page, summarizes the
16 Chapter 11 process took 12 months and three weeks,
17 they got rid of more than 4 billion in obligations,
18 was converted to equity, and cash was \$2.2 billion.
19 And at the end cash is over \$2.5 billion and
20 25 percent revenues, so quite a successful merger.

21 Q Thank you, captain Carey, that completes
22 our direct examination of the witness.

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1 CHAIRMAN NICOLAU: Do you want have lunch,
2 1:30?

3 MR. FREUND: I am probably going to need a
4 little more time to prepare for cross.

5 CHAIRMAN NICOLAU: Really?

6 MR. FREUND: It is not going to be a long
7 cross but I want to make sure I have it honed as --

8 CHAIRMAN NICOLAU: Well, you don't have to
9 have lunch then. What time do you want to come
10 back?

11 MR. FREUND: Let's say -- let's say 2:00.

12 CHAIRMAN NICOLAU: Okay.

13 MR. FREUND: I do expect that I won't be
14 particularly long with this witness.

15 Why don't we go off the record for a
16 minute.

17 CHAIRMAN NICOLAU: Yes.

18 (Whereupon, at 12:25 p.m., the deposition
19 was recessed, to be reconvened at 2:00 p.m. this
20 same day.)

21

22

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1

2 Whereupon,

3 PHILIP CAREY

4 resumed the stand and, having been previously duly
5 sworn, was examined and testified further as
6 follows:

7 CHAIRMAN NICOLAU: Let's go.

8 CROSS EXAMINATION

9 BY MR. FREUND:

10 Q Phil, I have just got, I would say one or
11 two questions but no one would believe me, so I
12 won't say that. I have just got a couple of areas
13 that I want to talk to you about.

14 To begin with I want to be clear, you were
15 not on the U.S. Airways bankruptcy 1 or bankruptcy 2
16 creditors committee, correct?

17 A Correct.

18 Q Did you play any particular role directly
19 related to either of the two bankruptcies?

20 A What do you mean directly related to, what
21 would that include?

22 Q Well, other than following it in the news

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1 and attending briefings by ALPA's lawyers and the
2 like, did you have any active role in connection
3 with either bankruptcy 1 or bankruptcy 2?

4 A Yes, I was on the negotiating committee
5 for bankruptcy 1.

6 Q So you negotiated the prebankruptcy
7 restructuring of the U.S. Airways pilots collective

8 bargaining agreement?

9 A Yes.

10 Q Anything else that you were actively
11 involved in with respect to either bankruptcy 1 or
12 bankruptcy 2?

13 A During bankruptcy 1, during that period of
14 time there were maybe three or four agreements, you
15 know, up to LOA '91.

16 Q And you were on the negotiating committee
17 for that as well?

18 A Yes.

19 Q With that sort of in mind let's jump to
20 literally the last exhibit that you took us through,
21 Exhibit 17. Now, I may have misheard you but I
22 thought you said in describing some of the data that

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1 is on Exhibit 17 that a number of investments that
2 were reflected in this Seabury chronology added up
3 to \$350 million which was required for there to be a
4 U.S. airways stand alone plan of reorganization.

5 Did I hear you correctly about, let's take
6 the second part of that proposition first, the
7 existence of a \$350 million stand alone plan of
8 reorganization?

9 A That is correct.

10 Q Are you aware of a 350 -- are you aware of
11 any stand alone plan of reorganization that was
12 submitted to anyone in the second bankruptcy?

13 A Yes, there was.

14 Q To whom was that submitted?

15 A Well, in one of the earlier documents it
16 talks about the \$350 million needed for
17 reorganization, and that when they got the Wexford
18 piece that was the second piece that got them to 250
19 million of the 350 million required.

20 Q I hate to look for a needle in a haystack
21 but can you show us which of the documents referred
22 to \$350 million needed to have a stand alone

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1 reorganization?

2 A Yes, it might take a minute, but I think I
3 can find it.

4 Do you guys know which is the Wexford
5 document from March -- I think it is in the first
6 section of the exhibits.

7 Q You are looking in Exhibit 1 someplace?

8 A It is in 1 someplace, yes. Maybe it is on
9 June 22nd.

10 MR. GILLEN: It is not one of the
11 newspaper articles, it is an independent --

12 THE WITNESS: You know it might be in
13 Section 3, June 23rd.

14 CHAIRMAN NICOLAU: Section 3 are you
15 saying?

16 MR. KATZ: Exhibit 3?

17 THE WITNESS: Exhibit 3, right.

18 CHAIRMAN NICOLAU: The Embraer --

19 THE WITNESS: Yes, it is exhibit C-3(d).

20 And if you look in the third paragraph there the
21 proposed 125 million equity investment is contingent
22 on U.S. Airways securing a total of 350 million in

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1 new cash investment including the 125 from Republic
2 and the 125 million previously secured by Eastshore.

3 BY MR. FREUND:

4 Q Just underline that here so I don't lose
5 it.

6 So that is the basis -- it is the second
7 sentence in that paragraph, the proposed
8 \$125 million equity investment is contingent on U.S.
9 Airways securing a total of 350 million in new cash
10 investment including the 125 million from Republic
11 and the 125 previously secured from Eastshore, to
12 finance the U.S. Airways plan of reorganization, and
13 then various other conditions including Republic
14 being satisfied with U.S. Airways business plan.
15 That is the basis for your assertion that there was
16 a stand alone plan of reorganization for U.S.
17 Airways premised on \$350 million financing?

18 A Yes, that has been said a few other
19 places. It is also said in the Seabury document
20 that you wanted to start out at, where it talks
21 about 125 million, talks about March 14th, '05,
22 talks about 125 million equity commitment

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1 conditioned upon a total of 325 million in equity
2 commitment.

3 Q I see that.

4 A Okay.

5 Q So those two pieces, that is a press
6 release -- do you know what exhibit C-3(d) is?

7 A That is a U.S. Airways press release.

8 Q Okay. So a U.S. Airways press release
9 issued on March 14th, 2005, and a Seabury timeline
10 issued on October 31st, 2005, are the predicates for
11 your assertion that there was a \$350 million stand
12 alone plan of reorganization for U.S. Airways?

13 A That is part of it. If you look on that
14 C-3(d) exhibit again, if you look down to the next
15 paragraph below the proposed 125 million, we are --
16 this is Bruce Lakefield speaking, "we are very
17 pleased to have secured the support of a second well
18 regarded investor and airline partner to help us
19 build and finance our plan of reorganization, said
20 Bruce R. Lakefield, U.S. Airways president and chief
21 executive officer. The Republic management team has
22 a proven track record and we look forward to an

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1 expanded relationship. We are well on our way to
2 securing at least 350 million in new capital and
3 continuing to finalize our business plan that will
4 leverage our competitive cost structure and strong
5 market position in the eastern U.S. and the

6 Caribbean. "

7 Q So that is coming from the same
8 March 14th, 2005 press release that you previously
9 relied upon, correct?

10 A Correct.

11 Q So let me ask you again, is it the
12 March 14th, 2005 press release, and the
13 October 31st, 2005 Seabury reorganization timeline
14 that is the basis for your asserting that there was
15 in fact a \$350 million U.S. Airways stand alone plan
16 of reorganization?

