

Hearing Date: February 29, 2012
Objection Deadline: February 22, 2012

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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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	:	Chapter 11
In re	:	
	:	Case No. 11-15463 (SHL)
AMR CORPORATION, et al	:	
	:	(Jointly Administered)
Debtors.	:	
	:	
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**MOTION OF AMERICAN INDEPENDENT COCKPIT ALLIANCE, INC.
FOR ENTRY OF AN ORDER
DIRECTING APPOINTMENT OF AN OFFICIAL COMMITTEE OF
FORMER TWA PILOTS**

Pursuant to 11 U.S.C. § 1102(a)(2), the American Independent Cockpit Alliance, Inc., for and on behalf of those persons described in the Declaration of Howard Hollander annexed as Exhibit A hereto (collectively, the “Movants”), hereby request the entry of an Order directing the United States Trustee to appoint an official committee of former TWA Pilots (the “Former TWA Pilots”) in the Chapter 11 cases of the above-captioned debtors and debtors in possession (collectively, the “Debtors”). In support of this motion (the "Motion"), the Movants respectfully state as follows:

Preliminary Statement

1. Commencing on November 29, 2011 (the “Petition Date”), the Debtors each filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”). The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

2. On December 5, 2011, the United States Trustee appointed the Official Committee Of Unsecured Creditors. This Committee is comprised of nine members, one of which is the Allied Pilots Association (“APA”). Each member of the Committee is purportedly a creditor of the Debtors as a result of its business dealings with the Debtors.

3. As of the Petition date, a sizeable portion of the pilots employed by American Airlines (“AA”) are former Trans World Airlines (“TWA”) pilots, many of who have joined the American Independent Cockpit Alliance, Inc. (“AICA”). It is the mission of AICA to protect the interests of its membership in dealings with AA and the APA. Since the acquisition of TWA in 2001, AICA membership has been primarily made up of former TWA pilots. Currently, of the over two hundred fifty members of AICA, 97% are former TWA pilots. AICA’s position is that the draconian seniority scheme dictated to former TWA pilots by the APA (and AA) was motivated by the APA’s hostility towards former TWA pilots and that consequently should AA now seek through bankruptcy to modify or delete the limited protection afforded former TWA pilots in Supp CC, due to a possible claim of 30-50 million dollars per year cost to keep the St. Louis domicile open, then in that case former TWA pilots should be restored to their original (TWA) date-of-hire seniority.

4. While technically represented by the Allied Pilots Association (“APA”), in fact the former TWA pilots face the nearly certain prospect that they will not be adequately, or fairly, represented in this proceeding, by the APA (or the Official Committee). This is because of a long and demonstrated history of hostility by the APA to its minority former TWA pilots that has been so pronounced it has provoked federal legislation in the form of the passage of the McCaskill-Bond Amendment, 49 U.S.C. § 42112, and has resulted in several federal lawsuits over the years for violations of the duty of fair representation imposed by the Railway Labor Act, and on other grounds. Over the years this hostility has resulted in massive erosion of jobs, seniority, pay and benefits for former TWA pilots at AA. Now, with the prospect of AA’s bankruptcy, these same former TWA pilots are placed in jeopardy that the APA will jettison their interests entirely, resulting in mass-unemployment for this distinct group of stake-holders.

Requested Relief

5. The Official Committee does not and cannot adequately represent the interests of the former TWA pilots. The estate will benefit from inclusion of the former TWA pilots in their own Committee because a key issue to successful reorganization, labor costs associated with the pilots’ group, can be more fairly and hence more efficiently addressed at once thus avoiding unnecessary issues, cost or delay that could result from their prejudicial exclusion.

6. Therefore, the Movants seek the appointment of an additional official committee to represent the interests of former TWA pilots.

Basis For Relief

7. Pursuant to 11 U.S.C. § 1102(a)(2), upon request of a party in interest, bankruptcy courts have the authority and discretion to appoint additional committees in chapter 11 cases

when such appointments are necessary to assure adequate representation of creditors. *See* 11 U.S.C. § 1102(a).

WHEREFORE, based upon the authorities and for the reasons more particularly set forth in the accompanying Memorandum in support hereof, the Movants respectfully request entry of an Order directing the appointment of an official committee of Former TWA Pilots.

Dated: January 31, 2012

SEHAM, SEHAM, MELTZ & PETERSEN LLP

By: /s/Lucas K. Middlebrook

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In re	:	
	:	Case No. 11-15463 (SHL)
AMR CORPORATION, et al	:	
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Debtors.	:	
	:	
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**MEMORANDUM IN SUPPORT OF
AMERICAN INDEPENDENT COCKPIT ALLIANCE, INC.’S
MOTION FOR ENTRY OF AN ORDER
DIRECTING APPOINTMENT OF AN OFFICIAL COMMITTEE OF
FORMER TWA PILOTS**

The American Independent Cockpit Alliance, Inc., for and on behalf of former TWA pilots employed by debtor American Airlines (“AA”), hereby files this Memorandum in Support of the Motion For Entry of an Order Directing Appointment of an Official Committee of Former TWA Pilots pursuant to 11 U.S.C. § 1102(a)(2) (the “Motion”) in the Chapter 11 cases of the above-captioned debtors and debtors in possession (collectively, the “Debtors”).

In support of the Motion, the Movants respectfully state as follows:

I. PRELIMINARY STATEMENT

1. As of the Petition date, a sizeable portion of the pilots employed by American Airlines (“AA”) are former Trans World Airlines (“TWA”) pilots, many of who have joined the American Independent Cockpit Alliance, Inc. (“AICA”), whose membership is currently 97% made up of former TWA pilots. While *technically* represented by the Allied Pilots Association (“APA”), in fact the former TWA pilots face the certain prospect that they will not be adequately, or even fairly, represented in this proceeding by their union, the APA (or the Official Committee). That is because of a long and demonstrated history of hostility by the APA towards the former TWA pilots. The APA’s hostility has been so pronounced that it in fact provoked federal legislation in the form of passage of the, McCaskill-Bond Amendment, 49 U.S.C. § 42112, and has resulted in several federal lawsuits over the years. The APA’s hostility caused former TWA pilots to lose seniority, jobs, pay and benefits. Now, with the prospect of AA’s bankruptcy, these same former TWA pilots are placed in jeopardy that the APA will jettison their interests entirely, resulting in permanent disenfranchisement. That prospect would certainly engulf the APA and affected parties, including the debtor, in litigation, and impose cost and delay. Yet to cure this inadequate representation the Court need only order appointment of an additional committee as requested. Moreover, the estate will benefit from inclusion of the former TWA pilots in their own Committee because a key issue to successful reorganization, labor costs associated with the pilots’ group, can be more fairly and hence more efficiently addressed at once thus avoiding unnecessary issues, cost or delay that could result from their prejudicial exclusion.

II. FACTUAL BASIS FOR RELIEF

2. On January 9, 2001, TWA entered into an agreement with AA whereby it agreed to purchase the majority of TWA's assets following TWA's filing for Chapter 11 bankruptcy protection as a condition of the purchase agreement. TWA made such a filing the following day, January 10, 2001. AA agreed to hire almost all of TWA's unionized employees *provided* that certain labor protective provisions in their various contracts were *eliminated*. (Declaration of Howard Hollander, hereinafter "Hollander" at ¶ 19).

