

1 BEFORE THE ALPA ARBITRATION BOARD
2 - - - - -X
3 THE CREW MEMBERS OF U. S. :
4 AIRWAYS :
5 Plaintiff, :
6 vs. :
7 THE CREW MEMBERS OF :
8 AMERICA WEST AIRLINES :
9 Defendant. :
10 - - - - -X

11

12 HEARING VOLUME 11

13

14 GEORGE NICOLAU, Chairman
15 CAPTAIN STEVE GILLEN, Pilot Neutral
16 CAPTAIN JIM BRUCIA, Pilot Neutral

17

18 Washington, D. C.
19 Friday, January 12, 2007

20

21 REPORTED BY:
22 DONALD R. THACKER

1 Hearing before the ALPA Arbitration Board, on
2 Friday, January 12, 2007, in Washington, D. C. at the

01-12-07ARBfinal
3 Mayflower Hotel, 1127 Connecticut Avenue, Northwest,
4 at 10:30 a.m. before DONALD R. THACKER, a Notary
5 Public within and for the District of Columbia, when
6 were present on behalf of the respective parties:
7
8 DANIEL M. KATZ, ESQ.
9 JASON WHITEMAN, ESQ.
10 Katz & Ranzman
11 5028 Wisconsin Avenue, Northwest, Suite 250
12 Washington, D.C. 22036
13 On behalf of U.S. Airways
14
15 JEFFREY R. FREUND, ESQ.
16 LISA POWELL, ESQ.
17 ROGER POLLAK, ESQ.
18 Bredhoff & Kaiser, PLLC
19 805 15th Street, Northwest, Suite 1000
20 Washington, D.C. 20005
21 On behalf of America West Airlines
22

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P R O C E E D I N G S

2 CHAIRMAN NICOLAU: Are you ready?
3 MR. FREUND: Yes. We will call Captain
4 Shi nn.
5 CHAIRMAN NICOLAU: Okay.
6 MR. FREUND: Dan, are you ready?
7 MR. KATZ: One second.
8 Whereupon,

9
10 was called as a witness and, having first been duly
11 sworn, was examined and testified as follows:

12 DIRECT EXAMINATION

13 BY MR. FREUND:

14 Q Captain Shinn, I know you have already
15 told your name to the court reporter, but now we
16 have got to do it for the record. Would you state
17 your full name for the record please?

18 A Michael Shinn.

19 Q Where are you employed?

20 I am going to call you Mike if that is
21 okay.

22 A Perfectly okay.

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1 Q Where are you employed, Mike?

2 A America West Airlines.

3 Q How long have you been employed at America
4 West?

5 A 21 years.

6 Q In what capacity are you presently
7 employed at America West?

8 A Line captain and check airman on the
9 Boeing 757.

10 Q Why don't you take us back and go through
11 for us your commercial flying history from when you
12 got into the business up until the time you came to
13 America West?

14 A Approximately 1980 I finished my

15 commercial ratings back in Kansas, flew corporate
16 for a year or so there, moved to Phoenix, flew
17 corporate in Phoenix for approximately four years,
18 turboprops for a private company, and went to work
19 for America West Airlines in November of 1985, as a
20 737 first officer.

21 Q How long did it take you to check out as a
22 captain?

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1 A One year.

2 Q And you have been a captain ever since?

3 A Yes.

4 Q In the time that you have been at America
5 West have you held any ALPA positions?

6 A No.

7 Q In addition to being a check airman have
8 you held any positions, I guess I would call them
9 quasi management positions, at the company?

10 A Well, I have been on the hiring committee
11 for approximately the last 10 years.

12 Q Could you tell us what the hiring
13 committee is and what its role is at the airline?

14 A The hiring committee reviews resumes,
15 applications, interviews prospective pilots for the
16 airline.

17 Q Who is on the hiring committee besides
18 yourself?

19 A Right. Now, there are Brad Baker is one
20 of our check airmen and pilots, myself, the chief

21 pilot's office composing of assistant chiefs and the
22 chief pilot who, occasionally chief pilot

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1 occasionally sits in interviews but it is mostly the
2 assistant chief pilots who do the interview process
3 and goes through resumes and applications with
4 myself and Captain Baker and one or two other
5 pilots.

6 Q Without focusing on any specific point in
7 time at the moment, could you describe for us the
8 process that you go through, that is, I am going to
9 give you a little bit of direction about that, when
10 it is you start looking at applications, where the
11 applications come from, when it is you start
12 interviewing and how it is you know to do that at
13 various points in time?

14 A Management instructs staffing at America
15 West to put on the web site, on the America West web
16 site, that we are accepting resumes for pilot
17 positions at the company. As we start receiving
18 resumes a panel of pilots with someone from the
19 chief pilots office start going through resumes.

20 We select everybody that has a resume that
21 has the sufficient amount of time, minimum time
22 requirements, and then they are in turn mailed and

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1 application which is then returned, then the pilot
Page 5

2 panel then goes through the applications and the
3 most qualified of the applicants in the applications
4 then are selected for an interview.

5 How and when the resume window is open or
6 not, I don't really know. It is just done by upper
7 management through staffing.

8 Q I take it you are not constantly, that is
9 day in and day out, again I am talking about
10 historically, reviewing resumes and bringing people
11 in for interviews?

12 A That is correct.

13 Q How is it that you that you know to start
14 spending time on reviewing resumes?

15 A That order comes down from upper
16 management to the chief pilot's office and through
17 staffing and human resources then I am notified that
18 we have received class dates from management, that
19 we have anticipated dates with a suggested number of
20 students in each class, and that we need to
21 interview enough people to fill those classes.

22 Q So, you are told the number, the timing of

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1 the interview process and the number of positions
2 that you are trying to identify, the number of
3 pilots you are trying to identify through the resume
4 review and interview classes?

5 A That is correct.

6 Q So, you don't decide whether it should be
7 five pilots or 50 pilots, someone else decides that?

8 A That is correct.

9 Q Now, you mentioned in that last answer
10 that you are told about class dates. Are there
11 other circumstances when you are instructed to
12 review resumes and interview pilots when there are
13 not class dates scheduled?

14 A Probably in the last 10 years, maybe 10
15 percent of the time we have hired pilots into a
16 pool, when there wasn't specific class dates
17 assigned or projected, and because the company was
18 at times notorious for springing on us class dates
19 without sufficient time to set the process up again,
20 we would put pilots into what we call pilot pool,
21 that were not going to be being hired, they were not
22 going to be placed into a class immediately.

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1 Q Because no class had been set up?

2 A Because no class was set up.

3 Q Putting aside the last group of pilots
4 that I am going to ask you about specifically, in
5 those prior circumstances when you were told to hire
6 pilots into a pool, was it always the case that in
7 fact the pilots that were hired into a pool later
8 came to class and became America West pilots?

9 A That is right.

10 MR. KATZ: I am going to object to the
11 question, the question talks about hiring pilots
12 into a pool. That is not what the witness said.

13 MR. FREUND: That is what he said.

14 CHAIRMAN NICOLAU: Putting them into a
15 pool. He didn't hire them into pool, he put them.
16 They went into a pool as a possible hiree?

