



## NATIONAL MEDIATION BOARD

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Re: NMB Case No. R-7562  
Western Global Airlines

Participants:

This determination addresses the March 15, 2021 appeal filed by Western Global Airlines (WGA) of two of Investigator Andres Yoder's March 8, 2021 eligibility rulings. For the reasons discussed below, WGA's appeal is denied.

### **PROCEDURAL BACKGROUND**

On January 4, 2021, the Air Line Pilots Association, International (ALPA) filed an application with the National Mediation Board (NMB or Board) alleging a representation dispute among Pilots at WGA. The Pilots are presently unrepresented. On February 12, 2021, the NMB authorized an election among that craft or class. The Investigator sent a letter to the parties on February 16, 2021, setting a schedule for filing challenges and objections.

On January 29, 2021, February 11, 2021, and February 19, 2021, ALPA challenged the inclusion of 22 individuals on the list of potential eligible voters (List), and advised the NMB of a status change. Among the individuals ALPA challenged were Chief Pilot Paul Chinnis and Assistant Chief Pilot John Woodward.

On February 22, 2021 and March 2, 2021, WGA agreed with 11 of ALPA's challenges and disagreed with ten; agreed with the status change ALPA identified; and advised the NMB of four additional status changes.<sup>1</sup> On February 25, 2021, ALPA agreed with the four additional status changes WGA identified.

On March 8, 2021, the Investigator removed 20 individuals from the List; ruled that six individuals would remain on the List; and ruled that one individual would remain excluded from the List.<sup>2</sup> Among the individuals the Investigator removed from the List were Chinnis and Woodward. The Investigator ruled that Chinnis and Woodward are ineligible to vote because they are management officials under NMB Representation Manual (Manual) Section 9.211.

On March 15, 2021, WGA appealed the Investigator's ruling that Chinnis and Woodward are management officials who are ineligible to vote.

On March 17, 2021, ALPA replied to WGA's appeal and submitted new evidence. Also on March 17, 2021 – but after the 12:00 PM deadline for submissions – WGA objected to ALPA's new submission. Finally, on March 17, 2021 – also after the deadline – ALPA replied to WGA's objection.

## CONTENTIONS

### WGA

On March 15, 2021, WGA argued that Chinnis and Woodward are not management officials under Manual Section 9.211 because their actual duties and responsibilities do not warrant such a finding. WGA also argued that Chinnis and Woodward share a strong community of interest with the line pilots, and that the Board should apply its reasoning in *Precision Airlines*, 20 NMB 742 (1993) to this case. Finally, WGA argued that the Board should not rely on a signed statement ALPA submitted regarding Chinnis's and Woodward's authority and job functions because the statement was not sworn.

### ALPA

On March 17, 2021, ALPA asserted that Chinnis and Woodward are management officials under Manual Section 9.211 because of the management authority they retain and the management functions they exercise.

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<sup>1</sup> WGA did not respond to one of ALPA's challenges.

<sup>2</sup> The individual who remained excluded from the List was never on the List to begin with.

## DISCUSSION

The Investigator properly considered whether Chinnis and Woodward are management officials under Manual Section 9.211. That Section provides:

Management officials are ineligible to vote.  
Management officials include individuals with:

- (1) the authority to dismiss and/or discipline employees or to effectively recommend the same;
- (2) the authority to supervise;
- (3) the ability to authorize and grant overtime;
- (4) the authority to transfer and/or establish assignments;
- (5) the authority to create carrier policy; and,
- (6) the authority to commit carrier funds.

The Investigator also considers:

- (1) whether the authority exercised is circumscribed by operating and policy manuals;
- (2) the placement of the individual in the organizational hierarchy of the carrier; and,
- (3) any other relevant factors regarding the individual's duties and responsibilities.

Individuals will not be deemed management officials merely because they appear to possess the authority listed above. They must also be demonstrated to exercise that authority, unless circumstances exist which have prevented the opportunity to exercise the authority they possess.

“When evaluating managerial authority, the Board evaluates the above factors cumulatively.” *Allegiant Air, Inc.*, 45 NMB 43 (2018). “In many cases, the Board finds that while there are certain factors indicating some level of authority, when all the factors are viewed cumulatively the individuals at issue generally are first-line supervisors, not management officials.” *USAir, Inc.*, 24 NMB 38 (1996).

WGA argues that Chinnis and Woodward share a strong community of interest with the craft or class of Pilots. However, ALPA has not argued that Chinnis and Woodward are not Pilots. Instead, ALPA argues that Chinnis and Woodward are management officials. WGA also asserts that the Board should apply its reasoning in *Precision Airlines, above*, to this case. However, the Board

takes a case-by-case approach to questions of managerial authority.<sup>3</sup> See, e.g., *Allegiant Air, Inc., above*.

