



NATIONAL MEDIATION BOARD
WASHINGTON, DC 20572

(202) 692-5000

30 NMB No. 59
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Richard A. Siegel, Esq.
Associate General Counsel
National Labor Relations Board
1099 14th Street, NW.
Washington, DC 20570-0001

Re: NMB File No. CJ-6783
NLRB Case No. 28-RC-6135
Signature Flight Support of Nevada

Dear Mr. Siegel:

This letter responds to your request for the National Mediation Board's (NMB) opinion regarding whether Signature Flight Support of Nevada, Inc. (Signature) is subject to the Railway Labor Act (RLA), 45 U.S.C. § 151, *et seq.* On March 3, 2003, the National Labor Relations Board (NLRB) requested an opinion regarding whether Signature's operations at McCarran International Airport, Las Vegas, Nevada (McCarran), are subject to the RLA.

For the reasons discussed below, the NMB's opinion is that Signature's operations and its employees at McCarran are subject to the RLA.

I. PROCEDURAL BACKGROUND

This case arose out of a representation petition filed by the International Association of Machinists & Aerospace Workers, Local Lodge 845, AFL-CIO (IAM or Organization), on December 27, 2002, with the NLRB. IAM sought to represent commercial aviation employees, including ramp service employees, passenger service employees, cabin service employees, fuelers, operations

employees, and ground service equipment (GSE) mechanics of Signature. A hearing was held in NLRB Region 28 on January 14-15, 2003. The NLRB requested an NMB opinion regarding the NMB's jurisdiction over Signature's McCarran operations on March 3, 2003.

The NMB's opinion in this case is based upon the request, record, and transcript provided by the NLRB, and the position statements submitted by Signature and IAM at the NMB's request.

II. SIGNATURE'S CONTENTIONS

Signature contends that it meets both the function and control tests established by the NMB for determining jurisdiction. Signature notes that IAM stipulated that the work performed by its ramp service employees, passenger service employees, cabin service employees, fuelers, operations employees, and GSE mechanics is work traditionally performed by employees in the airline industry.

According to Signature, the carriers which it contracts with at McCarran control the performance of Signature employees. For example, Signature asserts that carrier personnel direct fuelers as to the amount of fuel needed and whether any adjustments to the fuel load level need to be made. Signature also contends that ramp service personnel must receive clearance from the aircraft's pilot before beginning pushback, and carrier personnel direct Signature employees to stop loading one aircraft and start another when changes in the schedule occur. In addition, Signature states that cabin cleaning employees are directed by carrier personnel on how to clean the aircraft (thorough or "quick turn") and may be asked to redo the job if deemed unsatisfactory.

Signature further contends that its customers influence staffing and scheduling. Some carriers require that Signature adjust staffing levels as needed, such as when changes occur with

arriving and departing flights; others, such as Alaska Airlines, require Signature to employ a specific number of employees. Signature also states that carriers can effectively recommend discipline or promotions.

Signature states its employees must comply with the procedures set forth in each carrier's operating manual, as required by the Federal Aviation Authority (FAA). Carriers audit Signature's performance, and Signature may or may not have advanced notice of these audits. Signature asserts that it must respond and correct any identified problems discovered by a carrier during an audit; failure to do so could result in loss of the carrier's business.

Signature also asserts that carriers exercise significant control over the training of Signature's employees. Signature states that carrier-specific training applies to all tasks performed by commercial aviation employees. For example, carriers train Signature employees under a "Train the Trainer" program, who are then authorized to instruct fuelers on carrier-specific procedures. Although employees usually wear uniforms provided by Signature, carriers sometimes require employees to wear carrier insignia. Signature states that it subleases office space from Champion Airlines.

III. IAM'S CONTENTIONS

IAM states that Signature has a long history of collective bargaining under the National Labor Relations Act (NLRA) and a finding of RLA jurisdiction would threaten the collective bargaining relationships at other Signature locations. Furthermore, the IAM contends that there is not sufficient carrier control at Signature's McCarran operations to warrant jurisdiction under the RLA. According to the IAM, Signature hires, evaluates, schedules, supervises, and disciplines its own employees. The IAM also states that while some carriers train Signature management employees, Signature's "rank and file" employees receive the bulk of their training from Signature

personnel in Signature's own training area. Furthermore, the IAM contends that Signature employees wear Signature uniforms although some employees may wear carrier lapel pins as well.

IV. FINDINGS OF FACT

Signature is a BBA Aviation company, a division of BBA Group, PLC and primarily provides fixed-base operations (FBO) for privately-owned aircraft. In addition, Signature provides services to commercial airline customers, including those at McCarran.

