



**NATIONAL MEDIATION BOARD**  
WASHINGTON, DC 20572

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In the Matter of the Application of the	39 NMB No. 67
<b>AIRCRAFT MECHANICS FRATERNAL ASSOCIATION</b>	CASE NO. R-7336 (File No. CR-7064)
alleging a representation dispute pursuant to Section 2, Ninth, of the Railway Labor Act, as amended	FINDINGS UPON INVESTIGATION
involving employees of	September 27, 2012
<b>SOUTHWEST AIRLINES AND AIRTRAN AIRWAYS</b>	

This determination addresses the application filed by the Aircraft Mechanics Fraternal Association (AMFA). AMFA requests the National Mediation Board (NMB or Board) to investigate whether Southwest Airlines (Southwest) and AirTran Airways (AirTran) are operating as a single transportation system.

The investigation establishes that Southwest and AirTran (the Carriers) constitute a single transportation system.

PROCEDURAL BACKGROUND

On May 4, 2011, Southwest notified the Board that “on May 2, 2011, Southwest Airlines Co. acquired 100 percent of the outstanding stock of AirTran Holdings, Inc., the parent company of AirTran Airways. Southwest plans to operate AirTran initially as a wholly owned subsidiary, but after a transition period intends to merge AirTran into Southwest.”

On July 5, 2012, AMFA filed an application alleging a representation dispute involving the craft or class of Mechanics and Related Employees.

Mechanics and Related Employees are represented by AMFA pursuant to certification under NMB Case No. R-6919. Mechanics and Related Employees at AirTran are represented by the International Brotherhood of Teamsters (IBT) pursuant to certification under NMB Case No. R-6455.

The Board assigned AMFA's application NMB File No. CR-7064. The Board assigned Angela I. Heverling to investigate and requested that the Carriers provide information regarding their operations. The Carriers submitted a position statement on July 20, 2012. AMFA submitted its position statement with its application and IBT submitted a statement on July 10, 2012.

### ISSUE

Are Southwest and AirTran operating as a single transportation system? If so, what are the representation consequences?

### CONTENTIONS

#### Southwest and AirTran

The Carriers state that Southwest and AirTran comprise a single transportation system for the craft or class of Mechanics and Related Employees.

#### AMFA and IBT

The organizations agree that the Carriers have taken actions sufficient to create a single transportation system.

### FINDINGS OF LAW

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

#### I.

Southwest and AirTran are common carriers as defined in 45 U.S.C. § 181, First.

II.

AMFA and IBT are labor organizations and/or representatives 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

Southwest was established in 1967 and is headquartered in Dallas, Texas. AirTran is based in Orlando, Florida. On May 4, 2011, Southwest notified the Board that on May 2, 2011, it had acquired 100 percent of the outstanding stock of AirTran Holdings, Inc., the parent company of AirTran. Southwest stated that it “plans to operate AirTran initially as a wholly owned subsidiary, but after a transition period intends to merge AirTran into Southwest.”

AMFA is the certified representative of approximately 2084 employees in the Mechanics and Related craft or class at Southwest. IBT is the certified representative of approximately 392 employees in the Mechanics and Related craft or class at AirTran.

Management and Labor Relations

According to the declaration of George Tompkins, the Director of

Employee Relations for the Carriers' Maintenance and Engineering Department, the Carriers have integrated their senior management. Gary Kelly, Southwest's Chairman of the Board, President, and Chief Executive Officer, is the sole director of AirTran. Many officers of AirTran are also officers at Southwest. Robert Jordan is President of AirTran and the Executive Vice President of Strategy and Planning for Southwest. Ron Ricks is the Executive Vice President Corporate Services and Secretary for both Carriers and Laura Wright is the Senior Vice President and Chief Financial Officer for both Carriers.

The management and staff in the Maintenance and Engineering (M&E) Department have been fully integrated and centralized. The senior leaders, managers, and non-contract employees with AirTran's M&E Department have been transitioned to Southwest and are on Southwest's payroll. On May 2, 2011, the Carriers centralized the administration of its labor relations and personnel functions under Southwest's Labor Relations Department and People Department.

#### Labor Protection Provisions and Interim Agreements

In June of 2012, AMFA and IBT members ratified a proposed Seniority Integration Agreement. According to a memorandum from Jim Sokol, Southwest's Vice President of Maintenance Operations, within 60 days of that ratification, AirTran Employees became badged Southwest Employees with the same benefits as Southwest employees. As of June 22, 2012, Aircraft Maintenance Technicians from Southwest and AirTran were able to service aircraft operated by either airline. After July 2012, AirTran employees began receiving Southwest base pay.

#### Personnel Policies and Employee Benefits

As noted above, the Carriers have merged the administration of its labor relations and personnel functions under Southwest's Labor Relations Department and People Department. AirTran employees receive Southwest base pay rates following the ratification of the Seniority Integration Agreement. According to Sokol, AirTran employees began receiving the Southwest wage rules, such as shift differentials, in July 2012.

#### FAA Operating Certificate

On March 1, 2012, Southwest and AirTran received approval from the Federal Aviation Administration (FAA) for a single operating certificate.

### Routes and Schedules

The Carriers have not published combined schedules or routes yet, but they have coordinated their route networks to maximize capacity. Southwest has started converting AirTran routes to Southwest routes in a limited number of destinations, including Key West, Florida and Des Moines, Iowa.