17 THE WITNESS: No, once every so often we
18 hired pilots when there wasn't a class date for them
19 to go into, but they were put into a pool and were
20 informed that the very next time a class was
21 organized they would be put into that class.

22 CHAIRMAN NICOLAU: What was their

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1 seniority date when that kind of thing happened?

2 THE WITNESS: They weren't issued
3 seniority until they began class.

4 MR. FREUND: Yes, I wasn't going to
5 suggest anything else.

6 CHAIRMAN NICOLAU: I was just trying to
7 make sure I understood.

8 MR. GILLEN: Concurrently, even if it is a
9 formal notification I presume on America West
10 letterhead that says, you know, congratulations we
11 have selected you to go into the pool, no company
12 seniority date, no -- nothing starts until the pilot
13 actually shows up for a class?

14 THE WITNESS: Well, there is preliminary
15 paperwork filled out for and background checks are
16 done prior to this.

17 MR. GILLEN: Right.

18 THE WITNESS: But there is no seniority
19 date.

20 MR. GILLEN: Well, separate from pilot
21 seniority there is no effective company seniority
22 date?

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1 THE WITNESS: That is right.

2 MR. GILLEN: So it is not like you have
3 offered general employment to the person where you
4 could call him back and say well, we are going to
5 let you start today but you are going to work the
6 ramp.

7 THE WITNESS: No, they were hired strictly
8 as a pilot, informed at the end of the interview
9 they were hired as pilots, and would be in the next
10 class that was formulated by the company.

11 CHAIRMAN NICOLAU: Okay.

12 BY MR. FREUND:

13 Q And that was the practice consistently up
14 until the class, up until the group of pilots that
15 we are about to talk about?

16 A That is correct.

17 Q So I want to now direct your attention, if
18 we could, please, to Tab 23, which is that list that
19 you have in front of you.

20 I am not going to ask you to identify it
21 yet but I am going to direct your attention to the
22 late winter and early spring of 2005, prior to the

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1 May 23rd -- May 19th announcement of the merger
2 between America West and US Airways.

3 Did you receive notice from management
4 that you should begin assembling and hiring a pool
5 of pilots for unspecified class date?

6 A Yes.

7 Q And from whom did you receive those
8 directives?

9 A Well, either it was from the chief pilots
10 office or staffing; I was informed.

11 Q How many pilots were you instructed to
12 locate and identify to hire into a pool?

13 A I don't recall exactly, somewhere between
14 40 and 60 pilots.

15 Q And I take it you were told that there
16 wasn't a class date set for them?

17 A That is correct.

18 Q And that was not inconsistent with what
19 some of your past experience was?

20 A Correct.

21 Q Now, what did you do, when I say you, I
22 mean you specifically as well as the committee

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1 generally, what did you do when you got that
2 directive?

3 A We just conducted business as usual, and
4 we went through resumes and applications, selected
5 the most qualified applicants, brought them in for

6 interviews, interviewed them. At the end of the
7 interview the pilots that were selected were
8 congratulated, told that they were hired, and that
9 the next class that they would be placed in.

10 Q Was that process any different than the
11 process that you had engaged in the 10 years prior?

12 A No different.

13 Q Looking at Exhibit No. 24 -- 23, I am
14 sorry, the list that you have in front of you, can
15 you tell us what that is, please?

16 A Well, this is a list of the 39 people that
17 were actively and are actively still in the pilot
18 pool.

19 Q From that --

20 A From that hiring.

21 Q Okay. There are some six names that are
22 highlighted in yellow. Can you tell us why they are

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1 highlighted in yellow?

2 A These six people were also fingerprinted
3 and were put into the database at America West just
4 as fingerprinted at the time, prior or post their
5 interview process.

6 Q Now, I see that there are only 39 names on
7 this list, and you said that you were told to hire
8 somewhere between 40 and 60. Did there come a time
9 after these 39 were hired and placed in to the pool
10 that you were told to shut down your interviewing
11 process?

12 A Yes.

13 Q Who told you to do that?

14 A I don't recall. It was either from the
15 chief pilots office or staffing.

16 Q Turning to the next exhibit, that is
17 Exhibit 24, can you tell us what this is, please?

18 A This is a letter that was sent to each one
19 of the pilots in the pool thanking them for their
20 patience over the last several months, as you can
21 read in the letter here.

22 It doesn't give them much information,

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1 just that we actually hadn't forgot them and that
2 the operation, and how they were going to be
3 involved in it, was still undecided and that we
4 wanted to, we still considered them active members
5 of the pilot pool and that we wanted to still,
6 wanted them to update their contact information to
7 us so we could give them any information that we had
8 received that would affect them as far as class
9 dates or their continued hiring at America West for
10 their employment.

11 MR. FREUND: That is all I have.

12 CHAIRMAN NICOLAU: Before -- Captain, what
13 is the significance of the date October 17, 2005.

14 THE WITNESS: I am not -- I am not
15 certain. I think that is when the letter was sent.
16 That was the last contact to all of these 39 people.
17 I am not exactly sure, like I say, that date I think

18 is when this last letter was sent out, that was the
19 last contact with the 39 pilots.

20 CHAIRMAN NICOLAU: When were they put into
21 the pool? That is what I can't figure out.

22 THE WITNESS: March, March of 2005.

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1 CHAIRMAN NICOLAU: All of them, all 39?

2 THE WITNESS: All of them.

3 CHAIRMAN NICOLAU: Thank you.

4 CROSS EXAMINATION

5 BY MR. KATZ:

6 Q Just one or two, yes, sir. The last class
7 of pilots was April 4, 2005, do you recall that.

8 A Yes.

9 Q And there are four people who had their
10 names on the certified list that was prepared who
11 came from that class. Do you know how many were
12 actually in the April 4, 2005 class?

13 A I don't know.

14 Q Is a class of four something that America
15 West would start?

16 A Yes, they did once in a while have classes
17 that small.

18 Q And then there was a class before that
19 according to the certified list, March 21, 2005, and
20 that only has two people remaining in it. Would
21 that be a class that America West would start with
22 just two people?

1 A Yes, yes, sir.

2 Q Two weeks before that it was the March 7
3 class and before that a February 7th class, does
4 that sound like the dates of all the classes that at
5 America West in the late winter or early spring?

6 A I don't know if that is all the classes,
7 but --

8 Q I am going to show you, this is the
9 certified list from the America West merger
10 representatives. Now those are the people who were
11 around I think as of September 2005 when the America
12 West merger representatives certified their list as
13 of that date. Do you know of any additional classes
14 that were held?

15 A I do not.

16 Q Okay. In the past when you did this
17 hiring pool routine was that something that happened
18 every year or was it just something that happened
19 more occasionally than that?

20 A No, it was I would say probably 10 percent
21 of the time that we hired we ended up putting people
22 into a pool that didn't have assigned classes. When

1 we were spooled up and really hiring and we were
2 going full speed and hiring, if the classes all got
3 full and we didn't have any classes projected out we
4 would hire sometimes additional people, so when the

5 company then sprung additional classes on us we had
6 people all ready to go into the class.