In July 2001, BBA Aviation acquired Aircraft Service International Group (ASIG), which provides carriers with ground handling, fueling, and other passenger services. After the acquisition, BBA announced its plan to consolidate commercial airline services under ASIG, leaving Signature as an FBO provider only. Employees performing commercial airline operations under the Signature name were to be reorganized under ASIG. ASIG did not have prior operations at McCarran, therefore Signature employees were separated into two divisions based on whether they perform commercial aviation services or FBO services. Signature and ASIG have separate management and supervisory structures, separate payrolls, human resources, and financial records. Signature stated that it is waiting for authorization for ASIG to operate at McCarran. Therefore, this reorganization is not yet final at McCarran, but is expected to be completed in 2003.

Signature provides fueling service to the following carriers:

Southwest	Northwest	Federal Express
ATA	Japan Air Lines	Singapore
HMY	JetBlue	Champion
Alaska Air	Omni	Midwest Express
Spirit	SkyWest	Hawaiian
Aloha	Sun Country	EG&G

In addition, Signature provides passenger service to Omni and Champion Airlines; ramp service to Omni, Champion, and Alaska Airlines; cabin service to Omni, Champion, Alaska Air, and EG&G; dispatch service to Omni and Champion; and de-icing service to Midwest Express, America West Airlines, Northwest Airlines, ATA, and Alaska Airlines.

Signature submitted two agreements: (1) with Alaska Air and (2) with FedEx and stated that they were representative of agreements it has with other carriers. The Alaska agreement requires a specific number of staff for Signature's services. The FedEx agreement provides that Signature will issue fuel to FedEx's aircraft "in quantities and at times requested by FedEx." The agreement also states that,

Contractor [Signature] agrees that all of its books and records relating to the Services shall be maintained and made available to FedEx or its authorized representative for not less than two (2) years after the termination of this Agreement and shall at all reasonable times during the term thereof be subject to inspection and audit by FedEx or its authorized representative.

Carriers send copies of their operating procedure manuals to Signature and require that Signature maintain and update these manuals as needed. Carriers review the maintenance of these manuals during audits. Fuelers must follow the operating

standards of each carrier they service. Carriers' schedules dictate the hours worked by Signature employees. For example, if an aircraft is late, Signature must keep enough people on duty to service the aircraft. In addition, Signature has added additional personnel to operations when carriers have found the staffing level unsatisfactory.

Carrier personnel direct Signature employees. For example, fuelers receive instructions from each carrier regarding how much fuel to load on each aircraft. Carrier personnel direct Signature ramp agents to stop loading one aircraft and load another if needed, such as when flights are changed. Carrier personnel also determine how bags should be loaded and whether and how to reconfigure a load. Additionally, carriers have standards of conduct for Signature employees working on their ramps. The carriers control hotel and meal vouchers provided to delayed passengers and determine when Signature passenger service employees may distribute them. Signature passenger service agents often work side-by-side with carrier personnel.

A Signature cabin cleaning employee testified that cabin cleaning employees usually know their responsibilities before entering the aircraft; however, in some instances carrier personnel will direct the employees to conduct a quicker cleaning. The witness stated that there have been occasions when carrier personnel found the cleaning unsatisfactory and directed that the cleaning be redone or touched up. In addition, carriers train Signature ramp agents on specific cleaning and security check procedures for aircraft that remain grounded overnight.

Each carrier requires that Signature fuelers undergo specific training. Signature employees are trained by the carriers under a “Train the Trainer” program and are then authorized to administer training to new Signature employees. Training consists of written and video materials provided by the carriers and on-the-job training.

Carriers have the right to inspect employee background checks and training files. In addition, the FAA may arrive unannounced at Signature to review the employees’ background checks. Carriers also have the right to interview Signature employees during the investigation of an incident.

Signature employees wear uniforms provided by Signature. Some employees, however, are required to wear carrier insignia on their Signature uniforms. For example, Champion requires Signature employees to wear a “Champion” button when interacting with passengers. Signature subleases office space from Champion. In addition, carriers pay for the common-use baggage area, which serves as part of a break area for Signature employees.

Signature employees receive rewards from carriers. For example, Alaska grants four passes per year for Signature employees who regularly service Alaska flights. Signature stated that Southwest and Champion have attended Signature picnics and Christmas parties in the past and have raffled off round-trip tickets as rewards.

