



NATIONAL MEDIATION BOARD
WASHINGTON, DC 20572

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In the Matter of the
Application of the
**INTERNATIONAL BROTHERHOOD
OF TEAMSTERS**
alleging a representation dispute
pursuant to Section 2, Ninth, of
the Railway Labor Act, as
amended
involving employees of
RAVN AIR GROUP

43 NMB No. 14

CASE NO. R-7451
(File No. CR-7141)

FINDINGS UPON
INVESTIGATION-
DISMISSAL-
INSUFFICIENT
SHOWING OF
INTEREST

February 18, 2016

This determination addresses the application filed by the International Brotherhood of Teamsters (IBT or Organization). The IBT filed an application requesting that the National Mediation Board (NMB or Board) investigate a representation dispute involving the Pilots of “Corvus Aviation/RAVN.”

This application raised the question of the appropriate system; specifically whether Hageland Aviation Services, Inc. (Hageland) and Frontier Flying Service, Inc. (Frontier) are part of a single system with Corvus Airlines (Corvus). All three are part of the Ravn Air Group (Ravn). For the reasons set forth below, Board concludes that the appropriate system for employees covered by the application is all of Ravn’s operations and is not limited to Corvus.

PROCEDURAL BACKGROUND

On July 20, 2015, IBT filed an application alleging a representation dispute involving the craft or class of Pilots at “Corvus Aviation/RAVN.” The Board assigned IBT’s application NMB File No. CR-7141. Ravn notified the Board that it believed that the application did not “accurately identify the

correct system-wide craft or class.” The participants submitted position statements on the issue.

ISSUES

What is the appropriate system for employees covered by the application?
What are the representation consequences?

CONTENTIONS

IBT

IBT does not dispute that there is common ownership of the three operators but contends that this is not the ultimate test. According to IBT, Corvus operates as a “stand-alone carrier” and that it has different operational needs. Corvus pilots perform very different work under different conditions and an election among the Corvus pilots is appropriate. IBT filed a separate seniority list for Corvus and stated its belief that the Carrier stopped posting that separate list upon its filing of a representation application.

Ravn Air Group

Ravn Air Group contends that it is a single system including Corvus, Hageland, and Frontier. There is a substantial integration of operations, financial control, and labor and personnel functions in addition to overlapping ownership and boards of directors. Ravn argues that IBT does not dispute these facts but provides evidence regarding a community of interest among pilots that is not relevant. It maintains that there is a separate list of Corvus pilots for purposes of bidding but that it has always maintained a seniority list including all pilots.

FINDINGS OF LAW

Determination of the issues in this case is governed by the Railway Labor Act, as amended, 45 U.S.C. § 151, *et seq.* Accordingly, the Board finds as follows:

I.

Corvun, Hageland, and Frontier are common carriers as defined in 45 U.S.C. § 181, First.

II.

IBT 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

Background

Ravn (formerly known as Era Alaska) is an Alaska-based airline, owning and operating over 70 aircraft and serving 100 destinations daily. Through its wholly-owned subsidiary HoTH, Inc. (HoTH), Ravn owns three operating certificates for Corvus, Hageland, and Frontier.

Corvus was formerly known as Era Aviation and began operations in 1948. It began scheduled passenger service in Alaska in 1983. Hageland began operations in 1981, transporting passengers and cargo to Alaska’s smaller communities. Frontier was founded in 1950 and provides charter and mail service throughout Alaska.

In 2008, the owners of Frontier and Hageland formed HoTH. In 2009, HoTH acquired Era Aviation. The three airlines (Era Aviation, Frontier, and Hageland) were held out to the public and branded under the single name “Era Alaska.” In 2014, Era Aviation was renamed Corvus and the entire Era Alaska air group was rebranded Ravn Alaska.

Recent Corporate Transactions

On July 31, 2015, there was a change in ownership. The previous owners of Hageland sold their interests in Ravn. Currently, two private equity firms, J.F. Lehman & Company and W Capital, along with the Hajdukovich family (original owners of Frontier), own Ravn through JFL-RAG Partners, LLC (JFL-RAG). JFL-RAG owns Ravn Air Group Holdings, LLC, which owns Ravn. HoTH is a wholly-owned subsidiary of Ravn while Corvus, Frontier, and Hageland remain wholly owned by HoTH. Ravn and all of its subsidiaries share headquarters space in Anchorage, Alaska.