17 A Yes.

18 Q Now, do you know whether any such plan of
19 reorganization was ever submitted to, oh, for
20 example, the bankruptcy court?

21 A I am not sure if it was submitted before
22 the merger, you know, took off on May 19th.

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1 Q So my question is do you know whether
2 there was one?

3 A I do not know, if it was submitted.

4 Q Do you know whether a \$350 million or any
5 plan of reorganization for U.S. Airways on a stand
6 alone basis was ever submitted to the creditors
7 committee for its review?

8 A I do not know.

9 Q Do you know whether any plan of any
10 \$350 million or any plan of reorganization having
11 U.S. Airways as a stand alone carrier was submitted

12 to the equity committee, for example?

13 A I don't know.

14 Q Do you know whether any stand alone plan
15 of reorganization, U.S. Airways stand alone plan of
16 reorganization, was submitted to anybody?

17 A I am not sure.

18 Q Do you know if one was ever drafted?

19 A I don't know. It is spoken of.

20 Q I am asking what you know. Do you know if
21 one was ever drafted?

22 A I don't know.

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1 Q Do you know if there was ever a business
2 plan drafted in connection with a stand alone plan
3 of reorganization?

4 A Mr. Lakefield --

5 Q I know what he said. I am asking what you
6 know?

7 A No, I don't know.

8 Q So, let's then go back to Exhibit 17 where
9 we started this exercise. And I thought the other
10 part of your direct testimony was that there was a
11 cumulative \$350 million that was put together that
12 was the basis -- that would have been the
13 \$350 million necessary for the stand alone plan, is
14 that your testimony?

15 A Could you say it again, please.

16 Q I will rephrase it.

17 Did you testify that in reviewing this

18 particular page 3 of the Seabury report, that you
19 came to the conclusion from reviewing that page, or
20 the whole Seabury report, take your pick, that there
21 was \$350 million in new equity financing for a U. S.
22 airways stand alone plan of reorganization?

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1 A Yes.

2 Q Okay, can you tell me, when it let's just
3 look at page 3 and see if we can't find that \$350
4 million?

5 A Okay.

6 Q Let me see if I can -- let me see if I can
7 direct your attention through there. The first
8 bullet that I see that reflects any dollars is under
9 this court approved Eastshore \$125 million DIP
10 loan/equity commitment. And the second bullet under
11 that reflects 125 million of equity commitment which
12 is conditioned upon an additional 100 million of
13 equity, correct?

14 A Correct.

15 Q So that is 125 million.

16 The next set of dollars that I see is
17 under Republic Airways deal announced which says 125
18 million equity commitment, this time conditioned on
19 a total of 325 million of equity commitment. Is
20 that the second piece of the dollars that you are
21 telling us about?

22 A Yes.

1 Q So that is 125 and 125, that is 250. Now,
2 are you counting the next \$100 million under the
3 Republic Airways deal to get to your \$350 million?

4 A You could count that, yes.

5 Q Well, I am asking you, are you counting
6 that to get to your \$350 million?

7 A I did at that point in time, right. They
8 were out looking for additional investors also, and
9 there was no deadline stated that it had to be in
10 by.

11 Q I am not interested in what they were
12 looking for and what the deadlines were. My
13 question is a very precise one. Were you counting
14 the \$100 million in net proceeds from the purchase
15 of mid Atlantic RJ operations as the \$100 million
16 necessary to get you to \$350 million?

17 A Yes.

18 Q But you know and understand that \$100
19 million is not an equity investment, that is a
20 purchase of assets, isn't it?

21 A That is correct.

22 Q So your testimony was incorrect when you

1 said that this page, these two transactions reflect
2 the \$350 million necessary in equity financing,
3 necessary to fund a \$350 million stand alone plan of
4 reorganization?

5 A That would be correct.

6 Q Okay, let's go back to the beginning.

7 Now, if I understand your testimony on direct
8 correctly, the only U.S. Airways aircraft reduction
9 that the U.S. Airways committee is contending for
10 purposes of this proceeding was a merger driven
11 return of aircraft, was the, we call it 25, you call
12 it 15, but the aircraft reductions that were
13 announced on the, the additional aircraft reductions
14 that were announced on May 19th when the merger was
15 announced, correct?

16 A Yes.

17 Q So I am not asking, not going to ask you
18 about any of the other earlier ones for present
19 purposes, at least.

20 Have you seen any documents -- well, let
21 me strike that, and just set the predicate.

22 You know that it is the America West

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1 pilots merger committee's contention that those 25
2 aircraft that were announced, that the May 19th
3 announcement announced to be returned, you
4 understand that it is this committee's contention
5 those were intended to be all from the U.S. Airways
6 side of the transaction, correct?

7 A Well, I -- just in your opening statement
8 you mentioned that. That is the only thing I know.

9 Q Okay, but you know that?

10 A Yes.

11 Q And you were here when we did the little
12 English lesson with your colleague, Mr. Barry,
13 Captain Barry, on that announcement. So I am not
14 going to go through that exercise with you again.

15 But, my question is fairly precise, and
16 that is, have you seen any piece of paper anywhere
17 that reflects that the decision, that the original
18 intention was something other than to reduce the
19 U.S. Airways fleet by those 25 aircraft?

20 A I have seen the actions of the past
21 18 months and that is what has happened which was
22 exactly the way it was described to me by company

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1 executives, and that is exactly what happened.

2 Q Okay. My question was have you seen any
3 pieces of paper that reflected anything other than
4 the fact that the original intention was to, was
5 anything other than reducing the U.S. Airways fleet
6 by those 25 aircraft?

7 A I don't think that was the intention of
8 the original --

9 Q That is not my question.

10 A Okay, what is your question?

11 Q My question is have you seen any document
12 that reflects that the original intention was
13 something other than reducing those 25 aircraft from
14 the U.S. Airways fleet?

15 A Yes, I have seen a document on June 13th
16 with General Electric signed by America West that

17 shows 11 aircraft right there being removed from the
18 America West fleet.

19 Q That was the document that was executed --
20 we will come to that document in due course. But
21 that other document was executed after May 19th,
22 obviously, correct?

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1 A Correct.

2 Q So, now let me change my question just a
3 tad. Have you seen any document prior to May 19th
4 that reflects that the original intention was
5 anything other than to reduce the U.S. Airways fleet
6 by 25 aircraft?

7 A Well, you could read that document. If
8 you -- the beginning of that document says the new
9 airline will be known as U.S. Airways, and then when
10 you read later on in that document U.S. Airways will
11 reduce 25 aircraft, you could read that to mean that
12 U.S. Airways is the new airline with both fleets in
13 it.