7 Q So, when is the last time you did that
8 before the spring of 2005?

9 A I don't recall exactly. I am sure we did
10 probably put some people in the pool just in 2004,
11 there was probably a small pool of people in 2004.

12 Q But you don't remember specifically?

13 A I don't remember specifically. It
14 happened, we probably did it every year, just a few
15 times there was a pool.

16 Q And was the pool always as large as 39
17 pilots or was it sometimes smaller than that?

18 A It was sometimes smaller than that, it was
19 sometimes larger than that.

20 Q And I take it that America West didn't pay
21 any money to anybody in the pool until they showed
22 up for ground school after receiving a letter

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1 telling them their class date and congratulating
2 them for actually being hired; is that right?

3 A That is correct, they didn't receive any
4 money until they were in class.

5 Q When you checked out as a captain in 1986,
6 I guess it was --

7 A Actually it was the beginning of '87.

8 Q What airplane was that?

9 A 737.

10 Q And did you fly the 737 straight through
Page 15

11 until you went on the 757?

12 A No, I flew the Airbus for 3-1/2 years.

13 Q Anything else?

14 A No, sir.

15 Q And I take it you had no discussions with
16 Doug Parker or anyone else in upper management about
17 why the company decided not to have any more class
18 dates following the April 4 class?

19 A I did not.

20 Q The letter that is in Tab 24 --

21 A Yes.

22 Q -- do you know whether that was sent to

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1 Chris Bodkin, the first name on the list in Tab 23?

2 A I do not know.

3 Q Do you know whether it was sent to Bryce
4 Burgess, the second name on the list?

5 A I don't know.

6 Q If I asked you about all 39 I would get
7 the same answer?

8 A You would get the same answer.

9 Q But you think the ones that went out were
10 October 17th, 2005?

11 A I think that is -- yes.

12 Q And that is consistent with the language
13 in the letter that says our merger with US Airways
14 was recently completed?

15 A Yes.

16 Q When you were told to stop the hiring do

17 you remember exactly when that was?

18 A No, I don't.

19 Q And you said it was either the chief
20 pilot's office or staffing. Is staffing a part of
21 HR?

22 A Yes.

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1 Q And so it was somebody in one of those two
2 departments at America West?

3 A Yes. I will speculate and say they
4 received word from upper management, staffing or the
5 chief pilot's office simultaneously to stop the
6 hiring.

7 Q Okay, and you don't know what month that
8 was either?

9 A I would have to assume it was in March,
10 that was the last time we did any hiring.

11 Q You don't remember what part of March
12 then?

13 A No, these -- to my best recollection this
14 class, the 39 was the last people we interviewed was
15 March 5th, so I would have to say shortly after
16 March 5th we received word to stop hiring.

17 MR. KATZ: Thank you, Captain Shinn, that
18 is all I have.

19 CHAIRMAN NICOLAU: Anything?

20 MR. FREUND: Nothing else, thank you.

21 CHAIRMAN NICOLAU: Thank you, sir.

22 Mr. Freund, are any of these 39 on the
Page 17

1 seniority list?

2 MR. FREUND: No.

3 CHAIRMAN NICOLAU: Okay. In any capacity?

4 MR. FREUND: Not in any capacity.

5 CHAIRMAN NICOLAU: Okay.

6 MR. FREUND: I would like to think that
7 our rationale for putting this evidence in is
8 self-evident but I would be glad to explain why it
9 is.

10 CHAIRMAN NICOLAU: No, I can think of one
11 rationale. I was wondering if there was another.

12 MR. FREUND: Only the one that you are
13 thinking of.

14 CHAIRMAN NICOLAU: Okay. Your next
15 witness?

16 MR. FREUND: I am going to call Bob Mann,
17 please.

18 Whereupon,

19 ROBERT W. MANN, JR.
20 was called as a witness and, having first been
21 previously duly sworn, was examined further and
22 testified as follows:

1 MR. FREUND: America West volume of
2 cross-examination exhibits which doesn't have a

3 letter designation to the binder.

4 MR. KATZ: Call it volume X for cross?

5 MR. FREUND: Well, no let's see, the
6 document I am looking for isn't in here.

7 Do you remember at the end of the first
8 week we described our integration methodology and we
9 passed out an exhibit that had our integration
10 methodology in it, and I suggested that we put in
11 our volume of cross-examination exhibits.

12 MR. KATZ: I have it, I mean as exhibit F
13 as in Frank.

14 MR. FREUND: Yes. Why don't we just take
15 a break and we will make a copy next door or up in
16 our room.

17 So stand at ease.

18 (10:58 a.m. -- recess -- 11:08 a.m.)

19 CHAIRMAN NICOLAU: Mr. Mann, have you
20 forgotten what you were going to say.

21 THE WITNESS: No, actually I have retained
22 that thought.

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1 REDIRECT EXAMINATION

2 BY MR. FREUND:

3 Q Bob, I am not calling you -- I want to be
4 clear what you are about to testify about and what
5 you are not about to testify about.

6 As I said yesterday, I am not calling you
7 in your capacity as an expert other than somebody
8 who can operate an Excel program, nor am I calling

9 you as a witness to testify about the underlying
10 rationale for the America West pilots seniority
11 list. We will have another witness for that.

12 I am calling you merely to have you
13 describe the mechanical steps that you took to put
14 together a list that appears on, behind Tab 26; is
15 that correct?

16 A Yes, that is correct.

17 Q And you did do that correct?

18 A I did.

19 Q I assume, I take it that your starting
20 point was the America West merger committee proposed
21 integration methodology dated December 14, 2006; is
22 that correct?

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1 A That is correct.

2 Q So, I am not going to ask you a bunch of
3 leading questions. I am going to ask you just to
4 describe the process you went through,
5 mathematically and mechanically, in order to produce
6 the list which appears behind Tab 26?

7 A Sure. That process involves really three
8 factors, one is the methodology that you referred to
9 earlier that I believe was handed out on
10 January 15th at the close of our prior sessions -- I
11 am sorry, December 15th at the close of our prior
12 sessions. And then the two certified seniority
13 lists, east and west that were provided by the
14 company.

15 From the -- may I just refer to the
16 methodology itself.

17 Q Please?

18 A I think it would be easier, in which case
19 I could use a copy of it.

20 Q Okay.

21 A Thank you. Anyway, referring to the
22 methodology itself, and again using the two east and

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1 west certified seniority lists that I believe Dave
2 Seymour of US Airways provided, the first thing I
3 did was just to inspect those lists to make sure
4 they seemed to be consistent internally, I believe
5 they are.

6 Secondly was to extract from those lists
7 individuals and positions who met certain
8 characteristics as inactive pilots, and these were
9 described consistent with the methodology as
10 management, supervisory, check airmen, those on
11 medical leaves of absence. And it does not,
12 however, include individuals on leaves of absence as
13 described purely as LOA.

14 Q Does not?

15 A Does not, those names were left on the
16 list as they appear.

17 So what we then had was two lists with
18 inactive statuses extracted.

19 From those lists, first off, we looked at
20 the America West list, and modified that list by

21 adding an additional or specifying that an
22 additional 114 individuals on that list would be --

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1 would have the appearance of being captains. Again
2 we did not use the bid status that was shown on the
3 certified list for any purpose, it was merely a
4 stove pipe sort of methodology with the individuals
5 with the lowest seniority numbers, hence the most
6 seniority, designated to be more senior and hence
7 eligible for whatever number of captaincies were
8 available.