3. One of those provisions concerned the right of TWA's pilots to contest, in a labor arbitration, the issue of their seniority integration with another group of pilots in the event of a purchase of TWA, or merger of TWA, with another airline. AA indicated that it would not proceed with its purchase of TWA unless this labor protective provision, known as Allegheny-Mohawk rights, was eliminated. TWA's pilots were represented, at the time, by the Air Line Pilots Association ("ALPA"), through a subsidiary body called the TWA Master Executive Council ("TWA MEC"). AA pilots were then, and are now, represented by the APA. Under AA's collective bargaining agreement with its pilots, represented by the APA, the seniority of any *new* pilots who began working for AA as a result of an acquisition by AA would begin to accrue only at the moment that the pilots began working for AA. In other words, no matter how long a new pilot had been actively employed and flying for another carrier, that prior time-in-service (i.e. date-of-hire) would not be recognized as accrued seniority. (Hollander ¶ 20).

4. At the time, the TWA pilots, through ALPA, resisted waiving any seniority protection provisions thus attempting to retain their accrued seniority. In response, on March 15, 2001, TWA filed a motion under 11 U.S.C. § 1113 with the Bankruptcy Court seeking to abrogate the provisions in its collective bargaining agreement with ALPA. Due to ALPA's

refusal to support any resistance to this motion, on April 2, 2001, the TWA MEC passed a resolution waiving its seniority protection provisions in exchange for a letter from AA in which it promised to “use its reasonable best efforts” with the APA to “secure a fair and equitable process for the integration of seniority” and to adopt the procedures that resulted from facilitated meetings between APA and ALPA. Any seniority integration agreement reached between the APA and ALPA was to be presented to AA as a proposed modification of the collective bargaining agreement between AA and APA. (Hollander ¶ 21).

5. On April 6, 2001, the Bankruptcy Court entered a stipulation and order withdrawing TWA’s section 1113 motion and formalizing the waiver agreement. At the time there was a great deal of uncertainty as to what the result might have been if AA had gone through with its purchase of TWA assets *without* ALPA waiving its seniority integration protections. (Hollander ¶ 22).

6. On April 9, 2001, the TWA pilots, through ALPA, entered into a Transition Agreement (“TA”) with TWA-LLC, which upon completion of the asset purchase by AA would become a wholly owned subsidiary of AA. Under that Transition Agreement, the majority of the provisions of the collective bargaining agreement between ALPA and TWA would remain in effect until such time as the National Mediation Board (“NMB”) adjudicated TWA-LLC and AA as a “single carrier” within the meaning of the Railway Labor Act (“RLA”), and extended APA’s certification to cover the TWA-LLC pilots. (Hollander ¶ 23).

7. The TA incorporated by reference AA’s promise to use its reasonable best efforts to ensure a fair seniority integration process. In addition, ALPA would continue to remain the exclusive representative of the TWA pilots until the NMB made the appropriate declarations. (Hollander ¶ 24). On April 10, 2001, AA’s purchase of TWA’s assets was finalized and TWA-

LLC began operations as a separate air carrier. At that point, the TWA pilots (most of them) became employees of TWA-LLC. (Hollander ¶ 25).

8. Next, between February and August of 2001, the TWA pilots, represented by ALPA, negotiated with the APA over seniority integration, albeit under the auspices of a facilitator provided by AA, but no agreement was reached between the parties. (Hollander ¶ 26).

9. Hostility by the APA toward the TWA pilots was blatant and strong during bargaining between the two pilot groups. Some egregious examples are: APA negotiator Ed White's personal expressions of hostility towards TWA pilots (TWA Merger Committee Chairman Bud Bensele deposition testimony at Tr. 43-46, in *Bensele v. Allied Pilots Ass'n*, 387 F.3d 298, 311 (3d Cir. 2004), *cert. denied*, 544 U.S. 1018, 125 S. Ct. 1976 (2005)); APA delegates mocking the TWA pilots' very first proposal by simulated vomiting on it or using it as toilet paper (*Id.* at 84); APA delegates trying to assault TWA negotiator Bensele (*Id.* at 84); and by making a proposal to the TWA pilots in bad faith (*Id.* at 86). (Hollander ¶ 27).

10. Separately, on November 8, 2001, the APA and AA reached an independent agreement on the seniority integration of the former TWA pilots, known as Supplement CC ("Supp CC"). Under Supp CC, some TWA pilots did receive minor credit for their seniority, many losing decades of seniority to native AA pilots, but certain positions were guaranteed at the remaining pilot base for TWA-LLC pilots, i.e. in St. Louis, Missouri. Supp CC was not to become effective, however, until the NMB declared AA and TWA-LLC to be a single carrier and extended the APA's certification. (Hollander ¶ 28). The TWA pilots, through ALPA, however, refused to sign Supp CC. (Hollander ¶ 29).

11. On November 9, 2001, the APA filed a petition with the NMB seeking a declaration of "single carrier" status within the meaning of the RLA. The TWA pilots, through

ALPA, opposed this petition. (Hollander ¶ 30). Then, on March 5, 2002, the NMB declared that AA and TWA-LLC were a “single carrier” for RLA purposes. (Hollander ¶ 31). On April 3, 2002, after ALPA declined to submit an application to become the bargaining representative for the combined pilot group, and despite the objection to APA certification submitted by the TWA MEC, the NMB certified the APA as the sole bargaining agent for all AA pilots. As a result, the April 9, 2001 TWA-LLC/ALPA TA expired (under its own terms), ALPA's certification as the collective bargaining agent for the TWA pilots terminated, and Supp CC became effective. (Hollander ¶ 32).

12. As a result of the merger and the actions of the APA and AA, 60 percent of former TWA pilots moved to the bottom of the seniority list at AA. Many were subsequently furloughed in the wake of the 9/11 attacks, and most remain on furlough to this day. The senior TWA captains were integrated at the same seniority level as AA captains hired years later. All TWA captains and first officers hired in March 1989 and later were stapled to the bottom of the seniority list junior to AA first officers hired in June 2001. (Hollander ¶ 33).

13. During the ensuing decade, however, APA hostility towards the former TWA pilot group, whose members were now under their care, did not abate. This hostility was most apparent in the APA's refusal to support former TWA pilots in their labor grievances against AA, and by taking the company's position against their own members. Some egregious examples include the grievance of former TWA pilots Charles Long (denied in arbitration, R. Bloch, February 25, 2008) and Ben Thompson (No. 10-074; APA refused to take to arbitration by letter March 1, 2011). The APA's hostility has even extended to denying former TWA pilots access to arbitration – an individual statutory right contained in the RLA. Consequently in *McFarland et al v. Allied Pilots Association, et al*, Case No. 3:03-cv-00984 (N.D. Tex., Sep. 23, 2005), former

TWA pilots successfully sought federal court intervention to stop the APA's systematic denial of former TWA pilots, or those associated with AICA, to access the System Board of Adjustment. (Hollander ¶ 18).

14. It is the mission of AICA to protect the interests of its membership in dealings with AA and the APA. Since the acquisition of TWA in 2001, AICA membership has been primarily made up of former TWA pilots. Currently, of the over two hundred fifty members of AICA, 97% are former TWA pilots. (Hollander ¶ 9). AICA's position is that the draconian seniority scheme dictated to former TWA pilots by the APA (and AA) was motivated by the APA's hostility towards former TWA pilots, and that consequently should AA now seek through bankruptcy to modify or delete the limited protection afforded former TWA pilots in Supp CC, due to a possible claim of 30-50 million dollars per year cost to keep the St. Louis domicile open, then in that case former TWA pilots should be restored to their original (TWA) date-of-hire seniority. (Hollander ¶ 11).

