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April 6, 2015

FO Pam Torell, APA Secretary - Treasurer
Further Attn: APA President Keith Wilson
Allied Pilots Association
O'Connell Building - Suite 500
14600 Trinity Blvd.
Fort Worth, TX 76155-2512

Via Certified Mail Return Receipt Requested and E-mail:

RE: Demand to File Article VII Charges Against APA President Keith Wilson

Dear FO Torell,

I write to you in your official capacity as APA Secretary Treasurer, and as a member in good standing. In accordance with APA Constitution and Bylaws ("C&B") Article VII., I hereby timely prefer charges against APA President Keith Wilson. Specifically, I am charging President Wilson, based on his unlawful actions relating to his revocation of access to C&R for access of myself, and all other disabled pilot members, to include all 233 Medical Disability Dropped ("MDD") members, which he did without notice or due process, in direct violation of the supreme law of the union, the APA C&B. (Please see detailed facts and charges below).

Generally, President Wilson's unlawful actions constitute, not only a *"Willful violation of this Constitution and Bylaws"* in violation of Article VII.A.2, but also an *"act contrary to the best interests of the APA as an institution or its membership as a whole."*, in violation of C&B Article VII, A.7. As described in further detail below, President Wilson actions are severely prejudicial to disabled members like myself, and will also negatively impact any APA members who may suffer the misfortune of suffering from a disability in the future. The President should never be allowed to unreasonably and arbitrarily discriminate between different groups of members, as he has done here.

FACTUAL BACKGROUND

According to the APA C&B, myself and other disabled MDD pilots are considered to be APA members in good standing (Art. III Section 2.B,C, Section 5.B), and at most are simply not eligible to vote or hold office, but are otherwise entitled to all rights, benefits and privileges of active APA membership (Art. III Section 7.A and B.) However, APA's past practice has been to treat MDD pilots as "Active" members¹, and since the inception of C&R it has always allowed them full access as if they were Active members. C&R access is important for MDD members; because such pilots have ongoing collectively bargained disability and healthcare benefit streams that depend on the ongoing viability and profitability of American as a business, and thus warranting

participation in discussions about the terms and conditions of work, and APA's enforcement and protection of such rights. Moreover, C&R access for MDD pilots was particularly important during the past year, when proposed modifications to all MDD pilot's contractual rights related to their collectively bargained LTD benefits were being discussed as part of the ongoing JCBA process. Ironically, for precisely the same reasons cited above, the APA recently argued in federal district court pleadings to support why it is reasonable to allow access to C&R by certain inactive members, namely retirees ("RET"), and furloughed ("FUR").

Additionally, APA President has not only revoked MDD members access to C&R, but has also subsequently denied their access to union meetings by mandating membership cards for entry; while at the same time, allowing the Secretary Treasurer to refuse to issue such MDD pilots either membership or special membership cards, as she is otherwise required to do under C&B Article IV, Section 8.A.3. This lockout is also contrary to the APA Policy Manual, Sec. 2.04 B., which asserts that the *"APA will maintain and support a website and an electronic forum system to be called Challenge & Response that will continue to support the free and democratic discussion of issues between members of the Association."* As a result, MDD members have been deprived from participating in those important union discussions in both forums, which further amounts to a blatant violation of their Union Member Bill of Rights, under the LMRDA. The Association for Union Democracy (AUD) is a staunch supporter of the LMRDA, and was so offended by APA's stripping away its disabled members bill of rights, that it published a story in a national news letter. (Exhibit 1).

Arguendo, even if MDD pilots are considered to be inactive, they would still be members in good standing, making it patently unreasonable and arbitrary for the APA President to suddenly and selectively enforce the Terms and Conditions of Acceptable Use Policy (AUP) of the APA website, to unlawfully revoke their access to C&R on that basis. Especially, considering that MDD members had otherwise previously enjoyed long-time C&R access under the very same AUP, which also already allows access for other inactive members in the status of RET and FUR. Regardless, MDD members, just like RET and FUR members, have important contractual rights flowing from their collectively bargained LTD benefits, and should also be allowed to participate in union discussions on C&R relating to work terms and conditions. Additionally, in another Article VII case, *Annabelle v. Wissing*, Arbitrator Wolitz, held in that *"the Appeal Board itself has previously acknowledged that the AUP is routinely violated and not enforced. (AN 52, pg 22)."* and further that, *"an organization [APA] cannot selectively enforce a policy against one individual [or group of individuals] even if it imposes no penalty."* Which makes sense when considering that the AUP is not part of the C&B, and thus is not binding under the supreme law of the union. Therefore, myself and other disabled MDD pilots have been, and will continue to be severely prejudiced, as a result of the APA President's arbitrary, discriminatory, and bad faith act of locking them out of C&R.