9 On the America West list we designated at
10 the top 969 individuals would be designated for
11 those purposes as captains, and that number was
12 derived according to a methodology that is part of
13 the rationale, and I merely used the number 969.

14 Similarly on the east side, old US
15 Airways, the number of captains was designated as
16 1121. So the first 1221 individuals on that
17 certified seniority list, once extracted, were
18 designated as captaincies.

19 So that left us with a subset of the
20 initial lists, each designated to be the captain
21 subset, with 969 positions on the west list, with
22 1121 positions on the east list.

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2 west list, a number which turns out to be 819, just
3 mechanically 819, was integrated with the next 1051
4 positions on the east list, and these two subsets of
5 the list were designated as first officer positions.

6 MR. KATZ: Is that 1121 -- I am not sure I
7 heard you right.

8 THE WITNESS: Number of captaincies was
9 1121.

10 MR. KATZ: In the co-pilot area?

11 MR. MANN: 1051, that is correct.

12 CHAIRMAN NICOLAU: What were the two
13 captain numbers again.

14 THE WITNESS: On the east 1121, and on the
15 west 969.

16 BY MR. FREUND:

17 Q Maybe I can help out a little bit and ask
18 you to look at what is behind Tab 25. That is set
19 up in sort to calculate the mathematical methodology
20 to get to those numbers that you just gave us?

21 CHAIRMAN NICOLAU: Okay, fine, it is
22 there.

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1 THE WITNESS: Right, this is the
2 mathematical construction of those ratios.

3 CHAIRMAN NICOLAU: Right.

4 THE WITNESS: So, again we just, where we
5 are so far is we have two subsets. We have a
6 captains subset on each side. We have a first
7 officer subset on each side. And that is the

8 entirety of the west list is now covered.

9 The east list, however, has a number of
10 individuals beyond the 1121 captains plus 1051 first
11 officers, there are a number of individuals beyond
12 in that -- two subsets. These would be comprised of
13 other individuals, both active and inactive.

14 Now, with these subsets we then
15 constructed a ratio, first of -- or separately of
16 captains and of first officers, so two separate
17 ratios. The ratio of captains, based on which a
18 merge of the two lists was accomplished, was the
19 ratio of captains list sizes and that is of course
20 1121 on the east and 969 on the west. And then a
21 separate merge was done on the first officer groups
22 which numbered 1051 on the east and 819 remaining

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1 individuals on the west.

2 Basically I used an Excel basic macro to
3 construct mechanically the ratio between the two
4 lists, which basically involved ladderling the names
5 in that stated ratio of 1121 to 969, among captains,
6 and 1051 to 819 on the first officer side.

7 Q So you didn't choose how to put that in,
8 the Excel program shows how to construct that ratio
9 among those positions?

10 A Right, that is correct, yes. It was built
11 flexibly enough so we could have done it any number
12 of ways but indeed that is the ratio that was
13 specified.

14 Again, that ratio was specified according
15 to the methodology which states that they would
16 simply be merged pro rata according to the list
17 ratios, and it would not be some other arbitrarily
18 specified ratios. It would simply be the ratio of
19 the numbers of individuals that appear on each
20 captain subset versus each first officer subset.
21 Q And because they don't sort of integrate
22 evenly, that is to say there is not an easily

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1 calculable one to two number, the program determined
2 where you have to put an extra pilot or where you
3 have to extract an extra pilot --

4 A Well, no pilots are extracted, but what
5 happens is that the extra individuals, if you will,
6 from anything other than a one-to-one ratio are
7 inserted let's call it evenly, we are talking whole
8 individuals so we can't do it mathematically or
9 decimally perfectly evenly, but these individuals
10 were inserted even within the total span of each
11 individual group of captains or first officers to be
12 integrated.

13 Now, just in order to check the results of
14 that visually I also just color-coded the list so
15 that it could be determined from which list certain
16 individuals had been extracted and how this merged.

17 Again, the entire bit of information that
18 was provided on the certified lists was included, it
19 includes bid statuses, but again these were not used

20 for ranking purposes or any other.

21 Now, what we have then is a merged list of
22 captains, we have a merged list of first officers,

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1 and then we have that third list of individuals who
2 were beyond the list of active pilots on the east,
3 and were simply a third list now.

4 So then the final list was constructed by
5 first putting the merged group of captains at the
6 top of that list, the merged group of first officers
7 below that group of captains, and then the third
8 list of individuals both initially active and not,
9 below that through the designated first officers.

10 Then the final step on the list was to
11 take all those individuals who were extracted from
12 the list, based upon an inactive status, and
13 replacing them on the list based upon, this was done
14 literally one by one and extremely mechanically,
15 extremely manually, by placing them by seniority
16 number above the next lowest seniority number from
17 their original list.

18 So in other words, an east captain with an
19 original seniority number of 1000 who was extracted
20 would be replaced on the list wherever, just above
21 his counterpart east, or east individual number
22 1001, and then mechanically placed before 1001, so

1970

1 wherever the 1001 original seniority number resided
2 on the merged list, number 1000 who had been
3 extracted would be placed above it.

4 So that is the basis on which that list
5 was constructed. If one looks at the list itself --

6 Q Why don't we look at the first page of the
7 list. And maybe looking at some examples can help
8 us understand just what you did.

9 A Okay. Just looking at page -- well, first
10 page of the list, I guess they are unnumbered, so we
11 will just use the seniority numbers as an index.
12 Just going across the top the headings of these
13 columns, the heading MSN is Merged Seniority Number,
14 the heading OSN is the Original Seniority Number,
15 whether it be east or west.

16 The heading EN is Employee Number and just
17 visually both east and west parties know that the
18 east numbers are numerical and the west numbers are
19 alphanumeric headed by the letter P. Last and first
20 names are column next, middle initials.

21 Status, if an entry appears here it is the
22 possible basis for having been extracted, and to

1971

1 Look at the first two individuals, for example, on
2 merged seniority number at one and two on the merged
3 seniority number list, these individuals would have
4 been initially extracted for list construction
5 purposes but then reinserted based upon their

6 original seniority numbers above the first
7 individual merged on the active basis.

8 So in this case OSN No. 3 on the east,
9 Captain Johnson, was merged based upon the ratio,
10 and then Captains McGlocklin and Manuel, original
11 seniorities numbers 1 and 2, were extracted based
12 upon either medical on the one hand or a supervisory
13 position on the other, were reinserted in
14 appropriate seniority number back ahead of Captain
15 Johnson. Hence they occupied merged seniority
16 numbers 1, 2, and 3, even though when the mechanical
17 merge occurred Captain Johnson was the top
18 individual on the merged list.

19 Going further over on the status columns,
20 the position and equipment columns indicate the
21 position and equipment that appeared on the
22 certified lists as received; again were not used for

1972

1 any purpose in the merge process.

