IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

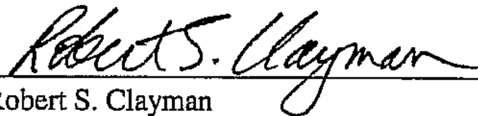
In re	)
	)
UAL CORPORATION, et al.,	) Chapter 11
	)
Debtors.	) Case No. 02-B-48191
	) (Jointly Administered)
	)
	) Hon. Eugene R. Wedoff
	)
	) Hearing Date: September 17, 2004
	) Hearing Time: 9:30 a.m.
	) Objection Deadline: September 14, 2004
	)

NOTICE OF JOINDER (Docket No. 7672)

TO: Parties Listed in Certificate of Service Filed with the Court.

PLEASE TAKE NOTICE that on September 17, 2004, or as soon thereafter as counsel may be heard, we shall appear before the Honorable Eugene R. Wedoff, or any judge sitting in his stead, at the United States Bankruptcy Court for the Northern District of Illinois, 219 South Dearborn Street, Chicago, Illinois, 60603, and then and there join **Motion by the International Association of Machinists and Aerospace Workers for an Order Pursuant to 11 U.S.C. § 1104 Appointing a Chapter 11 Trustee (the "Motion")**. A copy of Joinder of Association of Flight Attendants-CWA, AFL-CIO, to the Motion is attached hereto and hereby served upon you.

Respectfully submitted,



Robert S. Clayman
(admitted pro hac vice)
Jeffrey A. Bartos
(admitted pro hac vice)
GUERRIERI, EDMOND & CLAYMAN, P.C.
1625 Massachusetts Ave., N.W., Suite 700
Washington, D.C. 20036-2243
Telephone: (202) 624-7400

Counsel for Association of Flight Attendants-CWA, AFL-CIO

Dated: September 7, 2004

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re	)
	)
UAL CORPORATION, et al.,	) Chapter 11
	)
Debtors.	) Case No. 02-B-48191
	) (Jointly Administered)
	)
	) Hon. Eugene R. Wedoff
	)
	) Hearing Date: September 17, 2004
	) Hearing Time: 9:30 a.m.
	) Objection Deadline: September 14, 2004
	)

**JOINDER OF
ASSOCIATION OF FLIGHT ATTENDANTS-CWA, AFL-CIO,
TO MOTION BY THE INTERNATIONAL ASSOCIATION OF MACHINISTS AND
AEROSPACE WORKERS FOR AN ORDER PURSUANT TO 11 U.S.C. § 1104
APPOINTING A CHAPTER 11 TRUSTEE (Docket No. 7672)**

The Association of Flight Attendants-CWA, AFL-CIO ("AFA"), by and through its undersigned counsel, submits this joinder to the International Association of Machinists and Aerospace Workers' ("IAM") motion for an order pursuant to 11 U.S.C. § 1104 appointing a Chapter 11 trustee (the "Motion"). In its Motion, the IAM shows that United Airlines' ("Debtors," "United," the "Company") refusal to make legally required contributions to its employee pension plans demonstrates gross mismanagement and a breach of the Debtors' fiduciary duty to the estates and creditor, "warrant[ing] the immediate appointment of a Chapter 11 trustee." IAM's Mot. Order Pursuant 11 U.S.C. § 1104 Appointing Chapter 11 Trustee at 2. Critically, in addition to the Debtors' fiduciary breaches, AFA identifies numerous examples of the Debtors' gross mismanagement, as well as incompetence and dishonesty, any one of which establishes cause for the appointment of a

trustee under § 1104(a)(1). Moreover, as we show below, the totality of the Debtors' misdeeds leaves no question but that the Debtors have piloted this reorganization to the brink of disaster, by completely alienating employees from the reorganization process. Accordingly, the immediate appointment of a trustee is also manifestly "in the interests of creditors." 11 U.S.C. § 1104(a)(2).

FACTUAL BACKGROUND

1. Since the Debtors filed for Chapter 11 relief on December 9, 2002, they have continued to operate and manage United's assets as debtor-in-possession pursuant to §§ 1107(a) and 1108 of the Bankruptcy Code.

2. In December 2002, immediately following its bankruptcy filing, United reduced the pay of all its salaried and management employees. At that time, Glenn F. Tilton, United's President, Chairman and CEO, agreed to cut his salary by 11% from $949,438 to $845,500.

3. On April 4, 2003, following the decisions of the CEOs of American and Delta to cut their salaries, Mr. Tilton reduced his base annual salary from $845,500 to $712,500. See Exh. 1 (Letter from Tilton to General Counsel of Apr. 4, 2003). Mr. Tilton told USA Today, "'Given the new financial challenges to United and this industry . . . I believe this is an appropriate step.'" Exh. 2 (United CEO takes another cut in pay, USA Today). According to USA Today, "Tilton noted that everyone at United is contributing significantly and proportionately to the airline's financial recovery." Id. Combined with his earlier salary reduction, Mr. Tilton's compensation, as of April 4, 2003, was cut by 25%. The employees' contributions were captured in the unions' Restructuring Agreements, which imposed pay cuts ranging from 9% for flight attendants to 36% for pilots. See Decl. of Peter Kain, Exhibit to Debtors' Mem. Supp. Mot. Modify Retiree Medical Benefits Pursuant to Section 1114(g).

4. Upon approval of the modifications to the collective bargaining agreements by the Court at the end of April 2003, Mr. Tilton thanked employees for their "sacrifices," while a United press release declared that "[t]he agreements provide the significant labor-cost savings, productivity enhancements and modifications to scope clauses that will give United the financial and operational flexibility it needs to succeed now and in the future." Exh. 3 (Apr. 30, 2003 United Press Release).

5. As documented in the Report of Examiner Ross O. Silverman ("Examiner's Report"), in July 2003, "United discovered a $300 million mistake in the projections produced by its financial forecasting model." Exam. Report at 19. The Debtors' Gershwin 2 financial model had contained a number of erroneous assumptions, including an assumption that a $275 million reduction in operating expenses for 2003 (the so-called 2003 CRAM savings) would recur for every year of the model's forecast. As the Examiner's Report makes clear, the Debtors "knew that [this] discovery was a potentially major problem." Id. at 22. However, the Debtors managed to quickly erase their $300 million mistake -- essentially overnight, by incorporating into the Debtors' financial model projected § 1114 savings in retiree medical expenses. Id. at 23.

6. In December 2003, after § 1114 savings had, in fact, been removed from the Debtors' latest financial model, Gershwin 4, management discovered a new $456 million discrepancy "between the [Debtors'] 2004 budget and the assumptions in Gershwin 4." Id. at 31. Once again, the Debtors turned to retiree medical benefits to at least in part erase a budgeting blunder. Id. at 32.

7. Shortly thereafter, the Debtors submitted their supplemental application for an ATSB loan guarantee, which included Gershwin 4 and a narrative "stat[ing] that United intended to secure a reduction in medical benefits from its retirees by initiating proceedings under § 1114 in early 2004." Id. However, before the ATSB application was sent to United's Board of Directors, it was

redacted and "the section relating to United's intention to commence § 1114 proceedings in early 2004 was omitted," at the personal direction of United's Chief Financial and Restructuring Officer, Frederic Brace. Id. at 33. Further, United General Counsel Paul Lovejoy was not told about the redactions before he sent the application to the Board with a signed cover letter stating, in part, "enclosed is a copy of the narrative portion of United's ATSB filing." Id. Indeed, if it had not been for certain of United's public relations advisors, who "noticed that the ATSB narrative given to United's Board had omitted United's intention to seek § 1114 relief," id. at 34, the redaction may never have come to light.

8. When the Senior Vice President of Communications, Rosemary Moore discovered what Mr. Brace had done, she told him that it was a "bad decision." Id. at 35. And when Mr. Lovejoy learned that Mr. Brace had covertly doctored the copy of the ATSB narrative, he "confronted Brace" and told him that his actions constituted "poor corporate governance." Id. Although at least two of its chief executives understood the impropriety of Mr. Brace's conduct, United, inexplicably, waited two months before advising its Board of Directors that they had received a redacted version of the ATSB narrative. That belated disclosure was made only because the Examiner in March 2004 discovered what Mr. Brace had done. Id.[1]

9. During most of the time that United's ATSB application was pending, the Debtors did no contingency planning for the very real possibility that the ATSB would deny their application. The Debtors waited until the "final stages of the ATSB application process," to "start[] preliminary

---

[1] It should be noted that, although United attempted to explain to its Board members in a March 12, 2003 letter why the references to § 1114 were removed from their copy of the ATSB narrative, it gave no reason for the other deletions which were broadly described as relating to "confidential and/or sensitive matters." Exam. Report at 35.

. . . discussions with" lenders "regarding additional DIP financing in the event" of an ATSB denial. Debtors' Mot. Amend. Club DIP Fac. at 6. Further, these preliminary discussions were limited to the Club DIP lenders; the Debtors never approached lenders outside the Club. Id.

10. While the Debtors did very little to prepare for the possibility of an ATSB rejection, they did aggressively pursue the § 1114 process, demanding steep, permanent reductions in retiree medical benefits. Initially, the Debtors demanded increases in retiree contributions to medical coverage which would have made health insurance simply unaffordable for many of United's retirees, especially those trying to survive on fixed incomes. Ultimately, in early June, an agreement was reached with the Debtors, according to which the cost of retiree medical benefits would increase, but remain affordable.

11. In mid-May, at the same time the Debtors were demanding drastic, permanent reductions in retiree medical benefits, Mr. Tilton quietly gave himself an 18% pay raise, from $712,500 to $845,500. In a May 13, 2004 letter to United's General Counsel, Tilton stated: "Last April, after the passage of the Emergency Wartime Supplemental Appropriations Act . . ., I volunteered to reduce my annual Base Salary. . . . Now that the compensation restriction period set out in the Act has expired, at the request of the Board of Directors, I hereby revoke my April 4, 2003 letter in which I offered to take such additional reduction." Exh. 4 (Letter from Tilton to General Counsel of May 13, 2004). The Emergency Wartime Supplemental Appropriations Act (the "Wartime Act"), to which Mr. Tilton referred, was signed into law on April 16, 2003. It provided financial assistance to U.S. airlines, but required, among other things, that each airline's two highest-paid executives limit their pay to 2002 levels for one year. However, Mr. Tilton's April 4, 2003 letter

announcing his reduction in pay makes no reference to the Wartime Act, which did not become law until twelve days later. See Exh. 1 (Letter from Tilton to General Counsel of Apr. 4, 2003).[2]

12. During the § 1114 process, the Debtors gave no indication that they were considering additional labor savings. In particular, with regard to employee pension plans, Mr. Tilton, testifying before the U.S. House of Representatives Committee on Transportation and Infrastructure Subcommittee on Aviation, on June 3, 2004 stated:

> Our employees also agreed to reductions in pension benefits that have brought United pension benefits in line with what the rest of the market offers. These savings, in conjunction with the careful restructuring of the company's finances and the Pension Funding Equity Act of 2004, make it possible for us to successfully fund our pension plans going forward and not put the burden on the U.S. taxpayer through distressed terminations.

Exh. 6 (June 3, 2004 Testimony of Glenn F. Tilton to the U.S. House of Representatives Committee on Transportation and Infrastructure Subcommittee on Aviation). Moreover, Mr. Tilton in no way conditioned his categorical statement about the "successful funding" of employee pension plans on the outcome of either the § 1114 process or the ATSB process.

13. On June 17, the ATSB denied the Debtors' application for a loan guarantee for the second time. While the ATSB agreed to reconsider its decision, on June 28, the Board denied the Debtors' application for the third and final time.

14. According to the Debtors themselves, on June 28, "[a]s United's July 2004 required [pension] contribution payment drew near . . . and the Company's need to conserve liquidity became clearer, . . . all three [named fiduciaries for the pension plans -- Mr. Brace, Peter McDonald, the

---

[2] On July 29, 2004 Mr. Tilton rescinded his May 13 pay raise and his annual salary reverted to $712,500, effective August 1, 2004. See Exh. 5 (Letter from Tilton to General Counsel of July 29, 2004).

Chief Operating Officer, and Sara Fields, a Senior Vice President] resigned." Debtors' Mot. Entry Order Approving Appointment Independent Fiduciary Pension Plans of United Air Lines Pursuant to Section 363(b) of the Bankruptcy Code and Bankruptcy Rule 6004 at 4. Thereafter, judgment-proof United assumed sole fiduciary responsibilities for the pension plans. See id.

