



NATIONAL MEDIATION BOARD
WASHINGTON, DC 20572

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In the Matter of the Application of AIR LINE PILOTS ASSOCIATION, INTERNATIONAL alleging a representation dispute pursuant to Section 2, Ninth, of the Railway Labor Act, as amended involving employees of ALASKA AIRLINES, INC. / VIRGIN AMERICA, INC.	44 NMB No. 17 CASE NO. R-7492 (FILE NO. CR-7169) FINDINGS UPON INVESTIGATION -- SINGLE CARRIER DETERMINATION May 5, 2017
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This determination addresses the application filed by the Air Line Pilots Association, International (ALPA or Organization). ALPA requests the National Mediation Board (NMB or Board) to investigate whether Alaska Airlines, Inc. (Alaska) and Virgin America, Inc. (Virgin America) (collectively the Carriers or Combined Carrier) are operating as a single transportation system for the craft or class of Pilots.

The investigation establishes that Alaska and Virgin America constitute a single transportation system.

PROCEDURAL BACKGROUND

On December 30, 2016, pursuant to the NMB's Merger Procedures and NMB Representation Manual (Manual) Section 19.3, the Carriers notified the Board that, on December 14, 2016, Alaska Air Group, Inc. (AAG), parent of Alaska Airlines, Alpine Acquisition Corp. (a wholly owned subsidiary of AAG), and Virgin America implemented their April 1, 2016 Agreement and Plan of Merger (Merger Agreement), resulting in "AAG's acquisition of 100 percent of the outstanding shares of Virgin America." On March 17, 2017, ALPA filed an

application alleging a representation dispute involving the craft or class of Pilots at the Carriers.

The Board certified ALPA as the representative of the Pilots at Alaska Airlines on November 18, 1987 in NMB Case No. R-3548. The Board certified ALPA as the representative of the Pilots on Virgin America on June 5, 2015 in NMB Case No. R-7430.

The Board assigned Cristina Bonaca to investigate and requested that the Carriers provide information regarding their operations. On April 7, 2017, the Carriers submitted a position statement. ALPA filed a position statement with its application and filed a brief additional statement on April 13, 2017.

ISSUE

Are Alaska and Virgin America operating as a single transportation system?

CONTENTIONS

ALPA

ALPA states that the Carriers satisfy the NMB's requirements for a single transportation system for the craft or class of Pilots.

Alaska and Virgin America

The Carriers state that, while complete integration of flight operations will not be possible until the Federal Aviation Administration (FAA) issues a single operating certificate, Alaska and Virgin America nonetheless constitute a single transportation system within the meaning of the Board's case law. The single transportation system is evidenced by common ownership, common management and corporate officers, financial integration, centralized labor relations, and the fact the Carriers are holding themselves out to the public as a single transportation system. Further, the Carriers note that the Board recently found Alaska and Virgin America to be a single transportation system for the crafts or classes of Flight Attendants and Clerical, Office, Fleet & Passenger Service Employees. *See Alaska Airlines, Inc./Virgin America, Inc.*, 44 NMB 25 (2017); *Alaska Airlines, Inc./Virgin America, Inc.*, 44 NMB 49 (2017).

FINDINGS OF LAW

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

I.

Alaska and Virgin America are common carriers 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

Background

ALPA is the certified representative of the Pilots craft or class at both Alaska and Virgin America. The collective bargaining agreement (CBA) currently in effect between Alaska and ALPA has an amendable date of April 1, 2018. Virgin America and ALPA have not yet completed negotiations for their initial CBA. ALPA, AAG, Alaska and Virgin America have negotiated a Transition and Process Agreement (TPA) that establishes a negotiation, mediation, and arbitration process to reach a joint collective bargaining agreement (JCBA) governing the terms and conditions of employment for Pilots at the Combined Carrier. Negotiations for the JCBA began at the end of January 2017 and are ongoing. The TPA also provides a timeline and process for integration of the pre-merger Alaska and Virgin America Pilot seniority lists in a manner consistent with ALPA's Merger Policy. It is expected that a JCBA will be negotiated by the end of the year.

According to the Carriers, as of March 15 and 13, 2017, respectively, there were approximately 1898 Pilots at Alaska and 747 Pilots at Virgin America.

Common Corporate Ownership

As a result of the implementation of the Merger Agreement, Alaska and Virgin America are now each wholly-owned subsidiaries of AAG. Common shares of AAG are traded on the New York Stock Exchange (NYSE) under the symbol "ALK." Virgin America shares are no longer listed on the NASDAQ Global Select Market. A common investor relations, media, and customer website for AAG – www.differentworks.com – has been created.