14 Q Okay, so --

15 A Says that on the very first page.

16 Q So, you didn't listen to my question. My
17 question have you seen any document that is dated
18 prior to May 19th, 2005 that reflects any intention
19 to reduce the fleet by 25 aircraft from any source
20 other than from the U.S. Airways?

21 A I never saw before. First of all there
22 was no merger announcement before May 19th and I

1 never saw a document that said the U.S. Airways
2 fleet was going to be reduced by that many
3 airplanes.

4 Q But you surely have not seen any document
5 that reflects that a reduction was going to come, a
6 reduction of those 25 aircraft was going to come,
7 again dated prior to May 19th, you have not seen any
8 document that reflected that the reduction was going
9 to come --

10 MR. KATZ: I am going to object --

11 THE WITNESS: There was no merger before
12 May 19th.

13 MR. KATZ: I am going to object, the
14 witness has just said there was no document talking
15 about the 25 aircraft reduction before May 19th.

16 BY MR. FREUND:

17 Q That is fair enough, fair enough.

18 You said that you attended a labor
19 advisory, what was it called, a labor advisory
20 council meeting was it Pittsburgh or Philadelphia.

21 A Washington, DC, Crystal City.

22 Q And when was that?

1 A May 23rd.

2 Q This was just among the U.S. Airways, the

3 attendees were U. S. Airways attendees?

4 A Yes.

5 Q No America West attendees?

6 A No.

7 Q And tell me who it was that spoke at that
8 meeting regarding the 25 aircraft reduction?

9 A Bruce Lakefield and Bruce Ashby.

10 Q All right. And Bruce Lakefield was the
11 CEO at the time?

12 A Yes.

13 Q And Bruce Ashby was what?

14 A Whatever he was. I am sorry, I can't help
15 you.

16 Q That is fine.

17 MR. GILLEN: VP marketing.

18 BY MR. FREUND:

19 Q How did the subject of the 25 aircraft
20 reduction first surface, who was the first one to
21 speak on the subject?

22 A Lakefield mentioned it. He turned it over

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1 to Ashby. Ashby did most of the presentation, and
2 he talked about further reductions in the fleet.

3 Q So this was not, the discussion about the
4 25 aircraft reduction was not triggered by questions
5 from the floor, but was part of the presentation?

6 A No, I think it was talked about generally
7 in the presentation and then it was talked about
8 from the floor in questions, during Q and A.

9 Q During the presentation before the
10 questions and answers took place did either Mr. --
11 was it then, that is during the presentation that
12 either Mr. Lakefield or Mr. Ashby said that the
13 reduction was going to come in the two carriers or
14 was it during the questions and answers that was
15 said?

16 A I think it was during the questions and
17 answers.

18 Q Was there a power point presentation that
19 was made to the collected group?

20 A Yes, there was.

21 Q And did that power point presentation
22 reflect that the aircraft were going to be taken

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1 from the two companies or did it simply reflect a
2 reduction?

3 A It just reflected a reduction.

4 Q And who was it in the questions and
5 answers that asked about that triggered Mr. Ashby's
6 statement, whatever it might have been, about the
7 allocation of the reductions?

8 A I think it was one of the pilots, myself
9 or Kim Schneider.

10 Q What was the question that was asked?

11 A We asked what was going on with the
12 aircraft reductions, we had been losing some
13 airplanes, what is up with another 25 airplanes?

14 Q And tell me as best you can, as you sit

15 here today, your recollection of what it was that
16 Mr. Ashby said to you?

17 A He said that Doug Parker wants to be fair
18 about the reductions, they want to take some pain on
19 their side, they have lease expirations and they
20 have aircraft that they could send back, and that
21 even though they have deliveries coming, in the end
22 they are going to shrink by about 10 airplanes and

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1 we are going to shrink by 15.

2 Q Did he say in that, either in the
3 presentation or in response to questions and
4 answers, either that allocation of reduction was
5 always what was intended or that allocation in
6 reductions was a change from the original plan?

7 A He said nothing about being a change from
8 the original plan.

9 Q Did he say that was, that allocation was
10 always what had been intended?

11 A That is the way he made it sound.

12 Q Well, did he say those words?

13 A That is the way it was always intended.
14 No, he said that Doug Parker said that they are
15 going to reduce 10 on their side in order to be
16 fair.

17 Q All right.

18 A Which was four days after the
19 announcement.

20 Q Okay.

21 A And, you know, we looked at a 425 filing
22 the day after and America West pilots were concerned

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1 about furloughs, so they must have known about them
2 by the next day also.

3 Q A quick looking at, I am not sure if it
4 was in connection with Exhibit 1, it doesn't matter
5 whether if it was in connection with Exhibit 1 or
6 not, you had told us that there was a relatively
7 quick approval by the Department of Justice of the
8 planned transaction, correct?

9 A Yes.

10 Q Now, I am assuming you are not an expert
11 in anti trust, correct?

12 A Correct.

13 Q Have you -- well, let me back up. Do you
14 know what the Department of Justice review is
15 intended to review, that is what the purpose of the
16 Department of Justices review is?

17 A I would assume it is anti-competitive.

18 Q Have you heard the term Scott Hart Rodino
19 DOJ review?

20 A Not really, just the DOJ review.

21 Q And usual understanding is that is to
22 review the transaction to determine whether there is

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1 any anti-competitive or in another word, anti trust
 Page 90

2 implications?

3 A That is right.

4 Q And I take it -- well, are you familiar
5 with something in the anti trust world called the
6 failing company defense to a claim of anti trust?

7 A A little bit.

8 Q What do you understand the failing company
9 defense to mean in the context of anti trust reviews?

10 A That you could request something to be
11 approved on the fact that it is failing. And this
12 was not used in this case, nor was it used in the
13 United merger that you referred to as its being
14 used. It was not ever used.

15 Q You know that from having reviewed the
16 Hart Scott Rodino?

17 A No, I know that from having lived through
18 the merger in 2000.

19 Q I am not interested in 2000 at the moment.
20 My question is have you reviewed the Hart
21 Scott Rodino submissions in connection with the 2005
22 transaction with America West?

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1 A No.

2 Q So what is your basis for concluding that
3 the company did not rely on the failing company
4 defense as part and parcel of its request for
5 approval under Hart Scott Rodino review?

6 A Just the fact that I never heard that it
7 did ask for that.

8 Q Okay.

9 Let's turn to exhibit C-1(e), please, for
10 a moment. Oh, we can skip that, that is all right.

11 You testified about, I think on several
12 occasions, and we have heard it from other witnesses
13 during the course of the proceedings so far, about
14 the transaction regarding -- the transaction with
15 Republic regarding the RJ and the MBA division. Do
16 you recall your testimony about that?

17 A Yes.

18 Q Do you recall testifying -- well, let's
19 back up. You are aware that the original
20 transaction was agreed to well in advance of the
21 merger announcement, correct?