The Boards of Directors for HoTH, Corvus, Hageland, and Frontier are made up of the same individuals and they comprise what is called the Joint Operating Board.

Consolidation of Operations and Labor Relations and Personnel Policies

Operational and personnel matters, including compensation, benefits, and other terms and conditions of employment, at Corvus, Hageland, and Frontier are controlled by the Joint Operating Board. Currently, none of Ravn's employees are represented by a labor union.

The Human Resources needs of all three Ravn operating entities are handled by Corvus' Human Resources (HR) Department, led by Wendy Yow, HR Director Air Group. Hageland and Frontier do not have their own HR departments. Ms. Yow reports to Walter Dallis, Chief Operating Officer for Ravn. The HR staff, all of whom are employed by Corvus, are responsible for all medical and personnel files, benefit issues, and employee complaints, and assist with firing and disciplining of all employees. The centralized HR department also controls recruitment and hiring for all of the operating entities.

The HR department maintains a single employee handbook that covers all Ravn employees. According to the handbook, common policies among the three entities include the following: Equal Employment Opportunity, safety and accident prevention, attendance, compensatory time, reduction in force, outside employment, smoking, and grievance procedure. All Ravn employees are eligible for the same health, dental, and vision coverage, retirement plan, and travel privileges on any Ravn flight.

A corporate training center operated by Corvus provides training to all Ravn employees. Each entity trains its pilots as required by its FAA certificate, but all new employees receive New Hire Training at this training center.

The Ravn fleet consists of 12 aircraft assigned to Corvus, 59 assigned to Hageland, and 1 cargo plane assigned to Frontier. Ravn's charter service does not have any assigned aircraft. When a customer books a charter flight, Ravn chooses an appropriate aircraft and charter fees are paid to Ravn rather than the operator providing the aircraft. The individual entities do not make decisions regarding buying, selling, or leasing aircraft. These decisions are made by HoTH's Board. The Joint Operating Board makes recommendations on these decisions.

How Carrier is Held Out to Public

Routes and schedules for the three entities are handled centrally. The Joint Operating Board makes decisions regarding number of flights per day, type of airplane, and fares. The three operating entities do not have authority to deviate from the schedule or routes. All flight schedules are integrated and published as part of the Ravn Alaska System on www.flyravn.com. According to Ravn, "Hageland and Corvus flights are scheduled so that passengers are able to travel seamlessly from one location to another on both Corvus and Hageland aircraft." Hageland and Corvus coordinate flights and hold flights for passengers connecting between the two. Ravn has issued combined policies for passenger service and baggage operations, including reservations and ticketing, pre-boarding, baggage, unaccompanied minors, traveling with pets, and consumer notices.

Ravn publishes a single map on www.flyravn.com, which does not distinguish which entity is operating the flights. Tickets for Corvus and Hageland are all purchased on that website or by calling a single reservations number. Tickets specify whether the flight is operated by Corvus or Hageland but identify "7H," which stands for Corvus, as the marketing carrier for all flights. Travelers interested in chartering a flight submit a form on the www.flyravn.com website, email charter@flyera.com, or call a single number. The website does not indicate an operating entity for charter flights.

Ravn markets the services of Corvus, Hageland, and Frontier as an integrated system in other aspects. Ravn has a frequent flyer program called FlyAway Rewards and travelers earn points for every Ravn Alaska flight regardless of whether the flight is operated on Corvus or Hageland. Reward credits can also be used at either operating entity. Ravn has a single accounting department that travelers contact for a receipt or refund. Corvus

runs Ravn's Consumer Affairs Department for resolving customer service issues on Corvus, Hageland, and Frontier flights. Corvus also runs Ravn's single Sales, Marketing and Public Relations Department.

Ravn's ticket counters, gates, and flights display the "Ravn Alaska" logo. Personnel who have contact with the public are held out as Ravn Alaska employees and ticket, gate, and ramp employees wear shirts, jackets, hats, and lanyards branded with Ravn Alaska. Passengers can purchase Ravn Alaska merchandise at an online store. Corvus, Hageland, and Frontier liveries all use the same color scheme and say Ravn.