Additionally, WGA asserts that the Board should not rely on a signed statement ALPA submitted on February 19, 2021, during the investigation, because it is not sworn. Manual Section 8.2 provides: “All challenges . . . must be supported by substantive evidence.” Because the Manual does not require statements submitted as evidence to be sworn, the Board will not reject the statement for that reason alone.

Finally, on March 17, 2021, ALPA submitted evidence in response to WGA’s appeal. Manual Section 10.2 provides: “Absent extraordinary circumstances, new evidence submitted on appeal which was not submitted to the Investigator during the investigation will not be considered by the NMB.” In this case, ALPA did not timely explain what extraordinary circumstances prevented it from submitting the evidence to the Investigator during the investigation. Consequently, the Board cannot find that the requisite extraordinary circumstances existed.

In the February 19, 2021 statement ALPA submitted, a WGA employee said that Chinnis

actively directs the pilot hiring process and is actively involved and ultimately responsible for pilot hiring, firing and discipline. There is a pilot hiring panel that involves Chinnis and Assistant Chief [P]ilot John Woodward. I believe that this hiring panel may also consult with Vice President of Operations [Scottie] Harris. Chinnis recently fired, or was involved with . . . Harris, in the [recent firings of a number of particular Pilots]. Chinnis also actively manages pilots as they fly the line. He has authority to make and does make Company policy, including that involving day-to-day pilot operations. Chinnis flies a limited schedule to remain current as a pilot but his primary responsibilities are in managing, supervising, directing, hiring and disciplining pilots.

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<sup>3</sup> In *Precision Airlines*, the Board determined that two employees who had the job titles of “Chief Pilot” were not management officials. See *Precision Airlines, above*. However, in that case, there was no evidence that the Chief Pilots had the authority to discipline employees, and no evidence that they “possess[ed] any other authority which would render them management officials.” *Id.* In other cases, Chief Pilots have been found to be management officials. See *Aitheras Aviation Group, LLC*, 41 NMB No. 52 (2014); *USA Jet Airlines*, 31 NMB 131 (2004).

Additionally, ALPA submitted a Federal Aviation Administration (FAA) document entitled “Operations Specifications.” The document shows that Chinnis, as the Chief Pilot, holds one of five management positions required by the FAA. Finally, ALPA submitted a screenshot from WGA’s Administrative Manual, which shows that the Chief Pilot position is a management position that is part of WGA’s “Senior Management and Director” list.

On March 2, 2021, WGA submitted an affidavit from Tom Romnios, WGA’s Director of Human Resources, in which he acknowledged that Chinnis regularly deals with regulatory agencies and clients, and that he makes recommendations concerning contracts. However, Romnios also stated that WGA Majority Owner Jim Neff and WGA President Ted Lytle routinely review contractual commitments, approve them, or both. Romnios also said that Chinnis does not make any final decisions on discipline or discharge.

Further, WGA submitted Chinnis’s position description (PD). Chinnis’s PD says that he “oversees all Flight Crewmembers, and is responsible for compliance of flight activities with applicable WGA policy and government regulations.” Among Chinnis’s responsibilities and authorities are the following:

- “Provides counseling and discipline, as necessary.”
- “Directs supervision of all pilots and check airmen.”
- “Ensures that all pilots operate in accordance with [WGA’s] . . . manuals.”
- “Ensures pilot compliance with physical examination requirements and FAA certificate requirements.”
- “Ensures pilot appearance, attendance, and personal conduct are in compliance with WGA policy.”
- “Directs the pilot work force in a safe and efficient manner to meet the operational requirements of WGA.”
- “Ensures . . . properly trained [and] qualified . . . pilots are assigned to each flight.”
- “Reviewing standards and the practices of inspection personnel as they impact flight safety.”
- “Continually monitoring WGA policies and procedures to ensure that the highest degree of safety and compliance is maintained.”
- “Reviews . . . manuals for WGA and recommending amendments to those manuals when deemed necessary.”
- “Reviews revisions to the Flight Crew Operating Manual issued by the manufacturer and incorporates changes into the WGA manual.”
- “Responsible for the [Minimum Equipment List] Manual and [Minimum Equipment List / Configuration Deviation List / Non-Essential Function] Operations program and policies.”
- “Conducts risk assessment and accepts risk.”
- “Approves, signs, and requests amendments to the Operations Specifications as defined in [the Administrative Manual].”

