



**NATIONAL MEDIATION BOARD**  
WASHINGTON, DC 20572

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35 NMB No. 6

November 15, 2007

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Re: NMB File No. C-6924/Case Nos. R-6459 and R-6460  
Evergreen International Airlines, Inc.

Participants:

This determination addresses the request from the Air Line Pilots Association, International (ALPA) to transfer the certifications in Cases R-6459 and R-6460 from The Aviators' Group (TAG) to ALPA. For the reasons discussed below, the National Mediation Board (NMB or Board) grants the request and transfers TAG's certifications in R-6459 and R-6460 to ALPA.

BACKGROUND

TAG was certified to represent the Pilots on Evergreen Int'l Airlines, Inc. (Evergreen or Carrier) in Case No. R-6459. 24 NMB 7 (1996). TAG was also

certified to represent the Carrier's Flight Engineers in Case No. R-6460. 24 NMB 9 (1996). In a letter dated October 26, 2007, ALPA and TAG notified the Board of the merger of TAG with ALPA, effective November 1, 2007, and requested that the Board transfer TAG's certifications to ALPA. The Board notified the Carrier of TAG and ALPA's request and gave the Carrier until November 14, 2007, to provide the Board with any comments. The Carrier did not submit any comments in this matter.

### THE MERGER OF TAG AND ALPA

The Officers of both TAG and ALPA make this request pursuant to the terms of the Merger Agreement signed by the parties on October 24, 2007, effective November 1, 2007. Both Organizations have met all requirements under their Merger Agreement for a transfer of certifications to ALPA. Consistent with their respective Constitutions and By-laws, both Organizations have approved the Agreement.

In September 2007, ALPA's Executive Council approved the ALPA-TAG Merger Agreement and recommended that it be presented for ratification at the October 2007 meeting of the Executive Board. On September 5, 2007, the members of TAG voted overwhelmingly, with 158 yes votes out of 174 ballots received (90 percent), to approve the Merger Agreement and transfer representation rights to ALPA. Following TAG's ratification vote, ALPA ratified the Merger Agreement at its October 23-24, 2007 meeting.

### DISCUSSION

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*, 506 U.S. 827 (1992).

In most instances, the Board grants a transfer request based upon assertions contained in the request letters. *Miami Air Int'l, Inc.*, 34 NMB 195 (2007); *Capital Cargo Int'l Airlines, Inc.*, 34 NMB 190 (2007); *St. Lawrence & Atlantic R.R., Inc.*, 32 NMB 49 (2004); *Consolidated Rail Corp.*, 28 NMB 30 (2000); *Big Sky Transp. Co.*, 25 NMB 376 (1998). 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. *Capital Cargo, above*, at 191.

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\* 45 U.S.C. §151, *et seq.*

There is no evidence of fraud or gross abuse in the merger or election process in this case. In accordance with the Merger Agreement and both Organization's Constitutions and By-laws, TAG members approved the merger with ALPA by majority vote in a secret ballot election. Based on its investigation, the Board finds that TAG has merged with ALPA. The Board's records are revised to reflect the transfer of the certification issued to TAG in NMB Case Nos. R-6459 and R-6460 to ALPA.

By direction of the NATIONAL MEDIATION BOARD.

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

Mary L. Johnson  
General Counsel