II. LEGAL BASIS AND ARGUMENT

A) Applicable Legal Standard

15. Pursuant to 11 U.S.C. § 1102(a)(2), upon request of a party in interest, bankruptcy courts have the authority – and the discretion – to appoint additional committees in chapter 11 cases when such appointments are necessary to assure *adequate representation*. See 11 U.S.C. § 1102(a); *Mirant Americas Energy Marketing, L.P. v. The Official Committee of Unsecured Creditors of Enron Corp.*, 2003 U.S. Dist. LEXIS 18149 (S.D.N.Y. Oct. 10, 2003); *In re McLean Industries, Inc.*, 70 B.R. 852, 856-857 (Bankr. S.D.N.Y. 1987) (finding that bankruptcy courts have *de novo* power to order the appointment of additional committees and “if representation is not adequate, it would appear that committee representation is necessary since Congress, in

repealing §1102(c), ended the court's ability to afford alternative relief through change of committee membership”); *In re Drexel Burnham Lambert Group, Inc.*, 118 B.R. 209, 211 (Bankr. S.D.N.Y. 1990) (finding that inadequate representation is to be addressed by bankruptcy courts through the creation of another committee); *see also In re Dow Corning Corp.*, 194 B.R. 121, 129 (Bankr. E.D. Mich. 1996) *rev'd in part on other grounds*, 212 B.R. 258 (E.D. Mich. 1997) (finding that bankruptcy courts have *de novo* power to order the United States Trustee to appoint one or more additional committees); *In re Sharon Steel Corp.*, 100 B.R. 767, 773 (W.D. Pa. 1989) (a party seeking the appointment of an additional committee may apply directly to the court for such relief and need not make an initial request to the trustee).

16. There is no statutory test or definition for “adequate representation.” Therefore, when determining whether adequate representation exists, bankruptcy courts must look at the special needs of each particular case. *See McLean*, 70 B.R. at 861 (finding that adequate representation must be viewed in light of the nature of the case and the composition of the committee); *See also In re Dana Corp.*, 344 B.R. 35, 38 (Bankr. S.D.N.Y. 2006) (“Bankruptcy courts have discretion to examine the circumstances on a case-by-case basis to determine if additional committees are warranted”); *In re Beker Industries Corp.*, 55 B.R. 945, 948 (Bankr. S.D.N.Y. 1985); *In re Wang Laboratories, Inc.*, 149 B.R. 1, 2 (Bankr. E.D. Mass. 1992). However, in “mega” chapter 11 cases such as this one, “in which there are significant groups of creditors or equity security holders with conflicting claims which are likely to be affected by the plan of reorganization, the court *should* authorize the appointment of additional committees.” *See Beker Industries*, 55 B.R. at 948, 949 (*quoting* 5 L. King, *Collier on Bankruptcy*, ¶ 1102.2 at 1102-18 (15th Ed. 1984)) (emphasis added).

17. Over the years, general guidelines have been developed to assist courts in determining whether there is a need for additional committees. *See, e.g., Dow Corning* 194 B.R. at 141, *rev'd in part on other grounds*, 212 B.R. 258 (E.D. Mich. 1997). Under the guidelines, courts are encouraged to examine each particular case using a two-part inquiry:

First, is the appointment of an additional committee necessary to ensure *adequate* representation?

If so, then second, should the court *exercise its discretion* to make the appointment? *Id.*; *Wang*, 149 B.R. at 2; *In re Trans World Airlines, Inc.*, 1992 Bankr. LEXIS 1344, *2 (Bankr. D. Del. Mar. 20, 1992) (unpublished opinion).

18. A movant seeking appointment of additional committees has the burden to show that the additional committee is necessary to insure adequate representation “*of the moving party.*” *See Enron*, 279 B.R. at 685 (emphasis added). Bankruptcy courts, however, have discretion to examine the circumstances surrounding a motion for appointment of additional committees on a case-by-case basis to determine if additional committees are warranted. *See Dana Corp.*, 344 B.R. at 38, (*citing Enron*, 279 B.R. at 685; *In re Beker Indus. Corp.*, 55 B.R. 945, 948 (Bankr. S.D.N.Y. 1985)); *see also In re Northwestern Corp.*, 2004 Bankr. LEXIS 635, *2 (Bankr. D. Del. May 13, 2004); *In re Johns-Manville Corp.*, 68 B.R. 155, 159 (S.D.N.Y. 1986).

19. Courts have used the following non-exclusive factors to determine whether adequate representation exists:

- (i) The composition of the committee (i.e., whether the present committee is representative of the unsecured creditors in the case); *Dow Corning*, 194 B.R. at 142, *rev'd in part on other grounds*, 212 B.R. 258 (E.D. Mich. 1997); and;
- (ii) The ability of the committee to function;

- (iii) The nature of the case (i.e., whether the case is sufficiently large and complex to indicate the need for additional committees);
- (iv) The standing and desires of the various constituencies;
- (v) The ability of the creditors (movants) to participate in the case even without an official committee and the potential to recover expenses pursuant to § 503(b);
- (vi) The delay and additional cost that would result if the court grants the motion;
- (vii) The tasks that a committee or separate committee is to perform;
- (viii) Other factors relevant to the adequate representation issue. *See Dana Corp.*, 344 B.R. at 38; *In re Hills Stores, Co.*, 137 B.R. 4 (Bankr. S.D.N.Y. 1992); *McLean*, 70 B.R. at 860; *Sharon Steel*, 100 B.R. at 779.

20. No one factor is dispositive and the amount of due consideration given to each factor depends on the circumstances of the particular chapter 11 case. *See Dana Corp.*, 344 B.R. at 38 (*citing Kalvar Microfilm*, 195 B.R. 599, 601 (Bankr. D. Del. 1996)).

B) Former TWA Pilots Are Not Adequately Represented By The APA (and Therefore the Official Committee) Because Of Its Persistent Historical Hostility, Yet The Former TWA Pilots' Participation May Be Key To Pilot Labor Cost Issues, Which Is Expected To Be Central To This Restructuring.

1) Committee Composition:

21. The composition of the existing committees factor focuses the Courts' attention on whether the existing Official Committee is representative. *See Dow Corning*, 194 B.R. at 144, *rev'd in part on other grounds*, 212 B.R. 258 (E.D. Mich. 1997); *see also Drexel*, 118 B.R. 209, 212 (finding that the standard of adequate representation lies in the nature of the case and the composition of the committee).

22. Here the Committee includes the APA, which alone could claim to represent the former TWA pilots. Yet the APA cannot provide adequate representation because it is

implacably hostile to its minority of former TWA pilots as the long and tortious history of the former TWA pilots illustrates. (Hollander, ¶ 17). The outright hostility of the APA led directly to the imposition on the former TWA pilots of a seniority scheme to deprive them of their date-of-hire seniority and to staple them to the bottom of the AA seniority list. This resulted in dramatic and disastrous consequences for former TWA pilots as well as major legal and legislative changes, as can be seen in the following:

- Recognition by the United States Congress of the harsh and unfair treatment of TWA pilots when it passed the McCaskill-Bond Amendment to help insure that such a draconian integration could never again happen;
- A successful lawsuit against ALPA for violation of its duty of fair representation;
- The most draconian seniority integration in airline history, where pilots who had reached the pinnacle of their profession as Captains for TWA were end-tailed behind AA new hires – and then subsequently furloughed in a soon to follow economic downturn;
- Restricting TWA Captains (those who were not furloughed) to a single location (St. Louis) while denying them the ability to fly many of the routes that AA pilots flew, including international routes that pay more than domestic routes.