2 And the final two columns are the
3 individual's date of birth and date of hire. If one
4 looks at the list there are two apparent groupings,
5 one is a group of individuals in the color gray,
6 that happens to be the east list, and these were
7 close even not for any suggestion of demographics as
8 opposed to Steve Wolf loves that gray, therefore we
9 retained it for this purpose.

10 Then on the west side the group of desert
11 pink are those individuals who were chosen for the

12 original paint job on some of the America West
13 aircraft.

14 Q I wondered where that came from?

15 A There you go. That is perhaps the only
16 manner in which some expert component of this was
17 developed, but that is the basis on which the list
18 was constructed.

19 Q So just so, I think it is probably, hope
20 it is clear to everyone, but there is a big clump,
21 let's look at that first page, again just to
22 highlight the extraction and the reinsertion point

1973

1 that you made, you described how that worked with
2 positions 1, 2, and 3.

3 Let's look down at positions 34, 35, 36
4 and 37 all of which appear to be the color of my
5 shirt, or the color of flowering cactus in the
6 spring. Am I understanding correctly that only a
7 pilot who was now 37, that is Michael Chapman, was
8 put on the list through the ratio method that pilots
9 34, 35 and 36 had been extracted before the ratioing
10 took place and were then reinserted back into the
11 list after the ratioing was completed?

12 A That is correct. If one were to look at
13 intermediate merged product what you would have seen
14 here was the individual shown as seniority number,
15 merged seniority No. 33, followed by individual
16 shown as merged seniority number 37. So it is
17 Chapman, following Stuart.

18 But in the process of reinserting
19 individuals who had been extracted, the three
20 individuals Hardy, Thomas and Hughes, each of whom
21 had medical status, were reinserted in their
22 appropriate original seniority number order.

1974

1 Q And I see, just to highlight another
2 point, if you go down to numbers 58 and 59, you have
3 two east pilots, neither of whom appeared to have
4 been extracted for any particular purpose, but they
5 are together rather than being separated by a west
6 pilot in between. I take it, if I understand
7 correctly, that is -- that was accomplished by
8 reason of the mathematical operation of the ratioing
9 system that the Excel macro employed, the ratio
10 together these numbers of pilots?

11 A That is correct. If you take 1121 and 969
12 and you actually break them down to the lowest
13 common denominator, it is actually 59 to 51 ratio,
14 so there are eight extra east individuals to be
15 integrated in to each 51 plus 59 individuals, so the
16 appearance of individuals at 58 and 59, for example,
17 represent one of the additional individuals and
18 similarly if you go up to 39 and 40 you will see an
19 additional east pilot there.

20 And if you go up to 19 and 20 you will see
21 bracketing the individual at 19, who was reinserted
22 based upon having been extracted on medical, that

1 individuals at 18 and 20 are actually again one of
2 those pairings, one of who was an initial individual
3 based upon the 59 to 51 ratio.

4 Q Again I think it is clear, but you
5 personally didn't make the subjective decision about
6 where to sprinkle those quote extra pilots within
7 the group?

8 A No, just to test that it was valid for a
9 variety of ratios as well as the one that we used, I
10 just made sure that it was correct. They were
11 totally blind as far as to my eyes, it was a blind
12 process, it is whatever Excel does.

13 CHAIRMAN NICOLAU: Could I just ask, so
14 that in that captain spread there will be only eight
15 instances where the ratio is other than one-to-one,
16 except for, you know, the reinserted-extracted
17 folks?

18 THE WITNESS: Right, in each group of 59
19 east and 51 west which comprises a group to be
20 merged, there will be eight additional east
21 individuals who need to be merged over the entire
22 span of the 59 plus 51.

1 CHAIRMAN NICOLAU: So it is eight times
2 whatever number it takes to reach the total?

3 THE WITNESS: Correct.

4 MR. KATZ: Well, every 51 there would be
Page 31

5 eight --

6 CHAIRMAN NICOLAU: I think I said the same
7 thing, but perhaps I didn't. Okay.

8 MR. GILLEN: That is the manhole doctrine.

9 THE WITNESS: I guess so, I guess so. We
10 will call it that from now on.

11 CHAIRMAN NICOLAU: Sorry to interrupt.

12 BY MR. FREUND:

13 Q That is all right. I was very close being
14 done, I think.

15 One last question to ask you whether there
16 was anything else about the mathematics and the
17 mechanics of the work that you did to understand, in
18 order to understand what it is seeing with this
19 system?

20 A No. I mean the only distinction beyond
21 the examples we have discussed is that the ratio
22 among that group of first officers was

1977

1 mathematically slightly different according to the
2 methodology that was described, and then there is a
3 group of individuals beyond the final first officers
4 to be merged who then follow. So that is -- those
5 are the only mechanical issues.

6 MR. FREUND: That is all I have.

7 MR. KATZ: I have a request and that is
8 that you e-mail us or give us a stip with the merged
9 list and the two lists of people who were pulled
10 and.

11 CHAIRMAN NICOLAU: Were what?

12 MR. KATZ: Pulled and reinserted.

13 MR. FREUND: Do we have a functional list
14 of your materials in Excel format as opposed to PDF
15 format.

16 MR. KATZ: Yes, ask Russ.

17 (Discussion off the record.)

18 MR. FREUND: One way or the other we will
19 make an exchange, either we have got it from you and
20 we will give it to you, or you gave us PDF, you will
21 give us Excel and we will give you Excel.

22 MR. KATZ: I have a couple questions

1978

1 before I ask for a caucus to see what additional
2 questions we have --

3 CHAIRMAN NICOLAU: Okay.

4 MR. KATZ: -- the merger committee may
5 want to ask.

6 RECROSS EXAMINATION

7 BY MR. KATZ:

8 Q Let's start with the list itself, Mr.
9 Mann. On this column on status was it your
10 objective that every individual who has an entry
11 under status is on the list of people who were
12 pulled and then reinserted?

13 A Well, as I described, the only group who
14 were not extracted based upon status were those
15 groups who have an LOA status. So there are, if
16 memory serves correct, there are about 53

17 individuals on the east list who have an LOA status,
18 two individuals on the west who have an LOA status,
19 they were not extracted but every other status that
20 is shown here was extracted.

21 So if you see LOA on a list they were
22 merged without having been extracted or reinserted,

1979

1 if you see some other status other than a blank,
2 they were extracted and then reinserted.

3 Q And was your objective to extract and
4 reinsert everyone who had a status listed other than
5 LOA; is that right?

6 A Yes, I did that according to the
7 integration methodology which does specify that.

8 Q So for instance, if we look at the page
9 that has merged seniority No. 1331 at the top --

10 A Uh-huh, yes.

11 Q Are you on that page?

12 A Yes.

13 Q And you look down to Chris Beebe, who is a
14 national officer, isn't he?

15 A Yes.

16 Q He is actually a double here because he is
17 one of the eight out of every 110 pilots who would
18 be a double U.S. Air, listed not because he has been
19 extracted and reinserted, is that right?

