

A Journey Through Bankruptcy Court

July 11, 2004

To: The Pilots of Delta Air Lines
From: Captain Robert G. Fuhrman
Airline Pilots Association: Inactive Member in Good Standing
International Association of Machinists: Inactive Member in Good Standing
Teamsters Union: Active Member in Good Standing

I am a Captain for a major cargo airline and a former pilot for Eastern Airlines. Through my personal experience, I have first hand knowledge with the bankruptcy process. During my career, I have watched Eastern, Discovery Airlines (Hawaii), and Midway Airlines file for bankruptcy protection under Chapter 11. None of these carriers were able to successfully re-organize under Chapter 11 Bankruptcy protection.

In my career, I have started as a new hire at the bottom of the seniority list, on probation four times.

When Eastern failed, my wife, and I were the parents of two young boys ages 6 and 5. To provide income and medical insurance for my family, I had no choice but to accept my circumstances, commute to wherever the work was and experience the separation from my family for long periods of time.

From the time Eastern failed until I was able to hold a line at my current airline was seven years.

During this time of reestablishing my aviation career I was a very active ALPA member fighting for our Eastern Airlines careers. I testified in the Department of Transportation competency hearings concerning Frank Lorenzo. Congressman Mac Collins took me to the White House to bring this matter before President Clinton. I have personal letters from Presidents George Bush and Bill Clinton concerning the plight of the families of Eastern Airlines.

I have five three-inch notebooks full of letters from Congressmen and Senators; two letters in particular from Senator John McCain and Senator John Kerry are worth mentioning.

In a letter to me dated April 11, 1997, Senator John McCain from Arizona, the Chairman of the Senate Commerce, Science and Transportation Committee, says “Nevertheless, if there is some type of legislation proposal that addresses your concerns, I would gladly consider it”. On July 14, 1997, by Providence, I personally met Senator McCain in the halls of the Russell Senate Office Building. When I mentioned to Senator McCain that my issue was Eastern Airlines he looked at me and said abruptly, “That’s over my friend”

The letter from Senator John Kerry of Massachusetts dated October 28, 1996 is to the then Chairman of the Senate Science, and Transportation Committee, Senator Larry Pressler. Senator Kerry requests that hearings before this committee be scheduled “in order to address the grievance he and the families of Eastern Airlines have concerning the bankruptcy proceedings of the company.” As of this date, July 11, 2004, the Senate Commerce, Science, and Transportation Committee has not addressed the Eastern Airlines grievance.

The purpose of the Chapter 11 Bankruptcy Court is to allow an entity to restructure debt that has become unmanageable. Should a restructuring of the debt not be possible, then the entity will be liquidated in an attempt to repay creditors. Such was the case at Eastern, Midway, and Discovery. Over the years numerous airlines have entered bankruptcy. Continental, and America West, are the only major airlines to emerge from Chapter 11 Bankruptcy Protection to become moderately successful. (Continental went into Chapter 11 Bankruptcy twice.) I have heard comments from Delta pilots saying “I’ll take my chances in bankruptcy”. From my experience, I would suggest that the Delta Pilot Group not to gamble your careers and the future of your families by journeying down the *Bankruptcy Road*.

When you consider bankruptcy, just think of the term “The Debtor in Possession”. In the Old Days, when a company was placed under bankruptcy protection the management of that company was immediately replaced with a Trustee. Today, the present management is kept in place and is given the title of “The Debtor in Possession”.

A Bankruptcy Judge is not a Tenured Federal Judge. A Bankruptcy Judge is appointed by the Executive Branch and serves a specified term in this position and **he can do anything he deems necessary for the good of the Debtor in Possession.**

You may ask “What about Section 1113 of the bankruptcy code?” Section 1113 allows a company to modify or reject a collective bargaining agreement under certain circumstances. I can tell you from my experience with Eastern Airlines; the non-tenured Bankruptcy Judge will do anything he deems necessary for the Debtor in Possession while you fight his decision for months and years in the Federal Court System.

In the fall of 1989 we continued our struggle against Continental Holdings Company and through the years we have won the majority of the court decisions. This has been accomplished through our own organization, the Eastern Pilots Merger Committee. 300 to 350 Eastern Pilots paying \$50.00 per month to continue our legal struggle for these past 15 plus years.

As Professional Airline Pilots, the Pilots of Eastern Airlines won a very significant struggle in the history of the American Labor Movement! Frank Lorenzo was deemed incompetent and removed from the American airline industry by the Department of Transportation. Today, 15 years after our fight began; there is a legal process to obtain an arbitrator to integrate Pilots of Eastern Airlines into the seniority list at Continental

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Airlines. (note that although there has been a ruling that an arbitrator be appointed, Continental is challenging this in court. And so continues the never ending merry-go-round ride. The pilot's win a court decision, Continental challenges it, and so it goes, year after year after year)

Just as you have the ability to avoid a line of thunderstorms by planning conservatively, so you too can avoid bankruptcy by conservative planning. However, just as delaying the avoidance of thunderstorms for too long can take the situation out of your control, this also can be the situation when waiting too long to act to avoid bankruptcy. When Delta's creditors start to demand cash for services, things may spiral out of control so rapidly that no corrective action will avoid Chapter 11.

The bankruptcy court is stacked against you. But, if you choose to fly into this adverse weather you can fight the bankruptcy system with time, money and your careers. You will most certainly win many of the battles but you will most likely lose the war.

You absolutely must maintain your focus on your family and your career. Your goal is not to have a strong ALPA, not to take a strong stand, and not to make a statement. Your goal, for each of you individually, is to assure the best career for your families future. This is an absolute, and it must be undertaken within the context of today's airline environment. If you as members of the Airline Pilots Association disagree with the present course of your MEC let your voices be heard. Replacement of your MEC is in your control as the membership of this body politic.

I assure you that the emotional sentiments that emanate from LEC meetings, MEC meetings, and on your forum will ring very hollow if Delta files for Bankruptcy Protection. Your young sons and daughters look to you for their security. If you awaken to headlines that say "Delta Files Bankruptcy and your children ask you "daddy, what's going to happen," you will wish from the depths of your soul, as I experienced, that you had done everything in your power to help Delta avoid bankruptcy. Bankruptcy is truly an emotional *Black Hole!*

I urge you, as members of the Delta Pilot Group to exhort your ALPA MEC to work with Delta's management to avoid Chapter 11 Bankruptcy Protection at all costs." Do what needs to be done at this time to help Delta Air Lines achieve a successful and prosperous future.

Above all, Take Care of Your Families!!!

Respectfully,

Captain Robert G. Fuhrman

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