23. The APA's hostility actually preceded its depriving TWA pilots of their date-of-hire seniority. During negotiations over merging the seniority lists in the wake of the corporate take-over by AA of TWA, the APA openly manifested its hostility to the TWA pilots. Some egregious examples are: APA negotiator Ed White's personal expressions of hostility towards TWA pilots (TWA Merger Committee Chairman Bud Bensele deposition testimony at Tr. 43-46, in *Bensele v. Allied Pilots Ass'n*, 387 F.3d 298, 311 (3d Cir. 2004), *cert. denied*, 544 U.S. 1018, 125 S. Ct. 1976 (2005)); APA delegates mocking the TWA pilots' first proposal by simulated vomiting on it or using it as toilet paper (*Id.* at 84); APA delegates trying to assault TWA negotiator Bensele (*Id.* at 84), and by making a proposal to the TWA pilots in bad faith (*Id.* at 86). (Hollander, ¶ 27).

24. Moreover, after successfully depriving TWA pilots of their date-of-hire seniority the APA's hostility has continued for over a decade. This hostility was most apparent in the APA's refusal to support former TWA pilots in their labor grievances against AA, taking the company's position against their own members. Some egregious examples include the grievance of former TWA pilot Charles Long (denied in arbitration, R. Bloch, February 25, 2008) and Ben Thompson (No. 10-074; APA refused to take to arbitration by letter March 1, 2011). The APA's hostility has even extended to denying former TWA pilots access to arbitration. Consequently, in *McFarland et al v. Allied Pilots Association, et al*, Case No. 3:03-cv-00984 (N.D. Tex., Sep. 23, 2005), former TWA pilots successfully sought federal court intervention to stop the APA's systematic denial of access to the System Board of Adjustment by former TWA pilots, or those associated with AICA. (Hollander ¶ 18).

25. Because of the remaining limited protections afforded the former TWA pilot group in Supp CC, and because AA has not excluded the possible elimination of Supp CC in these bankruptcy cases, the TWA pilot group stands to loose far more than the remainder of AA pilots. (Hollander, ¶ 34). Whereas the original AA pilots are faced with loss of pay and benefits, the former TWA pilots are faced with that *in addition to* the final deprivation of any protections put in place by Supp CC. In effect, this bankruptcy affords AA and APA the opportunity to 'finish the job' started over a decade ago, by relegating former TWA pilots to permanent disenfranchisement. (*Id.*). An Official Committee therefore is necessary to adequately represent this special group of former TWA pilots. (Hollander, ¶ 35).

2) Ability Of The Committee To Function:

26. While it may be too early in this bankruptcy case to evaluate the ability of the existing Committee to “function,” ability to function may be misleading in terms of analyzing adequate representation for purposes of this motion. As one court has observed:

The problem is that a committee may function just fine, reaching consensus on all issues, and still not adequately represent a particular group of creditors. This can occur, for instance, if the committee is so dominated by one group of creditors that a separate group has virtually no say in the decision-making process. Consequently, courts look to see whether conflicts of interest on the committee effectively disenfranchise particular groups of creditors.

See Dow Corning, 194 B.R. at 142.

27. Here, the facts are uncontroverted: there is not a single former TWA pilot on the current Committee. Moreover, it is undisputed that the only member of the official Committee that *could* represent the former TWA pilots is the APA. Yet a long history of hostility against the former TWA pilots makes the prospect of the APA’s representation not merely inadequate but in fact a clear and present danger to former TWA pilots. The danger is that the APA will, in effect, ‘finish the job’ it begun long ago (by stapling TWA pilots to the bottom of the seniority list at AA) by now disposing of the only protection left in the provisions of Supp CC. Therefore, there is an unquestionable *conflict of interest* on the Committee, which disenfranchises the former TWA pilots and militates strongly in favor of appointment of the committee requested herein. *See In re Century Brass Products, Inc.*, 795 F.2d 265, 275 (2d Cir. 1986) (“when the suitability of representation on account of a conflict of interest is raised the bankruptcy court should make a determination as to whether a conflict actually exists”).

28. Nor can this conflict of interest be dismissed as mere speculation. The conflict of interest is not merely potential, as it might be with other constituencies within the APA. Instead, it is *verifiable* and its history includes no less than a Congressional reaction in the form of the

McCaskill-Bond Amendment. 49 U.S.C. § 42112. The passage of this federal law resulted directly from the APA's harsh stapling of TWA pilots to the bottom of the seniority list just as a recent appellate court has observed. *See Committee of Concerned Midwest Flight Attendants For Fair & Equitable Seniority Integration, v. Int'l Bhd. of Teamsters Airline Division & Teamsters Local 135*, 2011 U.S. App. LEXIS 23785 (7th Cir. Nov. 30, 2011) ("this statute [McCaskill-Bond] grew out of American Airlines' acquisition of Trans World Airlines..."). And, since the passage of McCaskill-Bond the plight of the TWA pilots has spawned several federal lawsuits some of which are still pending, all of which inevitably involved the carrier as a party. *See e.g., Bensel et al v. Allied Pilots Ass'n, et al* 387 F.3d 298, 311 (3d Cir. 2004), *cert. denied*, 544 U.S. 1018, 125 S. Ct. 1976 (2005); *McFarland et al v. Allied Pilots Association, et al*, Case No. 3:03-cv-00984 (N.D. Tex., Sep. 23, 2005); *Brady et al v. ALPA et al*, Case No. 02-2917 (D.N.J.).

29. Apart from the APA, the other Committee members are not in a position to fulfill their fiduciary duty to the former TWA pilots because they would typically rely upon the certified pilots' union to address pilot concerns and be knowledgeable of the history and details. However, in the unique facts of this case that reliance would be misplaced because of the APA's hostility towards the former TWA pilots. Hence, with a duty but without any good way to fulfill it, the non-APA members are no adequate substitute for an official committee of former TWA pilots.

3) Nature Of The Case:

30. Two facts are apparent about the nature of these bankruptcy cases, first their size and complexity and second the fact that labor costs, specifically *pilot* labors costs, will be a central focus before successful reorganization can take place. Further, because of the unique contractual situation regarding the St. Louis pilot domicile, and its relationship to the TWA pilot

group, any AA claim to save 30-50 million dollars per year by closing this domicile cannot be taken at face value. The cost to the TWA pilot group in eliminating the St. Louis base without restoring their date of hire would severely disadvantage this group disproportionately to the “native” AA pilot group. Appointing an additional Committee of former TWA pilots is appropriate, therefore, given the nature of this case because the perspective and participation of the former TWA minority of pilots is likely to promote a successful labor resolution. This is in contrast to their absence, in which case the temptation of the APA and AA to disproportionately disadvantage the minority of TWA pilots, consistent with the APA’s historical discrimination, will no doubt spawn additional issues and possible liability for the principally affected ‘players’ including the debtor – AA. In short, in a large ‘mega’ chapter 11 case as this, where pilot labor costs will be a central focus, a unique fact-set makes the inclusion of an Official Committee of Former TWA pilots both reasonable and prudent. *See In re Beker Industries*, 55 B.R. 945, 948 (Bankr. S.D.N.Y. 1985) (debtor’s case was found to be sufficiently large and complex to warrant the appointment of official committees); *In re Dow Corning Corp.*, 194 B.R. 121, 144 (Bankr. E.D. Mich. 1996) *rev’d in part on other grounds*, 212 B.R. 258 (E.D. Mich. 1997) (court appointed an official committee representing physician claimants where there were approximately 1,000 insured physicians who were defendants in over 7,800 lawsuits arising from implementation of debtor’s products); *In re Hills Stores, Co.*, 137 B.R. 4 (Bankr. S.D.N.Y. 1992) (finding that “a case which is sufficiently large and complex may strongly indicate the need for additional committees representing different interests”).

