



**NATIONAL MEDIATION BOARD**  
WASHINGTON, DC 20572

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In the Matter of the Application of the	40 NMB No. 75
AIR LINE PILOTS ASSOCIATION	CASE NO. R-7369 (File No. CR-7092)
alleging a representation dispute pursuant to Section 2, Ninth, of the Railway Labor Act, as amended	FINDINGS UPON INVESTIGATION- CERTIFICATION
involving Employees of	September 5, 2013
AIR TRANSPORT INTERNATIONAL AND CAPITAL CARGO INTERNATIONAL AIRLINES	

This determination addresses the application filed by the Air Line Pilots Association (ALPA or Organization) seeking to represent the craft or class of Flight Deck Crew Members at Air Transport International, Inc. (ATI or Carrier). For the reasons discussed below, the National Mediation Board (NMB or Board) certifies ALPA to represent, for purposes of the Railway Labor Act (RLA), as amended, the craft or class of Flight Deck Crew Members.

PROCEDURAL BACKGROUND

On June 6, 2013, ALPA filed an application requesting the Board to investigate whether ATI and Capital Cargo International Airlines, Inc. (CCI) (collectively the Carriers) are operating a single transportation system and a representation dispute involving the crafts or classes of Flight Deck Crew Members. The Board determined that the Carrier was a single carrier for the craft or class of Flight Deck Crew Members on July 25, 2013. *Air Transport International/Capital Cargo International Airlines*, 40 NMB 241 (2013). The Board converted ALPA's application from CR-7092 to R-7369 for Flight Deck Crew Members and assigned Maria-Kate Dowling to investigate the representation consequences.

ISSUE

Who is the duly designated representative of the craft or class of Flight Deck Crew Members at ATI?

FINDINGS OF LAW

Determination of the issues in this case is governed by the Act, as amended, 45 U.S.C. § 151-188. Accordingly, the Board finds as follows:

I.

ATI is a common carrier as defined in 45 U.S.C. § 181, First.

II.

ALPA is a labor organization and/or representative as defined in 45 USC § 151, Sixth, and § 152, Ninth.

III.

45 U.S.C. § 152, Fourth, gives employees subject to its provisions, “the right to organize and bargain collectively through representatives of their own choosing. The majority of any craft or class of employees shall have the right to determine who shall be the representative of the craft or class for purposes of this chapter.”

IV.

45 U.S.C. § 152, Ninth, provides that the Board has the duty to investigate representation disputes and to designate who may participate as eligible voters in the event an election is required. In determining the choice of the majority of employees, the Board is “*authorized to take a secret ballot of the employees involved or to utilize any other appropriate method of ascertaining the names of their duly designated and authorized representatives . . . by the employees without interference, influence, or coercion exercised by the carrier.*”

### STATEMENT OF FACTS

The Flight Deck Crew Member craft or class at both pre-merger ATI and pre-merger CCI are represented by ALPA. At ATI, the Flight Deck Crew Members are certified under NMB Case No. R-7217. At CCI, the Pilots are certified under NMB Case No. R-6605. As of June 6, 2013, there were 132 active employees in the Flight Deck Crew Members craft or class at the Carrier. This number includes 99 at pre-merger ATI and 33 at pre-merger CCI. In addition, there are approximately 83 furloughed pre-merger ATI Flight Deck Crewmembers and 34 furloughed pre-merger CCI Flight Deck Crewmembers. ALPA has requested that the Board consolidate its certifications at the merged Carrier.

### DISCUSSION

45 U.S.C. § 152, authorizes the Board to investigate disputes arising among a carrier's employees over representation and to certify the duly authorized representative of these employees. Section 2, Ninth grants the Board discretion to "*utilize any other appropriate method of ascertaining the names of their duly designated and authorized representatives . . .*" The Board has exclusive jurisdiction over representation questions under the RLA. *Gen. Comm. of Adjustment of Bhd. of Locomotive Eng'rs for Mo.-Kan.-Tex. R.R. v. Mo.-Kan.-Tex. Ry. Co.*, 320 U.S. 323 (1943); *Switchmen's Union of N. Am. v. Nat'l Mediation Brd.*, 320 U.S. 297 (1943). *See also Bhd. of Ry. and S.S. Clerks v. Ass'n for the Benefit of Non-Contract Employees*, 380 U.S. 650 (1965).

The Board has previously determined that ALPA is the certified representative of the craft or class of Flight Deck Crew Members at pre-merger ATI and pre-merger CCI.

CONCLUSION

NOW, THEREFORE, in accordance with Section 2, Ninth, of the RLA, as amended, and based upon its investigations, the Board certifies that ALPA has been duly designated and authorized to represent the craft or class of Flight Deck Crew Members, employees of ATI, its successors and assigns.

By direction of the NATIONAL MEDIATION BOARD.



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