



13-09

September 26, 2013

*A Tale of Two Professional Support Structures
Or
Why you shouldn't pad your résumé*

In various *True Headings* over the last couple of weeks, we have highlighted the professional staff of the Air Line Pilots Association and the work they do on our behalf. For example,

- ALPA's Government Affairs Department includes a team of lobbyists working every day to protect your interests, future, and livelihood; ALPA has earned its position as *the* voice of professional airline pilots.
- ALPA's Engineering and Air Safety Department (E&AS), comprised of professionals with backgrounds in aviation safety, security, pilot health, accident investigation, flight operations, air traffic control, and a variety of other specialties, collaborates with government and industry to represent the interest of the membership worldwide.
- ALPA's Representation Department supports the collective bargaining and contract enforcement processes from beginning to end.
- ALPA's Legal Department is the Association's internal law office. Our lawyers have broad and deep experience in legal matters of concern to the piloting profession and represent the Association, its governing bodies, and its line pilots in federal and state courts, and administrative proceedings involving federal agencies including the FAA and the NTSB.
- ALPA's Economic and Financial Analysis (E&FA) Department is unique among labor unions. This department combined has well over 100 years of hands-on experience in evaluating pilot collective bargaining agreements and analyzing airline business plans, strategies, and financial data. The National Mediation Board and airline managements across the board can vouch for the expertise of ALPA's E&FA. In fact, management and/or the NMB have often agreed to depend solely on E&FA calculations during negotiations. Pilot leaderships at other ALPA airlines, as well as at foreign airlines, strongly rely on E&FA's expert advice and analyses.

These departments represent just a few of the many departments staffed by dedicated full-time professionals who work hard every day on your behalf.

The Delta Pilots Association has apparently taken notice of ALPA's expertise, and in a real-life example of imitation being the sincerest form of flattery, they have attempted to highlight

the skills of their own primary advisor and legal counsel, Lee Seham. They tout how Mr. Seham was recently hired by a small group of United pilots to represent those particular pilots' interests (to the detriment of other UAL pilots) during the seniority list integration proceedings involving the United and Continental pilots (Excerpt below):



NEWS ITEM: The UAL/CAL SLI has been published and there are some very interesting lessons that Delta Pilots can learn from. Outside of the lawsuits already in progress, a group of UAL Pilots hired Lee Seham, the attorney providing campaign advice to DPA Leadership, to represent them where ALPA was failing. This move turned out to be hugely beneficial to these UAL Pilots.

The DPA also posted a link to a rambling nine-page letter attributed to the nine pilots who hired Seham, but clearly written by Seham himself. They also posted a link to a letter written on behalf of Seham's nine clients expressing their "deepest gratitude" for his "herculean efforts and quantifiable results" in the outcome of the arbitration award, even pointing out "that Mrs. Seham didn't '...raise no dummy!'"

But not so fast. In our best Paul Harvey voice, here's the rest of the story.

Seham's supposed "herculean efforts" had *absolutely no effect whatsoever* on the outcome of the arbitration award. This is because, as you will read below, the arbitration board in the UAL/CAL SLI hearings *never even read* Seham's correspondence! (We wonder if those nine United pilots can get their money back.)

This is the background. Under ALPA Merger Policy, the parties to a seniority integration dispute hire *independent* outside counsel. The United pilots hired the same attorney to represent them in this dispute as did the Delta pilots in the DAL/NWA integration - Jeffrey Freund of Bredhoff and Kaiser in Washington D.C. The strategy and presentation of the United pilots' case was the responsibility and work *solely* of Mr. Freund and his colleagues at the firm and the United Merger Committee.

On July 30 at 3:56pm, in an intrusive and unwelcome attempt to influence the hearings after they had been concluded, Seham's firm emailed to Arbitrator Dana Eischen, the arbitration board's chairman, the nine-page letter described above accompanied by the following plea:

From: [REDACTED]
Date: Tue, Jul 30, 2013 at 3:56 PM
Subject: UAL/CAL Seniority Integration Arbitration
To: [REDACTED]

Dear Arbitrator Eischen:

Please see the attached letter regarding the UAL/CAL Seniority Integration Arbitration.

Could you please confirm receipt.

Thank you.

[REDACTED]
Seham, Seham, Meltz & Petersen, LLP
445 Hamilton Avenue, Suite 1204
White Plains, New York 10601

But at 4:38pm that same day, only 42 minutes after Seham's letter was delivered, Mr. Eischen forwarded the email to merger counsel for both the United and Continental pilots along with the following message:

From: Dana Edward Eischen [REDACTED]
Sent: Tuesday, July 30, 2013 4:38 PM
To: Jeff Freund; Dan Katz
Subject: Fwd: UAL/CAL Seniority Integration Arbitration

Counsel

FYI. Assumed it was like some of the earlier unauthorized interventions and so did not open or read.

Dana

As Mr. Eischen's response indicates, the Seham letter was one of several written to the arbitration board by counsel who were not party to the proceedings and were, therefore, ignored as a matter of course. However, the letter from the Seham firm was not only unsolicited, it demonstrated a total lack of understanding of the seniority integration process, the relevant facts, the applicable principles and policies, and the effect of the United proposal on the very pilots Seham was purporting to represent! Had the arguments advanced in the letter been considered, these errors would have effectively undermined several aspects of the presentation made by the UAL Merger Committee.