4) Standing And Desires Of The Various Constituencies:

31. There is no prejudice to, or conflict with, the standing and desires of any other constituencies by the establishment of an Official Committee of former TWA pilots. The former

TWA pilots have a defined and limited interest that can be succinctly stated and is utterly unique to them among any other creditor or interested party. That unique interest is that their date-of-hire seniority be restored, or in the alternative that any plan for successful reorganization retains the limited pilot seniority protections afforded to the former TWA pilots in the current collective bargaining agreement (i.e. Supp CC). Preservation of Supp CC, or seniority restoration, are no mere benefits, quite simply they mean jobs. In bankruptcy of organized debtors, labor has a right to seek preservation of both contracts and jobs. *See, In re Atlas Air*, 727 F.2d 88, 91 (3d Cir. 1984). Therefore there will be no discernable impact on the standing and desires of any other constituent.

5) Ability Of Creditors To Function or Participate:

32. The Official Committee has a fiduciary duty to protect the interests of *all* unsecured creditors, hence this is a critical factor. *In re Enron*, 279 B.R. 671, 686 (Bankr. S.D.N.Y. 2002). Here, the Official Committee cannot function properly because the APA, the only constituent that could represent the former TWA pilots, is openly hostile to them. A labor solution that sacrifices the former TWA pilots is hence now in the offing. The debtor, motivated to slash its largest labor costs, its pilots, has no incentive to restrain the APA, which in turn has every incentive to exploit the occasion to permanently disenfranchise the former TWA pilots in exchange for less of a ‘cut’ to the politically more powerful majority of non-TWA pilots, i.e the so-called “native American” pilots. That is an outcome these movants now give advance notice of will violate the aforesaid fiduciary duty, will violate the APA’s duty of fair representation, and – if AA colludes in APA’s violation – will also expose the carrier to litigation and liability too. *See e.g., Steele v. Louisville & Nashville R.R. Co.*, 323 U.S. 192, 207 (1944) (carrier was joined as defendant in duty-of-fair representation violation action); *see also Price v. S. Pac. Transp. Co.*,

586 F.2d 750, 752 (9th Cir. 1978) (“joinder of the employer is permissible when, as in this case, the employee alleges that the employer is implicated in the union’s breach of its duty of fair representation.”); *Hodges. v. Atchison, Topeka & Santa Fe Ry. Co.*, 728 F.2d 414 (10th Cir.), *cert. denied*, 469 U.S. 822 (1984); *Steffens v BRAC*, 797 F.2d 442, 445 (7th Cir. 1986); *Masy v. N.J. Transit Rail, Inc.*, 790 F.2d 322 (3d Cir. 1986).

33. Exclusion of the former TWA pilots from their own Committee leaving them only the right to object to motions will prejudice them because their interest will be subverted by the APA’s hostility. Getting ‘thrown under the bus’ by the APA, in effect, will benefit the APA by allowing it to at once placate the debtors’ demand for relief to the extent of the value of the sacrifice of former TWA pilots, while allowing it to placate the majority of pilots who are not former TWA pilots who will suffer that much less sacrifice.

6) Delay And Additional Cost:

34. In most cases, the appointment of additional committees may create added expenses for the estate since such appointments are usually followed by applications to retain attorneys and other professionals. *See Beker*, 55 B.R. at 949. However, such added costs are not of themselves sufficient to deprive creditors or interested parties additional committees where one is otherwise appropriate. *Hills Stores*, 137 B.R. at 6; *see also, McLean*, 70 B.R. at 860 (finding that costs alone cannot and should not deprive creditors of adequate representation). Thus, when considering this guideline, the courts ought to *balance* the cost of an additional committee against the value of the representation to be provided. *Wang*, 149 B.R. at 3.

35. Here, the former TWA pilots submit that any cost of an additional committee is more than amply offset by the added benefits of such committee. Moreover, it would be grossly unfair to require former TWA Pilots to fund activities in these cases out of their own pockets for

the benefit of the estate generally, while other similarly situated creditors have the rights provided in 11 U.S.C. § 1103, including the right to retain professionals. At the same time, the estate will benefit from inclusion of the former TWA pilots in their own Committee because a key issue to successful reorganization, labor costs associated with the pilot group, can be more fairly and hence more efficiently addressed at once thus avoiding unnecessary issues, cost or delay that could result from their prejudicial exclusion.

36. Another guideline for the Court to consider in assessing whether to exercise its discretion to appoint a separate committee is whether the request to appoint such committee is timely. In evaluating this guideline, courts should primarily be concerned with whether the request would delay confirmation of the debtor's plan. *See Hills Stores*, 137 B.R. at 7; *Dow Corning*, 194 B.R. at 143 (finding that courts are especially skeptical of motions filed after the debtor has filed a plan of reorganization). Inasmuch as these complex chapter 11 cases are undoubtedly many months (if not years) away from reaching plan stages, the establishment of a Committee of Former TWA Pilots would be propitious.

37. This motion is timely. No plan has been confirmed, let alone offered. No pre-section 1113 negotiations have commenced. No section 1113 motion has been filed. No delay will result in the appointment of the requested committee.

7) **Tasks That Separate Committee Would Perform:**

38. A separate committee of former TWA pilots is prepared to do all the following: to consult with the debtor in possession concerning the administration of the case; to investigate the conduct of the debtor, as well as the debtor's assets, liabilities, and financial condition; to participate in the formulation of a plan; to collect and file acceptances or rejections of a plan; to

request the appointment of a trustee under section 1104; and to perform such other services as are in the interest of those represented.

39. These tasks would not be duplicative of the Official Committee because no member, especially the APA, will accomplish them to represent the former TWA pilots.

8) Other Factors:

40. The movant attempted to avoid the need for this motion. A request was made prior to filing this motion, to the US Trustee, to voluntarily appoint the requested committee; that request is still pending. (Declaration of Nicholas Granath, at ¶ 3). Therefore, the motion will be withdrawn if the request is granted.

C) This Court Should Exercise Its Discretion And Order Appointment Of A Committee Of Former TWA Pilots.

41. If the court finds a lack of adequate representation as a first question, its second question in the analysis of whether to appoint an additional committee permits the application of the Court's discretion. *See* 11 U.S.C. § 1102(a)(2) (stating that the court “*may* order the appointment of additional committees of creditors ...” (emphasis added); *Dow Corning*, 194 B.R. at 142; *Wang*, 149 B.R. at 2; *Trans World Airlines, Inc.*, 1992 WL 168152 at 2.

42. Like the first step, certain non-exclusive guidelines for the exercise of the Court's discretion have evolved, including consideration of: (i) the costs associated with appointment (addressed above, herein); (ii) the timeliness of the application (addressed above, herein; and (iii) the presence of other avenues for creditor participation. *See Dow Corning*, 194 B.R. at 142; *Hills Stores*, 137 B.R. at 8. However, as mentioned above, consideration of these guidelines is completely discretionary and should not prevent the appointment of an additional committee if otherwise justified by the facts of a particular case. *Id.*

43. Moreover, the estate will benefit from inclusion of the former TWA pilots in their own Committee because a key issue to successful reorganization, labor costs associated with the pilots' group, can be more fairly and hence more efficiently addressed at once thus avoiding unnecessary issues, cost or delay that could result from their prejudicial exclusion.