More specifically, on April 22, 2014, after I threatened to file an EEOC charge against the APA, the APA President, in an apparent act of retaliation, abruptly and unlawfully revoked the C&R access of myself, and all other disabled pilots, to include all 233 MDD members without notice. He did so in direct violation of APA C&B, Article VII, D.5, which states in relevant part that the;

"President shall have the authority, in consultation with General Counsel, to enforce the Terms and Conditions of the Acceptable Use Policy ("AUP") established for the

APA Website and its subparts ("System") on behalf of the Association by removing postings, and/or suspending or revoking a member's access in whole or in part to the System for a period no longer than fourteen (14) business days." [Emphasis Added].

and Article VII. D.5 further states that;

"A members right of access to the System or any subpart(s) [C&R] shall not be revoked or suspended unless the president in consultation with General Counsel, determines that such action is necessary for APA to comply with its legal or contractual obligations, or to protect the integrity of the System." [Emphasis Added].

and Article VII. D.5 further states that;

"The President shall promptly provide the member, by e-mail or otherwise, with specific reasons for such actions." [Emphasis Added].

and finally Article VII. D.5 states that;

*"In the event that the President restricts a member's access to the System, this restriction shall be subject to **mandatory review** by the Appeal Board via the procedures specified in VII.D. for Article VII proceedings. **This review shall be conducted and a decision rendered by the Appeal Board within the fourteen (14) business days specified above.**" [Emphasis Added].*

CHARGES

1st CHARGE; the APA President violated C&B Article VII.D.5, by failing to promptly notify myself, and all other disabled pilots, including MDD members, by email or otherwise, with specific reasons as to why he unilaterally revoked our access to C&R.

2nd CHARGE; the APA President also violated C&B Article VII.D.5, by exceeding the scope of his authority, by locking-out myself and all other disabled MDD members from C&R for a period longer than the 14 business days allowed.

3rd CHARGE; the APA President also violated C&B Article VII.D.5, by failing to ensure the Appeal Board conduct a *Mandatory Review* of his unilateral action of restricting all MDD members access to C&R, and further, failing to ensure the Appeal Board render a decision on that restriction within the 14 day period specified in Article VII.D.5.

4th CHARGE; as a result of all the above violations, the APA President also violated C&B Article VII.A.7., by committing an, *"act contrary to the best interests of the APA as an institution or its membership as a whole."*

5th CHARGE; as a result of all the above violations the APA President violated C&B Article VII.A.2., by committing numerous *"Willful violation[s] of this [the APA] Constitution and Bylaws."*

6th CHARGE; finally the APA President has failed to enforce the APA Constitution and Bylaws in violation of C&B Article IV, Section 8.A.3; specifically, he failed to enforce Article III, Section 4, which requires the APA Secretary Treasurer issue Membership Cards to active members in good standing, or Special Membership Cards to inactive members. My certified requests for a membership card have been ignored.

RELIEF SOUGHT

Based on the foregoing, the APA President should be held to account for act of revoking C&R access of MDD members, in blatant violation of the rights and due process, to which they were otherwise entitled under the APA C&B - which APA touts is the supreme law of the union. Not to mention that his act has precipitated two costly LMRDA lawsuits against the association. Therefore, I respectfully seek the following relief as provided under the APA C&B, Article VII;

First and foremost, to prevent further harm to myself and all other MDD pilot members in good standing; the Appeal Board should immediately restore all MDD pilot's access to C&R until this matter is fully adjudicated. Especially considering, that the President's revocation of C&R has grossly exceeded the 14 day limit specified in Article VII D.5, by almost one year.

Second, as was required under Art. VII D. 5, and I respectfully request that the Appeal Board initially conduct a *Mandatory Review* of into President Wilson's act of revoking the C&R access of myself, and all disabled pilots, including MDD members; and further, render a decision regarding the President's revocation of C&R access within 14 business days of this filing, as should have already been done within 14 days of the April 22, 2014 lock-out.