20 A That is correct.

21 Q And if you look above Chris Beebe you see
22 1365, Steven Clegg?

1 A Yes.

2 Q Who is a 767 captain, do you see that
3 entry?

4 A Yes, I do.

5 Q Now, what would be the date of the time
6 when his position as a 767 captain was indicated
7 based on this list, that is when was he a 767
8 captain that required you to put that entry in here,
9 do you know?

10 A Well, I didn't place any entry for dates
11 involved here. These are using the statuses that
12 appeared on the lists that were supplied by Dave
13 Seymour of US Airways. I believe they are the
14 May 19th, 2005 certified seniority list. That is
15 the starting point for both of these, for both lists
16 and of the merged pilot list itself.

17 Q So your understanding is that would be his
18 status as of May 19, 2005, Captain Clegg?

19 A It has no bearing on the merge, but that
20 is the information that appears --

21 Q I am trying to understand the entry on
22 this list.

1 A Yes.

2 Q And then are these numbers consecutive, so

3 that it is true that there would be 618. Looking at
4 Captain Barnes immediately senior on this proposal
5 to Captain Clegg, does the pink number 618 indicate
6 that there are 618 America West pilots senior to
7 Captain Clegg?

8 A The number in that field for both east and
9 west's original lists is the original seniority
10 number, so, for example, Captain Clegg was original
11 seniority number 810 on this list that was used for
12 construction purposes, and -- I am sorry the other
13 individual you were referring to was?

14 Q Dennis Barnes, the America West pilot
15 immediately senior to him?

16 A Right, he was original seniority number
17 618, that is right.

18 Q So there are no skipped numbers in here,
19 as far as you know?

20 A If there are skips on the original lists
21 there will be skips here as well. If there were no
22 skips on the original lists there would be no skips

1982

1 here as well.

2 So in other words, if the original list
3 was not, you know, had for argument's sake a
4 thousand entries on it, but the last one had an
5 original seniority number of 1010, we could conclude
6 that there were ten individuals whose seniority
7 numbers were not on the list for some reason, but
8 again they wouldn't have been for any purpose that I

9 am aware.

10 Q Well, let me just do one exercise. If we
11 add up 618 and 810 and get 1428. What does that say
12 about this analysis we are doing now since Captain
13 Clegg has a 1365 on the list and the sum of 618 and
14 810 is 1428?

15 A Uh-huh, well, like it says, there are
16 individuals whose seniority numbers were not on the
17 are original list.

18 Q About 63 of them?

19 Did you answer?

20 A As I said, if the list had blanks, had
21 missing numbers in it, then this sequence would have
22 missing numbers in it.

1983

1 Q And if you look at the top page of the
2 list do you see that the US Airways list is numbered
3 on the old seniority field one, two, three, five,
4 seven, 11, so there are some U.S. Air numbers
5 missing?

6 A As I anticipated there might be.

7 Q If you flip to the page that has number
8 3674 at the top, that is the merged seniority
9 number?

10 A Yes.

11 Q You see Captain Winter as number 3691?

12 A Yes.

13 Q And merged above Captain Winter are 1595
14 America West pilots hired through July 28, 2003; is

15 that correct?

16 A Yes, that would seem to be correct.

17 Q Would you turn to the page, please, that
18 has No. 4422 at the top. And you described a group
19 of U.S. Air pilots who were at the bottom. Would
20 that be the group start with Donald Day at 4474,
21 immediately junior to Dave O'Dell at 4473?

22 A Yes, the individuals who appear after

1984

1 Mr. O'Dell, whether they were originally merged, you
2 know, Day is possibly in a group that could have
3 been original merged product, but certainly beyond
4 that I suspect that the group is that third
5 component that I mentioned earlier who were not on
6 the active group as it was selected, and then
7 inserted beyond the first officer merged group.

8 Q Okay, and because of the skipped number
9 problem this old seniority No. 2732 does not
10 indicate that Day was the 2732nd name on the US
11 Airways certified seniority list, I think we have
12 pretty well established that haven't we?

13 A What that is, is it is his original
14 seniority No. 2732, not necessarily that there are
15 that number of names.

16 Q That is his number on the US Airways
17 certified seniority list?

18 A Correct.

19 Q If you look at Mr. Day, I have marked them
20 on the actual seniority list that was the certified

21 list, volume B, Exhibit 2, page 63, let me show you
22 this volume of mine, and you see it is the same

1985

1 pilot, he was hired on January 5, 1987. He was born
2 March 7, 1959, he had no furlough time, do you see
3 that entry there?

4 A I see 2732 is his seniority number, that
5 is right.

6 Q Right, and he fits those characteristics I
7 just described; is that correct? If you look across
8 the fields, hired January --

9 A Correct, yes, those dates of hire and
10 birth dates appear on the merged list as well.

11 Q There is no entry in the furlough time is
12 there?

13 A I don't treat furlough time for the
14 purposes of this construction. In terms of your
15 list it doesn't appear there is any furlough time,
16 no.

17 Q And there is a series of numbers at the
18 far left added to our certified list which gives the
19 number of that pilot on the 5098 names, the far
20 left, what is the number next to Mr. Day?

21 A 2561.

22 Q So if you subtract 2561 from 5098 which is

1986

1 the number of names on the certified list, there are
Page 39

2 2537 U. S. Air pilots below Dave O'Dell, and 2560 --
3 2560 above O'Dell, and 2538 below him. It is a
4 pretty even division, isn't it?

5 A Well, if I recall correctly there will be
6 somewhere around, what, 1900 of so, individuals are
7 furloughed individuals, there would be a group of
8 pilots who at one point in time had been considered
9 active, so I think there is probably two groups that
10 are relevant to discuss in that grouping below
11 Captain Day.

12 Q But you don't have any argument with my
13 numbers to you, 2560 above O'Dell and 2538 below
14 him?

15 A Sounds about right, sounds about right.

16 Q Let me take a brief break now if I could
17 to talk to my merger committee.

18 CHAIRMAN NICOLAU: Very good.

19 (11:45 a.m. -- recess -- 12:13 p.m.)

20 MR. KATZ: So shall we go back on the
21 record and finish this cross-examination?

22 CHAIRMAN NICOLAU: Yes.

1987

1 MR. KATZ: You are going to send us the
2 electronic version of the list?

3 MR. FREUND: Yes.

4 MR. KATZ: And also the list of the people
5 who were removed and reinserted.

6 MR. FREUND: Yes, I assume we have that
7 separately.

8 THE WITNESS: I think I can find that.

9 BY MR. KATZ:

10 Q That would be helpful.

11 A It is easily constructed if you wish just
12 by pulling out everything but the LOA.

13 Q But I would like to see what you
14 actually --

15 A Sure, I understand, I will see if I can
16 find that for you.

17 Q Is it a fact, Mr. Mann, that you
18 inevitably used dead and retired pilots in putting
19 those two lists together?

20 A If indeed they were supplied on the
21 original certified list and were dead at that time
22 then, yes, they were integrated.

1988

1 Q But if they died or retired after
2 May 19th, 2005 then they would still be used to
3 construct the list, wouldn't they?