CONCLUSION AND RELIEF REQUESTED

44. Appointment of an official committee of former TWA pilots is justified by the unique facts of this case. Any additional cost or 'negative' aspect is offset by granting movants adequate representation before the issue of labor costs is addressed.

Dated: January 31, 2012

SEHAM, SEHAM, MELTZ & PETERSEN LLP

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Counsel for American Independent Cockpit Alliance, Inc.

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----	X	
	:	Chapter 11
In re	:	
	:	Case No. 11-15463 (SHL)
AMR CORPORATION, et al	:	
	:	(Jointly Administered)
Debtors.	:	
	:	
-----	X	

**DECLARATION OF HOWARD HOLLANDER
IN SUPPORT OF MOTION OF
AMERICAN INDEPENDENT COCKPIT ALLIANCE, INC.
FOR ENTRY OF AN ORDER
DIRECTING APPOINTMENT OF AN OFFICIAL COMMITTEE OF
FORMER TWA PILOTS**

I, Howard Hollander, declare as follows:

1. I make this Declaration in support of the motion of the American Independent Cockpit Alliance, Inc. (“AICA”) for entry of an order directing the appointment of an official committee of former TWA pilots.

2. I currently reside in Harrison, New York. I am a former Trans World Airlines, Inc. (“TWA”) pilot. I was hired by TWA on September 30, 1988. Starting in 1997 I became a Captain at TWA. I am currently actively employed by the debtor American Airlines, Inc. (“AA”) as a commercial airline pilot.

3. In April of 2001 I began working for AA after a court-approved merger between AA and TWA. In 2004, I was displaced back to the position of First Officer. It was not until July of 2011, that I was reinstated as a Captain at AA.

4. At the time of the merger between AA and TWA, I held senior leadership positions in the TWA pilots' union, the Air Line Pilots Association ("ALPA"). I was then the chair of ALPA's Master Executive Council ("MEC") at TWA. As such I was directly and personally involved in negotiations over pilot labor issues resulting from the merger held between the union for TWA pilots, ALPA, the union for AA pilots, the Allied Pilots Association ("APA"), and management for both AA and TWA.

5. In this capacity I refused to sign the seniority integration contract-modification entitled Supplement CC ("Supp CC"). Supp CC was the contractual vehicle by which AA and APA stripped TWA pilots of most of their seniority while according certain limited fence protections for TWA pilots at the St. Louis domicile. I was also instrumental in assuring that the ALPA MEC, which represented the TWA pilots at the time, did not agree to the seniority integration scheme that was ultimately imposed on all former TWA pilots.

6. I am also a current member of AICA. I have held various leadership positions in AICA over several years, including that of Board Member. I have also participated in numerous grievance and arbitration proceedings at TWA and AA, on behalf of myself and other similarly situated former TWA pilots.

7. I am also a named plaintiff in federal litigation supported by AICA brought to vindicate the rights of former TWA pilots, i.e. *Brady v. ALPA* (Civil Action No. 02-2917, D.N.J.). That case recently resulted in a jury verdict for plaintiffs on July 13, 2011, for breach of the duty of fair representation.

8. Through my profession, my employment, my union leadership positions over the course of my career as a pilot with TWA and AA, and through my participation in legal processes on behalf of former TWA pilots, I am familiar with, and knowledgeable of, the history of the former TWA pilots and their treatment by TWA, AA and the unions, ALPA and the APA.

The AICA

9. It is the mission of AICA to protect the interests of its membership in dealings with AA and the APA. AICA membership has been primarily made up of former TWA pilots. Currently, of the over two hundred fifty members of AICA, 97% are former TWA pilots.

10. With AA in bankruptcy, and the future status of the St. Louis domicile and Supplement CC in doubt, AICA has committed all of its resources to protecting Supp CC fence protections, or if Supp CC is abrogated in full or in part, recovering date of hire seniority.

11. AICA's position is that the draconian seniority scheme dictated to former TWA pilots by the APA and AA was motivated by the APA's hostility towards former TWA pilots and APA's established policy of advancing the careers of AA pilots at the expense of former TWA pilots. Consequently, APA cannot be relied upon to defend the interests of former TWA pilots in the current bankruptcy process. For example, should AA now seek through bankruptcy to modify or delete the limited protection afforded former TWA pilots in Supp CC due to a possible claim of 30-50 million dollars per year cost to keep the St. Louis domicile open, then former TWA pilots should be restored to their original (TWA) date-of-hire seniority. Nevertheless, in view of APA's track record, APA may be expected to offer, or accede to, concessions adversely impacting former TWA pilots as a means of sparing pre-merger AA pilots from their fair share of the concessionary burden.

12. AICA authorized and supports this motion for appointment of an Official Committee.

13. AICA has identified seven former TWA pilots who are willing and able to serve on any Official Committee in these bankruptcy cases.

Former TWA Pilots

14. When AA purchased the assets of TWA there were approximately 2,200 TWA pilots, many of who worked from their domicile in St. Louis, Missouri. Today there are approximately 700 former TWA pilots actively employed by AA and another 700 on furlough.

15. At the time of the 2001 merger between AA and TWA, in order to determine where the approximately 2,200 TWA pilots would be integrated into the AA pilots' seniority list, talks were held between union representatives of the two pilot groups (as detailed further herein below). ALPA had once represented AA pilots, but after breaking away years ago, they elected their own union, the APA, which then and now represents only pilots employed by AA. The TWA pilots were, at the time, represented by ALPA.

16. During these union-to-union talks it became apparent that the APA intended to strip the TWA pilot group of a great deal of its members' seniority, to the disadvantage of TWA's pilots, but to the advantage of the majority of AA pilots (as detailed further herein below). In response, however, ALPA refused to use assets at its disposal to protect the seniority of the TWA pilot group. Instead, ALPA intended to entice AA pilots to returning to ALPA by sacrificing the TWA pilots' hard-earned date-of-hire seniority, thus effectively throwing the TWA pilot group "under the bus." APA, in turn, exploited ALPA's institutional desire to expand ALPA to include AA pilots in order to disadvantage the TWA pilots by depriving them of

seniority earned in their many years of faithful service to TWA. *See*, Docket No. 413 (July 13, 2011), jury verdict or plaintiff, *Brady et al v. ALPA et al*, Case No. 02-2917 (D.N.J.)

17. This brew of outright APA hostility and ALPA chicanery, amidst management indifference, led directly to the imposition on the former TWA pilots of a seniority scheme to deprive them of their date-of-hire seniority and staple them to the bottom of a list, far below junior pilots in the form of a contract modification called Supplement CC. While Supp CC provided some limited protections to the former TWA pilots, it nevertheless came at the expense of stripping them of their date-of-hire seniority. This had dramatic and disastrous consequences for former TWA pilots that resulted in all of the following:

- One of the most draconian seniority integration in airline history, where pilots who had reached the pinnacle of their profession as pilots for TWA were end-tailed behind AA new hires – and then subsequently furloughed in a soon to follow economic downturn;
- Restricting TWA Captains (those who were not furloughed) to a single location (St. Louis) while denying them the ability to fly many of the routes that AA pilots flew, including international routes that pay more than domestic routes;
- A successful lawsuit against ALPA for violation of its duty of fair representation for its unlawful subordination of the interests of the TWA pilots ALPA represented to the interests of the AA pilots ALPA wished to represent;
- Recognition by the United States Congress of the harsh and unfair treatment of TWA pilots when it passed the McCaskill-Bond Amendment to help insure that such a draconian integration could never again happen.