22 A March 15th, yes.

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1 Q And you testified that, in describing that
2 transaction when it ultimately closed, you said the
3 company, after the merger was announced, decided to
4 exercise its option to sell the MBA division to
5 Republic?

6 A That is correct, on June 23rd, a month
7 after the merger announcement, the same day of DOJ
8 approval.

9 Q It wasn't just the company that had
10 options with respect to that transaction, was it?

11 A No.

12 Q In fact, why don't you turn to Exhibit 3
13 CD cats?

14 MR. BRUCIA: The number --

15 MR. FREUND: C-3(d).

16 MR. BRUCIA: Got it.

17 BY MR. FREUND:

18 Q The fourth paragraph from the bottom,
19 which is highlighted it looks like, that starts with
20 after the effective date of the U.S. Airways Chapter
21 11 plan of reorganization, do you see that?

22 A Yes.

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1 Q That reflects, does it not, that Republic
2 had its own options, whether U.S. Airways wanted to
3 exercise an option to sell, Republic had its own
4 right to exercise options to buy, correct?

5 A That is correct. But that is not the
6 option that was exercised. The option to sell was,
7 and the option for the equity investment was
8 declined U.S. Airways.

9 Q Correct. So had the company said we don't
10 want to exercise our option to sell the MDA
11 division, Republic, as you understand it, had the
12 right to say, tough, we want to exercise our option
13 to buy, correct?

14 A Correct. It was a little different
15 nuances to it but that is generally correct, yes.

16 Q This C-1(c) please, I think if I recall
17 your testimony correctly about this document, that
18 this reflected a fleet plan for U.S. Airways as of
19 March 7th, 2005, and again my recollection of your

20 testimony was that it was reflected that there were
21 certain returns that were accelerated due to the
22 merger, correct?

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1 A Yes.

2 Q And that is what this handwritten note
3 says down here on the bottom?

4 A Yes.

5 Q But, these accelerated returns were
6 returns that had been announced prior to the
7 merger, correct?

8 A That is correct.

9 Q Now, you mentioned before when I was
10 asking you questions about the changes in the fleet,
11 that there was a document that had been signed, a
12 GECAS agreement that had been signed by both
13 companies after the merger was announced, correct?

14 A Yes.

15 Q And that is exhibit C-1(k); is that
16 correct?

17 A Yes.

18 Q I think it may -- is that the one that was
19 in some of the books was misnumbered, some of the
20 books may actually have that mislettered, it is in
21 one of our books?

22 A Sorry.

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1 Q No, that is okay, just in case it is
2 mislettered, for the panel.

3 And you have pointed us to the signature
4 pages I think to reflect that this was the
5 transaction executed by both companies, correct?

6 A Yes.

7 Q And this was the agreement with GECAS that
8 dealt with the return of aircraft, among other
9 things?

10 A Yes.

11 Q There was an earlier original agreement
12 with U.S. Airways alone that covered the return of
13 aircraft, correct?

14 A Correct, back in November of '04.

15 Q Right, November 24th, '04, to be precise,
16 correct?

17 A Yes.

18 Q Let's turn to page 2 of this exhibit just
19 so we have it in its proper context. Page 2 of the
20 agreement, of this agreement, has a Roman paragraph
21 I, called relationship to original MOU, do you see
22 it there?

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1 A Yes.

2 Q And am I reading correctly when I read
3 reference is made to the amended and restated Master
4 Memorandum of Understanding dated as of
5 November 24th, 2004, paren as amended prior to the

6 date here of the quote original MOU unquote, that is
7 the November return agreement that we were talking
8 about a minute ago, correct?

9 A Yes.

10 Q And it is correct, is it not, that under
11 the terms of this agreement as the next paragraph
12 makes plain, that quote the parties hereto agree
13 that the original MOU, that is the November 24th
14 MOU, remains in effect and operative in connection
15 with the merger; is that correct?

16 A Yes.

17 Q Let's look at exhibit C-1(I). Couple
18 things about C-1(I), first of all this looks to me
19 to be a printout from Edgar of an SEC filing of one
20 form or another, is that your understanding?

21 A Says form S-1/A filing. I don't know if
22 that is an SEC filing or not.

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1 Q Do you know who the filer was?

2 A It says U.S. Airways group, Inc.

3 Q And this was filed September 20th; is that
4 correct?

5 A That is what it says.

6 Q So this appears to have been filed prior
7 to the closing of the transaction, correct?

8 A Yes.

9 Q So when it says the file is U.S. Airways
10 group, Inc. At that point U.S. Airways Group Inc was
11 the old U.S. Airways, correct?

12 A Yes.

13 Q Okay, so this is a description of the
14 transaction and the history of the transaction by
15 the old U.S. Airways, correct?

16 A Yes.

17 Q All right. So just, you didn't dwell on
18 this, but if you look at page 76, which is the
19 second of the pages in the exhibit, why don't you
20 just read to us, please, the second paragraph on
21 that page?

22 A When it became apparent that U.S. Airways

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1 group could not survive under the business plan
2 developed as part of the plan of reorganization the
3 U.S. Airways Group developed a new business plan
4 which it called the transformation plan.

5 Q Let me stop you for a second. The
6 transformation plan, do you understand that to have
7 been something that was developed between bankruptcy
8 1 and bankruptcy 2?

9 A I honestly don't remember.

10 Q Okay, fair enough. Why don't you
11 continue.

12 A This plan contains a number of initiatives
13 including significant reductions in labor costs
14 through changes to the company's collective
15 bargaining agreements. Although U.S. Airways Group
16 hoped to achieve these reductions without the need
17 for a new Chapter 11 protection it could not do so.

18 As a result of recurring losses, declining
19 available cash and the risk of defaults or cross
20 defaults the debtors filed voluntary petitions for
21 relief under Chapter 11 on September 12th, 2004.

22 Q Do you have any reason sitting here today

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1 to believe that what is recited in that paragraph is
2 not true and accurate?

3 A No, I have no reason.

4 Q Okay? One of the things that happened
5 almost immediately after the filing of that
6 bankruptcy petition of September 12th, 2004 was the
7 loss of financing for the Embraer 170 order that had
8 been placed, correct?

9 A I don't remember.

10 Q We will come back to that later.

11 While we are on this exhibit I want to
12 jump to the fourth to the last page, it is not
13 numbered. Do you have that?

14 A Yes.

15 Q Where it says accounting treatment?

16 A Yes.

17 Q So again, just to be clear, you have no
18 special training in accounting or in the legal
19 significance or the legal underpinnings of mergers
20 and acquisitions, do you?

21 A No.

22 Q Sitting here today do you know whether, if

1 for accounting purposes America West Holdings is
2 deemed to be the acquiring company, whether as a
3 business and legal matter that does or does not make
4 America West Holdings the acquiring company?

