



NATIONAL MEDIATION BOARD

WASHINGTON, DC 20572

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31 NMB No. 60
February 4, 2004

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Chairman, President & C.E.O.
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502 Third Street, N.W.
Washington, DC 20001

Re: NMB File No. C-6823/Case No. R-6932
Freedom Air, Inc.

Gentlemen and Ms. Friend:

This determination addresses the request from the Association of Flight Attendants (AFA) to transfer AFA's certification in Case No. R-6932 to the Association of Flight Attendants – Communications Workers of America, AFL-CIO (AFA – CWA). For the reasons discussed below, the National Mediation Board (Board) grants the request and transfers AFA's certification in R-6932 to AFA - CWA.

AFA was certified to represent Flight Attendants on Freedom Air, Inc. (Freedom or Carrier) in Case No. R-6932 (2003). On December 23, 2003, the Board received a letter from AFA requesting a transfer of its certification for Flight Attendants to AFA - CWA.

The Carrier did not provide the Board with a position statement in this matter.

According to the letter from the AFA and the accompanying documents, consistent with AFA's Constitution and By-Laws, AFA's Board of Directors voted on the Merger Agreement at its annual meeting. AFA's Board of Directors is made up of all AFA Local Executive Council (LEC) Presidents sitting as delegates. Of the 67 delegates, 59 voted to approve and endorse the merger and the Merger Agreement. The AFA Board also voted to send the Merger Agreement to a secret ballot vote of the entire membership for ratification. The vote was conducted by an independent company. The balloting was concluded on December 1, 2003. The ballot count determined that a majority approved the merger, with the final tally of 56.2% of the voters approving the merger and 46.5% of those voting disapproving the merger.

The Railway Labor Act requires only that the Board investigate a transfer of certification based on a union merger rather than mandating any procedures for such an investigation. *Continental Airlines, Inc., v. Nat'l Mediation Brd.*, 793 F. Supp. 330 (D.D.C. 1991), *aff'd mem.*, 957 F.2d 911 (D.C. Cir. 1992), *cert. denied*, 493 U.S. 974 (1992).

In most instances, the Board grants a transfer request based upon assertions contained in the request letters. *Consolidated Rail Corp.*, 28 NMB 30 (2000); *Big Sky Transp. Co.*, 25 NMB 376 (1998); *Desert Sun Airlines*, 24 NMB 137 (1997); *Northwest Airlines*, 18 NMB 446 (1991); *Transtar Airlines*, 14 NMB 377 (1987). The Board views an organization's decision to merge into another organization as an internal union matter and will grant requests for transfers of certification based on union mergers unless there is evidence of fraud or gross abuse in the merger or election. *Northwest Airlines*, *above* at 448.

There is no evidence of fraud or gross abuse in the merger or election process in this case. A majority of AFA's

members voted by secret ballot to merge with CWA. Based on its investigation, the Board finds that AFA has merged with CWA. The Board's records are revised to reflect the transfer of the certification issued to AFA in NMB Case No. R-6932 to AFA - CWA.

By direction of the NATIONAL MEDIATION BOARD.

A handwritten signature in cursive script that reads "Mary L. Johnson".

Mary L. Johnson
General Counsel