Common Board of Directors

As of the merger close on December 14, 2016, AAG's and Alaska's Boards of Directors are each comprised of the following members: Bradley D. Tilden, Chairman; Patricia M. Bedient, Lead Independent Director; Phyllis J. Campbell, Lead Independent Director; J. Kenneth Thompson; Jessie J. Knight, Jr.; Eric K. Yeaman; Dhiren R. Fonseca; Katherine J. Savitt-Lennon; Marion C. Blakely; Helvi K. Sandvik; and Dennis F. Madsen. As of the same date, Bradley D.

Tilden also serves as the sole member and Chairman of the Virgin America Board of Directors. As of February 14, 2017, the AAG and Alaska Boards of Directors also constitute the Board of Directors for Virgin America.

Common Management

In a December 14, 2016 press release, Alaska announced that its President and Chief Operating Officer, Ben Minicucci, had become part of Virgin America's Leadership Team. On that same date, an internal memorandum named the remaining post-merger team of corporate officers for Virgin America: Ben Minicucci, President and Chief Operating Officer of Alaska, is now Chief Executive Officer of Virgin America; Brandon S. Pedersen, Executive Vice President, Finance and Chief Financial Officer of AAG and Alaska, is now also Chief Financial Officer of Virgin America; Mark Eliassen, AAG and Alaska's Vice President, Finance and Treasurer, is now also Treasurer of Virgin America; Shannon K. Alberts, AAG and Alaska's Corporate Secretary, is now also Corporate Secretary of Virgin America; and Jeff Butler, Alaska's Vice President of Airport Operations and Customer Service, now also serves as Vice President, Guest and Inflight Services for Virgin America with responsibility for Airports, Inflight, Call Centers, Corporate Real Estate and Catering.

Alaska senior executives and senior management have assumed post-merger responsibilities for both companies. Kyle Levine, Alaska's General Counsel and Vice President-Legal, has responsibility for legal functions for the Combined Carrier. Kevin Ger, Alaska's Vice President- Revenue Management, has responsibility for revenue management functions for the Carriers. Shane Tackett, Alaska's Vice President-Revenue and E-Commerce, now has responsibility for those functions for both Carriers. John Kirby, Alaska's Vice President-Capacity Planning, now holds that responsibility for Alaska and Virgin America.

The majority of Virgin America's senior management team will be staying with Virgin America to assist with integration. As the integration effort proceeds, certain Alaska and Virgin America positions will be merged. The Virgin America teammates in headquarters positions and frontline leadership roles who have agreed to stay following the merger will be transitioning to roles at the Combined Carrier over the next months.

Alaska has also established an Integration Management Office (IMO), led by Torque Zubeck for Alaska and Amy Burr for Virgin America. Currently consisting of more than 90 Alaska and Virgin America employees, the IMO has completed its development of a specific integration plan. As part of this plan, the IMO has defined and is now executing the commercial, operational, and enabling goals for the complete integration of the two Carriers.

Seattle, Washington, the location of Alaska's headquarters, will serve as the location of the Combined Carrier's headquarters. The Virgin America offices in Burlingame, California will function as a regional office for the Combined Carrier. A relocation guide has been provided to Virgin America employees who will be moving to Seattle. In February 2017, the Carriers brought together pre-merger Virgin America managers who are serving in a post-merger role for at least six months for a 2-day Alaska management onboarding program called "LIFT." The program was facilitated by Alaska senior management and included "nuts and bolts" training and orientation on subjects including operations, finance, budget, compliance systems, processes, and planning. The program included a discussion of the Combined Carrier's leadership and cultural expectations, with a focus on employee supervision, labor relations, performance management, career development, and disciplinary policies.

Financial Integration

On December 14, 2016, AAG made its first filing with the Securities and Exchange Commission as parent of both Alaska and Virgin America. AAG's filing, a Form 8-K, included a description of the closing of the merger. AAG will report its financial results on a consolidated basis, with separate reporting for Alaska and Virgin America. On January 10, 2017, AAG reported December and full-year operational results on a combined basis for Alaska and Virgin America. On February 8, 2017, the Combined Carrier issued its full fourth quarter earnings release, including a full investor Update with information about fuel hedge positions, planned capital expenditures, fleet, and share repurchase activity. On March 29, 2017, AAG held its first Investor Day related to the integration of the Combined Carrier.