Third, after the Appeal Board's *Mandatory Review* and decision with respect to the C&R lock-out is completed, I further request that since President Keith Wilson is a National Officer, that a Domicile Hearing is an not appropriate forum, and therefore, in the first instance the Appeal Board also conduct an additional separate formal hearing of the individual Charges filed against President Wilson for his actions taken in violation of the C&B, and further that the Appeal Board impose upon President Wilson whatever disciplinary action, fines, and sanctions as it may deem appropriate.

Fraternally,



FO Lawrence M. Meadows

cc via certified mail: Keith Wilson

cc via e-mail: Bennett Boggess, Thomas Copeland, Tom Gallagher

¹ APA's Group Term Life Insurance and VADD plan specifically states that Disabled Members are considered "Active" until age 65 or Retirement (if earlier). This policy is consistent APA's past-practice of treating MDD members as "Active" for purposes of accessing C&R.

EXHIBIT 1

Union Democracy Review

No. 204

Published by the Association for Union Democracy

Member Discussion Board closed off with No Explanation: 233 Disabled Pilots Barred from Allied Pilots Association website

By Kurt Richwerger

Without explanation or warning, on April 22nd, 2014 the Allied Pilots Association (APA), the collective bargaining agent for all 10,000 American Airlines (AA) pilots, locked out 233 of its members - all of whom are medically disabled - from what is called the "challenge and response (C&R)" section of the APA website. C&R is a members-only discussion forum. The 233 pilots are all classified by the APA as "MDD" or medically disabled and dropped from the seniority list. AA policy is that after 5 years of disability members lose their seniority. This policy has been the subject of an ongoing dispute between the APA and its disabled pilots, and many pilots wish the APA to grieve the policy on grounds that it violates the CBA and the Americans with Disabilities Act (ADA). Regardless, MDDs have always been classified as members in good standing by the APA, but now have been prevented from entering what APA calls its "virtual union hall."

The lockout, according to some disabled pilots, is meant to prevent them from discussing the allegedly poor treatment of disabled pilots by the APA and by American Airlines (AA). According to one pilot, an active website discussion began with a member's posting of a press release regarding a March 2014 lawsuit against AA brought by Lawrence Meadows, one of the AA disabled pilots. The lawsuit, filed in federal court, accuses AA of violating the employee whistleblower protections of the Sarbanes Oxley Act by retaliating against Meadows and terminating him after Meadows informed AA of suspected fraud in its cost savings program scheme to terminate pilot disability payments funded by AA pension plans.

Disabled members began commenting and posting on C&R and told their own "horror stories," in the words of one disabled pilot, stories which did not paint the APA in a very favorable light.

Inside Stories

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Meanwhile in mid-April 2014 Meadows requested that APA represent him in a seniority reinstatement grievance hearing and APA refused; he responded to the APA legal department that he would file EEOC disability charges against APA and would advise others to do the same. Two hours later, he and all other 233 MDDs were locked out of the website.

Meadows' Sarbanes Oxley lawsuit provides some background and context for the above events. It alleges that AA targeted him in a fraudulent "cost-savings" initiative, as American faced the threat of bankruptcy and its pension obligations were badly underfunded.

The lawsuit alleges that in 2004 Meadows, at that time a 13-year APA member and pilot, became disabled and began receiving disability benefits as his application was approved by the AA Medical Director. In the 2004-07 period when he received benefits, Meadows attempted to get clearance to return to work twice, but was unable to obtain a required FAA medical recertification to fly for AA due to his condition. In fact, regular medical updates of his condition, required under the plan, found it worsening, reflected in AA records.

But despite his worsening condition, he was suddenly terminated from disability benefits in December 2007 -- not even told of this termination by AA - checks just stopped coming. Meadows appealed the loss of disability status to the AA's Pension Benefits Administration Committee (PBAC). PBAC had hired an outside party, "Western Medical Evaluators" (WME), to review such appeals. The WME review concluded that Meadows' claim be denied in 2008. But, Meadows learned from his 2010 ERISA lawsuit against AA that WME was not really a third party clinical source as required by the CBA, but rather a small worker's compensation claims processor that had a history of falsifying claims and records, and in fact WME was permanently shut down by the Texas State Insurance Board in 2010 for fraudulent practices. In discovery during his ERISA suit, WME could produce no medical records that they relied upon in conducting their peer review of Meadows' case.