15. On July 6, only four weeks after Mr. Tilton assured Congress that the Debtors would "successfully fund" United's employee pension, the Debtors decided, without any notice, that they would not make their quarterly contributions to the plans on July 15 as required by law. When the Debtors failed to make their pension payments on July 15, they wilfully violated the minimum funding requirements imposed on plan sponsors by both ERISA and the Internal Revenue Code. See 29 U.S.C. § 1082; 26 U.S.C. § 412.

16. Prior to their decision not to fund their employee pension plans, the Debtors never consulted with their unions regarding possible savings short of suspending funding of the pension plans. Nor did the Debtors attempt either to avoid defaulting by applying for a waiver from the IRS, or, at least, to mitigate the harm to plan beneficiaries by making a partial payment.

17. A week after the Debtors defaulted on their employee pension contributions, they announced that they had negotiated an Eighth Amendment to their DIP financing credit facilities. According to the Debtors, "[t]he amended DIP agreement contain[ed] financial covenants that do not permit the company to make any payments inconsistent with its current financial projections, effectively prohibiting further pension contributions before exit." Exh. 7 (July 23, 2004 United Press Release). Again, the Debtors did not consult with any of their unions regarding the terms of the Eighth Amendment. Nor did the Debtors prepare an alternative business plan to present to the DIP

lenders. The only plan the Debtors presented to the DIP lenders already incorporated the projected savings from nonpayment of the pension obligations for the duration of the bankruptcy.

18. At the August 20 omnibus hearing, the Debtors' attorney advised the Court that, contrary to the Debtors' July 23 announcement, the Eighth Amendment to the DIP financing facility did not prohibit the Debtors from funding their pension obligations. Rather, the Debtors had decided, before approaching their lenders, to incorporate projected savings from nonpayment of pension contributions for the duration of the bankruptcy into the business plan that they presented to their potential lenders.

19. The Pension Benefit Guaranty Corporation ("PBGC"), the federal agency responsible for administering the defined benefit pension plan termination insurance program under Title IV of ERISA, formally objected to the terms of the Eighth Amendment that prohibited the Debtors from funding the pension plans. According to the PBGC, the Eighth Amendment "constitute[d] a blatant and egregious breach of the Debtors' fiduciary duties, as plan administrator, to the beneficiaries under the Pension Plans." Limited Objection of PBGC to Debtors' Mot. Order Author'g Amend't Club DIP Fac. at 4.

20. On August 17, after learning that the Debtors had replaced the pension plans' named fiduciaries with the judgment-proof Company, Secretary of Labor Elaine L. Chao ordered the appointment of an independent fiduciary to "'ensure[] that workers' interests [were] protected.'" Exh. 8 (U.S. Labor Secretary Elaine L. Chao Announces Agreement with United Airlines to Appoint Independent Fiduciary to Manage Pension Plans). According to Secretary Chao, "'United Airlines' decision to stop funding its pension plans made clear the need to appoint an independent fiduciary to represent the interests of workers and retirees.'" Id.

21. When United replaced the named fiduciaries with the bankrupt company itself, the Debtors "creat[ed] what a government official called a 'hopeless conflict of interest.'" Exh. 9 (Melissa Allison, United Removed Pension Execs; Labor Agency Objects; Overseer to be Independent, Chicago Tribune, Aug. 18, 2004, at Business 1). Assistant Secretary of Labor for Employee Benefits Security Administration Ann L. Combs denounced the Debtors' machinations: "'We were pretty flabbergasted with their blatant attempt to remove people and replace them with a judgment-proof bankrupt company. . . . It was pretty outrageous. We hadn't seen anything quite that blatant.'" Id.

22. On August 10, based on United's conduct during the course of this bankruptcy and its decision not to fund the pension plans, AFA informed its members that it would conduct a vote to determine their confidence in current management. The voting period was scheduled to end on August 24.

23. In a filing on August 18, United announced that it would likely terminate the pension plans before exiting bankruptcy.

24. The Court concluded the August 20 omnibus hearing, stating its "hope that the debtors [would], in fact, engage in the increased heightened degree of disclosure, communication, cooperation that has been promised . . . [and] that the other constituents, trade creditors . . ., the unions . . . will cooperate with . . . the debtor in exploring all of the ways in which a reconstituted reorganization effort can go forward. That is to say finding business plans that are workable and fair." Trans. Aug. 20, 2004 Omnibus Hearing at 204:4-14.

25. On August 24, AFA determined that the membership balloting had generated a 97% no-confidence vote in current management. In an August 25 letter to Mr. Tilton, Greg Davidowitch,

President of AFA's United Master Executive Council,[3] asked the Debtors to demonstrate that "United sincerely hopes to attain the level of cooperation and accountability necessary . . . to move forward together," by "[m]ak[ing] the $72 million pension payment that United was scheduled to make on July 15, 2004" and by "[a]gree[ing] to arbitrate the pension grievance on an expedited basis." Exh. 10 (Letter from Davidowitch to Tilton of Aug. 25, 2004) at 2. Responding to Mr. Davidowitch, Mr. Brace simply reiterated the Debtors' "decision to cease making pension funding contributions before exit." Exh. 11 (Letter from Brace to Davidowitch of Aug. 30, 2004). Although the Debtors have apparently agreed to some form of expedited arbitration, it remains unclear if they would immediately comply with a favorable decision or would assert that the contributions should be treated as pre-petition claims.

26. At this point, employee dissension has reached an unprecedented level. In addition to its motion for the appointment of a trustee, the IAM has filed two lawsuits against the Debtors for breach of fiduciary duty. Following the 97% no-confidence vote and United's response to Mr. Davidowitch's August 25 letter, the AFA United MEC, on August 31, passed a "Resolution of No Confidence in United Airlines Senior Management," which condemns the Debtors for their incompetence, gross mismanagement and dishonesty, as well their contemptuous treatment of employees. See Exh. 12 (Resolution of No Confidence in United Airlines Senior Management). The Resolution binds the AFA to "take all necessary and appropriate legal steps to seek the replacement of senior management of United Airlines." Id.

[3] The 17-member Master Executive Council ("MEC") is comprised of the highest elected officer of each of the domiciles at which United flight attendants are based.

27. On May 13, 2004, in seeking relief under § 1114, the Debtors stated that they had "explored and implemented every other feasible, fair and equitable cost-cutting option at [their] disposal." Mem. Supp. Debtors' Mot. Modify Retiree Medical Benefits Pursuant to Section 1114(g) at 44. On August 31, however, United disclosed that the Company remains 13% less efficient than it was in 1995. See Exh. 13 (Eye on UA, Trans. Recorded Messages of Glenn Tilton and Peter McDonald, Aug. 31, 2004). In addition, the Debtors announced cost-savings in annual expenditures on its "call center," "maintenance," "airport ops," "fuel consumption," "distribution," and commuter-carrier agreements totaling $625 million. Id. Further, United plans to achieve some of this "incremental savings through . . . benchmarking its non-labour costs against industry best practice." Exh. 14 (United Looks to Cut Another 6,000 Jobs, The Wall Street Journal Online).

ARGUMENT

28. Section 1104(a) of the Bankruptcy Code, which governs appointment of a trustee, provides:

> (a) At any time after the commencement of the case but before confirmation of a plan, on request of a party in interest or the United States trustee, and after notice and a hearing, the court shall order the appointment of a trustee --
>
> (1) for cause, including fraud, dishonesty, incompetence, or gross mismanagement of the affairs of the debtor by current management, either before or after the commencement of the case, or similar cause, but not including the number of holders of securities of the debtor or the amount of assets or liabilities of the debtor; or
>
> (2) if such appointment is in the interests of creditors, any equity or security holders, and other interests of the estate, without regard to the number of holders of securities of the debtor or the amount of assets or liabilities of the debtor.

11 U.S.C. § 1104(a).

29. Multiple grounds exist, under § 1104(a), for the Court to order the appointment of a trustee in this case. Although courts do not take the decision to appoint a trustee lightly, "§ 1104(a) represents a potentially important protection that courts should not lightly disregard or encumber with overly protective attitudes towards debtors-in-possession." In re V. Savino Oil & Heating Co., Inc., 99 B.R. 518, 525 (Bankr. E.D.N.Y. 1989).

30. Under the Bankruptcy Code, appointment of a trustee is mandatory upon a "clear and convincing" showing of "cause." In re Bellevue Place Assocs., 171 B.R. 615, 623 (Bankr. N.D. Ill. 1994). Section 1104(a)(1) enumerates several examples of "cause," including, inter alia, gross mismanagement, incompetence or dishonesty on the part of the debtor-in-possession, any one of which is sufficient to trigger the appointment of a trustee. 11 U.S.C. § 1104(a)(1). One court has described incompetence, for § 1104(a) purposes, as entailing "a lack of business acumen and ability," and gross mismanagement as entailing "some extreme ineptitude on the part of management to the detriment of the organization." In re Mako, Inc., 102 B.R. 809, 812 (Bankr. E.D. Okla. 1988). Here, the evidence of the Debtors' gross mismanagement, incompetence and dishonesty is clear and convincing and warrants the immediate appointment of a trustee.

31. Importantly, "the grounds for appointing a reorganization trustee are not . . . limited to the derelictions specifically enumerated" in § 1104(a)(1). In re V. Savino Oil & Heating Co., Inc., 99 B.R. at 525; see also In re Bellevue Place Assocs., 171 B.R. at 623 ("this list is nonexhaustive"). Therefore, ultimately "a determination of cause . . . is within the discretion of the court." In re Marvel Entertainment Group, Inc., 140 F.3d 463, 472 (3d Cir. 1998). Whether or not a court exercises its discretion to determine the existence of cause, once cause has been found, however, "the Court has no discretion, but must appoint a trustee." In re Colorado-Ute Electric Ass'n, Inc., 120

B.R. 164, 174 (Bankr. D. Colo. 1990). Here, as we also show below, the Debtors' numerous breaches of their statutory and common law fiduciary duties establish cause for the appointment of a trustee under § 1104(a)(1).

32. Finally, the appointment of a trustee is, without question, "in the interests of creditors," pursuant to § 1104(a)(2). Even if no single fiduciary breach or instance of incompetence, gross mismanagement or dishonesty constitutes cause for the appointment of a trustee, the Debtors have convincingly demonstrated, by the totality of their conduct, that they are simply incapable of managing a successful reorganization.

I. The Debtors' Incompetence and Gross Mismanagement.

33. As we show below, the Debtors have demonstrated gross mismanagement and incompetence by: (1) their complete inability to prepare accurate and reliable business plans; (2) their reckless strategy for obtaining exit financing; (3) their contemptuous treatment of employees, exemplified most recently by their unlawful decision to stop funding employee pension plans and their threats to terminate the plans entirely; and (4) the CEO's failure of leadership in accepting a pay increase amidst all employees' continuing sacrifices.

A. The Debtors' have been utterly inept in preparing their financial models.

34. In July of 2003, as the Examiner's Report revealed, the Debtors, as a result of sheer carelessness, included the 2003 CRAM savings as a recurring savings in their Gershwin 2 financial model, resulting in a "$300 million hole in [the] model." Exam. Report at 19. Then, in December, the Debtors, inexplicably, discovered another "$456 million gap," this time "between the 2004 budget and the assumptions in Gershwin 4." Id. at 31.

35. More recently, Mr. Tilton, in early June 2004, assured Congress, in sworn testimony before the U.S. House of Representatives Committee on Transportation and Infrastructure Subcommittee on Aviation, that the Debtors would "successfully fund [the debtors' employee] pension plans going forward." Exh. 6 (June 3, 2004 Testimony of Glenn F. Tilton to the U.S. House of Representatives Committee on Transportation and Infrastructure Subcommittee on Aviation) at 4. Four weeks later, the Debtors unilaterally and indefinitely suspended funding of the pension plans and advised that they would likely terminate the plans altogether.