The carriers may also report unsatisfactory behavior of Signature employees to Signature management. For example, a Champion station manager complained after a Signature employee had an altercation with a Champion employee and requested that the employee no longer work on Champion flights. Signature followed Champion’s instruction, and limited that employee’s assignments to carriers other than Champion. In another example, a terminated fueller of Southwest applied to

work for Signature; Southwest did not want this employee fueling their planes, and as a result Signature assigned this fueller only to work on carriers other than Southwest. Furthermore, Signature noted that it considers carrier reports of employee performance during a Signature employee's annual review. For example, Signature promoted an employee to a lead position after the carrier identified the employee as outstanding and recommended to Signature that he be promoted. Similarly, Signature has requested the carrier's opinion of an employee before granting a wage increase; if the carrier expresses dissatisfaction with the employee's work, Signature will diminish the increase or will not grant the increase at all.

V. DISCUSSION

APPLICABLE LEGAL STANDARD

When an employer is not a rail or air carrier engaged in the transportation of freight or passengers, the NMB applies a two-part test in determining whether the employer and its employees are subject to the RLA. *Avex Flight Support*, 30 NMB 355 (2003). First, the NMB determines whether the nature of the work is that traditionally performed by employees of rail or air carriers – the function test. Second, the NMB determines whether the employer is directly or indirectly owned or controlled by, or under common control with a carrier or carriers – the control test. Both parts of the test must be satisfied for the NMB to assert jurisdiction. *Avex Flight Support, above*. See also *Argenbright Sec., Inc.*, 29 NMB 340 (2002).

Signature does not fly aircraft and is not directly or indirectly owned by an air carrier. Therefore, to determine whether Signature is subject to the RLA, the NMB must consider the nature of the work performed and the degree of control exercised by its air carrier customers.

1. Signature Employees Perform Work Traditionally Performed by Employees of Air Carriers

Signature employees provide ramp service, passenger service, cabin service, fuelers, operations, and ground service equipment (GSE) mechanics for carriers at McCarran. The NMB has found that these services are traditionally performed by employees in the airline industry. *Integrated Airline Servs., Inc.*, 29 NMB 196, 199-200 (2002); *Globe Aviation Servs.*, 28 NMB 41, 45 (2000); *Evergreen Aviation Ground Logistics Enters., Inc.*, 25 NMB 460, 462 (1998); *AMR Combs-Memphis, Inc.* 18 NMB 380, 381 (1991); *Ground Handling, Inc.*, 13 NMB 116, 117 (1986). Therefore, the NMB finds that Signature employees perform functions which have been traditionally performed by airline employees.

2. Carrier Control Over Signature and Its Employees

To determine whether there is carrier control over a company, the NMB looks to several factors, including: the extent of the carriers' control over the manner in which the company conducts its business; access to company's operations and records; role in personnel decisions; degree of supervision over the company's employees; control over employee training; and whether company employees are held out to the public as employees of the carrier. *Aeroground, Inc.*, 28 NMB 510 (2001); *Miami Aircraft Support*, 21 NMB 78 (1993); *Ogden Aviation Servs.*, 20 NMB 181 (1993); *Sapado I (Dobbs Int'l Servs., Inc.)*, 18 NMB 525 (1991).

Carriers exercise substantial control over Signature's McCarran operations. Carriers require Signature employees to follow their operating and training procedures. Carrier personnel direct and supervise Signature ramp service agents, cabin service agents, and passenger service employees. Carriers report personnel problems and recommend discipline, and Signature follows the carrier's recommendations. In addition, carriers may interview employees during the investigation of a disciplinary incident. The carriers' schedules dictate the staffing levels and hours for Signature's employees. Carriers have access to employees' training and background files, and are not required to provide notice for audits. Although Signature provides the uniforms to its employees, some carriers require Signature employees to wear carrier insignia on their uniforms. Furthermore, carriers reward Signature employees for good performance by granting free passes. Finally, Signature leases office space from Champion.

The record shows that the carriers exercise sufficient control over Signature's employees to support a finding of RLA jurisdiction.

CONCLUSION

Based on the record in this case and for the reasons discussed below, the NMB's opinion is that Signature and its employees at McCarran are subject to the RLA. This opinion may be cited as *Signature Flight Support of Nevada*, 30 NMB 392 (2003).

By direction of the NATIONAL MEDIATION BOARD.

Benetta M. Mansfield

Benetta Mansfield
Chief of Staff

Copies to:
Douglas W. Hall, Esq.
Gary C. Moss, Esq.
David Neigus, Esq.
Mary McHugh