Centralized Control of Labor Relations

Alaska's Vice President Labor Relations, Greg Mays has assumed responsibility and direction for all labor relations at the Carriers. According to the Carriers, Elizabeth Ryan, Alaska's Managing Director-Labor Relations now serves as the Managing Director-Labor Relations Air with responsibility for the Pilot, Flight Attendant, and Dispatcher work groups at both Carriers. Bob Hartnett, Alaska's Director-Labor Relations Ground, now serves as Director, Labor Relations Ground with responsibility for Clerical, Office, and Passenger Service (COPS) employees, Ramp and Stores (RSSA) employees, and Maintenance and Engineering employees at both Carriers. John Goodrich, Alaska's Duty Manager-Station Operations, now serves as interim Manager-Labor Relations, supporting Virgin America. Mr. Goodrich is based in Burlingame, California and reports to Mr. Harnett.

Labor Protection Provisions and Interim Agreements for other Employees

On March 13, 2017, the Board issued a decision finding a single transportation system for the craft or class of Flight Attendants at the Combined Carrier. *Alaska Airlines, Inc./Virgin America, Inc.*, 44 NMB 25 (2017). The Transport Workers Union (TWU) was the representative of the pre-merger Virgin America Flight Attendants, and the Association of Flight Attendants-CWA (AFA) was the representative at Alaska. The two organizations had signed a seniority integration protocol confirming that the seniority lists for the two Flight Attendant groups would be merged in accordance with the AFA Constitution and Bylaws' Merger Policy. The Board extended AFA-CWA's certification to include all of the Flight Attendants in the craft or class at the combined system. *Alaska Airlines, Inc./Virgin America, Inc.*, 44 NMB 63 (2017).

On April 6, 2017, the Board issued a decision finding a single transportation system for the craft or class of Clerical, Office, Fleet & Passenger Service Employees at the Combined Carrier. *Alaska Airlines, Inc./Virgin America, Inc.*, 44 NMB 49 (2017). The Board will soon address the representation consequences for the Clerical, Office, Fleet & Passenger Service Employees at the Combined Carrier.

Dispatchers at Alaska are represented by TWU pursuant to a certification in NMB Case No. R-6020. The Dispatcher CBA currently in effect between Alaska and TWU has an amendable date of March 24, 2019 and makes no

provision for a JCBA in the current circumstances. Virgin America's Dispatcher employees are unrepresented. TWU has filed an application seeking to represent the Dispatchers craft or class at the Combined Carrier and the Board has docketed the case as NMB File No. CR-7170.

Alaska's Mechanics and Related Employees craft or class is represented by the Aircraft Mechanics Fraternal Association (AMFA) pursuant to a certification in NMB Case No. R-6572. The CBA between Alaska and AMFA covering this craft or class has an amendable date of October 16, 2016 and also makes no provision for a JCBA in the present circumstances. On December 10, 2016, Alaska and AMFA reached an agreement in principle on a new CBA. The agreement in principle was developed into a formal tentative agreement and was ratified by AMFA's membership in March 2017. Virgin America's Mechanics are unrepresented.

Common Personnel Policies and Employee Communications

Peggy Willingham, Alaska's Vice President, Human Resources, will assume responsibility for all human resources functions at both carriers. Members of Virgin America's Compensation, Benefits, and Back Office Recruiting teams have been fully combined with those of Alaska. Virgin America's Frontline Recruiting and Teammate Relations functions will combine with those of Alaska in June 2017. The Combined Carrier is in the process of harmonizing Virgin America's and Alaska's respective personnel policies and procedures. The Combined Carrier will implement the common policies as they are developed and will make the details of those policies and any changes available to employees on each carrier's intranet.

The Combined Carrier conducted a series of full-day workshops throughout January, February, and March 2017 for Virgin America and Alaska employees. At these "Momentum" workshops, executives and leaders from both Carriers presented talks and interactive sessions aimed at fostering relationships between employees of the two carriers.

The Combined Carrier has taken steps or will soon take steps to implement common policies in the following areas: employee identification numbers, employee newsletter, employee calendars and email, employee travel policies, personnel and payroll systems, and incentive rewards programs. Alaska's intranet system, alaskaworld.com, will be the intranet resource for all

employees. Alaska's performance management process is currently under review. A modified process will be incorporated into the 2018 performance management cycle applicable to both carriers. Governance of Alaska's 401(k) plan is scheduled to fully transition to the Combined Carrier in the second quarter of 2017. In November 2017, all employees will participate in a single enrollment period for 2018 health and welfare benefits coverage.