5 A I don't know.

6 Q Okay. Exhibit 3, please -- I am sorry,
7 let's stay on Exhibit 2 for just one moment.

8 Exhibit 2 is a single page document,
9 correct, it is just one page, and this is a document
10 that the U.S. Airways committee has constructed?

11 A Yes.

12 Q From a variety of different source
13 documents?

14 A Yes.

15 Q And for present purposes I am only
16 interested in the top portion of the exhibit which
17 purports to reflect the premerger fleet and expected
18 fleet change of U.S. Airways, correct?

19 A Yes.

20 Q And put 2005 to one side, 2006, '07, '08,
21 '09, and '10 were reductions in '06 and '07 and
22 orders in '08, '09 and '10 that were reflected in

1 10K filings and company documents?

2 A Yes.

3 Q Do you know whether, with respect to the
4 29 aircraft that are reflected arriving in 2008,

5 2009 and 2010, whether the company had financing for
6 those aircraft?

7 A I don't know.

8 Q Why don't we put this behind tab B in our
9 cross-examination exhibits book. We can produce the
10 whole document if anybody really wants it.

11 But Mr. Carey, do you recognize this, not
12 necessarily knowing this document with
13 particularity, but from its form do you recognize it
14 to be what it purports to be, namely an SEC form 8K
15 filed U.S. Airways Group?

16 A Yes.

17 Q And it was filed according to this
18 December 20th, 2002, correct?

19 A Yes.

20 Q I am going to turn your attention to the
21 second page of the document and there are two
22 portions that are highlighted in yellow. The first,

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1 we don't have to dwell on it, simply reflects fleet
2 reductions that had occurred as of August 11, 2002,
3 but if you could read for us the second yellow
4 highlighted portion, please, on that second page?

5 A The debtors generally do not have firm
6 lease or debt financing commitments with respect to
7 the future scheduled aircraft deliveries.

8 Q Do you have any reason to believe that
9 what is recited in this 8K form was not true at the
10 time that it was filed?

11 A I don't have any reason to believe that,
12 but it was stated in the '04 and the '05 that those
13 firm orders existed for 29 airplanes --

14 Q That is not my question. My question was
15 do you have any reason. I will ask you about that
16 in a moment.

17 Do you have any reason to believe that at
18 the time that this 8K was filed in 2002 that U.S.
19 Airways did not have firm lease or debt financing
20 commitments with respect to the future scheduled
21 aircraft?

22 MR. KATZ: I am going to object --

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1 THE WITNESS: I don't know.

2 MR. KATZ: Hold it, I am objecting. I am
3 objecting to that question because it is totally
4 irrelevant where the company emerged from bankruptcy
5 on March 23rd '03, and whatever the financing for
6 aircraft was December 20th, 2002 couldn't possibly
7 have anything to do with this case.

8 MR. FREUND: Well, I will get there, I
9 will follow up.

10 CHAIRMAN NICOLAU: Go ahead.

11 BY MR. FREUND:

12 Q Do you have any reason to believe that
13 statement made in 2002 in connection with this 8K
14 filing was not in fact correct?

15 A I don't know that it pertained to those 29
16 airplanes. You know, so --

17 Q Well, we can say the following, can't we?
18 I mean I only highlighted that one line but why
19 don't we read the whole paragraph which reads as
20 follows. "As of December 12th, 2002 the debtors had
21 a total of 38 jet aircraft on firm order from the
22 aircraft manufacturer Affiliated Airbus with

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1 scheduled delivery from 2005 through 2009. This
2 includes one A330-300 and 37 A320 family narrow
3 bodied aircraft. This includes 5 firm but
4 cancelable A320 family aircraft orders. The current
5 estimated aggregate cost for these commitments is
6 approximately \$2 billion. The debtors generally do
7 not have firm lease or debt financing commitments
8 with respect to the future scheduled aircraft
9 deliveries. Group and USAI are currently
10 negotiating with Airbus to restructure their
11 agreement with the aircraft manufacturer."

12 Now, sitting here today do you have some
13 doubts as to whether the 29 aircraft that are
14 reflected in this document are not among the
15 aircraft that are included in this?

16 A Absolutely, because the 29 aircraft in
17 that document include 10 A330s. This document has
18 one A330, so it is obvious that it is a totally
19 different firm order commitment.

20 Q Do you have any doubts as to the accuracy
21 of the statement in that 8K the debtors generally do
22 not have firm lease or debt commitments with respect

1 to the future scheduled aircraft deliveries?

2 A Say it again, please.

3 Q Do you have any doubt as to the truth or
4 accuracy of the statement contained this 8K that the
5 debtors, namely U.S. Airways, didn't have firm lease
6 or debt finance commitments with respect to those
7 aircraft?

8 A That is what it says.

9 Q Okay. Now this was during the course of
10 the first bankruptcy, this was a filing during the
11 course of the first bankruptcy, correct?

12 A Yes.

13 Q Sitting here today are you aware of any
14 lease or purchase financing that U.S. Airways had
15 prior to the merger announcement with respect to the
16 29 aircraft that you show reflected on Exhibit 2?

17 A Do I know of any --

18 Q Financing that the company had with
19 respect to these aircraft?

20 A No, they are way out in the future, no.

21 Q Turn to Exhibit 3, please. Exhibit 3, I
22 think you have described to us plainly and it is

1 described by its title and that is the timeline with
2 respect to certain EMB aircraft deliveries, correct?

3 A Yes.

4 Q Now, it begins with a recitation that in
5 May of 2003 there was an announced order for 85
6 aircraft from EMB for the 170/190 family with 50
7 additional options, correct?

8 A Yes.

9 Q Those were going to be flown at MDA?

10 A Yes.

11 Q And eventually U.S. Airways took delivery
12 of some EMB 170s?

13 A Yes.

14 Q And flew them at MDA?

15 A Yes.

16 Q There were supposed to be more EMB that
17 were going to be financed U.S. Airways as part of
18 the first reorganization, correct?

19 A First reorganization?

20 Q The first bankruptcy. After the first
21 bankruptcy the plan was to acquire additional 190s,
22 additional EMB aircraft, correct?

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1 A Yes.

2 Q When, and I asked you this before, when
3 U.S. Airways filed in September of '04 for the
4 second time, the financing for those aircraft
5 disappeared, correct?

6 A It did somewhere along the way, yes.

7 Q Now, since that time, and since the
8 reorganization, the new company has obtained

- 9 additional EMB 190s, correct?
- 10 A They have amended the original agreement
11 and they have put in a, well the words are in there
12 yes. They have additional airplanes coming.
- 13 Q When you say they amended the original
14 agreement, the original agreement was the one as to
15 which the financing collapsed, correct?
- 16 A Yes.
- 17 Q Okay. And after the transaction with
18 America West they amended, the original agreement
19 was amended to allow for the delivery of 190s,
20 correct?
- 21 A Yes.
- 22 Q And those 190s have started to be

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- 1 delivered, correct?
- 2 A Yes.
- 3 Q They are going to be delivered, some
4 number of 190s are going to be delivered going out
5 into the future, correct?
- 6 A Yes.
- 7 Q You are familiar with the transition
8 agreement between the company and ALPA on behalf of
9 both the U.S. Airways pilots and the America West
10 pilots?
- 11 A Somewhat.
- 12 Q You are aware that those 190s were in the
13 category of new flying covered by the transition
14 agreement?