18. During the ensuing decade, however, APA hostility towards the former TWA pilot group, whose members were now under their care, did not abate. This hostility was most apparent in the APA's refusal to support former TWA pilots in their labor grievances against AA, taking the company's position against their own members. Some egregious examples include the grievance of former TWA pilots Charles Long (denied in arbitration, R. Bloch, February 25,

2008) and Ben Thompson (No. 10-074; APA refused to take to arbitration by letter March 1, 2011). The APA's hostility has even extended to denying former TWA pilots access to arbitration in violation of their statutory rights under the Railway Labor Act, 45 U.S.C. § 151, et seq. Consequently in *McFarland et al v. Allied Pilots Association, et al*, Case No. 3:03-cv-00984 (N.D. Tex., Sep. 23, 2005), former TWA pilots successfully sought federal court intervention to stop the APA's systematic denial of access to the System Board of Adjustment by former TWA pilots, or those associated with AICA.

A History of Hostility Towards TWA Pilots

19. On January 9, 2001, TWA entered into an agreement with AA whereby AA agreed to purchase the majority of TWA's assets following TWA's filing for Chapter 11 bankruptcy protection as a condition of the purchase agreement. TWA made such a filing the following day, January 10, 2001. AA agreed to hire almost all of TWA's unionized employees provided that certain labor protective provisions in their various contracts were eliminated.

20. One of those provisions concerned the right of TWA's pilots to bring to arbitration the issue of their seniority integration with another group of pilots in the event of a purchase of TWA or merger of TWA with another airline. AA indicated that it would not proceed with its purchase of TWA unless this labor protective provision, known as Allegheny-Mohawk rights, was eliminated. TWA's pilots were represented, at the time, by ALPA through its TWA Master Executive Council ("TWA MEC"). AA pilots were then and are now represented by the APA. Under AA's collective bargaining agreement with its pilots, represented by the APA, the seniority of any *new* pilots who began working for AA as a result of an acquisition by AA would begin to accrue only at the moment that the pilots began working for AA. In other words, no

matter how long a new pilot had been actively employed and flying for another carrier, that prior time-in-service (i.e. date-of-hire) would not be recognized as accrued seniority.

21. The TWA pilots, through ALPA at the time, resisted waiving any seniority protection provisions – attempting to retain their date-of-hire seniority. In response, on March 15, 2001, TWA filed a motion under 11 U.S.C. § 1113 with the Bankruptcy Court seeking to abrogate the provisions in its collective bargaining agreement with ALPA. Due to ALPA's refusal to support any resistance to this motion, on April 2, 2001, the TWA MEC passed a resolution waiving its seniority protection provisions in exchange for a letter from AA in which it promised to “use its reasonable best efforts” with the APA to “secure a fair and equitable process for the integration of seniority” and to adopt the procedures that resulted from facilitated meetings between APA and ALPA. Any seniority integration agreement reached between the APA and ALPA was to be presented to AA as a proposed modification of the collective bargaining agreement between AA and APA.

22. On April 6, 2001, the Bankruptcy Court entered a stipulation and order withdrawing TWA's section 1113 motion and formalizing the waiver agreement. At the time there was a great deal of uncertainty as to what the result might have been if AA had gone through with its purchase of TWA assets *without* ALPA waiving its seniority integration protections.

23. On April 9, 2001, the TWA pilots through ALPA entered into a Transition Agreement (“TA”) with TWA-LLC that upon completion of the asset purchase by American would become a wholly owned subsidiary of AA. Under that Transition Agreement, the majority of the provisions of the collective bargaining agreement between ALPA and TWA would remain in effect until such time as the National Mediation Board (“NMB”) adjudicated

TWA-LLC and AA as a “single carrier” within the meaning of the Railway Labor Act (“RLA”), and extended APA's certification to cover the TWA-LLC pilots.

24. The TA incorporated by reference AA’s promise to use its reasonable best efforts to ensure a fair seniority integration process. In addition, ALPA would continue to remain the exclusive representative of the TWA pilots until the NMB made the appropriate declarations.

25. On April 10, 2001, AA’s purchase of TWA's assets was finalized and TWA-LLC began operations as a separate air carrier. At that point, almost all TWA pilots became employees of TWA-LLC.

26. Between at least February and August of 2001, the TWA pilots represented by ALPA negotiated with the APA over seniority integration, albeit under the auspices of a facilitator provided by AA but no agreement was reached between the parties.

27. The APA’s hostility was evident during bargaining with TWA pilots. Some egregious examples are: APA negotiator Ed White’s personal expressions of hostility towards TWA pilots (TWA Merger Committee Chairman Bud Bensel deposition testimony at Tr. 43-46, in *Bensel v. Allied Pilots Ass’n*, 387 F.3d 298, 311 (3d Cir. 2004), *cert. denied*, 544 U.S. 1018, 125 S. Ct. 1976 (2005)); APA delegates mocking the TWA pilots’ first proposal by simulated vomiting on it or using it as toilet paper (*id.* at 84); APA delegates trying to assault TWA negotiator Bensel (*Id.* at 84), and by making a proposal to the TWA pilots in bad faith (*id.* at 86).

28. On November 8, 2001, the APA and AA reached an independent agreement on the seniority integration of the former TWA pilots, known as Supplement CC. Under Supp CC, most TWA pilots did receive minor credit for their seniority, many losing decades of seniority to native AA pilots, but certain positions were guaranteed at the remaining pilot base for TWA-

LLC pilots, i.e. in St. Louis, Missouri. Supp CC was not to become effective until the NMB declared AA and TWA-LLC to be a single carrier and extended the APA's certification.

29. The TWA pilots, however, refused to sign Supp CC. Subsequently, the terms of Supp CC were imposed on them by AA and APA.

30. On November 9, 2001, APA filed a petition with the NMB seeking the declaration of “single carrier” status within the meaning of the RLA. The TWA pilots through ALPA opposed this petition.

31. On March 5, 2002, the NMB declared that AA and TWA-LLC were a “single carrier” for RLA purposes.

32. On April 3, 2002, after ALPA declined to submit an application to become the bargaining representative for the combined pilot group, and despite the objection to APA certification submitted by the TWA MEC, the NMB certified the APA as the sole bargaining agent for all AA pilots. As a result, the April 9, 2001 TWA-LLC/ALPA TA expired (by its own terms), ALPA's certification as the collective bargaining agent for the TWA pilots terminated, and Supplement CC became effective.

33. As a result of the merger and the actions of the APA and AA, 60 percent of former TWA pilots moved to the bottom of the seniority list at AA. Many were subsequently furloughed in the wake of the 9/11 attacks, and most remain on furlough to this day. The senior TWA captains were integrated at the same seniority level as AA captains hired years later. All TWA captains and first officers hired in March 1989 and later were appended to the seniority list junior to AA Airlines first officers hired in June 2001.

Need For A Committee

34. Because of the remaining limited protections afforded the former TWA pilot group in Supp CC, and because AA is expected to seek the elimination of Supp CC in these bankruptcy cases, the TWA pilot group stands to lose more than the rest of AA pilots do. Whereas the original AA pilots are faced with loss of pay and benefits, the former TWA pilots are faced with that *in addition to* the final deprivation of any protections put in place by Supp CC. In effect, this bankruptcy affords AA and APA the opportunity to ‘finish the job’ started over a decade ago, by relegating former TWA pilots to permanent disenfranchisement.

35. An Official Committee is necessary therefore to adequately represent this special group of former TWA pilots.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed this 31st day of January, 2012:

/s/ Howard Hollander
Captain Howard Hollander

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Counsel for American Independent Cockpit Alliance, Inc.