36. United's inability to prepare a credible business plan is further evidenced by contrasting the Debtors' claim in the Spring of this year that § 1114 relief was necessary with their recent announcement that they have identified additional significant cost-savings. During the § 1114 process, United represented that it was seeking to cut retiree medical benefits only as a last resort, that it had "explored and implemented every other feasible, fair and equitable cost-cutting option at its disposal." Mem. Supp. Debtors' Mot. Modify Retiree Medical Benefits Pursuant to Section 1114(g) at 44. Last week, United revealed that it had discovered a $625 million trove of potential savings from sources other than retiree medical benefits. By claiming that it had "no other choice" but to slash retiree health benefits the Debtors were either being deceptive or incompetent. Id. at 1. If the latter, one is left with the improbable belief that the same management team that was in place in June is far more capable today. In either case, United cannot now credibly contend that when it decided to stop making pension payments it once again had "no other choice." The Debtors' clear inability "to . . . make operating projections which have a longevity of more than several months"

supports a finding of "cause, including . . . incompetence under Code § 1104(a)(1)." In re Ionosphere Clubs, Inc., 113 B.R. 164, 170 (Bankr. S.D.N.Y. 1990).[4]

B. The Debtors grossly mismanaged their strategy for obtaining exit financing.

37. The Debtors' strategy for obtaining exit financing consisted entirely of a package of loans from certain DIP lenders that were conditioned on securing a loan guarantee from the ATSB. During most of the time that their ATSB application was pending, the Debtors, demonstrating extraordinary recklessness, did no contingency planning to prepare for the eventuality that the ATSB might deny their application. During those months, the Debtors seemed to have operated in an extremely risky state of denial about that very real possibility. Only at the "final stages of the ATSB application process," did they "start preliminary . . . discussions with" lenders "regarding additional DIP financing in the event" of an ATSB denial. Debtors' Mot. Amend. Club DIP Fac. at 6. And even then, for reasons unknown, the Debtors limited these preliminary discussions, unnecessarily, to lenders within the Club, never approaching lenders outside that group.

38. Driven by a single assumption, the Debtors were caught completely unprepared when the ATSB denied both their second application and their application for reconsideration. United was forced back to the drawing board to prepare yet another business plan. In sum, the Debtors' strategy for obtaining exit financing, which never assumed the eventuality of an ATSB rejection, demonstrates such a high degree of over-confidence that it equates to "extreme ineptitude." In re Mako, Inc., 102 B.R. at 812 .

---

[4] While the fluctuations in the price of fuel may account in part for United's penchant for revising its business plan, the other major impetus for these numerous iterations, as shown above, is its inability both to correctly project its costs and to identify all sources of potential savings.

C. In an attempt to compensate for their own incompetence, the Debtors have launched a series of actions that have served only to undermine, if not destroy, the possibility of a consensual reorganization.

39. The entire sequence of events surrounding the Debtors' decision to suspend funding the pension plans and to threaten terminating them shows that the Debtors, once again, are attempting to shift even more of the cost of this reorganization on to the backs of employees, without any regard for principles of fairness and shared sacrifice, much less for the legality of their actions. As this Court has observed, "fair treatment of employees is key to any successful reorganization." In re UAL Corp., 307 B.R. 80, 87 (Bankr. N.D. Ill. 2004).

40. First, as they did with the decision to seek relief under § 1114, the Debtors shut employees and their unions completely out of the decision-making process leading up to their decision to defer funding the pension plans. Prior to July 6, when the Debtors stated that they made the decision to stop funding the pensions, the Debtors did not advise the unions that they were contemplating such an action, much less invite the unions' input or ideas for how such a drastic step might be avoided. Obviously, the Debtors attached no weight to the viewpoint of employees in their decision-making process, or else they would not have been so wholly uninterested in the perspective of employees and their unions. Further, in presenting the decision as a fait accompli, the Debtors foreclosed any meaningful opportunity for employees to respond substantively with proposals for alternative cost-savings.

41. Second, the Debtors failed to exhaust other potential non-labor cost-savings before turning again to employees. Indeed, United has acknowledged, albeit tacitly, that it previously failed to even "benchmark[] its non-labour costs against industry best practice," as that is one source of the recently discovered $625 million in incremental savings. Exh. 14 (United Looks to Cut Another

6,000 Jobs, The Wall Street Journal Online). Further, the Company has yet to control overhead inefficiencies. The Debtors acknowledge that United's operations remain 13% less efficient now than they were in 1995. See Exh. 13 (Eye on UA, Trans. Recorded Messages of Glenn Tilton and Peter McDonald, Aug. 31, 2004).

42. Third, the Debtors also failed to adequately explore, with the PBGC or the IRS, alternatives to such a drastic step, or at least ways to mitigate the harm to employees. The Debtors, it seems, never even considered making a partial payment. Nor did the Debtors file a waiver application with the IRS. As the PBGC said at the August 20 omnibus hearing, the Debtors "are, in effect, thumbing their nose at the entire system, not just the advanced statement that they're not going to make pension payments, but they're not using the alternative that the system provides for people who are unable to make payments on a temporary basis." Trans. Aug. 20, 2004 Omnibus Hearing at 84:11-16.

43. Fourth, the Debtors broke two federal laws on July 15, when they wilfully defaulted on their pension funding obligations. Both ERISA and the Internal Revenue Code require the sponsor of an employee pension plan, such as United, to meet minimum funding standards. See 29 U.S.C. § 1082; 26 U.S.C. § 412. In failing to make the July 15 payments, United deliberately violated its clear legal obligations under ERISA and the Internal Revenue Code.

44. Fifth, on July 23, the Debtors announced that they intended to violate both ERISA's and the Internal Revenue Code's minimum funding requirements for the duration of the bankruptcy. Specifically, the Debtors announced that they had reached an agreement with their DIP lenders regarding the terms of an Eighth Amendment to DIP financing credit facilities. According to the Debtors, "[t]he amended DIP agreement contain[ed] financial covenants . . . prohibiting further

pension contributions before exit." Exh. 7 (July 23, 2004 United Press Release). Thus, the Debtors stated unequivocally that they intended to continue to flout their obligations under ERISA and the Internal Revenue Code at least until exit.

45. Sixth, the Debtors made no attempt to prepare an alternative business plan to present to their DIP lenders. The Debtors acknowledge that the only business plan they presented to the DIP lenders already included the proposed savings from not funding the pension plans for the rest of the bankruptcy. Once again, the Debtors left the employees entirely out of the loop, simply presenting them with a fait accompli.

46. Finally, only at the August 20 omnibus hearing did the Debtors reverse themselves, recanting their earlier statements that the Eighth Amendment contained covenants that prohibited funding the pension plans for the duration of the bankruptcy. Obviously, prior to the hearing, the Debtors had renegotiated the terms of the credit facility, having realized that the unions' and the PBGC's objections to covenants that effectively mandated violations of federal law had put the approval of the DIP Agreement in jeopardy.

D. Considering the circumstances of this case, United's CEO engaged in gross mismanagement when he increased his pay in May 2004.

47. As in any bankruptcy, the top officers of the Debtor must preserve at least the appearance that their interests and those of the employees are aligned and that they are prepared to make sacrifices equivalent to those demanded of everyone else. Leading by example is critical in a bankruptcy where management must extract substantial savings from labor, and employees are expected to suffer wage and benefit concessions for a prolonged period. Should senior management

break with the rank and file, the morale and commitment of employees absolutely necessary to a successful reorganization will be lost.

48. On April 4, 2003, Mr. Tilton reduced his salary from $845,500 to $712,500 as a gesture of shared sacrifice with employees, who, at that time, had agreed in principle to a six-year modification of their collective bargaining agreements. One year later, in May 2004, however, Mr. Tilton raised his annual salary back to $845,500. Mr. Tilton apparently decided that his own interests should trump those of a successful reorganization which requires the "fair treatment of employees." In re UAL Corp., 307 B.R. at 87. He believed that his sacrifice should expire after one year while all others' should last for six years. He thought that an 11% cut to his $945,000 salary was enough, even though other employees' wages were reduced by as much as 36%. Incredibly, he was willing to increase his annual salary by $133,000 at the same time he was intending to slash the medical benefits of the most vulnerable constituency, retirees. By raising his pay, Mr. Tilton abandoned all appearances of fair play and shared sacrifice that are essential to a consensual reorganization. It is nothing less than gross mismanagement for him to have done so, especially when the only beneficiary was himself.[5]

II. The Debtors' Dishonesty.

49. In addition to incompetence and gross mismanagement, the record also demonstrates the Debtors' dishonesty. Cause for the appointment of a trustee exists where there is "evidence of

---

[5] Although Mr Tilton rescinded his pay raise in late July, that fact does nothing to negate his failure of leadership. See Exh. 5 (Letter from Tilton to General Counsel of July 29, 2004). Further, Mr. Tilton gives as a reason for rescinding his pay raise the fact that the ATSB denied the Debtors' application for a loan guarantee, clearly implying that had the ATSB approved the application he would have kept his 18% pay raise. See id. Approval of the ATSB application, however, would not have triggered a raise of any amount in any other employee's pay.

obvious misrepresentation" by the debtor-in-possession. In re Mako, Inc., 102 B.R. at 812. Here, perhaps the most obvious evidence of dishonesty was Mr. Brace's surreptitious redactions to the Debtors' ATSB application, omitting references to the Debtors' decision to seek § 1114 relief, without any indication in the text that the deletions had been made and not advising United's General Counsel before he, in turn, forwarded the redacted application to the Board of Directors. See Exam. Report at 33-35. Further, even after United's CEO and General Counsel were made aware of Mr. Brace's doctoring of the ATSB narrative, the Debtors failed to immediately inform the Board of Directors that there had been an attempt by United's Chief Financial and Restructuring Officer to mislead them about the Company's § 1114 plans. It was only after the Examiner's "investigation was underway [two months later] [that] United sent a letter to its Board that addressed these events." Exam. Report at 35.

50. Equally disturbing are Mr. Tilton's own misrepresentations regarding the reason for his pay raise in May of 2004. In his May 13 letter announcing his decision to raise his annual base salary from $712,500 to $845,500, Mr. Tilton stated: "Last April, after the passage of the Emergency Wartime Supplemental Appropriations Act . . ., I volunteered to reduce my annual Base Salary. . . . Now that the compensation restriction period set out in the Act has expired, at the request of the Board of Directors, I hereby revoke my April 4, 2003 letter in which I offered to take such additional reduction." Exh. 4 (Letter from Tilton to General Counsel of May 13, 2004). Mr. Tilton's April 4, 2003 letter makes no reference to the Wartime Act, which would not become law until 12 days later. Indeed, once enacted, the Wartime Act did not require Mr. Tilton to reduce his pay since it was already less than the amount he had received in 2002. Rather, as Mr. Tilton himself stated at the time, "the new financial challenges to United" made his pay cut "an appropriate step." Exh. 2

(United CEO takes another cut in pay, USA Today). In other words, notwithstanding the fact that he had not reduced his salary in 2003 to comply with the Wartime Act, Mr. Tilton used the expiration of the Act's compensation restriction period as a pretext for giving himself an 18% raise a year later.

III. The Debtors' Fiduciary Breaches.

51. It is axiomatic that a debtor-in-possession "is a fiduciary to all of to [sic] its creditors." In re Bellevue Place Assocs., 171 B.R. at 623. Indeed, "[t]he willingness of Congress to leave a debtor-in-possession is premised on an expectation that current management can be depended upon to carry out the fiduciary responsibilities of a trustee." In re V. Savino Oil & Heating Co., 99 B.R. at 526. Where "the debtor-in-possession defaults in this respect, Section 1104(a)(1) commands that the stewardship of the reorganization effort must be turned over to an independent trustee." Id. Here, the Debtors have repeatedly defaulted in the performance of their statutory and common law fiduciary duties.

52. First, in deciding to suspend funding of their employee pension plans, the Debtors, in addition to violating ERISA's and the Internal Revenue Code's minimum funding requirements, have also plainly breached the fiduciary duties imposed on them by ERISA. Plan fiduciaries, such as the Debtors, owe a duty to plan "participants and beneficiaries" to administer the plan "solely in [their] interest." 29 U.S.C. § 1104(a)(1). Here, the Debtors have clearly breached their fiduciary duty under ERISA to administer the plans "solely in the interest of [plan] participants and beneficiaries." Id. As the Department of Labor found, the Debtors created a "'hopeless conflict of interest,'" by replacing the named fiduciaries of their employee pension plans with the judgment-proof Debtor itself, to the clear detriment of plan participants and beneficiaries, all in order to shield

the named fiduciaries from liability. Exh. 9 (Melissa Allison, United Removed Pension Execs – Labor Agency Objects; Overseer to be Independent, The Chicago Tribune, Aug. 18, 2004, at Business 1).