15 A Yes.

16 Q And you are aware that 190, that new
17 flying was to be distributed as between the two
18 pilot groups and that there were procedural
19 mechanisms to achieve that result?

20 A Yes.

21 Q And you are aware that there is in fact a
22 condition and restriction that is already in place

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1 in this case regarding the allocation, regarding the
2 allocation of that 190 flying, correct?

3 A Yes.

4 Q And by the way, while we are on the
5 subject, at some point I think you testified about
6 three new 757s that have come onto the property
7 since the transaction, correct?

8 A Yes.

9 Q And those new 757s were also the subject
10 of the transition agreement, correct?

11 A Yes.

12 Q And there is a condition and restriction
13 that is in place in this case dealing with the
14 allocation of flying attributable to those new 757s,
15 correct?

16 A Yes.

17 Q Let's turn to -- we need to look at a
18 couple of exhibits I think for the next set of
19 questions. So if you would turn to Exhibit 4 and
20 Exhibit 7 and let's just talk our way through these.

21 Now, Exhibit 4, if I understand it, is the
22 comparable exhibit to one we looked at earlier, the

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1 earlier one reflecting changes in the U.S. Airways
2 fleet, this one reflecting changes in the America
3 West fleet, correct?

4 A Yes.

5 Q And I think -- and the source of the data
6 on the top portion is the 2004 America West annual
7 report, correct?

8 A Yes.

9 Q Now, according to that it reflects three
10 firm orders beyond 2005, correct?

11 A I am sorry, where are you looking?

12 Q I am looking, still in Exhibit 4?

13 A Oh, you are back there. Yes.

14 Q Now, let's leap forward to Exhibit 7, and
15 I think you told us, and I can't read it on mine,
16 but I think you told us this was from an America
17 West 2004 10K?

18 A Yes.

19 Q And that would have been filed at the end
20 of the year 2004 -- it actually probably would have
21 been filed in 2005?

22 A Correct.

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1 Q We can't tell from the document the date
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2 that it was filed, but it is supposed to report
3 status as of the end of 2004?

4 A Right.

5 Q As the stand in state condition?

6 A Right.

7 Q This reflects, does it not, on the second
8 page that as of the end of 2004, did I already ask
9 you to look at the second page? I think I did. If
10 I didn't, look at the second page. It reflects,
11 does it not, 14 firm orders for year 2005 and 2006,
12 correct?

13 A Yes.

14 Q Now, after that report was filed but
15 before the merger was announced U.S. Airways, I am
16 sorry, America West issued an updated revision of
17 its fleet plan, are you aware of that?

18 A No.

19 Q Mark this as cross-examination exhibit C.
20 Showing you what has been marked as
21 America West pilots cross-examination exhibit C,
22 have you seen this document before?

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1 A I don't think so.

2 Q Well, I will represent to you that it is
3 what it purports to be, namely an America West
4 airlines investor relations update that was issued
5 on or about the date reflected, and it reflects a
6 total fleet of 161 aircraft by end of fiscal year
7 '07, correct?

8 A Yes.

9 Q Sitting here today, absent the merger, do
10 you have any reason to believe that it was not in
11 fact the plan of the America West management on a
12 stand alone basis to have a fleet by the end of
13 fiscal year '07 consisting of 161 aircraft in the
14 numbers reflected on this document?

15 A Yes, I do.

16 Q And what is that based on?

17 A Well, this doesn't even say that these are
18 firm orders --

19 Q I didn't ask you that question.

20 MR. KATZ: You asked him a question, let
21 him answer the question.

22 THE WITNESS: That is the reason that I

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1 believe that it could not be true, that maybe they
2 wouldn't go to 161 aircraft, because as I have
3 shown, eight of these airplanes weren't firm orders.
4 You haven't showed me a document that shows they are
5 firm orders. And it also speaks in every one of
6 their 10K's that they have 52 lease expirations and
7 how they like to time deliveries with expirations.
8 So --

9 BY MR. FREUND:

10 Q So that is the basis of your conclusion
11 that notwithstanding this document, that it was not
12 planned to have 161 aircraft at America West at the
13 end of fiscal year, by the end of fiscal year 2007?

14 A With the flexibility they have, I have
15 been flying for the airlines for 30 years, I have
16 seen about a dozen growth plans. I don't think one
17 has ever made it to maturity.

18 Q So that is part of your analysis as to
19 your basis for believing that notwithstanding this
20 document that it was in fact not America West's
21 intention as of April 20th, 2005, to have a fleet
22 consisting of 161 aircraft by the end of fiscal year

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1 '07?

2 A Not when the orders haven't been firmed
3 up.

4 Q Like Hart Scott Rodino, you don't have any
5 particular expertise in the requirements of the
6 securities laws and in particular the Sarbanes-Oxley
7 statutes, do you?

8 A No.

9 Q Okay. You talked about flexibility and
10 about various of those reports by America West in
11 which they talked about their flexibility, and I
12 think you read to us from one of them. I think that
13 was probably Exhibit 6.

14 So why don't you turn to Exhibit 6. I
15 think you read to us at the end of the first
16 paragraph, I think you read the words as of
17 December 31st, 2003 leases for 57 of America West's
18 aircraft should be terminated by the end of 2008,
19 correct?

20 A Yes.

21 Q But you didn't read the first phrase of
22 that sentence which says, assuming the exercise of

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1 the put options as of December 31st, 2003, leases
2 for 57 of America West's aircraft should be
3 terminated by the end of 2008. You didn't read that
4 first phrase to us when you first went through this
5 exhibit did you?

6 A No, the put options are separate. It is
7 still 57 without the put options.

8 Q The 57 -- aren't the put options the
9 return of those 57 leases if they choose to return
10 them?

11 A No.

12 Q They are not?

13 A The put options are up above and there are
14 four, six, 10 put options, and there is 57 scheduled
15 lease expirations.

16 Q Okay.

17 A And then it explains up there what put
18 options are.

19 Q Let's turn to Exhibit 9. We will skip
20 that.

21 Let's take a 10-minute break and I may be
22 either done or close to being done.

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1 CHAIRMAN NICOLAU: It is a good thing you
2 didn't say I only have one or two questions this
3 time.

4 MR. FREUND: I think I said a few.

5 CHAIRMAN NICOLAU: Take 10 minutes.

6 (3:26 p.m. -- recess-3:39 p.m.)