FAA Operating Certificate and Operations

The Carriers are working toward obtaining their single operating certificate from the FAA, which is expected in the first quarter of 2018. On March 1, 2017, the FAA approved the Alaska/Virgin America Transition Plan and issued both Carriers the A502 operations specification that provides both Carriers approval to implement their five Revision Cycle Transition Plan. The first and second Revision Cycles' process development and safety review are complete. The first Revision Cycle has been implemented, the second Revision Cycle has been submitted to the FAA for review prior to implementation, and the third Revision Cycle is now underway.

While the Carriers continue to make flight operations decisions, they have determined that Alaska's Boeing procedures and Flight Operations Manual, and Virgin America's Airbus procedures, will be used for the Combined Carrier.

A codeshare agreement between Alaska and Virgin America was signed and made effective on December 15, 2016. This codeshare agreement permits each Carrier to market and place its airline designator code on flights operated by the other Carrier. Currently, the Carriers have elected to only place Alaska's code on Virgin America flights. Codeshare flights became available for sale on December 19, 2016. The Carriers intend for codesharing to continue as currently implemented until a single operating certificate is obtained from the FAA. The Carriers have already expanded Alaska's existing Global Partners network to include Virgin America.

The Combined Carrier's network planning process is now coordinated under the leadership of John Kirby, who is directing short-term capacity planning and longer-term network strategy for the Combined Carrier. Mike McQueen, who reports to Mr. Kirby, is now the Director of Schedule Planning, with direct responsibility for the Schedule Planning and Schedule Distribution

functions of the Combined Carrier. The Revenue Management function, including Pricing, Inventory, and Revenue Analysis, has been consolidated under the direction of Shane Tackett, Vice President -- Revenue & E-Commerce. Mr. Tackett has also assumed responsibility for both Carriers' Fare Distribution and E-Commerce functions.

Holding out to the Public

Until the issuance of a single designator code and single operating certificate, the Carriers must fly separately under the Alaska and Virgin America names. They have taken significant steps, however, to integrate their operations. Following the announcement of the merger agreement in April 2016, the Carriers introduced a website, www.FlyingBetterTogether.com, now called www.differentworks.com, which provided information about the process for integrating the two Carriers. On December 14, 2016, each Carrier sent members of their frequent flyer programs an update on the merger. All frequent flyers on one Carrier are able to earn miles when travelling on the other Carrier's flights. Since January 9, 2017, frequent flyers have also been able to use miles from one program to book award travel on the other Carrier. The Combined Carriers expect to fully combine the frequent flyer programs by the end of March 2018. Also, "Different Works" seatback inserts have been distributed on all Alaska and Virgin America aircraft, describing the benefits of the merger for customers.

For a period of time following the merger announcement, the Carriers had a process allowing customers to be transferred between call centers. The customers calling either Carrier were greeted with a message from Jeff Butler, Vice President with responsibility for airport operations and customer service for both Carriers, about the merger and new website.

The Carriers have also begun the process of co-locating gates to enable smoother connections for their passengers. In Seattle, for example, the Combined Carrier has moved Virgin America's gates from the B concourse to the D concourse to be closer to Alaska's D concourse gates. Additionally, Virgin America has moved its operations offices in Seattle to the D concourse. In Boston, Virgin America and Alaska have been co-located into the same terminal with adjoining ticket counters. Directional signage, to announce the

merger and direct customers, have been posted at airports served by both Carriers.

Customers can access and print their boarding passes for flights on either Carrier from Alaska's website. The boarding announcements on Alaska and Virgin America have been aligned to accommodate both Carriers' priority passengers. Additionally, Virgin America's boarding process has been changed to more closely align it with Alaska's boarding process. Inflight Services, such as inflight announcements, are in the process of being made uniform between the Carriers. The Carriers now have a single inflight wireless internet portal, "Gogo®," for which customers can apply their monthly passes to inflight internet service on either Alaska or Virgin America. Customers with day passes or access to either Carrier's club lounge are able to access the other Carrier's lounge.

The Combined Carrier has implemented an emergency response procedure between the Carriers. This procedure ensures that both Carriers are available to provide aid to each other, and to each other's customers, in case of an incident requiring the other Carrier's support.