53. Second, the named fiduciaries also breached their fiduciary duty of loyalty to plan participants and beneficiaries. The duty of loyalty is defined as a duty to "refrain from self-dealing, avoid conflicts of interest and the appearance of impropriety, treat all parties to the case fairly, and maximize the value of the estate." In re Spielfogel, 211 B.R. 133, 144 (Bankr. E.D.N.Y. 1997). Mr. Brace, Mr. McDonald and Ms. Fields all failed to do anything to prevent the glaring conflict of interest created by their being replaced as fiduciaries with the judgment-proof Company. Rather, in a clear breach of their fiduciary duties, Mr. Brace, Mr. McDonald and Ms. Fields acted in their own self-interest, abdicating their fiduciary responsibilities in order to escape possible liability. By the same token, United also breached its duty to refrain from self-dealing, by installing itself as the sole fiduciary for the pension plans. See In re Bellevue Place Assocs., 171 B.R. at 624 (the debtor-in-possession "is proscribed from acting solely in its self interest to the exclusion of the other interests which the debtor-in-possession has the fiduciary obligation to protect.")

54. Third, the Debtors breached their fiduciary duties under ERISA by agreeing to covenants in the Eighth Amendment which prohibited funding the pension plans for the duration of the bankruptcy. According to the PBGC, this "constitute[d] a blatant and egregious breach of the Debtors' fiduciary duties, as plan administrator, to the beneficiaries under the Pension Plans." Limited Objection of PBGC to Debtors' Mot. Order Author'g Amend't Club DIP Fac. at 4.

55. These fiduciary breaches were so egregious that Secretary of Labor Chao took the extraordinary step of requiring United to appoint an independent fiduciary to "'ensure[] that workers'

interests [were] protected.'" Exh. 8 (U.S. Labor Secretary Elaine L. Chao Announces Agreement with United Airlines to Appoint Independent Fiduciary to Manage Pension Plans).

56. Finally, the Debtors have breached their fiduciary duties by squandering employees' morale and confidence in the Debtors' ability to manage the reorganization fairly. A debtor-in-possession has a duty to conserve employee confidence and morale. See In re Johns-Manville Corp., 66 B.R. 517, 539-40 (Bankr. S.D.N.Y. 1986) (The actions of a company in bankruptcy, which negatively "impact on employee morale" and "undermine the confidence [of] employees," result in an "erosion of [the company's] business operations" leading to "less money to distribute to creditors."); see also In re Madison Management Group, Inc., 137 B.R. 275, 281 (Bankr. N.D. Ill. 1992) ("lack of confidence in the debtor's management may constitute cause" for the appointment of a trustee under § 1104(a)(1)); In re Ionosphere Clubs, Inc., 113 B.R. at 169 ("[a] debtor-in-possession's fiduciary obligation to its creditors includes refraining from acting in a manner which could damage the estate, or hinder the successful reorganization of the business.")

57. Here, the Debtors' decision to renege on their pension obligations has precipitated unprecedented employee dissension, starkly illustrating the reality that employees are now completely alienated. The IAM's lawsuits against the Debtors for breach of fiduciary duty, the IAM's Motion, which has now been joined by AFA, and AFA's own 97% no-confidence vote and no-confidence resolution calling for the replacement of the Debtors' senior management all demonstrate that the Debtors' actions clearly have "undermine[d] the confidence [of] employees" in Debtors' ability to manage this reorganization fairly and successfully. In re Johns-Manville Corp., 66 B.R.

at 539-40.[6] Here, "[t]he confidence problem has not resulted from one specific problem, but came about because of many events which, when seen in combination, make it appear that the Debtors are not properly in control of their reorganizations and should no longer be permitted to direct the process." In re Cardinal Industries, Inc., 109 B.R. 755, 765 (Bankr. S.D. Ohio 1990).

IV. Appointment of a Trustee Is in the Interests of Creditors.

58. Finally, the appointment of a trustee is unquestionably "in the interests of creditors," pursuant to § 1104(a)(2). Under § 1104(a)(2), the court has "discretion to appoint a trustee when to do so would serve the parties' and the estate's interests." In re Marvel Entertainment Group, Inc., 140 F.3d at 474. Courts order the appointment of a trustee, pursuant to § 1104(a)(2), where, as here, the totality of the circumstances "reflect the practical reality that a trustee is needed." In re Sharon Steel Corp., 86 B.R. 455, 458 (Bankr. W.D. Pa. 1988). Even if no single example of gross mismanagement, incompetence, dishonesty or fiduciary breach shown above is sufficient cause to warrant the appointment of a trustee, there can be no question but that the cumulative weight of the evidence tips overwhelmingly in favor of the urgent need for a trustee:

- The Debtors' negligence and ineptitude in preparing financial models and business plans.
- The Debtors' reckless and unrealistic strategy for obtaining exit financing, especially their failure to adequately prepare for the distinct possibility that the ATSB would deny their application for a loan guarantee.

---

[6] The Company's response to AFA's letter seeking payment of the pension contributions that should have been made on July 15 only reaffirmed the lack of confidence AFA has in current management. The Debtors' refusal to make this payment, even though it would leave United with over $1.3 billion in liquidity, far above the DIP Agreement threshold of $600 million, made clear that United would not break with past practice and attitude. See Debtors' Reply Supp. Mot. Amend Club DIP Fac. at 23. It would instead continue to sacrifice employees' interests and look for other solutions maybe later.

- Mr. Tilton's decision, in May 2004, to award himself an 18% pay raise, at the same time that the Debtors were demanding reductions in retiree medical benefits, and while employees continued to work under a six-year concessionary agreement.

- Mr. Tilton's sworn statement before Congress that the Debtors would "successfully fund" their pension plans only four weeks before the Debtors' decision that they would not make their July 15, 2004 payments to the pension plans.

- The Debtors' failure to file a waiver application with IRS or to explore ways to mitigate the harm of a complete cessation of pension funding.

- The Debtors' willful failure to fund the pension plans on July 15, 2004, in violation of both ERISA and the Internal Revenue Code.

- The Debtors' July 23 announcement that they intended to continue to violate ERISA and the Internal Revenue Code because they had entered into covenants with their DIP lenders which prohibited them from funding pensions for the duration of the bankruptcy.

- The Debtors' failure to consult with the unions and to prepare alternative business plans, before agreeing with their DIP lenders to stop funding pension plans for the duration of the bankruptcy and before announcing, in all likelihood, United would terminate the pension plans.

- Mr. Brace's covert redactions to the Debtors' ATSB narrative before it was forwarded to the Board of Directors.

- Senior management's failure to immediately advise United's Board of Directors of the redactions and doing so only when the Examiner's investigation revealed what Mr. Brace had done.

- Mr. Tilton's misrepresentations that he had reduced his salary in April 2003 to comply with the Wartime Act and that, therefore, the expiration of the Wartime Act's compensation restriction period triggered his18% raise in May 2004.

- The Debtors' decision to remove the pension plans' three named fiduciaries and replace them with the judgment-proof Company itself, creating a "hopeless conflict of interest".

- The three fiduciaries' acceding to their removal as plan fiduciaries to the detriment of plan participants and beneficiaries, in order to protect themselves from liability.

- The Debtors' squandering of employee morale and confidence.

Thus, through these acts of gross mismanagement, incompetence and dishonesty and breaches of fiduciary duty, the Debtors have completely alienated employees, and have thereby precluded a consensual reorganization. Accordingly, "[t]he appointment of a trustee is in the interests of the creditors, the equity holders, the other interests of the estate and is needed to insulate the reorganization process from paralytic conflict." In re Bellevue Place Assocs., 171 B.R. at 625 (quotation and citation omitted).

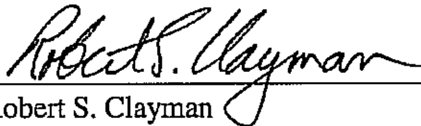
JOINDER

59. For the reasons and upon the authorities cited above and in the IAM's Motion, AFA joins in the IAM's Motion.

CONCLUSION

The AFA respectfully requests that this Court grant the IAM's Motion and enter an order appointing a trustee, pursuant to 11 U.S.C. § 1104.

Respectfully submitted,



Robert S. Clayman
(admitted pro hac vice)
Jeffrey A. Bartos
(admitted pro hac vice)
GUERRIERI, EDMOND & CLAYMAN, P.C.
1625 Massachusetts Ave., N.W., Suite 700
Washington, D.C. 20036-2243
Telephone: (202) 624-7400

Counsel for Association of Flight Attendants-CWA, AFL-CIO

Dated: September 7, 2004

EXHIBIT 1

UAL CORP /DE/
10-K filed on 03/02/2004

Printer Friendly Format

Outline

View Header

Exhibit 10.50

April 4, 2003

United Air Lines, Inc.

Attention: General Counsel

I hereby agree to an additional 14% reduction in my Base Salary as defined in my Employment Agreement with United dated September 5, 2002 and as amended on December 8, 2002 and February 17, 2003 ("Agreement") from $845,500 to $712,500 effective April 1, 2003. I understand and agree that this is not an amendment to the Agreement and, for this purpose only, I agree to waive Board approval of the reduction as required by the following provision in Section 3.b. of the Agreement:

Base Salary shall not thereafter during the term of this Agreement be decreased unless such reduction (i) is approved by the Board in accordance with the standards set forth in the UAL Restated Certificate of Incorporation, and (ii) is applied on a proportionally similar and no less favorable basis to Executive than to substantially all other management employees of United.

In all other respects, the provisions of the Agreement remain unchanged and in full force and effect.

Sincerely,

/s/ Glenn F. Tilton
Glenn F. Tilton
President, Chairman and CEO

Agreed and Confirmed this 4th day
of April, 2003

UAL CORPORATION	UNITED AIR LINES, INC.
By: /s/ Francesca M. Maher	By: /s/ Francesca M. Maher
Title: Francesca M. Maher	Title: Francesca M. Maher
Senior Vice President	Senior Vice President
General Counsel and Secretary	General Counsel and Secretary

Powered by:

EXHIBIT 2

Powered by Clickability

United CEO takes another cut in pay

CHICAGO (AP) — UAL Corp. CEO Glenn F. Tilton will be taking another salary cut due to bankrupt United Airlines' continued financial woes, the company announced Friday.

The airline exec pay debate

- Delta CEO to give up pay, bonuses up to $9.1M
- United CEO takes another cut in pay
- Siegel: Proposal on airline exec pay rewards the overpaid
- American defends smaller pay cuts for management
- Airline aid package in Congress would cap CEO pay

In December, Tilton reduced his and the annual salaries of 36 other executive officers by 11%. The action was taken at a time when the airline announced the layoff of about 350 pilots and other cost cutting measures.

The airline said Tilton's salary will be reduced by an additional 14%, effective April 1. The net effect is a 25% reduction in his annual salary, or a reduction of $237,500, to $712,500.

"Given the new financial challenges to United and this industry created by the current external environment, I believe this is an appropriate step," said Tilton, who became chairman and president of UAL in September 2002.

Tilton noted that everyone at United is contributing significantly and proportionately to the airline's financial recovery, and additional sacrifice may become necessary.

United's more than 8,000 pilots will vote next month on whether to ratify an agreement slashing their pay by 30% and making further cuts through changed work rules.

Elk Grove Village-based United has set a May 1 deadline for voiding labor contracts in bankruptcy court if agreements aren't reached with its unions, including the machinists and the flight attendants union.

Copyright 2003 The Associated Press. All rights reserved. This material may not be published, broadcast, rewritten or redistributed.

Find this article at:
http://www.usatoday.com/travel/news/2003/2003-04-04-united-ceo.htm

☐ Check the box to include the list of links referenced in the article.

EXHIBIT 3

United Airlines Comments on the Ratification of Wage and Work Rule Agreements by IAM District 141, IAM District 141-M and the Association of Flight Attendants

Quick links:
Special deals
Fly with Ted
Shop for flights
Vacation packages
Mileage summary
Customer support

April 30, 2003

For Immediate Release

CHICAGO, April 30, 2003 - UAL Corp. (OTCBB: UALAQ.OB) the parent company of United Airlines, commented today on the ratification of six-year agreements on wage and work rule changes by the International Association of Machinists and Aerospace Workers (IAM) District 141-M, the International Association of Machinists and Aerospace Workers (IAM) District 141 and the Association of Flight Attendants (AFA). The agreements provide the significant labor-cost savings, productivity enhancements and modifications to scope clauses that will give United the financial and operational flexibility it needs to succeed now and in the future.

"Four months ago we set several goals: to reach consensual agreements on cost savings with all of our unions, to improve productivity, and to lay the foundation for a more competitive, flexible and efficient airline," said Glenn F. Tilton, chairman, president and chief executive officer of UAL. "With today's ratifications, we have achieved all of those goals. And parallel to these efforts, we have been running an airline that customers say has improved its service considerably.