After the final Award was issued, the DPA then made another in a long list of misguided attempts to intentionally deceive the Delta pilots by hailing the false accomplishments of their lone professional, Lee Seham. Mr. Freund, the United MEC's merger counsel, became aware of this deception shortly after its publication on the DPA website and wrote the following letter to United MEC Chairman, Captain Jay Heppner:

Robert M. Weinberg
Julia Penny Clark
Jeffrey R. Freund
W. Gary Kohlman
Jeremiah A. Collins
Mady Gilson
Bruce R. Lerner
Andrew D. Roth
John M. West
Douglas L. Greenfield
Roger Pollak
Anne Ronnel Mayerson
Leon Dayan
Devki K. Virk
Robert Alexander
Matthew Clash-Drexler
Abigail V. Carter

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Elliot Bredhoff
(1921 - 2004)
Henry Kaiser
(1911 - 1989)

September 19, 2013

Joshua B. Shiffrin
Ramya Ravindran
Daniel A. Zibel
Kimberly Sánchez Ocasio
Osvaldo Vazquez
Raphael Rajendra
Jacob Karabell
Tanaz Moghadam

Jeffrey L. Gibbs
Laurence Gold
Patricia Polach
Susan G. Lahne
Kathleen Keller
Jenifer A. Cromwell
Philip C. Andonian
Tearyn J. Loving
Of Counsel

VIA EMAIL

Captain Jay Heppner
Chairman
United Airlines Master Executive Council
9550 W. Higgins Road, Suite 1000
Rosemont, IL 60018

Dear Jay:

It has come to my attention that some United pilots are publicly crediting Lee Seham, an attorney with the law firm of Seham, Seham, Meltz and Petersen, with achieving a result in the United/Continental Seniority Integration case more favorable to United's widebody pilots than the proposal made to the Arbitration Board by the United Merger Committee. I leave it to others to decide whether the Award was, in fact, more favorable to United widebody pilots than the United Committee's proposal, but I do want to dispel any notion that Lee Seham had anything whatsoever to do with the shaping of the Award.

Here are the facts. During the briefing period after the close of the hearing, Mr. Seham attempted to insert himself into the mix, purportedly acting on behalf of nine United widebody pilots, to try to persuade the Board to shape an award that differed in many respects from the United Merger Committee's proposal. To do that, he sent an unsolicited e-mail to Dana Eischen - the Chair of the Arbitration Board - containing a letter from him and a letter purportedly written by those nine United pilots, but clearly written by Mr. Seham. Both letters contained arguments about how the ISL should be constructed. Mr. Eischen knew full well, as any highly regarded arbitrator and, frankly, any attorney would, that Mr. Seham's effort to inject himself into the process was inappropriate. Mr. Eischen immediately notified me and Dan Katz, counsel for the Continental Merger Committee, that he had received this unsolicited e-mail and confirmed that he "did not open or read" either the e-mail or its attached letters. A copy of the email exchange is attached. Accordingly, any claim that Mr. Seham had any effect on the Award - positive or negative - is pure invention.

As to the letters attached to Mr. Seham's e-mail to Mr. Eischen, I can only assume that since, so far as I know, Mr. Seham - unlike me - has never actually handled a seniority integration matter for pilots, he would be unaware of how utterly ridiculous his proposal was. To put it in simple terms, he urged the Board (in the letters the Board did not read) to effectively "cherry pick" Merger Policy's two objective criteria - Longevity and Status & Category - by applying one factor to one part of the list and another to the rest of the list. No party to the proceeding had submitted a proposal as internally contradictory as this, and that kind of approach contradicts ALPA merger policy and long standing arbitral precedent on pilot seniority integration. Had we authorized such a submission, it would have been seen for what it was - a transparent and unfair attempt to use only one factor of Merger Policy to advance the interests of part of our list and a different factor to advance the interests of another portion of the list. Had we done that, it would have fatally undermined the Merger Committee's presentation and its credibility with Chairman Eischen and his Board, to the detriment of all of the affected pilots. But as made clear above, the proposal was never even opened, much less read, by the Board.

Finally, no letter addressing claims about Mr. Seham's "contribution" to the United seniority integration can end without observing that in a presentation to the US Airways pilots after the Nicolau Award was issued in the America West/US Airways case in support of the effort to form USAPA - a union that summarily terminated his firm's services several years later after he lost a DFR trial in a lawsuit brought by some former America West pilots against USAPA and a RICO suit he brought on USAPA's behalf against other former America West pilots - Mr. Seham identified me as one of the country's premier and successful seniority integration lawyers. I don't know if he was right about that characterization, but I do know that no one who knows anything at all about the seniority integration process would have made the proposal his unread e-mail to Mr. Eischen sought to advance.

Sincerely,



Jeffrey Freund

Words matter, and so do integrity and character. From the earliest days of our childhood, all of us are taught that there are few things more reprehensible and unprofessional than taking credit for the work of others. Yet, that is what the DPA and its counsel have sought to do in claiming Seham had a role in achieving the terms of the UAL/CAL Seniority Integration Award. The contrast between ALPA's vast and proven support structure of professionals, which has been built over a period of more than eight decades, and the DPA's advisor and legal counsel is stark. More importantly, however, every Delta pilot should take a step back and ask himself why the DPA feels the need to pad its résumé with false assertions and misleading tales. Did they think no one would notice?

The Delta pilots deserve much better than the deception DPA provides.