Meadows' ERISA lawsuit also revealed the AA "cost savings program," which tracked some 84 disabled pilots including himself in a spreadsheet, and he was one of five designated for "cost savings." APA also challenged the PBAC review process in a 2009 lawsuit and the clinical review was moved to the Mayo Clinic.

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Disabled pilots

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The suit continues: after denial of benefits Meadows was placed on unpaid sick leave and told he had to return to full time pilot work by getting medical clearance. He applied again for the FAA clearance to return to work but was again denied due to his condition. But instead of returning to disability status, Meadows was kept on unpaid sick leave. The 2010 ERISA lawsuit meanwhile went to federal mediation and in the process Meadows revealed the use of WME and the existence of the fraudulent cost savings initiative to AA's corporate directors and AA's legal counsel, and told AA that his lawyers were intending to bring additional actions. Meadows was then told by AA he had exceeded AA's sick leave maximum of five years and threatened with termination -- odd, because Meadows had already exceeded that policy by three and a half years and was never threatened with termination. The AA Reasonable Accommodation Policy requires that if a disabled pilot cannot obtain FAA clearance to fly an aircraft he may request a reasonable accommodation in another craft or class so Meadows requested an accommodation in one of AAs non flying pilot positions -- which would have kept him in the CBA, kept his seniority and eligibility for benefits, but he was refused. Meadows was terminated in 2011, after refusing to accept an accommodation outside of the CBA, which would have inferior status and benefits and prevented him from ever returning to work as a pilot.

The suit asks for relief in the form of a new assignment to a position in the bargaining unit with full wages commensurate with his seniority status and suggests three possible positions. It also asks for reinstatement of his benefit package, back pay and lost benefits. It also asks for a money sum for "intentional infliction of emotional distress" which the suit alleges has led to a significant exacerbation of Meadows' condition, and asks for attorney fees.

After Meadows' press release appeared on the C&R portion of the APA website, another disabled pilot, Kathy Emery, posted a document in which she alleges she was also the target of the AA cost savings plan. Like Meadows, her disability benefits were unex-

pectedly discontinued, she had been receiving disability payments for several years and a doctor selected by AA provided updates to AA on her condition. But in Jan. 2007 she was stripped of all disability benefits without notice, just around the time Meadows lost his benefits.

Emery describes in her posting that like Meadows, she exercised her right to appeal the loss of her disability to the AA PBAC and suffered the same fate -- WME denied her appeal. After her appeal was denied she was placed on unauthorized leave of absence and told to appear at a hearing. The hearing officer directed her to obtain a First Class Medical Clearance so she could go back to work. But soon after, she was told by the same AA Medical Director that had stopped her disability payments, that he would not give her such clearance but suggested she might be given a "reasonable accommodation" "stapling papers."

Like Meadows, Emery then filed an ERISA suit against AA in federal court in Florida. Her ERISA case unearthed the same fraudulent practices by WME that allegedly took place in Meadows case.


But Emery has issues with APA that Meadows did not. Emery and APA filed a grievance against AA in December 2007 but it was not settled and she is still awaiting an arbitration date. Emery was also entitled to disability benefits under the APA disability plan. So in 2003 she filed for benefits. No payments were received for five years. She filed another ERISA suit this time against the APA, and won a settlement of \$48,000 from a federal court for the back years.

But there is even more to Emery's dispute with APA. Emery alleges she received far less than her fair share of the AA "Equity Distribution," which has become the basis for her EEOC complaint against APA. In the formation of the new American Airlines, AA pilots were given a 13.5 percent equity stake, as pilots became part owners of the new AA. Emery received an award estimated at \$23,000, but similarly situated male pilots who had also been "terminated" received 5 to 6 times that amount. The reason: male pilots that had been "terminated" filed grievances that were given a presumption of likely success -- thus they were held to be still on "active status." Emery alleges disparate treatment when her grievance was not given the same presumption, so she was not treated as "active" resulting in a much lower share of the equity. Emery also alleges in her complaint that the APA discriminated against other disabled pilots in the equity distribution.

Both Emery and Meadows are exploring ways to remove the website lockout.

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