

ALPA Reverses Pilot's Termination

By John Perkinson
Staff Writer

Capt. Lino Rojas (Pinnacle) can certainly tell you about the importance of ALPA representation. The new secretary-treasurer for Local Council 127 attended ALPA's Leadership Training Conference in February, where he and his fellow reps learned about the Association's many resources. However, the events that led to his termination from Pinnacle in 2008 and his reinstatement two years later have given him an even greater appreciation regarding the value of being an ALPA member. Here's his story.

Rojas was getting ready for the next leg of a trip on Sept. 26, 2008, when, about 30 minutes before departure, he was approached by a new and inexperienced clerk from Pinnacle's local administrative offices. The clerk advised him that he would need to take a drug test. Other crewmembers were in the vicinity and witnessed the exchange.

"I told her [the clerk] that she would need to notify the company that this flight would not be able to leave on time," Rojas said. He expressed his willingness to perform the drug test but felt he should inform the clerk that if he left to get drug tested without a relief captain it would delay the flight. She then excused him from testing.

Rojas apprised her of that risk because of a current company campaign emphasizing the importance of on-time

departures. Pinnacle performs flying for Delta. At that particular time in 2008, Delta was threatening to terminate its contract, contending that the regional airline was not meeting its stipulated on-time performance requirements.

On October 30, Rojas was approached by the same clerk for a drug test before another imminent departure. Again he had a witness and again, the clerk, after consulting with Rojas, excused him. Rojas later learned that the clerk subsequently reported that he refused to take the drug test.

"That's when everything went haywire," Rojas said. "The company conducted a hasty investigation, and I was termi-

nated on Nov. 11, 2008." When Pinnacle issued Rojas's letter of termination, the airline also reported the incident to the FAA, which took emergency revocation action, rescinding all of his certificates.

Rojas didn't know what to do. "I called my status rep, who suggested I take a drug test the very next day," he said. Rojas had worked in the industry since 1987, in various positions with Pan Am and United before becoming a pilot for Pinnacle in 2001. He had been subjected to numerous random drug tests for more than 10 years and had always tested negative.

Rojas also filed a grievance. Many ALPA pilots and staff members would come to

his aid in the coming years, but the person who worked most closely with him to see his case through to the end was Suzanne Kalfus, an ALPA senior attorney.

"I was initially brought in to handle the revocation action," said Kalfus. "We filed his appeal with the National Transportation Safety Board, culminating in a hearing before an administrative law judge. At the end of the hearing, the judge issued a ruling from the bench finding that Lino had not refused the test and, therefore, reversing the revocation."

However, that wasn't the end of it. The FAA appealed the finding to the NTSB, requiring the parties to brief the case in fall 2009. The NTSB ultimately upheld the administrative law judge's position that December, supporting the full reversal of the revocation. Unfortunately, Pinnacle maintained the termination, compelling Rojas and ALPA to then take his case to arbitration.

Following three days of hearings, the arbitrator issued an oral decision upholding the grievance and overturning the termination. Rojas was reinstated in July 2010 and returned to the line two months later. However, ALPA and Pinnacle would continue to seek to resolve Rojas' back pay and lost sick and vacation leave. Final resolution of the remedy was completed in January 2012.

Last October, Rojas decided to give something back to the organization that had



Suzanne Kalfus, left, an ALPA senior attorney, worked closely with Capt. Rojas to see his case through to the end.

PHOTOS BY WILLIAM A. FORD



Capt. Rojas decided to give something back to the organization that had so thoroughly supported him throughout this process. He ran for and was elected secretary-treasurer for his local council. Here he attends ALPA's Leadership Training Conference held in February.

so thoroughly supported him throughout this process. He ran for and was elected secretary-treasurer for his local council. He's now the person offering advice and support to those in his pilot group who need help.

"Before this experience, I

was totally unaware of the extent of ALPA's resources," said Rojas. But given all that he has experienced, Rojas now knows the full magnitude of the resources the Association has to offer its members.

And Rojas has his job back to prove it. 🚀

Comply Now and Grieve Later

Kalfus notes that the facts of this case are unique and should not be read to encourage pilots not to comply with required Department of Transportation/FAA drug and alcohol testing. If there is a question about a directive to submit to testing, the pilot should contact his or her chief pilot or duty officer before leaving the site. The safest approach is to comply now and grieve later. Pilots should remember that the FAA routinely revokes all of a pilot's airmen certificates upon receiving a company report of a refusal to submit to or cooperate with testing.

Suzanne Kalfus is ALPA's legal expert on drug and alcohol testing, having worked with the governing federal regulations since their inception. She also serves as the legal advisor to the HIMS (Human Intervention and Motivation Study) Advisory Board, the entity that oversees implementation of the federal contract awarded to ALPA for education and training about the peer intervention and treatment program for airline pilots. 🚀

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