4 A Right, the list was not aged beyond
5 May 19.

6 CHAIRMAN NICOLAU: Isn't that a function
7 of any list that is created on a constructive notice
8 date or merger date.

9 MR. KATZ: Right, but that is why we used
10 the July 1, 2006 date, one of the reasons we used
11 the July 1, 2006 date to create --

12 CHAIRMAN NICOLAU: And since then some
13 people have died and retired.

14 MR. KATZ: It is inevitable there is going
15 to be some of them, the farther back you go the more
16 you get.

17 MR. GILLEN: Long as they can still vote.

18 CHAIRMAN NICOLAU: In your district.

19 MR. KATZ: In Cook County, Illinois they
20 vote, but they vote a million times.

21 In reality because of the older average
22 age of the US Air pilots there is going to be more

1989

1 of them who use up spots in the ratios than America
2 West pilots.

3 And, maybe the best way to do this is to
4 look at the list you created again, Mr. Mann, and
5 No. 281 is Captain Shinn, who testified this
6 morning. Do you see him, 281 merged seniority
7 number.

8 A Yes, I do.

9 Q And because he doesn't show supervisor or
10 management next to his name under the status column
11 he was counted as one of the captains, I can't
12 remember the number, I think it was 969 captains
13 that you used to build the top part of the list?

14 A He was in that group of 969, yes.

15 Q And he testified that in addition to his
16 check airman responsibilities he was on this hiring
17 committee, he spent time hiring, interviewing, going
18 over resumes. Did you exclude people who had
19 comparable duties at US Airways?

20 A The exclusions were based upon statuses
21 that were supplied on the original certified lists,
22 so to the extent they appeared they were considered,

1990

1 to the extent they do not appear, they were not
2 considered.

3 Q Did you make an effort to find out who the
4 check airmen were at America West?

5 A In my role as list merge mechanic, no I
6 did not.

7 Q Do you know how many America West pilots
8 were excluded in counting captains because they were
9 management or supervisor?

10 A I simply don't recall offhand, no.

11 Q But we could go down and count the pink
12 entries on the list under supervisor or management,
13 right, and that would tell us?

14 A That is correct.

15 Q Bob, do you remember what we got when you
16 did that? I guess we got 23. Now, I am going to
17 show you exhibit E-4 of the US Airways pilots, which
18 is an exhibit that we put in through Captain Kirch,
19 and would you read the numbers at the bottom of the
20 column for America West and US Air for the total
21 number of management and supervisors, please?

22 A For US Airways, and again the date here is

1991

1 5-1-05, there are 112 total supervisors and
2 management, and for America West with the apparent
3 date of July 1st, 2005, the total number would be 76
4 supervisors and management.

5 Q And there are percentages next to those
6 two numbers, aren't there?

7 A Yes, there are.

8 Q What do they come out to?

9 A Based upon, again these two read dates and
10 this calculation, it would be 4.1 percent on the
11 east and 4.5 percent on the west.

12 Q In counting captains as the list mechanic,
13 if you counted the check airmen, even though they
14 are in that 78 number of management and supervisors,
15 and you excluded from the count all of the, was it
16 172 US Airways management and supervisors?

17 A Right, the numbers were 76 on the west and
18 112 on the east.

19 Q Okay, sorry, I got those mixed up. If you
20 counted all of the 112, if you excluded all of the
21 112 from the captain count and didn't exclude all of
22 the 76 because you have treated check airmen as line

1992

1 pilots, wouldn't you be proportionally inflating the
2 number of captains for the America West side?

3 A Well, in the first place I don't know what
4 you have hypothesized actually occurred. The second
5 case would of course be that these lists that were

6 used to construct the merged list may not be
7 equivalent to either of these lists here. Certainly
8 one of them is dated several months after the other.
9 Neither date corresponds to the date on which the
10 certified lists appear to apply, which is May 19th,
11 2005. And, you know, I am not in the business of
12 characterizing statuses. They come in as they
13 appeared on the certified lists.

14 So, I don't know if what you have
15 hypothesized is correct, however, if in the case
16 that you have hypothesized, to the extent that
17 statuses differed either because a different date
18 was involved or a different list was involved, then
19 indeed the number of individuals extracted would be
20 different. But the way the actual merger was done
21 would still be based upon the 1121 to 969 in the
22 case of captains. Only in the reinsertion process

1993

1 would the individuals who were either extracted or
2 reinserted be a factor.

3 Q I wasn't really asking about the
4 extraction and reinsertion process, I was asking
5 about the ratios that were used to put the two
6 together. And if you inflated the numbers of
7 America West captains in terms of the standards that
8 were used for the U.S. Air captains you would then
9 be favoring the America West pilots in the
10 development of the list, wouldn't you?

11 A Well, the ratios are based upon active

12 individuals required to man a particular set of
13 fleets. They really have no bearing on the
14 management, supervisory or any other status
15 relationship.

16 It is really the active manpower relative
17 to the particular fleets involved, is the underlying
18 basis for the number of captains or first officers
19 required to staff a fleet. So these, you know,
20 management-supervisory numbers really don't have a
21 bearing on that.

22 Q Don't you think the check airman

1994

1 responsibilities ought to be handled equally to
2 people with check airman responsibilities, to be
3 removed from both sides or kept in the captain count
4 from both sides?

5 MR. FREUND: I am going to interpose --

6 CHAIRMAN NICOLAU: Dan, are you saying
7 that the America West list doesn't treat check
8 airmen as supervisors and the U.S. Air list does?

9 MR. KATZ: That is right.

10 CHAIRMAN NICOLAU: I mean do you know that
11 for a fact?

12 MR. KATZ: Yes, that is what Captain
13 Kirch's testimony was, and that is why the dates are
14 a little bit funny. As Captain Kirch has testified,
15 the date is I believe in July or August for the
16 America West pilots, because that was the only
17 information -- that was the latest information we

18 had, and the only information that we had about who
19 the check airmen were.

20 And I think if the record is to be
21 accurate the America West pilots need to supply the
22 panel and the US Air merger committee with a list of

1995

1 who the check airmen are at some other date, if they
2 want to have another date considered.

3 CHAIRMAN NICOLAU: Would you, Mr. Freund,
4 check that out?

5 MR. FREUND: Absolutely. But my objection
6 was going to be Dan is asking the, perhaps the right
7 questions but for the wrong witness.

8 CHAIRMAN NICOLAU: Well, that may be true,
9 but, you know, that is a consideration. So let us
10 know what you find out, okay?

11 MR. FREUND: Sure, absolutely.

12 CHAIRMAN NICOLAU: Anything else of the
13 witness?

14 BY MR. KATZ:

15 Q I think that you said, I think you
16 misspoke when you were testifying on direct, and
17 let's let the record get cleared up right now on
18 this issue. What I heard you say about the list
19 that you used was that you used one that you got
20 from Dave Seymour. But I think what you actually
21 did was you used the certified lists that each
22 merger committee prepared, and you may have gotten

1 somebody else --

2 A I am sorry, that is right. The fleet
3 record was -- that is correct, the fleet record was
4 from Dave Seymour, right. The lists came from the
5 committees, that is right.

6 Q Okay.

7 A But that was my error, you are correct.

8 Q Just to make it precise, I think you have
9 said in your description which, in footnote 1 you
10 used the America West fleet information from Dave
11 Seymour provided on October 13th, 2006; is that
12 right?