7 CHAIRMAN NICOLAU: Ready?

8 MR. FREUND: That is all I have got.

9 MR. KATZ: I have a few questions.

10 CHAIRMAN NICOLAU: A few questions, huh?

11 MR. KATZ: YES, PROBABLY 31 OR 32.

12 REDIRECT EXAMINATION

13 BY MR. KATZ:

14 Q Let me start where we started here. Near
15 the start of the cross-examination you were asked
16 about what documents you had, about where these 25
17 airplanes were to be taken out of, do you remember
18 that.

19 A Yes.

20 Q And the way I heard you, you didn't see
21 any documents about the 25 airplanes being reduced
22 until in the merger announcement itself on May 19th

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1 there was a reference to it; is that correct?

2 A That is correct.

3 Q And let me ask you to turn to Exhibit 8 in
4 your Volume C which is an SEC form filed by America
5 West Holdings Corporation filed the day after the

6 announcement of the merger, and ask you whether
7 there is something in there that bears on this
8 issue?

9 A Yes, Doug Parker saying there will be some
10 59 airplanes reduced between the two companies.

11 Q So you read that as meaning between
12 America West and U.S. Air?

13 A Yes.

14 Q Those are the two companies he is
15 referring to?

16 A Yes.

17 Q He wasn't letting any grass grow under his
18 feet in saying that, did he?

19 A No.

20 Q Was that in fact what happened?

21 A That is what happened.

22 Q The questions on cross-examination also

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1 included questions about this \$350 million target
2 for the U.S. Airways stand alone plan, and you
3 pointed to a couple of documents in your volume that
4 talked about that. Were you also present when Kevin
5 Barry testified on Volume A?

6 A Yes.

7 Q Well, I have got two things in mind.

8 Do you have another copy of Volume A,
9 Kevin, with you to loan that one to Captain Carey?

10 Take a look at Tab 15, if you would, it is
11 a U.S. Airways update dated April 15, 2005, have you

12 seen that?

13 A Yes.

14 Q Under the heading Sturdy Transformation
15 Plan Attracts Investors, there is some discussion of
16 this issue, isn't there?

17 A Yes.

18 Q And what is there that bears on this
19 issue?

20 A Well, it starts with in February
21 Eastshore, which is Air Wisconsin, agreed to invest
22 125 million. In March Republic Airways Wexford

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1 Capital agreed to invest another 125 contingent on
2 an additional one million in equity financing --

3 CHAIRMAN NICOLAU: One million?

4 THE WITNESS: 100 million, sorry.

5 And then Brian Beford, the CEO of
6 Republic, said during a conference call with airline
7 analysts, it is no secret that U.S. Airways has a
8 great franchise on the east coast, he added. It has
9 obtained a low cost carrier-type labor agreement and
10 restructured debt.

11 BY MR. KATZ:

12 Q Here is as a by-product of looking at this
13 exhibit, we are also going to discover Bruce Ashby's
14 title?

15 MR. FREUND: I am excited.

16 BY MR. KATZ:

17 Q Was he Executive Vice President of

18 Marketing and Planning?

19 A Yes, he was.

20 Q Seems like he was. And this article
21 talked about essentially the company moving ahead.
22 I am reading the first paragraph, of the item that

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1 you were quoting from?

2 A Right.

3 Q As the company moves ahead with its
4 financial restructuring".

5 So the status as of April 15th was that
6 the company was moving ahead with its financial
7 restructuring but it hadn't actually filed a formal
8 plan of reorganization as a stand alone carrier at
9 this point?

10 A Right, and in the Seabury document, you
11 know, we had John Luth with Seabury who got the
12 company through the first Chapter 11, he was in the
13 process of doing the same for the second chapter 11,
14 and he was also the same person and same
15 organization that raised the capital for the merger,
16 so --

17 Q Didn't I hear you testify this morning on
18 direct about the parallel discussions between
19 America West and U.S. Airways and their financial
20 advisors that was going on December, January,
21 February, the same period of time?

22 A Correct.

1 Q And eventually those discussions eclipsed
2 the stand alone discussions?

3 A That is right.

4 Q So the plan that was filed was the plan
5 with the merger, correct?

6 A Correct, the plan of reorganization
7 included the merger.

8 Q In exhibit 3-D of your book C there was
9 some additional detail on the Wexford Republic plan.
10 I don't know why everybody is so tired of
11 it, it doesn't really matter anymore, but in the
12 middle of the page in this press release from U.S.
13 Airways on March 14, 2005, it does say "in addition
14 to the equity investments, the agreement," referring
15 to the Wexford Republic deal "includes options for
16 additional financing for U.S. Airways subject to the
17 consent and approval of the ATSB" and there are two
18 paragraphs describing in detail how that was
19 supposed to work; isn't that right?

20 A Yes.

21 Q So people are interested in all of the
22 minutiae about that transaction can read about who

1 has the options and what the terms of those were
2 right there; is that right?

3 A Yes.

4 Q While we are in your book I think the
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5 questioning related to Exhibit 2, this is the U.S.
6 Airways fleet, and then we also were given an 8K
7 from December 20, 2002. Do you have that document
8 available?

9 A Yes.

10 Q And looking at the yellow part of the
11 cross-examination exhibit B, it lists the then
12 current fleet as of December 2002 as including only
13 nine Airbus A 330s, right?

14 A Yes.

15 Q And then one of the airplanes you were
16 asked about on cross-examination was the order for
17 one A330-300, that is two paragraphs down?

18 A Yes.

19 Q Do you know whether in fact the fleet
20 includes an A330?

21 A The fleet consists of 9 A330s.

22 Q So that 10th one didn't --

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1 A Didn't show up.

2 Q -- show up?

3 A But the firm orders that were on the, in
4 the '04 and '05 report was for 10 A 330s.

5 Q And as far as you know those are still
6 there?

7 A Yes.

8 Q And U.S. Airways did emerge from this
9 bankruptcy, the first bankruptcy on March 31, 2003,
10 didn't they?

11 A Yes.

12 Q On cross-examination you were asked about
13 whether there was a condition in this case for the
14 allocation of Embraer flying and you agreed with
15 whatever Jeff asked you on that subject. So I am
16 going to ask you a slightly different way, and maybe
17 this will clarify where things stand.

18 There is a decision by arbitrator Eischen
19 that we have made a joint exhibit in this case, that
20 encapsulates the formula for allocating Embraer
21 flying; is that correct?

22 A Yes.

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1 Q And there is an agreement between the two
2 MEC's that was struck sometime last summer that
3 deals with the allocation of flying on the three
4 757s?

5 A Yes.

6 Q But the manner in which those are
7 incorporated in to the final award in this case has
8 not been stipulated to by the parties as of yet,
9 that you know of?

10 A No.

11 Q And that will be a matter for discussion
12 when ruling by the arbitration board. That is not a
13 question. I am just making that statement.

14 Now, Exhibit C, is a document that
15 opposing counsel has represented is an investor
16 relations update from April 20th, 2005, or sometime

17 before then, because the information in blue
18 indicates a change as of April 20th, 2005. I take
19 it you haven't seen this, have you before today?