- “Responsible to the President[] for [safety] issues.”
- “Reviews and resolves flight operations issues.”
- “Represents WGA in government, industry, and community activities relating to flight operations.”
- “Acts as [subject matter expert] for the WGA [Minimum Equipment List] program.”
- “Has the authority to modify procedures and processes to any area listed in [the Administrative Manual] as [a subject matter expert].”
- “Maintain[] currency, with regard to training, to serve as Captain and/or First Officer on [WGA] aircraft.”

WGA also submitted pilot logbook information for Chinnis, which shows that he was the Pilot in Command of 21 flights during the six-and-a-half months between May 22, 2020 and December 10, 2020, and was a flight crewmember in another nine. According to Romnios, Chinnis flies the line as needed. The Chief Pilot position has always been filled by a line pilot, Romnios stated, and Chinnis can return to the line anytime he wants to. Finally, WGA submitted a WGA Human Resources profile for Chinnis, which identifies his job title as “Check Airman B747.”

When viewed cumulatively, Chinnis’s authorities, and the exercise of those authorities, demonstrate that he is a management official. Therefore, the Board upholds the Investigator's ruling that he is a management official.

In the February 19, 2021 statement ALPA submitted, a WGA employee said that Woodward

assists Chief Pilot Chinnis and has been directly involved in recommending discipline. Woodward is involved in hiring and firing decisions involving pilots. He has served on hiring panels and has recommended and participated in disciplinary decisions along with Chief Pilot Chinnis. He has also recently participated in counseling and termination of crewmembers. Woodward flies a somewhat limited schedule but his primary responsibilities are in managing, supervising, directing, hiring and disciplining pilots.

In the March 2, 2021 affidavit WGA submitted, Romnios acknowledged that Woodward regularly deals with regulatory agencies and clients, and makes recommendations concerning contracts. However, Romnios also stated that Neff and Lytle routinely review contractual commitments, approve them, or both. Romnios also said that Woodward does not make any final decisions on discipline or discharge.

Additionally, WGA submitted Woodward's PD. Woodward's PD says that he "oversees all Flight Crewmembers, and is responsible for compliance of flight activities with applicable WGA policy and government regulations under the supervision of the Chief Pilot." Among Woodward's responsibilities and authorities are the following:

- "Investigate and recommend actions regarding . . . pilot conduct."
- "Responsible for . . . disciplin[ing] . . . crew members."
- "Participate in interviewing, hiring . . . and terminations of crew members."
- "Responsible for staff development, performance evaluations and feedback, . . . and coaching of crew members."
- "Directs the pilot work force in a safe and efficient manner to meet the operational requirements of WGA."
- "Recommend regulatory and procedural changes for improves safety and efficiency to the Chief Pilot."
- "Maintain currency [with] . . . trends and [business] practices . . . as well as federal, state and local laws and regulations."
- "Conducts risk assessment and accepts risk. . . . [A]dvises senior management on . . . needs for improvement."
- "Investigate and recommend actions regarding operational incidents, . . . delays and cancellations."
- "Respond to FAA inquiries."
- "Respond to inquiries by crew members."
- "Work with crew members, crew resources, crew schedulers, human resources as appropriate to resolve issues that may arise to maintain a positive and collaborative working relationship."
- "[E]nsure . . . compliance" with "federal, state, and local laws and regulations."
- "Takes action and reports in accordance with the [Safety] Manual . . . to resolve and problems . . . that may compromise safety, security or compliance."
- "Maintain qualification for, and perform the duties of, Check Airman, Instructor."

WGA also submitted pilot logbook information for Woodward, which shows that he was the Pilot in Command of 48 flights during the eight months between March 26, 2020 and November 30, 2020, and was a flight crewmember in another ten. According to Romnios, Woodward flies the line as needed. The Assistant Chief Pilot position has always been filled by a line pilot, Romnios stated, and Woodward can return to the line anytime he wants to. Finally, WGA submitted a WGA Human Resources profile for Woodward, which identifies his job title as "MD-11 Line Check Airmen."

When viewed cumulatively, Woodward's authorities, and the exercise of those authorities, demonstrate that he is a management official. Therefore, the Board upholds the Investigator's ruling that he is a management official.

CONCLUSION

WGA's appeal of the Investigator's ruling that Chinnis and Woodward are management officials is denied. The Board upholds the Investigator's ruling that Chinnis and Woodward are ineligible to vote.

By direction of the NATIONAL MEDIATION BOARD.

A handwritten signature in black ink that reads "Maria-Kate Dowling". The signature is written in a cursive, flowing style.

Maria-Kate Dowling  
Acting General Counsel