13 A Yes, that is correct, that is another one.

14 Q And your understanding is that is the main
15 line fleet as of some date in the year 2005?

16 A Right, it is titled west main line fleet
17 2005.

18 Q And it would say on there or in receiving
19 the information it would say what date the fleet was
20 as of, the fleet as of May 19th, as you understand
21 it?

22 A I simply don't recall.

1 Q When you say source 2005 PBS data in
2 footnote 2 on the first page, what does that mean?

3 A That is the preferential bidding system
4 result from the May bid that specifies the number of

5 captains and -- number of captains required to man
6 the fleet as of May 2005.

7 Q Is that document in evidence somewhere, do
8 you know?

9 A I don't know if it is.

10 MR. FREUND: I don't believe it is in
11 evidence.

12 BY MR. KATZ:

13 Q Well, I guess just to make sure that we
14 understand what you have done, we would ask that you
15 provide us with this May 2005 PBS data and the Dave
16 Seymour document, because it is not something that
17 rings a bell for us.

18 MR. FREUND: We can do that. It was
19 provided to both --

20 MR. KATZ: It says that in the footnote
21 but we don't know what it is. If you show it to us
22 we will know whether we have got it or not.

1998

1 MR. FREUND: We all have so much stuff we
2 don't know what we have, but we can give that to
3 you.

4 MR. KATZ: Well, I think since the witness
5 is not testifying about the rationale for this
6 exercise I am going to save questions pertaining to
7 that for the next witness.

8 CHAIRMAN NICOLAU: Any redirect of this
9 witness?

10 MR. FREUND: I don't think so, but I want
Page 49

11 to clear up what it is that I am checking on.

12 CHAIRMAN NICOLAU: Well, let me carry that
13 a bit further.

14 MR. FREUND: Yes.

15 CHAIRMAN NICOLAU: Captain Shinn testified
16 that he was also a line holder, as I recall.

17 MR. KATZ: Right.

18 CHAIRMAN NICOLAU: So you know, I think
19 the issue is how do these parties treat check
20 airmen, as supervisors or not as supervisors? And
21 if they treated them differently, why, and, you
22 know, I have got to know from both sides, because we

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1 have to try and figure out some way, if there is a
2 difference in treating them, some way to rationalize
3 that.

4 MR. FREUND: I don't disagree with that
5 but I think it would be worth reserving at this
6 point, that if in fact it is correct that on the
7 America West list someone who is a check airman is
8 not identified as management or supervisor and he
9 wouldn't have been extracted, and that actually
10 works on a ratio basis to the advantage of the US
11 Airways pilots, not to their disadvantage --

12 CHAIRMAN NICOLAU: I think he understands
13 that.

14 MR. KATZ: No, no, in counting captains it
15 works the other way. If you count captains and you
16 count people with these supervisory responsibilities

17 in the captain count then the ratio is going to
18 favor the America West pilots.

19 MR. FREUND: The captain count came from a
20 different baseline, so all I am saying is if they
21 weren't extracted, as they appear, they may not have
22 been extracted and cannot be identified as having

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1 been extracted, it works to the east's advantage.
2 But we should get to the bottom.

3 MR. BRUCIA: Regardless of whose
4 advantage, I have a couple questions on, you have
5 got the check airman issue number one, also the
6 generic classification of a medical leave. What
7 kind of medical leave, LTD, is it short term, long
8 term, what are we going?

9 Again both sides have got to have apples
10 to apples so we can do some comparisons. So
11 whatever standards apply we have to be sure that the
12 standards apply certainly to both lists.

13 Another one that can be a little obtuse is
14 the definition of what a management pilot is, is it
15 somebody who is, you know, your language here says
16 does not hold a line flying position. There are
17 issues at other airlines where if people go off to
18 marketing and they can come back at some point.

19 MR. KATZ: We had one of them.

20 MR. BRUCIA: Yes, very familiar with one
21 or two of those. So again, these are very broad
22 definitions. I think we need to know the micro-

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1 side of things, too.

2 MR. FREUND: Jim, I don't have any problem
3 with that, just so the panel is clear at this point
4 there were designations on lists and those
5 designations were --

6 CHAIRMAN NICOLAU: What was used, yes, we
7 know. I mean nobody is faulting anyone.

8 MR. FREUND: I didn't think anyone was. I
9 just simply wanted to make it clear there weren't
10 any subjective judgments higher.

11 CHAIRMAN NICOLAU: All the panel was
12 trying to do is give you something to do this
13 weekend before we --

14 MR. FREUND: Like we don't have other
15 things to do.

16 I think what would be useful on this point
17 would be to not have Dan and I sit down and talk to
18 each other about a subject but rather to have
19 someone in our two committees at some point, and I
20 am not necessarily suggesting it be done, or after
21 the weekend.

22 CHAIRMAN NICOLAU: Of course not, but you

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1 are right about the first.

2 PHIL: This was in negotiations but early

3 on we made an agreement that SPB would be put next
4 to check pilots names on both sides, and that was
5 done one time by America West, and then was excluded
6 in any future list. And the reasoning behind that
7 was so you could find out how many check airmen
8 there were on each side, so it wouldn't look like
9 there is 23 versus 112 when it is really 80 versus
10 112, and that --

11 MR. FREUND: I am not going to respond to
12 that point, nor do I think it was appropriate that
13 those comments be made. I think what I suggested is
14 exactly what we have to do.

15 CHAIRMAN NICOLAU: Well, it is going to be
16 done, okay.

17 MR. GILLEN: I am a line check airman and
18 nobody better call me a management pilot.

19 CHAIRMAN NICOLAU: That is one of the --

20 MR. GILLEN: You are an LCA, a Line Check
21 Airman.

22 CHAIRMAN NICOLAU: That doesn't make you a

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1 supervisor or doesn't make you management,
2 necessarily.

3 MR. GILLEN: No.

4 CHAIRMAN NICOLAU: But we have to treat
5 them the same somehow or other.

6 So if there are no more questions for Mr.
7 Mann.

8 MR. FREUND: I have no more questions for

9 Mr. Mann.
10 MR. KATZ: No; done for me.
11 CHAIRMAN NICOLAU: We reconvene at 10:00
12 on Monday.
13 MR. KATZ: And the witness list is, how
14 many witnesses are we going to have?
15 MR. FREUND: We are going to have I
16 believe no more than three and possibly two, depends
17 on how we are thinking about one particular witness.
18 Check that, we have -- let's go off the
19 record for a minute.
20 CHAIRMAN NICOLAU: Okay.
21 (Discussion off the record.)
22 CHAIRMAN NICOLAU: We are recessed until

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1 Monday at 10:00.
2 (Whereupon, at 12:37 p.m., the hearing was
3 recessed, to be reconvened at 10:00 a.m., on Monday,
4 January 15, 2007.)
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C O N T E N T S

WITNESS	EXAMINATION
MICHAEL SHINN	
By Mr. Freund	DX 1940
By Mr. Katz	CX 1953
ROBERT W. MANN, JR.	
By Mr. Freund	RDX 1961
By Mr. Katz	RCX 1978

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