### Marketing

At this time, AirTran and Southwest maintain separate brands. Southwest has begun using its marketing vehicles, such as its website and email marketing, to market AirTran products. The Southwest website provides a link to reserve international travel through AirTran. AirTran's website describes the airline as a wholly-owned subsidiary of Southwest. There is currently no schedule for when the Carriers plan to advertise both brands together through marketing media. The Carriers continue to maintain separate websites for reservations. The frequent flyer and credit card programs have not been combined.

### Corporate Name, Livery, and Logos

The Carriers intend to merge AirTran into Southwest; however, as discussed above, the Carriers maintain separate brands at this time. Southwest is planning to convert most of the AirTran fleet to its marketing and insignia. In March 2012, the conversion of AirTran aircraft began. As of June 2012, three aircraft had been painted with the Southwest livery. All AirTran 737s are scheduled to display the Southwest livery by 2014.

### Common Uniforms and Insignia

Although uniforms have not yet been standardized across the Carriers, in August 2012, all AirTran M&E employees were given a uniform allotment to purchase a set of five Southwest uniforms.

### Representation of Engineers and Related Employees

As noted above, AMFA is the certified representative for approximately 2084 Mechanics and Related Employees at Southwest. The IBT represents approximately 392 Mechanics and Related Employees at AirTran.

## DISCUSSION

### I.

#### The Board's Authority

45 U.S.C. § 152, Ninth, authorizes the Board 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.

#### Single Transportation System

Section 19.4 of the Board's Representation Manual provides that: "Any organization or individual may file an application, supported by evidence of representation or a showing of interest . . . seeking a determination whether a single system of transportation exists."

In *Trans World Airlines/Ozark Airlines*, the Board cited the following indicia of a single transportation system:

[W]hether a combined schedule is published; how the carrier advertises its services; whether reservation systems are combined; whether tickets are issued on one carrier's stock; if signs, logos and other publicly visible indicia have been changed to indicate only one carrier's existence; whether personnel with public contact were held out as employees of one carrier; and whether the process of repainting planes and other equipment, to eliminate indications of separate existence, has been progressed.

Other factors investigated by the Board seek to determine if the carriers have combined their operations from a managerial and labor relations perspective. Here, the Board investigates whether

labor relations and personnel functions are handled by one carrier; whether there are a common management, common corporate officers and interlocking Boards of Directors; whether there is a combined workforce; and whether separate identities are maintained for corporate and other purposes.

14 NMB 218, 236 (1987).

The Board finds a single transportation system only when there is substantial integration of operations, financial control, and labor and personnel functions. *Delta Air Lines, Inc./Northwest Airlines, Inc.*, 36 NMB 36 (2009); *Burlington N. Santa Fe Ry. Co.*, 32 NMB 163 (2005); *Huron & Eastern Ry. Co., Inc.*, 31 NMB 450 (2004); *Portland & Western R. R., Inc.*, 31 NMB 71 (2003).

Further, the Board has noted that a substantial degree of overlapping ownership, senior management, and boards of directors is critical to finding a single transportation system. *Precision Valley Aviation, Inc., d/b/a Precision Airlines and Valley Flying Serv., Inc., d/b/a Northeast Express Reg'l Airlines*, 20 NMB 619 (1993). In *Delta Air Lines/Northwest Airlines, above*, the Board found a single transportation system where the FAA had accepted the carriers' plan for transition to a single operating certificate; there was a single board of directors; the carriers and the union had reached an agreement on seniority integration; and management and human resources positions had been integrated.

In the instant case, AirTran is a wholly-owned subsidiary of Southwest. The Carriers have combined senior management and labor and personnel functions. AirTran's only director is Chairman of the Board at Southwest. The employees in the Mechanics and Related craft or class have ratified a Seniority Integration Agreement and AirTran employees have begun receiving Southwest base pay rates and wage rules, such as shift differentials. Further, the FAA has approved a single operating certificate for the Carriers.

Although there are still areas where further integration is required, there is no doubt that Southwest and AirTran will continue to merge. As the Board has previously determined, one carrier's acquisition of another as a wholly-owned subsidiary is not sufficient on its own for single carrier determination. See *e.g. American Airlines/Reno Air*, 26 NMB 467, 478-79 (1999); *USAir Inc./Piedmont Aviation, Inc.*, 16 NMB 412 (1989) (determining that a single transportation system existed two years after Piedmont became a wholly-owned

subsidiary of USAir). In the instant case, however, there is a substantial degree of overlapping senior management, labor relations have been integrated, and the carriers and unions have reached agreement on seniority integration. Progress has begun in other areas, such as converting AirTran aircraft and transitioning to common uniforms.

Based upon the application of the principles to the facts established by the investigation, the Board finds that Southwest and AirTran operate as a single transportation system for representation purposes of the Mechanics and Related Employees craft or class.

### CONCLUSION

The Board finds that Southwest and AirTran are operating as a single transportation system for representation purposes under the RLA. Accordingly, AMFA's application in File No. CR-7064 is converted to NMB Case No. R-7336. Pursuant to Manual Section 19.6, the investigation will proceed to address the representation of this craft or class. Any Intervenor has 14 days from the date of this determination to file an application supported by a requisite showing of interest of the single transportation system. The participants are reminded that under Manual Section 19.7, existing certifications remain in effect until the Board issues a new certification or dismissal.

By direction of the NATIONAL MEDIATION BOARD.



Mary L. Johnson  
General Counsel