"With this critical milestone behind us, we can now move quickly to implement the ratified changes in all of our labor agreements," continued Tilton. "I want to express my sincere appreciation to all the members of the AFA, IAM District 141, and IAM District 141-M for making the successful future of this airline – and ultimately the future of all its employees – the number one priority. I appreciate the tough choices and sacrifices all our employees are making to help ensure United emerges from bankruptcy and succeeds for the long-term."

The new contracts will be submitted today, April 30 to the U.S. Bankruptcy Court for approval.

IAM District 141-M represents United employees who provide maintenance, maintenance instructor and ground school instructor services to the company, as well as utility workers. IAM District 141 represents United's public-contact, ramp, food-service, security and other employees.

United operates more than 1,500 flights a day on a route network that spans the globe.News releases and other information about United Airlines can be found at the company's website, www.united.com.

Safe Harbor Statement. Certain information contained in this press release should be considered "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. These statements reflect UAL Corporation's current views and assumptions with respect to certain current and future events and financial performance. Such forward-looking statements are and will be, as the case may be, subject to many risks and uncertainties relating to the operations and business environments of UAL Corporation and its subsidiaries (collectively, the "company") that may cause the actual results of the company to differ materially from any future results expressed or implied in such forward-looking statements. Such factors include, but are not limited to, the following: the company's ability to continue as a going concern; the company's ability to operate pursuant to the terms of its debtor-in-possession facility; the company's ability to obtain court approval with respect to motions in the Chapter 11 proceeding prosecuted by it from time to time; the company's ability to develop, prosecute, confirm and consummate one or more plans of reorganization with respect to the Chapter 11 cases; risks associated with third parties seeking and obtaining court approval to terminate or shorten the exclusivity period for the company to propose and confirm one or more plans of reorganization, for the appointment of a Chapter 11 trustee or to convert the cases to Chapter 7 cases; the company's ability to achieve necessary reductions in labor costs; the company's ability to obtain and maintain normal terms with vendors and service providers; the company's ability to maintain contracts that are critical to its operations; the potential adverse impact of the Chapter 11 cases on the company's liquidity or results of operations; the costs and availability of financing; the company's ability to execute its business plan; the company's ability to attract, motivate and/or retain key employees; the company's ability to attract and retain customers; demand for transportation in the markets in which the company operates; general economic conditions; the effects of any hostilities or act of war (in the Middle East or elsewhere) or any terrorist attack; the ability of other air carriers with whom the company has alliances or partnerships to provide the services contemplated by the respective arrangements with such carriers; the costs and availability of aircraft insurance; the costs of aviation fuel; the costs associated with existing or future security measures and practices; competitive pressures on pricing (particularly from lower-cost competitors); government legislation and regulation; consumer perceptions of the company's products; weather conditions; and other risks and uncertainties set forth from time to time in UAL Corporation's reports to the United States Securities and Exchange Commission. Consequently, the forward-looking statements should not be regarded as representations or warranties by the company that such matters will be realized. The company disclaims any intent or obligation to update or alter any of the forward-looking statements, whether in response to new information, unforeseen events, changed circumstances or otherwise.

# # #

Privacy | Terms and conditions | Compatible browsers © 2004 United Air Lines, Inc.

STAR ALLIANCE

EXHIBIT 4

Exhibit 10. 1

May 13, 2004

United Air Lines, Inc.

Attention: General Counsel

Last April, after the passage of the Emergency Wartime Supplemental Appropriations Act ("Act"), I volunteered to reduce my annual Base Salary (as defined in my Employment Agreement with United dated September 5, 2002 and as amended on December 8, 2002 and February 17, 2003 ("Agreement")). That reduction was in addition to a reduction taken in December 2002. Now that the compensation restriction period set out in the Act has expired, at the request of the Board of Directors, I hereby revoke my April 4, 2003 letter in which I offered to take such additional reduction. This revocation is effective as of the date of this letter. I understand and agree that neither this letter nor my April 4, 2003 letter is an amendment to my Agreement.

In all other respects, the provisions of the Agreement remain unchanged and in full force and effect.

Sincerely,

/s/ Glenn F. Tilton________

Glenn F. Tilton
President, Chairman and CEO

Agreed and Confirmed this 13th day
of May, 2004

UAL CORPORATION

By: /s/ Paul R. Lovejoy__

Title: Senior Vice President, General Counsel and Secretary

UNITED AIR LINES, INC.

By: /s/ Paul R. Lovejoy__

Title: Senior Vice President, General Counsel and Secretary

EXHIBIT 5

Exhibit 10.2

July 29, 2004

United Air Lines, Inc.

Attention: General Counsel

In April 2003, after the passage of the Emergency Wartime Supplemental Appropriations Act ("Act"), I volunteered to reduce my annual Base Salary (as defined in my Employment Agreement with United dated September 5, 2002 and as amended on December 8, 2002 and February 17, 2003 ("Agreement")). That reduction was in addition to a reduction taken in December 2002. On May 13, 2004, with the expiration of the compensation period set forth in the Act and at the request of the UAL Corporation Board of Directors, I revoked my April 4, 2003 letter in which I offered to take such additional reduction.

In light of the Air Transportation Stabilization Board's rejection of United's application for a loan guarantee and the Company's current situation, I have made the decision to again voluntarily reduce my Base Salary and hereby revoke my May 13, 2004 letter. This revocation is effective August 1, 2004. I understand and agree that neither this letter nor my May 13, 2004 letter is an amendment to my Agreement.

In all other respects, the provisions of the Agreement remain unchanged and in full force and effect.

Sincerely,

/s/ Glenn F. Tilton

Glenn F. Tilton
President, Chairman and CEO

Agreed and Confirmed this 29th day
of July, 2004

UAL CORPORATION

By: /s/ Paul R. Lovejoy

Title: Senior Vice President, General
Counsel and Secretary

UNITED AIR LINES, INC.

By: /s/ Paul R. Lovejoy

Title: Senior Vice President, General
Counsel and Secretary

EXHIBIT 6

Testimony of Glenn F. Tilton to the U.S. House of Representatives Committee on Transportation and Infrastructure Subcommittee on Aviation

June 03, 2004

Washington, D.C.

By Glenn F. Tilton, Chairman, President and CEO, UAL Corp. and United Airlines

Introduction

Chairman Mica, Ranking Member DeFazio, and other distinguished members of this Subcommittee, I appreciate the opportunity to appear at today's hearing and share United Airlines' views on the financial condition of the airline industry with a focus on the industry's economic self-help initiatives.

As members of this Committee, you know that the aviation industry is an important engine driving the U.S. and the global economies. Toward that end, United, United Express and Ted operate more than 3,500 flights a day to 193 domestic and international destinations from our hubs in Los Angeles, San Francisco, Denver, Chicago and Washington, DC. United is America's largest international carrier (measured by Revenue Passenger Miles) with key global air rights in the Asia Pacific region and Europe and, through our membership in the Star Alliance, connections for our customers to 700 destinations in 120 countries worldwide. United's nearly 63,000 employees reside in every state in the U.S and in many countries around the world.

Economic Impacts of September 11th are still with us.

Let me start by echoing and supporting the testimony that the Air Transport Association (ATA) submitted for the record on the overall financial condition of the industry, especially on the issues of high fuel prices, the increasing burden of taxes and fees, concern over security fees, and the continued need for war risk insurance.

> "The economic health of the U.S. airline industry remains tenuous, in spite of passenger volumes returning to pre-9/11 numbers. At the beginning of the year, the

industry held out hope for a return to some degree of stability, if not profitability. Yet, new costs beyond our control wiped out recent efforts to cut costs and achieve new efficiencies. Record high oil prices and the nation's on-going war on terrorism, including sustained uncertainty in Iraq, have presented new barriers to improving the industry's economic health."
- Air Transportation Association's Statement for the Record, June 3, 2004

Mr. Chairman, the United family was directly and greatly harmed by the attacks of September 11, 2001, when two of our aircraft were hijacked by terrorists. On that day, we lost devoted crew members, passengers, family and friends.

Also, on that day the entire commercial aviation industry was grounded for the first time in history triggering the single most severe economic and financial crisis the industry has ever experienced...an economic impact that is still with us today.

As many of my colleagues have stated in their testimony our industry is facing: rapidly increasing security taxes, costs, mandates and directives in response to preventing another commercial aviation terrorist attack; escalating fuel prices related to the threat of the oil supply in the Middle East; terrorist-related domestic and international revenue vulnerability, new daily security threats, and deteriorating and skittish financial/credit markets. In short, although the industry has seen short-term passenger traffic return since 9/11, it has forever changed our business equation.

We and the rest of the industry are profoundly grateful to Congress for recognizing the severe financial impact of September 11th and its long-term effects on the aviation industry. The Federal assistance provided by Congress is helping to stabilize the industry and has assisted with the extraordinarily difficult challenges post 9/11.

United's Platform

The focus of my testimony today, however, will be on the economic self-help initiatives United Airlines has taken since September 11th. I will share with you what the people and partners of United have done to reposition the company for success during what are clearly the economic "worst of times" for this industry. And what we are doing every day to meet the constantly changing challenges of this highly competitive industry.

The two most important issues facing United and our industry overall since 9/11 are costs and competitive flexibility.

At United, we immediately brought new critical cost

discipline to our thinking and to our work. We demanded that hard, fact-based, analytical work would be required if we were to address these challenges and put this company on the road to becoming a leader in long-term cost competitiveness.

Secondly, we had to address flexibility: of our workforce; of our product portfolio; and of our business plan to respond to both new competitive challenges and opportunities.

We segmented our work on two distinct tracks: run a good restructuring and run an excellent airline, now and in the future, for our customers. We knew that to be successful we had to do good work on both tracks.

Restructuring: Costs and Flexibility

The cardinal rules we set down for our restructuring are very straightforward: Take the time necessary to do the job well. Take advantage of the tools afforded us by the Bankruptcy Code – that is what Chapter 11 is designed for. Do it right, do it once and never come back.

United's cost structure has gone from being among the highest, to being among the most cost-competitive of network carriers. By next year, our costs will have been reduced by $5 billion annually; overall that is a 30 percent reduction of our costs.

United's employees understand the changes that must be made to successfully meet the new business reality. They accept it. And, as reflected in our new, consensual six-year labor agreements, they are helping to do what is necessary to get this company on competitive footing again.

As part of this cost-reduction effort, our employees agreed to significant wage reductions that deliver $2.5 billion in annual savings. This is their investment in United's future. That translates in some cases to a reduction in pay of as much as 40 percent. It is important to note that these consensual collective bargaining agreements with United's employees include no snap-back or wage re-openers. In fact, on average, wages will grow just over one percent annually over the six year term.

They also agreed to unprecedented work rule and scope changes that allow United the flexibility in workforce and product portfolio that we need to be competitive. We now have the code share authority we need to partner with other carriers where United lacks network coverage. We can deploy regional jets wherever it makes sense for our business and for our connecting passengers. We have gained the authority to use marketplace flexibility to United's competitive advantage.

Let me give you two examples:

- As reported in the Washington Post on Tuesday, June 1st, our San Francisco maintenance base is being transformed into a cost-competitive, best-practice organization with improved quality control and in-sourcing revenue opportunities that will actually contribute incremental revenue to the company by securing business from clients, such as Air China.
- A senior captain flying a Boeing 737 or Airbus 320 is flying approximately 15 more hours per month with a 37 percent reduction in wages. This is one of the cost factors making the launch of our low-fare carrier, Ted, possible and successful.

Our employees also agreed to reductions in pension benefits that have brought United pension benefits in line with what the rest of the market offers. These savings, in conjunction with the careful restructuring of the company's finances and the Pension Funding Equity Act of 2004, make it possible for us to successfully fund our pension plans going forward and not put the burden on the U.S. taxpayer through distressed terminations.

In addition to getting our labor costs to market rates, we have also been working very closely with all our business partners to bring down costs. We have marked these contracts to the market to provide a sound foundation that is cost competitive. And I might note that our Creditors Committee has been engaged and supportive throughout our entire restructuring.

We have renegotiated new multi-year contracts with the majority of our suppliers, ranging from Fortune 100 corporations to small businesses, resulting in hundreds of millions of dollars in cost savings. We are focused on durable savings, though, so we are not looking just at price reductions. We also are simplifying, standardizing and making more efficient our entire approach to purchasing and partnering with suppliers.