20 A No.

21 CHAIRMAN NICOLAU: This is America West's
22 Exhibit C.

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1 MR. KATZ: Yes.

2 CHAIRMAN NICOLAU: Thank you. I just
3 wanted to do that for the record.

4 BY MR. KATZ:

5 Q America West Exhibit C.

6 And you mentioned a few things about why
7 you didn't think that this piece of paper proves
8 that America West was going to get 161 airplanes.

9 In the volume A, do you still have that?
10 We will give it back to you. Was an Exhibit 38
11 which is a Bear Stearns report from the first
12 quarter of 2005 which is headed America West
13 Holdings Corp under performed liquidity concerns and
14 slower growth, did you see that before?

15 A Yes.

16 Q And doesn't it also have the number 161 on
17 a piece of paper on the second page?

18 A Yes, it does, and the paragraph above that
19 explains why it probably wouldn't happen.

20 Q Why?

21 A We believe that AWA could choose not to
22 renew its leases on six 737s in 2005 and 10 737-300s

1 in '06. If conditions don't improve and growth is
2 not warranted, if there is a serious cash crunch
3 perhaps AWA would work to bolster liquidity by
4 deferring or selling some of the 23 aircraft
5 scheduled for delivery over the next two years, as
6 the growth strategy is not working out, example
7 trans con routes and ATA assets at Midway, and we
8 believe the new plan is to pull back to core markets
9 and expand in leisure markets south of the border.

10 Then on the bottom it says "Note: Leases
11 for 16 737-300 aircraft will expire in '05 and '06."
12 And that is what they did, they ended up returning
13 several aircraft, they ended up deferring deliveries
14 on 11 airplanes and they are sitting at 133
15 airplanes today with 11 deliveries reconfirmed
16 through the merger out into the future.

17 Q And looking at the top paragraph under
18 summary and recommendations with regard to the price
19 of oil, were there events during the course of the
20 year 2005 that cast further doubt about the
21 realistic, the likelihood of America West ever
22 getting 161 airplanes on its own?

1 A Right. The price of oil they were talking
2 about, that the price of oil at \$45 a barrel we

3 estimate AWA may breach its \$250 million
4 unrestricted cash level and also the possibility
5 that they dip below their 100 million unrestricted
6 cash available in the fourth quarter, the ATSB loan
7 minimum.

8 And we talked earlier about every penny a
9 gallon that the price goes up in fuel it cost them
10 \$5.7 million. And so we are talking that is
11 probably where this liquidity crunch is coming from.
12 The fuel ended up, you know, going through \$65 a
13 barrel.

14 Q And on your Exhibit 12 you pulled together
15 from America West's own SEC filings what it was
16 paying for fuel during the course of the year 2005,
17 didn't you?

18 A Yes.

19 Q What sort of a percentage increase did it
20 have in the six months between the end of the first
21 quarter and the end of the third quarter?

22 A Well, the March '05 it was \$1.42 and by

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1 the quarter ended September '05 it was up to \$1.92.
2 So that is \$0.50, and if you multiply that out times
3 5.7 cents it comes out to about 284 million in
4 additional fuel expense.

5 Q So more than a 33 percent increase?

6 A Yes.

7 Q Is that part of your reason for doubting
8 the 161 airplanes that follows?

9 A Yes, and Doug Parker said in the video
10 that, you know, they took the combined airline and
11 built it for the worst of times, and it is a good
12 thing they did, because they are doing better than
13 everybody else, and that has been part of our reason
14 for success.

15 Q And if you built the merged airline with
16 no growth --

17 A Figure there is a good chance with
18 liquidity problems that they had that we would
19 probably be doing the same with a stand alone
20 America West.

21 MR. KATZ: Thank you, that is all I have.

22 MR. FREUND: I have a few questions.

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1 Let's go off the record for one second.

2 (3:57 p.m. -- recess -- 4:20 p.m.)

3 CHAIRMAN NICOLAU: Are you ready?

4 MR. FREUND: Ready.

5 CHAIRMAN NICOLAU: Go ahead.

6 RE CROSS EXAMINATION

7 BY MR. FREUND:

8 Q I am not going to delay things any more.
9 We are trying to hunt down documents. We will get
10 the documents we need at an appropriate time, but
11 let me just ask you this, Captain Carey. In your
12 experience analysts such as the Bear Stearns
13 analysts change their view from time to time after
14 obtaining additional information?

15 A I am sure that analysts would update their
16 information.

17 Q You were asked about Exhibit 15 in your
18 Volume A. This was the U.S. Airways update dated
19 April 15th, 2005?

20 A Yes.

21 Q That was in connection with a series of
22 questions that Dan asked you about the questions

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1 that I asked you about the math trying to get the
2 \$350 million in equity financing?

3 A Yes.

4 Q There is nothing in Exhibit 15 that gets
5 you to \$350 million in exit financing either is
6 there?

7 A No, 250 at that point in time.

8 Q Right. And, in fact, there is nothing in
9 any of your books anywhere that you can point to, is
10 there, that reflects that there was ever a period,
11 that there was ever a point in time when there was a
12 combined \$350 million in exit financing for U.S.
13 Airways standing alone?

14 A Well, I think the focus was changing as we
15 have shown through the merger timeline. By
16 April 15th they were heavily into merger
17 discussions, so I think the focus was beginning to
18 change with the merger.

19 Q Whether the focus was or wasn't changing
20 my question is pretty narrow. There is nothing in

21 all of your pieces of paper that we have seen over
22 the last now four days of testimony that reflects

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1 that there was ever a time when there was
2 \$350 million of combined exit financing for a U.S.
3 Airways stand alone plan, was there?

4 A Well, if you include some of the sale of
5 assets there was well in excess of that.

6 Q But you agreed with me earlier that the
7 sale of assets was not equity financing, correct?

8 A That is correct.

9 Q So I am going to ask you again. There is
10 nothing in any of your pieces of paper that reflect
11 that at any time prior to the merger announcement
12 that there was a combined \$350 million in bankruptcy
13 exit financing for U.S. Airways stand alone is
14 there?

15 A That is correct.

16 MR. FREUND: That is all I have.

17 MR. KATZ: Nothing further from me.

18 CHAIRMAN NICOLAU: Okay, let's go off the
19 record.

20 (Discussion off the record).

21 CHAIRMAN NICOLAU: We are recessed until
22 10:00 tomorrow. Same room, I assume.

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1 THE WITNESS: Yes, sir.
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2 CHAIRMAN NICOLAU: Okay, very good.
3 (Whereupon, at 4:24 p.m., the hearing was
4 recessed, to be reconvened at 10:00 a.m., on
5 December 12, 2006.)

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1	C O N T E N T S	
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3	WITNESS	EXAMINATION
4	PHILIP CAREY	
5	By Mr. Katz	DX 648, RDX 782
6	By Mr. Freund	CX 735, RCX 795
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