Pilots

Ravn employs approximately 212 pilots, who are on a single seniority list. There are approximately 91 pilots assigned to Corvus, 117 assigned to Hageland, and 4 assigned to Frontier. Pilot compensation is determined by the Joint Operating Board.

Corvus is certified by the FAA as a Part 121 carrier and is a scheduled passenger service operation on larger aircraft. Hageland is certified as a Part 135 carrier, offering chartered and scheduled service for cargo and passengers on smaller aircraft. Frontier is also certified as a Part 135 carrier, offering only cargo services.

Corvus operates flights from its base in Anchorage, where every Corvus pilot begins and ends each work day. Corvus pilots fly scheduled passenger service flights on larger aircraft, do not perform baggage or cargo handling, and have flight attendants staffing their flights. Reserve pilots are available for Corvus flights. In contrast, Hageland pilots fly rural routes out of several different bases throughout Alaska. They work 15-day shifts and are provided with dormitory-style housing at many bases. They also perform baggage and cargo loading functions and do not have flight attendants on their smaller flights.

Ravn has an Inter-Certificate Pilot Transfer Policy, under which pilots can transfer between Corvus, Hageland, and Frontier. According to the policy "Active duty Ravn pilots will be given first consideration over 'off the street' pilot candidates when considering staffing and hiring needs. . . . Pilot position assignments are intended to be rewarded by seniority as depicted in the Ravn Seniority List. . . ." Since 2009, there have been 71 transfers between the three entities. The Carrier provided a list of all of these pilots.

As mentioned above, many Ravn employees wear uniforms with Ravn insignia. Pilots have different uniform standards. Corvus pilots are subject to a uniform policy and wear a uniform consisting of a white shirt with emerald bars and a tie. They must be clean-shaven and winter gear must be in compliance with company standards. Hageland pilots are not subject to a uniform policy and are permitted to grow beards.

DISCUSSION

I.

The Board's Authority

Pursuant to 45 U.S.C. § 152, Ninth, of the Railway Labor Act (RLA) the Board has the power to investigate disputes arising among a carrier's employees over representation and to certify the duly authorized representative of such employees. The Board has exclusive jurisdiction over representation questions under the RLA. *General Comm. of Adjustment v. M.K.T. R.R.*, 320 U.S. 323 (1943); *Switchmen's Union of N. Am. v. Nat'l Mediation Bd.*, 320 U.S. 297 (1943). In *Air Line Pilots Ass'n, Int'l v. Texas Int'l Airlines*, 656 F.2d 16, 22 (2d Cir. 1981), the court stated, "the NMB is empowered to . . . decide representation disputes arising out of corporate restructurings."

II.

Scope of the System

Section 2, Ninth, of the Act provides for representation of employees or subordinate officials on a craft or class basis. The Board has consistently held that such representation must include all employees working in the craft or class regardless of work location. *See e.g. National R.R. Passenger Serv.*, 31 NMB 178, 189 (2004); *Lufthansa Services, Inc.*, 25 NMB 96, 108 (1997).

The Board's practice is to conduct elections across a carrier's entire system and stated this practice since early in its history:

The Railway Labor Act does not authorize the National Mediation Board to certify representatives for small groups of employees arbitrarily selected. Representatives may be designated and authorized only for the whole of a craft or class employed by a carrier.

Pennsylvania R.R. Co. 1 NMB 23, 24 (1937).

When determining the scope of a carrier's system, the Board examines the extent of the consolidation of operations and labor relations. *National R.R. Passenger Serv.*, 31 NMB at 189-90; *Ogden Union Ry. And Depot Co.*, 16 NMB 398, 404 (1989). In addition, the Board examines how the carrier is held out to the public, including how the carrier advertises services and identifies itself in signs, logos, or other indicia. *Dobbs Int'l Serv.*, 19 NMB 198, 205 (1992). The factors considered by the Board in such a case are similar to those considered in a single transportation system determination following a merger. *See id.* at 206 (citing *Trans World Airlines/Ozark Airlines*, 14 NMB 218, 236 (1987), for relevant factors such as "whether labor relations are handled separately or together; whether there is common management; common corporate officers and interlocking Boards of Directors; and whether there is a combined workforce and whether separate identities are maintained for corporate and other purposes.")