Through a fleet restructuring effort that includes renegotiated contracts, rejections of planes and the sale and retirement of aircraft, we are on track to save $900 million in annual aircraft ownership costs. This 44 percent reduction comes not only from lower financing rates, but also from the rejection of excess capacity.

Our United Express carriers have agreed to new contracts with cost structures at market levels which result in $350 million in annual savings by 2007. New service providers, including some of the most highly acclaimed regional airlines in the country, have joined us at those market rates. They receive a market margin for their businesses and become part of United Express, including sharing the reputation for reliability and safety that we demand of ourselves and of them. In this way, United continues to provide critical, cost-effective service to hundreds of medium-sized and smaller markets all across this nation.

In this process, we have also taken steps to ingrain continuous improvement in our cost reduction initiatives. These significant steps will deliver $900 million in annual savings by 2005 and we have targeted an additional $300 million in cost savings. This comes from rethinking everything we do and becoming better, faster, more efficient and less costly, through initiatives such as strategic sourcing and implementation of best practices programs in maintenance and airport operations. Through these efforts we achieved more than $500 million in cost savings in 2003, $175 million better than our plan.

Running an Excellent Airline

As I said earlier, we have also been concentrating on the second track of our work: running an excellent airline.

Our customers do not want, nor should they be a part of our restructuring. They expect that in today's competitive environment we should be doing more to earn and retain their loyalty -- not less. All of us at United understand this and our employees have delivered exceptional operational performance and customer service despite the distractions and challenges.

In 2003, United recorded the best full-year operational performance in its history. We led the seven major carriers in full-year on-time performance in 2002 and were second in 2003. United employees earned the second-highest customer satisfaction ratings we have ever had in 2003. First-quarter 2004 customer satisfaction ratings continued that trend, with all time highs for the quarter in several categories.

We also aligned the interests and goals of all our employees with those of our customers through the launch of our Success Sharing Program. All employees from the front-line employees to senior management alike receive a bonus based on achieving the same quarterly and annual goals – operating and financial measures that each of us can influence every day. When United meets these goals, our employees get a check, as they did in April when we exceeded our operational and customer goals. That creates a powerful connection between day-to-day jobs and United's overall ability to compete.

The Future

The work we have done has established a strong platform for us to build on at United. Today, we are executing against a solid business plan that is delivering results: our unit revenue was up 14 percent in the first quarter, while our unit cost, excluding fuel, was down 14 percent – both these improvements far outpacing the industry. United dramatically reduced our loss in the first quarter of 2004 compared to last year. We expect to record an operating profit in one of the next two quarters. Were it not for the extraordinary fuel prices we are currently experiencing, I would be able to appear before you today and say with some certainty that we would be profitable in this quarter.

But we are also aware that while we are constructing a strong platform, it is only the foundation. We know that we are only at the beginning of our task to create the airline we must be to succeed and be profitable for the future. However, we believe United today is a company with the right combination of assets and attitude to succeed. We are building a resilient competitive advantage in changing market conditions by maintaining our focus on operational excellence and continuously improving cost containment. We are achieving profitable revenue generation in a fluid and difficult market by focusing on excellent execution and optimizing the flexibility of our workforce, product portfolio and network strategy.

There has been a lot of conjecture recently about the demise of the network carriers. We believe that there will be point-to-point, so-called low-cost carriers (LCCs) in the future and network carriers like United, which provide a level of connectivity and global service the LCCs just cannot match. No single network carrier or LCC is guaranteed survival. The company that does

the best work with the best execution is the company that will win.

> There is never anything in this business that is going to be easy. As summarized by the Air Transport Association:
>
> "The U. S. airline industry remains in a precarious economic condition. From 2001 through 2003 it suffered a net loss of $23.2 billion, plus an additional $1.6 billion in the first quarter of 2004, with full year 2004 losses expected to exceed $3 billion.....Even for those few low cost carriers who have managed to eke out a profit, margins are slim..."
>
> -Air Transportation Association's Statement for the Record, June 3, 2004

But United is much stronger for having gone through the experience of restructuring. We are managing superb assets. We are rebuilding our renowned brand. We are re-engaging our loyal customers in a way that will differentiate us in the marketplace. We are creating the cost structure and leveraging our newfound flexibility. And rest assured that United will always make safety and security our foremost priority.

We have learned from that experience and we are dedicated to continuing to learn from the reality we face in the future. We are not slowing down. We will apply the discipline and the rigor of restructuring that we have learned in Chapter 11 to the ongoing success of United.

Thank you for your time and attention.

Privacy | Terms and conditions | Compatible browsers © 2004 United Air Lines, Inc. STAR ALLIANCE

EXHIBIT 7

UAL Corporation Reaches Agreement to Amend DIP Financing Credit Facilities

July 23, 2004

Amendments Provide Liquidity Necessary to Complete Restructuring

Maturity Date Extended Through June 2005

Terms Reflect DIP Lenders' Confidence in UAL Financial Performance

CHICAGO, July 23, 2004 - UAL Corporation (OTCBB: UALAQ.OB), the holding company whose primary subsidiary is United Airlines, today reported it has successfully negotiated an agreement to amend its debtor-in-possession (DIP) financing credit facilities with its current lenders, including JPMorganChase, Citigroup, and CIT, and a new lender, GE Capital.

The facilities will provide UAL with an additional $500 million in available funds, delivering the liquidity necessary to complete UAL's successful restructuring. The maturity date is June 30, 2005, giving the company additional flexibility as it moves to assemble an exit financing package. The agreement maintains the favorable interest rates and types of covenants established in the amended DIP agreement of May 2004.

The company will seek bankruptcy court approval of the amended DIP agreement at the omnibus hearing currently scheduled for August 20, 2004.

"Without the Air Transportation Stabilization Board (ATSB) loan guarantee, we need to do more restructuring and cost reduction work to formulate a business plan that will attract the financing necessary to exit Chapter 11. The amended DIP gives us the time and money to do this essential work in a systematic and measured way," said Jake Brace, United's executive vice president and chief financial officer. "The willingness of lenders to participate in the amended DIP following the denial of the federal loan guarantee reflects their confidence in our financial performance and ability to become more competitive by further improving our cost structure."

The amended DIP agreement contains financial covenants that do not permit the company to make any payments inconsistent with its current financial projections, effectively prohibiting further pension contributions before exit, unless the lenders otherwise consent based on a modified business plan. As a result, the company does not expect to make any pension contributions before exit because such payments would diminish the company's liquidity and reduce flexibility, thus impairing the company's ability to attract exit financing. In and of itself, this decision does not affect the benefits currently being paid under these plans.

By amending the DIP and not making these pension contributions, the company believes it will have adequate funding until its exit from bankruptcy. These actions will enhance UAL's flexibility while it continues to restructure in a challenging and uncertain marketplace.

In the absence of a federal loan guarantee, United's long-term business plan must have cash flow and liquidity levels that the capital markets are willing to finance. Because existing pension plan contributions will remain a huge financial burden after exit, it is incumbent on United to study all possible options and to determine whether United can sustain this burden and still attract exit financing. At present, no decisions have been

made and much work and analysis needs to be completed. United is beginning to discuss this situation with its unions and other stakeholders.

News releases and other information about United Airlines can be found at the company's website, www.united.com.

###

Safe Harbor Statement under the Private Securities Litigation Reform Act of 1995: Certain statements included in this press release are forward-looking and thus reflect the Company's current expectations and beliefs with respect to certain current and future events and financial performance. Such forward-looking statements are and will be, as the case may be, subject to many risks and uncertainties relating to the operations and business environments of the Company that may cause actual results to differ materially from any future results expressed or implied in such forward-looking statements. Factors that could significantly affect net earnings, revenues, expenses, costs, load factor and capacity include, without limitation, the following: the Company's ability to continue as a going concern; the Company's ability to operate pursuant to the terms of the DIP financing; the Company's ability to obtain court approval with respect to motions in the Chapter 11 proceeding prosecuted by it from time to time; the Company's ability to develop, prosecute, confirm and consummate one or more plans of reorganization with respect to the Chapter 11 cases; risks associated with third parties seeking and obtaining court approval to terminate or shorten the exclusive period for the Company to propose and confirm one or more plans of reorganization; the potential adverse impact of the Chapter 11 cases on the Company's liquidity or results of operations; the appointment of a Chapter 11 trustee or conversion of the cases to Chapter 7; the costs and availability of financing; the Company's ability to execute its business plan; the Company's ability to attract, motivate and/or retain key employees; the Company's ability to attract and retain customers; demand for transportation in the markets in which the Company operates; general economic conditions; the effects of any hostilities or act of war or any terrorist attack; the ability of other air carriers with whom the Company has alliances or partnerships to provide the services contemplated by the respective arrangements with such carriers; the costs and availability of aircraft insurance; the costs of aviation fuel; the costs associated with security measures and practices; competitive pressures on pricing (particularly from lower-cost competitors); government legislation and regulation; and other risks and uncertainties set forth from time to time in UAL's reports to the United States Securities and Exchange Commission. Consequently, the forward-looking statements should not be regarded as representations or warranties by the Company that such matters will be realized. The Company disclaims any intent or obligation to update or revise any of the forward-looking statements, whether in response to new information, unforeseen events, changed circumstances or otherwise.

Privacy | Terms and conditions | Compatible browsers © 2004 United Air Lines, Inc.

STAR ALLIANCE

EXHIBIT 8

U.S. Department of Labor
Employee Benefits Security Administration

www.dol.gov/ebsa

Search / A-Z Index

Find It!: By Topic | By Audience | By Top 20 Requested Items | By Form | By Organization | By Location

eptember 6, 2004 DOL > EBSA > Newsroom > Media Release

Media Release

Release Date: 08/17/2004
Release Number: 04-1599-NAT
Contact Name: Gloria Della
Phone Number: 202.693.8666

Printer Friendly Version

U.S. Labor Secretary Elaine L. Chao Announces Agreement with United Airlines to Appoint Independent Fiduciary To Manage Pension Plans

Washington, DC - U.S. Secretary of Labor Elaine L. Chao today announced that an independent fiduciary will be appointed to represent the interest of the participants and beneficiaries in United Airlines' (UAL) pension plans.

"United Airlines' decision to stop funding its pension plans made clear the need to appoint an independent fiduciary to represent the interests of workers and retirees," said U.S. Secretary of Labor Elaine L. Chao. "This agreement ensures that workers' interests are protected."

Under the terms of the agreement, signed today by the U.S. Labor Department and UAL, the independent fiduciary will be selected by the company, subject to the approval of the department. The independent fiduciary will be responsible for issues related to the funding of the pension plans. Specifically, the independent fiduciary is authorized to:

- Review the funding policy of the plans;
- Assert claims; and
- If necessary, bring litigation related to funding and contribution issues on behalf of the plans.

In June, the UAL Board of Directors changed the structure for managing its retirement plans by eliminating the plans' administrative committee and appointing UAL as the sole fiduciary for the plans. On July 15, UAL failed to make a required $72 million contribution to three of the plans. On July 23, the company announced that it would not make any of its legally and contractually required contributions to the plans while still in bankruptcy. Another payment of $400 million is due on September 15. Under the department's agreement, UAL must have an independent fiduciary in place prior to September 15.

UAL sponsors four major pension plans covering nearly 120,000 employees. The company filed for Chapter 11 bankruptcy on December 9, 2002.

U.S. Department of Labor news releases are accessible on the Internet. The information in this news release will be made available in alternate format upon request (large print, Braille, audio tape or disc) from the Central Office for Assistive Services and Technology. Please specify which news release when placing your request. Call 202.693.7765 or TTY 202.693.7755.

Back to Top www.dol.gov/ebsa www.dol.gov

Frequently Asked Questions | Freedom of Information Act | Customer Survey
Privacy & Security Statement | Disclaimers | E-mail to a Friend

.S. Department of Labor
rances Perkins Building
00 Constitution Avenue, NW
ashington, DC 20210

1.866.444.3272
TTY: 1.877.889.5627
Contact Us

About EBSA
Laws & Regulations
Proposed Rules
Final Rules
Compliance Assistance
For Small Employers
For Health Plans
For Retirement Plans
Reporting & Filing
Fiduciary Education
Exemptions
Interpretations
ERISA Enforcement
Newsroom
Speeches & Testimony
Fact Sheets
Consumer Information
Health Plans
Pension Plans
Consumer Complaints
Frequently Asked Questions
Publications/Reports
Forms/Doc Requests
Programs/Initiatives
Related Resources
Contact Us

EXHIBIT 9

United removed pension execs ; Labor agency objects; overseer to be independent; [Chicago Final Edition]

Melissa Allison, Tribune staff reporter. **Chicago Tribune**. Chicago, Ill.: Aug 18, 2004. pg. 1

Abstract (Article Summary)

The union representing United's flight attendants, which also has filed an objection to the airline stopping its pension payments, said Tuesday that "there appears to be a recognition of the need for independent oversight as it relates to United's decision not to fund its employee pension plans. It also may signal that the appointment of an independent trustee is appropriate for oversight of all of United's decisions."

