

BEFORE THE  
NATIONAL MEDIATION BOARD

In The Matter Of  
THE FLIGHT DECK CREW MEMBERS  
of  
FEDERAL EXPRESS CORPORATION

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NMB CASE NO. R-6044

**MOTION FOR RECONSIDERATION OF  
FEDERAL EXPRESS PILOTS FOR NON-UNION OPERATION**

The Movants, Federal Express Pilots for Non-Union Operation, seek reconsideration of the Board decision entitled "Findings Upon Investigation-Certification issued on June 14, 1993 at 20 NMB No. 86.

1. Federal Express Pilots for Non-Union Operation ("FEPNO") filed its Objections to Certification of Election pursuant to 45 U.S.C. §152 Second, Third and Ninth and §10.3, 10.4, 10.5 and 11.5 of the National Mediation Board Representation Manual on December 8, 1992.

2. Supplemental Objections to Certification of Election due to Election Interference by Air Line Pilots Association and United States Pilots Association were filed by FEPNO on February 5, 1993.

3. FEPNO's objections were predicated upon the facts that:
  - A. USPA's representations were intended to and did confuse flight deck crew members to the extent that a significant number voted for a union despite wanting no union at all.

**TRALINS AND ASSOCIATES**

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- B. ALPA engaged in illegal polling practices intended to coerce and intimidate employees to vote for ALPA.
- C. ALPA intimidated, harassed and coerced crew members by soliciting votes in the flight operations crew room.
- D. The election process as conducted deprived flight deck crew members of their right to choose organization and representation.

4. In its supplemental objections FEPNO provided additional evidence that outside pressure was brought to bear by ALPA officials from other airlines; that improper polling and solicitation by ALPA occurred during the election; that ALPA's organizing committee members made telephone calls to crew members to coerce and intimidate crew members; that ALPA representatives engaged in activities which coerced and intimidated family members of Federal Express flight deck crew members; that ALPA and USPA conspired to throw the election to ALPA; that USPA deliberately misrepresented the NMB's voting procedures so that all the foregoing conduct warranted a rerun election. (The allegations set forth in FEPNO's Objections to Certification and Supplemental Objections are adopted and incorporated herein by reference)

5. On January 22, 1993, the National Mediation Board ruled that FEPNO and Federal Express "have provided a sufficient basis to establish a prima facie case of election interference."

Thereafter the Board directed mediator Gale L. Oppenberg to investigate the prima facie showing of election interference. Accordingly, "On April 27 and 28, mediator Oppenberg conducted interviews on the Federal Express property in Memphis, Tennessee,

with a number of "randomly selected" Federal Express crew members."  
20 NMB No. 86 at 487.

Prior to the conducting of the interviews, mediator Oppenberg specifically advised the parties that the National Mediation Board had selected the Federal Express crew members it wished to interview by culling out from the list of all Federal Express flight deck crew members all individuals who were aligned with FEPNO, the carrier, ALPA, or USPA in order to ensure that the information obtained through the interviews would be fair, impartial and unbiased.

6. The opinion of the National Mediation Board here objected to specifically held that "The crew member interviews conducted by mediator Oppenberg failed to disclose any confusion over the Board's voting procedures." The Board also found "no basis for conducting any additional interviews" as a result of information obtained from the mediator's investigation notwithstanding the fact that only 19 crew members were asked to participate in same.

Of the 19 crew members so selected, it has now been determined that 31.5% of the same were ardent supporters of the Air Line Pilots Association and/or USPA.

7. Thus, the attached affidavits are submitted in support of FEPNO's Motion for Reconsideration which evidence that:

- A. J.X. Golich was a member of the ALPA organizing committee prior to the election and is a member of the ALPA's transitional MEC formed after the election. Mr. Golich was involved in illegal polling and phone harassment of crew members.
- B. E.J. Kafka was a member of the ALPA organizing committee prior to the election and is also a member

of ALPA's transitional MEC. Mr. Kafka was involved in illegal polling and phone harassment of crew members.

- C. J.O. Harrison is an ardent ALPA supporter who actively campaigned for ALPA during the 1975 election.
- D. Larry Valene actively campaigned and help distribute USPA's written communications.
- E. Charlie Kistler actively championed unionism during the 1992-93 election and was a union supporter.
- F. R.A. Fritz wrote a letter complaining about Federal Express to the crew force claiming that the company had unjustly treated him in a DC-10 tail strike he had in Los Angeles which was identified and treated as support for unionism in the subject election.

8. It is obvious, based upon the Board's Findings Upon Investigation-Certification, that the Board was unaware that 31.5% of the supposedly randomly selected unbiased crew members interviewed by mediator Oppenberg were, in fact, ardent union supporters. The same being the case, it is clear that the mediator predicated her report upon information which was biased and skewed to benefit the position of the unions.

9. Finally, given the fact that the Federal Express flight deck crew force consists of 2,280 flight deck crew members, interviews conducted with less than 1% of the same (of which only approximately 1/2% were unbiased) is wholly unmeaningful and should not be utilized, in any respect, by the Board.

10. In this regard, it is important to note that a majority of the Federal Express flight deck crew members voted against the Board's action in certifying ALPA as their bargaining representative.

11. Under these circumstances, the Board, based upon equity and justice, has an obligation to reconsider its June 14, 1993 findings and to conduct a proper, detailed and meaningful employee investigation process, free from the type of invidious bias present in the interviews conducted by mediator Oppenberg on April 27th and 28th.

Dated this 24th day of June, 1993.

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By: 

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing MOTION FOR RECONSIDERATION OF FEDERAL EXPRESS PILOTS FOR NON-UNION OPERATION was served on the following parties by Federal Express mail on this 24th day of June, 1993:

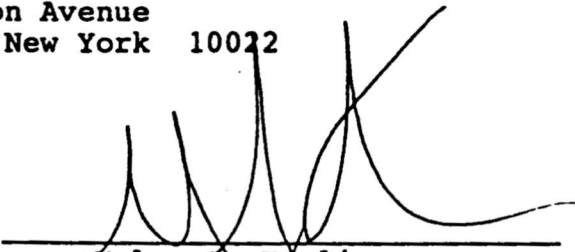
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