There is no doubt that Corvus, Hageland, and Frontier are jointly owned and held out to the public as a single carrier, Ravn Air. The boards of directors of the three entities are made up of the same individuals. The Joint Operating Board makes decisions related to personnel matters and there is substantial operational integration. Human resources are combined, as are marketing and scheduling. They are held out to the public as one airline. Passengers visiting www.flyravn.com can book flights seamlessly on all three entities and the Ravn corporate logo is present at all ticket counters and gates. Regarding the pilots specifically, they are on a single seniority list and are able to transfer between carriers, many having done so in recent years.

The IBT argues that separate FAA operating certificates and differences in working conditions among the pilots prevent the Board from finding a single system. Specifically, they argue that working conditions resulting from separate categories of operating certificates prevent the pilots at Corvus and Hageland from sharing a community of interest.

As noted above, many of the factors relevant here are also considered when determining whether there is a single transportation system following a corporate merger. Therefore, those cases addressing FAA operating certificates are relevant in considering the IBT's argument. Where corporate entities each hold their own operating certificate, the Board considers the extent to which the entities operate independently and has found a single transportation system in a number of cases. *See e.g. Republic Airlines*, 39 NMB 3, 16 (2011); *Continental Airlines/Continental Express*, 20 NMB 326 (1993). This has been true even in cases where there was no plan in place to combine certifications. *See e.g. Chautauqua Airlines*, 37 NMB 148 (2010). In *Atlas Air, Inc. and Polar*

Air Cargo Worldwide, Inc., 35 NMB 259, 266-69 (2008), the Board found a single transportation system where the carriers planned to maintain separate FAA operating certificates, had separate brands, and did not combine their routes or schedules.

The Board has also found a single system where a holding company owned regional carriers with different types of operating certificates. See *AMR Eagle Inc.*, 22 NMB 331 (1995). In *AMR Eagle*, the Board noted AMR Eagle had wholly-owned subsidiaries conducting FAR 135 operations in addition to those with Part 121 operating certificates. *Id.* at 390. The differences caused by the operating certificates did not trump the factors that indicated a single system, such as common labor relations, integration of operations, and how the system was held out to the public. *Id.* at 426. Similarly, in this case, the many factors in support of a single system are not outweighed by the different operating certificates.

The Board acknowledges that corporate arrangements are not static and that it is concerned with “the present status and present interest of the employees involved and not with potential future status and potential future interests of the employee.” *Chicago & Northwestern Railway Company*, 4 NMB 240, 249 (1965). See also *Northwest Airlines, Inc.*, 18 NMB 357, 369 (1991). As has been the case with other carriers in the past, the corporate arrangement here may change, causing the Board to reconsider the proper scope of the system at some future time. See, e.g., *Republic Airlines/Frontier*, 41 NMB 109, 111 (2014) (addressing the issue of whether a single transportation system still existed after one of the carriers making up the system was sold to a private equity firm).

Based upon the facts established by the investigation, Corvus is not a separate system for purposes of Section 2, Ninth. Corvus, Hageland, and Frontier have integrated operations and labor relations and are held out to the public jointly at Ravn Air Group. Corvus is part of Ravn Air Group for representation purposes.

III.

Showing of Interest

The Board has found that Pilots at Corvus are properly part of the system-wide craft or class of Pilots at Ravn Air Group and do not constitute a separate system. Therefore, IBT needed to provide a 50 percent showing of interest for Ravn’s 212 pilots. IBT has failed to provide a showing of interest for Ravn’s Pilots.

CONCLUSION

The IBT has failed to provide a sufficient showing of interest to authorize an election. Therefore, NMB File No. CR-7141 is converted to NMB Case No. R-7451 and dismissed.

By direction of the NATIONAL MEDIATION BOARD.

A handwritten signature in black ink that reads "Mary L. Johnson". The signature is written in a cursive, flowing style.

Mary L. Johnson
General Counsel

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