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----	X	
	:	Chapter 11
In re	:	
	:	Case No. 11-15463 (SHL)
AMR CORPORATION, et al	:	
	:	(Jointly Administered)
Debtors.	:	
	:	
-----	X	

**DECLARATION OF NICHOLAS GRANATH
IN SUPPORT OF MOTION OF
AMERICAN INDEPENDENT COCKPIT ALLIANCE, INC.
FOR ENTRY OF AN ORDER
DIRECTING APPOINTMENT OF AN OFFICIAL COMMITTEE OF
FORMER TWA PILOTS**

I, Nicholas Paul Granath, Esq., declare as follows:

1. I make this Declaration in support of the motion of the American Independent Cockpit Alliance, Inc. (“AICA”) for entry of an order directing the appointment of an official committee of former TWA pilots.

2. I am, through the firm of Seham, Seham, Meltz & Petersen LLP, retained counsel to American Independent Cockpit Alliance, Inc. (“AICA”).

3. On January 27, 2012, I personally contacted the US Trustees Office (Office of the United States Trustee, 33 Whitehall St STE 2100, New York NY 10004; Tel. (212) 510-0500; Fax 212-668-2255; ATTN BRIAN MASUMOTO, email: Brian.Masumoto@usdoj.gov). I then

spoke and corresponded by email with Mr. Masumoto, to make a verbal and written request that the US Trustee voluntarily appoint an Official Committee of Former TWA pilots. Mr. Masumoto indicated his office anticipated responding to the request after about a week, once it asked for a response from the Debtors and Official Committee of Unsecured Creditors.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed this 31st day of January, 2012.

/s/ Nicholas Paul Granath, Esq.
Nicholas Paul Granath, Esq.

Hearing Date: February 29, 2012
Objection Deadline: February 22, 2012

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Counsel for American Independent Cockpit Alliance, Inc.

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----	X	
	:	Chapter 11
In re	:	
	:	Case No. 11-15463 (SHL)
AMR CORPORATION, et al	:	
	:	(Jointly Administered)
Debtors.	:	
	:	
-----	X	

**NOTICE OF MOTION FOR ENTRY OF AN ORDER
DIRECTING THE APPOINTMENT OF AN OFFICIAL
COMMITTEE OF FORMER TWA PILOTS**

PLEASE TAKE NOTICE that upon the accompanying motion (the “Motion”) of American Independent Cockpit Alliance, Inc. (“AICA” or the “Movant”), AICA will, by and through its counsel, move on February 29, 2012 at 10:00 a.m. (the “Hearing”) before the Honorable Sean H. Lane, United States Bankruptcy Judge, in Courtroom 701, at One Bowling Green, New York, NY 10004-1409, for entry of an Order directing the United States Trustee to appoint an official committee of former TWA Pilots (the “Former TWA Pilots”) in the Chapter 11 cases of the above-captioned debtors and debtors in possession (collectively, the “Debtors”).

A proposed order granting relief is annexed to the Motion.

PLEASE TAKE FURTHER NOTICE that objections, if any, to the Motion shall be in writing, shall conform to the Bankruptcy Rules and the Local Rules of the Bankruptcy Court for the Southern District of New York, shall set forth the name of the objecting party, the basis for the objection, and the specific grounds thereof, shall be filed with the Court electronically in accordance with General Order M-242 (available at www.nysb.uscourts.gov) by registered users of the Bankruptcy Court's case filings system and by all other parties in interest, on a 3.5 inch disk, preferably in Portable Document (pdf.) or Microsoft Word format (with two hard copies delivered directly to Judge Lane's Chambers), and shall be served upon: (i) the Chambers of Honorable Sean H. Lane, One Bowling Green, New York, NY 10004; (ii) Seham, Seham, Meltz & Petersen LLP, 445 Hamilton Avenue, Suite 1204, Attn: Lucas Middlebrook, counsel for *American Independent Cockpit Alliance, Inc.*; (iii) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, NY 10153, Attn: Stephen Karotkin, Esq., counsel for Debtors; (iv) Skadden, Arps, Slate, Meagher & Flom LLP, Four Times Square, New York, NY 10036, Attn: John Wm. Butler, Jr., Esq. and Jay M. Goffma, Esq., counsel for the statutory committee of unsecured creditors; and (v) the Office of the United States Trustee for the Southern District of New York, 33 Whitehall Street, 21st Floor, New York, NY 1004, Attn: Brian Masumoto, Esq., (vi) James & Hoffman, 1130 Connecticut Ave NW Ste 950, Washington, D.C., 20036, Attn: Edgar N. James, counsel for the Allied Pilots Association, so as to be filed and received by no later than the February 22, 2012 at 4:00 p.m. (prevailing eastern time) (the "Objection Deadline").

PLEASE TAKE FURTHER NOTICE that if an objection to the Motion is not received by the Objection Deadline, the relief requested therein may be deemed unopposed, and may be granted by the Bankruptcy Court without a hearing.

Dated: January 31, 2012

SEHAM, SEHAM, MELTZ & PETERSEN LLP

By: /s/Lucas K. Middlebrook

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Independent Cockpit Alliance, Inc.

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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	:	Chapter 11
In re	:	
	:	Case No. 11-15463 (SHL)
AMR CORPORATION, et al	:	
	:	(Jointly Administered)
Debtors.	:	
-----	X	

**ORDER PURSUANT TO MOTION FOR ENTRY OF AN ORDER
DIRECTING THE APPOINTMENT OF AN OFFICIAL
COMMITTEE OF FORMER TWA PILOTS**

Upon the motion dated January 31, 2012, (the “Motion”) of American Independent Cockpit Alliance, Inc. (“AICA” or the “Movant”), for entry of an Order directing the United States Trustee to appoint an official committee of former TWA employees (the “Former TWA Employees”) in the Chapter 11 cases of the above-captioned debtors and debtors in possession (collectively, the “Debtors”); and due and proper notice of the Motion having been given; and the Motion having come for a hearing on February 29, 2012 at 10:00 a.m. EST, (the “Hearing”); and the Court having considered and read the Motion, objections to the Motion, if any, and arguments by counsel at the Hearing; and after due deliberation, and sufficient cause appearing to grant the requested relief; and the Court having decided the Motion on the record at the Hearing, and such decision constituting the Court’s findings of fact and conclusions of law, it is therefore

ORDERED, that the Motion is granted as provided in this Order, and it is further

ORDERED, that the Objections to the Motion, if any, that have not been withdrawn or resolved are hereby overruled; and it is further

ORDERED, that, except as otherwise provided in this Order, the relief granted by this Order is without prejudice to any and all claims, causes of action, rights, entitlements, and defenses available to each of the parties under governing law and rules of procedures in the American Actions and in any appeals from any orders or judgments that may be entered therein; and it is further

ORDERED, that Pursuant to Section 1102(a) and 1102(b) of the Bankruptcy Code, and effective February 1, 2012, the following former TWA Pilots and current Pilots of the above-captioned debtors who are willing to serve are appointed to the Committee of Former TWA Pilots, for the purpose of investigating the issues relating to: (1) the continuation of seniority benefits for former TWA employees and current employees of the Debtors; (2) the investigation of claims uniquely held by former TWA Pilots, as such, against the Debtors; and (3) dissemination of non-confidential information relating to items (1) through (2) hereof to former TWA Pilots or groups thereof.

Dated: February ____, 2012
New York, NY

Honorable Sean H. Lane
United States Bankruptcy Judge