Full Text (597 words)

(Copyright 2004 by the Chicago Tribune)

A month before United Airlines said it would stop funding its pension plans, it quietly removed three top executives charged with protecting employees' retirement interests and named itself the fiduciary for the plans, creating what a government official called a "hopeless conflict of interest."

"We were pretty flabbergasted with their blatant attempt to remove people and replace them with a judgment-proof bankrupt company," Ann L. Combs, assistant secretary of labor for the Employee Benefits Security Administration, said Tuesday. "It was pretty outrageous. We hadn't seen anything quite that blatant."

When the Labor Department found out, it called United and demanded that the airline explain itself. The result was an agreement reached Tuesday between the carrier and the government to appoint an independent party to manage the pension plans.

Such parties often are named when conflicts of interest arise.

What caused jaws to drop at the Labor Department was United's attempt to protect its executives by making itself--a bankrupt company that cannot be sued--the fiduciary shortly before stopping its pension payments.

The department joins a growing list of parties agitated by United's announcement in July that it would not fund its pension plans while it remains under court protection.

The decision has alienated workers, who believe the airline wants to terminate their retirement plans, and inflamed the Pension Benefit Guaranty Corp., which has asked a bankruptcy court to force United to make the payments.

The International Association of Machinists and Aerospace Workers has filed two lawsuits against United executives accusing them of violating their duties to employees and creditors by not funding the pension plans.

United says that a new $1 billion financing package prevents it from making pension payments while in bankruptcy. The U.S. Bankruptcy Court in Chicago will hear arguments on the matter Friday.

The airline disagrees with the Labor Department's characterization of its actions, said spokeswoman Jean Medina.

"When the fiduciaries saw the potential for a conflict of interest, given their role as part of senior management, they believed it was proper to resign" as members of the pension plans' administrative committee, Medina said.

The committee comprised Chief Financial Officer Jake Brace, Chief Operating Officer Peter McDonald and Senior Vice President-People Sara Fields.

Medina said it is common for a company to serve as both sponsor of its pension plans and the sole fiduciary for those plans.

Now United is searching for an independent fiduciary. It must be approved by the Labor Department and needs to be in

place before Sept. 15, when United is scheduled to make a payment of $400 million to its pension funds. It missed a payment of $72 million on July 15.

United has four pension plans covering almost 119,000 workers and retirees, according to the Pension Benefit Guaranty Corp. The plans are underfunded by $8.3 billion, of which the PBGC figures it would be liable for $6.4 billion if they were terminated.

The cash-strapped, quasi-government agency has said it is worried that if United terminates its plans, other airlines might follow suit to remain competitive.

The union representing United's flight attendants, which also has filed an objection to the airline stopping its pension payments, said Tuesday that "there appears to be a recognition of the need for independent oversight as it relates to United's decision not to fund its employee pension plans. It also may signal that the appointment of an independent trustee is appropriate for oversight of all of United's decisions."

In a motion to be heard in September, the IAM has asked that the court appoint a trustee to oversee United for the duration of its bankruptcy.

Reproduced with permission of the copyright owner. Further reproduction or distribution is prohibited without permission.

Subjects:	Pension plan funding, Pension fund management, Appointments & personnel changes, Conflicts of interest
Companies:	United Airlines Inc (NAICS: 481111, Duns:00-693-3030)
Article types:	News
Section:	*Business*
ISSN/ISBN:	10856706
Text Word Count	597

EXHIBIT 10

ASSOCIATION OF FLIGHT ATTENDANTS-CWA, AFL-CIO
6250 N. River Road, Suite 4020, Rosemont, IL 60018
PHONE 847-292-7170 FAX 847-292-7180 website:www.unitedafa.org

August 26, 2004

Glenn Tilton
Chairman, President and CEO
United Air Lines
1200 E. Algonquin Road
Elk Grove Township, IL

Dear Glenn:

At last Friday's Omnibus Hearing, Judge Wedoff advised United to,

> "engage in the increased heightened degree of disclosure, communication, cooperation that has been promised. It is my hope also that the other constituents, trade creditors . . ., the unions . . . will cooperate with the creditors committee as a whole and the debtor in exploring all of the ways in which a reconstituted reorganization effort can go forward. That is to say finding business plans that are workable and fair, finding sources of financing that are as advantageous as possible, and creating a mechanism that can serve as an agreed plan. Now, 30 days is simply a test period to see whether that degree of cooperation can be reconstituted. If it cannot be, if 30 days from now we have parties who find themselves at loggerheads unable to agree and unable to cooperate, then I would share the belief that's been expressed here, that opening the process up to the best individual effort at reorganization may be unavoidable. But I'll make the point that I made at the very outset, that does not provide the best method for a reorganization of these debtors. Having parties who are in conflict with one another and yet whose working together is essential for the business to prosper simply is not advantageous."

Also at the hearing, your counsel informed the Court that contrary to the language of the DIP Financing Agreement as well as previous representations, the Agreement does not prohibit United from making pension contributions. In addition, the Court also made a recommendation regarding United's treatment of AFA's grievance over the Company's failure to make pension contributions. The Court suggested that,

> "given that we're dealing with an interpretation of a union contract and the tribunal set up by the collective bargaining agreement for resolving conflicts over the interpretation of a union contract is likely to have greater expertise on that subject than this court, it may be in the debtors' best interests in terms of an accurate interpretation of the contract. And also may be in the debtors' best interest in terms of amicable arrangement with its unions to let that arbitration go forward as expeditiously as possible. It's only a suggestion. And obviously you're free to attempt to have this court adjudicate the question, but that would be my initial impression in any event."

Based on the Court's statements regarding the importance of United's cooperation with AFA and United's revelation concerning the DIP Financing Agreement, AFA firmly believes that United must immediately take the following actions:

1. Make the $72 million pension payment that United was scheduled to make on July 15, 2004. This payment will not materially affect the Company's liquidity and is not otherwise barred by the DIP Financing Agreement; and

2. Agree to arbitrate the pension grievance on an expedited basis and, to that end, take all steps necessary to ensure an arbitration decision is rendered as close as possible to September 15, 2004, the date of the next scheduled contribution;

If United sincerely hopes to attain the level of cooperation and accountability necessary for us to move forward together, United must agree to take these two steps. Glenn, this letter should not be construed as merely an opening salvo in yet another unproductive exchange of increasingly vitriolic letters. Nor should United believe anything less than what we seek will establish the type of relationship that the Court has recognized is critical to a successful reorganization.

Considering that Mr. Brace's letter of August 25 relates in part to the same issues I have raised here, I am taking this opportunity to reply to that correspondence.

In his letter, Mr. Brace suggests that a meeting be scheduled at which AFA can provide its feedback regarding G5P and that the parties exchange information concerning the termination of the Flight Attendant Pension Plan. Both suggestions are premature.

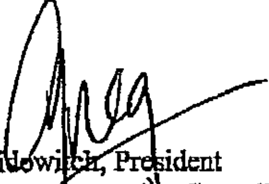
United has not provided AFA with the underlying model of G5P and we cannot undertake the requisite analysis that, of course, must precede our offering feedback to that business plan. Regarding the Pension Plan, while United may assume termination and other labor concessions are likely, AFA is not of the same view, particularly since the current management has not exhausted all possible alternatives or even explored all sources of non-labor cost-savings. It should also be noted, however, that there is

nothing precluding the Company from providing AFA with information United deems relevant.

Finally, the fuel projection our counsel alluded to in Friday's hearing is WEFA, the same projection United has relied upon throughout this bankruptcy and only jettisoned with the most recent iteration of its business plan.

I look forward to what I am sure will be your very prompt response.

Sincerely,



Greg Davidowitch, President
United Master Executive Council

cc: Frederic Brace III

EXHIBIT 11

Frederic F. Brace
Executive Vice President and
Chief Financial Officer

August 30, 2004

Mr. Greg Davidowitch
President
AFA UAL MEC
1 O'Hare Center, Suite 4020
6250 N. River Road
Rosemont, Illinois 60018

Dear Greg:

Your letter to Glenn dated August 26, 2004, contains references to several items that I would like to address, all in an effort to provide greater clarity about recent decisions and actions as we work together on developing a viable business plan to ensure United's long term success.

Specifically, your most recent letter states that the AFA firmly believes United must immediately make the $72 million pension payment that came due on July 15, 2004. As you well know, and as we have stated in Bankruptcy Court and in previous Court filings, our decision to cease making pension funding contributions before exit was due to our need for additional liquidity as we work to develop a viable business plan that the capital markets will be willing to finance and to preserve flexibility should we ultimately need to terminate and replace our defined benefit pension plans. This need is particularly acute in light of the difficult competitive environment and historically high fuel prices we face. Contrary to your assertion, $72 million would materially impact United's liquidity. Furthermore, we have an obligation to all stakeholders in this case to make the most prudent business decisions possible based on today's business realities, which is what we have done in this case. Should United ultimately conclude that the pension plans can be saved, which we hope is the case, the minimum funding obligations can and would be met upon exit from bankruptcy.

With respect to G5P, as you may recall at the August 18 meeting to review our current analysis of the business plan, Amos Kazzaz asked if you wanted a copy of the G5P business model. Your reply was that you did not want a copy at that time. United subsequently decided to provide copies of G5P to each union -- even those who had not requested it -- in accordance with the invitations I extended to each union on August 25 to discuss the unions' input and suggestions for formulating a viable business plan. As such, a copy of G5P was transmitted to the AFA on August 25. Please let me know if you'd like another copy sent to you.

World Headquarters 1200 East Algonquin Road Elk Grove Township, Illinois 60007 Mailing Address: Box 66100, Chicago, Illinois 60666

I would like to reiterate our invitation to you in my letter of August 25. We would very much like to schedule a meeting to gather your input on formulating a viable business plan and explore any and all alternatives to termination and replacement of our defined benefit pension plans. While information currently before us suggests that it will likely be required, we are fully open to your input, suggestions and feedback and would like nothing more than to find a workable solution with you. In addition, when we schedule a feedback meeting, please let me know the primary areas of discussion so I can arrange to have the members of senior management responsible for those areas present.

I look forward to receiving the AFA's important input and feedback as we continue to work together to develop and finalize a viable business plan for United.

Sincerely,

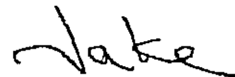


EXHIBIT 12

Resolution of No Confidence in United Airlines Senior Management

WHEREAS, United Airlines Flight Attendants have demonstrated commitment and continue to wholly focus our efforts on the success of our airline; and,

WHEREAS, it has become all too apparent that the management at United Airlines has failed to accomplish what we have been working to achieve – a successful exit from bankruptcy; and,

WHEREAS, United Airlines through gross mismanagement and total disregard for the interests of employees has squandered over $2 billion in sacrifices Flight Attendants made for the future of our airline and destroyed the good will and spirit of cooperation between labor and management necessary to successfully navigate bankruptcy; and,

WHEREAS, United Airlines senior management has failed, despite the best efforts of thousands of employees, to return our airline to its former status as one of the world's pre-eminent airlines; and,

WHEREAS, 97% of United Airlines Flight Attendants voting in a poll conducted on the AFA United Master Executive Council website voted that they have "no confidence" in senior management at United Airlines.