Brand Elements and Livery

In April 2016, when the merger agreement was signed, the Carriers released an announcement -- "Alaska Air Group to Acquire Virgin America, Creating West Coast's Premier Carrier." During the merger process, the Carriers' adopted the slogan "Different Works" to reflect a theme of integration in recognition that, while Alaska and Virgin America may seem different on the surface, they are in fact fundamentally similar. Alaska also adopted Virgin America's stated purpose of "Creating an Airline People Love." On December 20, 2016, Alaska issued an internal press release announcing this combined statement of purpose. The Combined Carrier continues to market itself as the "West Coast's Premier Carrier."

The Combined Carrier has conducted focus groups, surveys and a "Values Jam" to confirm that, while Alaska and Virgin America have differences, there is a lot of common ground. The Combined Carrier announced the results of its brand analysis in March 2017, concluding that the Combined Carrier will operate under the Alaska brand name, and the Virgin America name will retire likely sometime in 2019.

The “Different Works” marketing campaign has been implemented by the Combined Carrier through a special livery, billboards, television commercials, the “differentworks.com” website, and other electronic marketing techniques. On December 14, 2016, the Carriers unveiled an Alaska/Virgin America “More to Love” livery on a special commemorative co-branded airplane to celebrate the close of the merger.

Standardized Uniforms

All Alaska and Virgin America employees have been issued a commemorative pin and luggage tag displaying the signature colors and logos of both Carriers. Since the merger announcement, the Carriers have undergone qualitative and quantitative research with Virgin America frontline teammates with respect to uniforms. The Carriers intend to consider the information gathered during this process as it moves forward with the design of a standardized uniform. Accordingly, for now, Alaska and Virgin America employees will continue to wear their own distinctive uniforms.

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 Brd.*, 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

Manual Section 19.4 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. *Southwest Airlines/AirTran Airways*, 43 NMB 120 (2016); *Delta Air Lines/Northwest Airlines*, 36 NMB 36 (2009); *Burlington N. Santa Fe Ry. Co.*, 32 NMB 163 (2005); *Huron and Eastern Ry. Co., Inc.*, 31 NMB 450 (2004). 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).

The Board has recently found that Alaska and Virgin America are a single transportation system with regard to the Flight Attendant craft or class and the Clerical, Office, Fleet & Passenger Service Employees craft or class. *Alaska Airlines/Virgin America*, 44 NMB 25 (2017); *Alaska Airlines/Virgin America*, 44 NMB 49 (2017). Since these decisions, Alaska and Virgin America have moved even closer to complete integration.

The Carriers have continued to integrate their operations and are moving closer to securing their single operating certificate from the FAA. The first and second Revisions Cycles' process development and safety review are complete and the third Revision Cycle is underway. Until issuance of a single designator code and operating certificate, the Carriers will to the maximum extent feasible, continue to integrate passenger-related functions.

The Carriers are wholly-owned subsidiaries of AAG. Bradley D. Tilden, Chairman of the AAG and Alaska Board of Directors currently serves as the sole member and Chairman of the Virgin America. Alaska and Virgin America have identical Boards of Directors. The Carriers have common management, including their CEOs, CFOs, Treasurers, Corporate Secretaries and numerous Vice Presidents. The finances of the Carriers are under the direction of a single officer and are reported on a consolidated basis. Labor relations are under the direction of a single executive and under the control of a single management group. Personnel and human resources functions are being consolidated.

The Carriers and ALPA have negotiated a TPA which establishes a process to reach a JCBA governing the terms and conditions of employment for Pilots at the Combined Carrier. It is expected that a JCBA will be negotiated by the end of the year.

The Carriers continue to regularly communicate to the public and their customers, through traditional and social media, that they are combining into a single airline. The Carriers have already decided that they will operate under the Alaska brand name and that Seattle, Washington will be the Combined Carrier's headquarters. The Carriers continue to integrate routes and schedules through their code-sharing relationship. Customer operations have

been integrated. This includes recognition of each other's frequent flyer programs and reciprocal lounge access. The Carriers have co-located gates, ticket counters, and offices at airports where both have operations.

Based upon the application of the principles to the facts established by the investigation, the Board finds that Alaska and Virgin America are a single transportation system for representation purposes in the Pilots craft or class.

CONCLUSION

The Board finds that Alaska and Virgin America are operating as a single transportation system for representation purposes under the RLA. Accordingly, ALPA's application in File No. CR-7169 is converted to NMB Case No. R-7492. Pursuant to Manual Section 19.6, the investigation will proceed to address the representation of these crafts or classes. Any Intervenor has 30 days from the date of this determination to file an application supported by a showing of interest of at least 50% of the single transportation system in accordance with Manual Sections 19.601 and 19.603. 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.



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