THEREFORE BE IT RESOLVED, that the United Master Executive Council of the Association of Flight Attendants-CWA, AFL-CIO:

Condemns United Airlines senior management for removing the corporate officers who served as fiduciaries to the employees' pension plans and replaced them, not with other executives, but with the bankruptcy protected entity of United Airlines. This action was a thinly veiled attempt to shield the corporate officers from potential personal liability as revealed by the fact that a week later, the Company announced it was going to stop payments mandated by law into the pension plans; and,

Condemns United Airlines senior management for actions termed "blatant" and a "hopeless conflict of interest" by the Department of Labor, by exalting the interests of these individual executives over the interests of the plan participants they had a duty to protect; and,

Condemns United Airlines senior management, and current CEO Glenn Tilton in particular, for increasing his salary by $130,000 per year in May 2004 when, at the same time, management was seeking to slash the medical benefits of retired United Airlines employees; and,

Condemns United Airlines senior management for deciding not to make pension payments due on July 15, 2004; and,

Condemns United Airlines senior management for entering into a debtor-in-possession (DIP) Financing Agreement, initially described as effectively prohibiting United Airlines from making any pension contributions, contrary to its existing legal and contractual obligations; and,

Condemns United Airlines senior management for devising a business plan, without having first identified all non-labor cost savings that could be realized, and instead assumed that all its pension plans would be terminated; and,

Condemns United Airlines senior management for not seeking financing based on a business plan that would have permitted the pensions to continue; and,

Condemns United Airlines senior management for devising a business plan, which in addition to termination of pension plans continues the failed strategy of seeking further concessions from employees who have already sacrificed so much; and,

Condemns United Airlines senior management for the gross mismanagement, incompetence and dishonesty it has exhibited by taking these and other actions and thereby undermining the Company's attempts to successfully emerge from bankruptcy and return to profitability; and,

Condemns United Airlines senior management for poisoning the work environment and alienating the Flight Attendants by these and other actions; and,

Condemns United Airlines senior management for squandering the extraordinary contributions of employees to the financial and operational turnaround that should have returned United Airlines to it's former position as one of the world's pre-eminent airlines; and,

BE IT FURTHER RESOLVED, that the above actions represent a continuation of the pattern of dishonesty and incompetence exhibited by United Airlines senior management in its dealings with employees; and,

BE IT FURTHER RESOLVED, that based upon all of the above findings, the United Master Executive Council declares that it has no confidence in the senior management to effectively operate the airline, to prepare a workable and fair business plan or to successfully reorganize; and,

BE IT FINALLY RESOLVED, that this Union shall take all necessary and appropriate legal steps to seek the replacement of senior management of United Airlines.

Unanimously Adopted.
August 31, 2004

EXHIBIT 13

EYE-ON-UA
August 31, 2004

Hi, this is Glenn. It's the 31st of August, and I am calling from Chicago with Pete McDonald, our chief operating officer.

In our most recent calls, I have focused on the work that we are doing, and need to do, with our various stakeholders, as we complete a business plan that must be both viable and finance-able. We must have the liquidity and the cash flow that will meet the requirements of those who will provide the company with exit financing from Chapter 11.

And, as you have also heard me say, every one of us ... all key stakeholders in United must be held responsible and accountable for our actions, our decisions and the impact they have on our company.

As our business plan evolves, we continue the rigorous analysis of our cost structure, and we continue to benchmark our cost performance against our competitors and – in some cases – companies outside of our industry.

To ensure that we are well positioned to compete, we will pursue every cost reduction opportunity that does not impact safety or the quality experience of our customers. Among other things, this means that we must revisit areas where we had previously thought that we had already squeezed out all of the savings available to us.

Cost will always be an issue for United and always an issue for this industry, regardless of fuel price and other variables that often highlight the significance of cost.

As I said a moment ago, I have asked Pete McDonald to join me again today. As Pete and I have said previously, to remain competitive for the long haul, we need to maintain a relentless focus on continuous improvement and to do everything we can in costs and in revenue management to support the company.

Pete is going to give an update on the work that is currently underway on cost improvement, and he's also going to share his thoughts and perspective on the progress we are making.

[PETE] Thanks Glenn and good afternoon everyone.

I'm pleased to have the opportunity to talk with you again about the work that we have underway across the company. And, as Glenn said, give my perspective on how we are doing.

When I look at the progress of the last two years, and specifically the work that we

are doing around cost improvement, I see it from a different perspective from Glenn and others that have more recently joined the company.

I've been with United for 35 years and over that time we have faced many challenges, and we have cut costs many times.

I've worked on the ramp, been in management, worked in San Francisco, in Denver, and in Los Angeles ... and I have lived through as many cost-cutting initiatives as we have had downturns in the business.

The problem was that as soon as the business picked up, so did the costs. In the years before our bankruptcy filing, we typically looked at cost only in relationship to revenue. We never looked at cost as the base of our business that could reposition us and create a competitive advantage.

This time is very different. This isn't about improving profitability in the short term. It's about owning a commitment; it's about being held accountable, as Glenn said, for decisions that will take this company out of bankruptcy and onto a different competitive footing.

What we are doing today will give us some of the savings we need, but more importantly, they are changes for the long term. This is a big change for United.

So, as we focus on reducing costs, we are changing the attitude, and then the accountability and responsibility, for making continuous cost improvement as important as anything else we do, except safety.

Our division heads and their teams will be held accountable for delivering on the six year plans that will lock these savings into our forecasts. And, all our employees throughout the company will have responsibilities for the continuous improvements we must deliver.

We have made tremendous progress. We moved our cost structure from among the worst of our peers, to being one of the best cost structures among our peer group. When you take into account our significant cost competitive disadvantage of two years ago, this is an excellent achievement.

As we have restructured and made major strides, so have our competitors, including American Airlines, who are making comparable changes out of bankruptcy. Our competitors will continue to push at their costs, and we expect competition to become more intense going forward.

Glenn says being "even" with our major competitors is just table stakes. And he's right. We've got to do better in every part of this business to succeed for the long term.

As the bar is raised, we know we must reset and re-energize the cost improvement platform. That work has already begun. We have put in place the Business Improvement Initiative with the goal of maximizing cost performance by taking every available opportunity to reduce and contain costs.

Right now, we are getting input from front-line people in every division. We are benchmarking against competitors and other companies that can give us ideas. That work is identifying opportunities to save hundreds of millions of dollars in annual cost savings.

As I mentioned on the last call, one of the first areas we focused on is overhead here at Headquarters and across the company. We know that, in 1995, we were 13 percent more efficient than we are today. We intend to use that as a base line as we do the work to establish a cost that is sustainable and competitive. The other initiatives are:

- Call Center Excellence lead by Judy Bishop, which will deliver $60 million in annual savings.
- Lean Maintenance lead by Greg Hall and the United Services team that will deliver $200 million dollars in annual savings.
- Airport Ops Excellence lead by Larry De Shon -- $150 million annually.
- Fuel Consumption lead by Joe Burns and Flight Operations -- $50 million annually.
- Optimizing distribution costs lead by Scott Brandt and his Sales colleagues -- $120 million.
- United Express lead by Greg Kaldahl and Cindy Szadokierski -- $45 million dollars in annual savings.

The savings we expect from these initiatives are a good start toward reaching the cost structure we must have, but even with this intense focus on cost reduction, it isn't enough.

I know this is hard for all of us. Every one has made sacrifices. And the truth is ... it will probably become even more difficult as we go forward.

Cost containment is critical to building a winning company. The good news is the work we are putting into cost containment and the way that we have changed our approach to long-term cost competitiveness will have a significant impact on our future sustainability.

I am heading out to Los Angeles for meetings with employees tomorrow and will be able to talk more about these and other issues with those of you who can attend.

Thanks Glenn.

[GLENN] Thank you Pete, and I do agree with you.

I do believe we are more receptive to change today. And as we become more receptive to change, such as you described, the more opportunities we're going to see at the company.

As we make changes and improvements, we're going to do it through accountability and responsibility. We're going to see the continuous improvement that will determine if we are to succeed or fail.

This is, after all, how great companies behave – they challenge assumptions and the conventional wisdom every day. And that's the opportunity we have at United – to become a great company.

As Pete said, he is headed to Los Angeles to meet with some of you as he did in San Francisco a short while ago. And, I would like to thank all of you who email me, write to me, stop me in the concourse, visit with me as I'm traveling … and share with me your concerns, criticisms and good, constructive thoughts and ideas. I would ask you to keep them coming, and I will reply to as many as I possibly can.

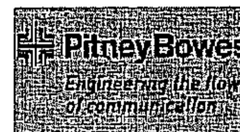
Until we have the opportunity to record a call again, keep your heads up, stay focused, and stay United.

Top

Listen in by dialing (800) EYE-ON-UA, United EYE-ON-UA (393-6682) or 847-952-1122. You can also read Glenn's weekly message on the From the CEO's Office section on Skynet.

Last Updated: 2004.08.31

EXHIBIT 14

FORMAT FOR PRINTING sponsored by


August 31, 2004 8:56 p.m. EDT

United Airlines Looks To Cut Another 6,000 Jobs - FT

DOW JONES REPRINTS

This copy is for your personal, non-commercial use only. To order presentation-ready copies for distribution to your colleagues, clients or customers, use the Order Reprints tool at the bottom of any article or visit: www.djreprints.com.

- See a sample reprint in PDF format.
- Order a reprint of this article now.

DOW JONES NEWSWIRES
August 31, 2004 8:56 p.m.

TOKYO -- United Airlines is considering plans to cut an additional 6,000 jobs - 10% of its workforce - and take another $655 million out of annual operating costs, as part of a more radical overhaul of its business plan, the Financial Times reported on its web site Wednesday.

The airline needs aggressive changes after the Airline Transportation Stabilization Board rejected its application for a $1.6 billion federal loan guarantee at the end of June.

United is now dependent on the capital markets for financing to enable it to emerge from bankruptcy protection, where it has been since November 2002.

According to people familiar with the discussions, the airline is preparing a new plan that Glenn Tilton, chief executive, will take to United's board at the end of September, FT said.

Meanwhile, the airline's flight attendants' union on Tuesday said it had no confidence in Tilton and his team, citing management's plans to cut pensions.

In a bankruptcy filing two weeks ago, the company warned that deeper restructuring was imminent.

The hard truth is that these proceedings have reached a critical crossroads at which poor decisions based on bygone paradigms cannot be afforded and tough ones can no longer be avoided, it said.

Although the plan has not yet been finalized and remains the subject of further talks with its unions and the creditors committee, it is understood to include proposals to cut more than 6,000 jobs, phased in over time as part of productivity changes and further outsourcing.

The reductions would come on top of an already steep fall in its workforce, from 104,000 before Sept. 11, 2001 to 62,000 now.

United wants to save about $3 billion in cash over the next four years by terminating its defined-benefit pension plans, but talks about alternatives to termination are continuing with its unions.

The airline, which has already cut more than $2.5 billion from its annual cost structure, has identified another $655 million in incremental savings through, for example, benchmarking its non-labour costs against industry best practice.

Management is also trying to avoid turning to private equity groups for financing to enable it to leave bankruptcy.

URL for this article:
http://online.wsj.com/article/0,,BT_CO_20040831_007851,00.html

Copyright 2004 Dow Jones & Company, Inc. All Rights Reserved

This copy is for your personal, non-commercial use only. Distribution and use of this material are governed by our **Subscriber Agreement** and by copyright law. For non-personal use or to order multiple copies, please contact Dow Jones Reprints at 1-800-843-0008 or visit **www.djreprints.com.**

CERTIFICATE OF SERVICE

I, Robert S. Clayman, hereby certify that on this 7th day of September, 2004, true copies of the foregoing Joinder of Association of Flight Attendants-CWA, AFL-CIO, to Motion by the International Association of Machinists and Aerospace Workers for an Order Pursuant to 11 U.S.C. § 1104 Appointing a Chapter 11 Trustee, with exhibits, were served via hand-delivery on:

Counsel to Debtors and Debtors in Possession:
Kirkland & Ellis
200 East Randolph Street
Chicago, IL 60601
Attn: James H.M. Sprayregen, P.C.
Phone: (312) 861-2000
Fax: (312) 861-2200

United States Trustee:
Office of the United States Trustee
227 West Monroe Street
Suite 3350
Chicago, IL 60606
Attn: Stephen Wolfe
Phone: (312) 886-5785
Fax: (312) 886-5794

Counsel to Committee:
Sonnenschein, Nath & Rosenthal
8000 Sears Tower
Chicago, IL 60606
Attn: Fruman Jacobson
Phone: (312) 876-8000
Fax: (312) 876-7934

Where not served by hand-delivery, true copies of the foregoing Joinder, with exhibits, were served via overnight delivery on the attached Core Group Service List and via electronic mail or facsimile on the attached 2004 Service List. Pursuant to Section C.3.i(1) of the Second Amended Notice, Case Management and Administrative Procedures in this proceeding, the Core Group and 2004 Service Lists have been filed with the Court. In accordance with Rules 9014 and 7004, a true copy of the foregoing joinder was served by First Class Mail on Frederic Brace, an Officer of United.

Respectfully submitted,

Robert S. Clayman
(admitted pro hac vice)
Jeffrey A. Bartos
(admitted pro hac vice)
GUERRIERI, EDMOND & CLAYMAN, P.C.
1625 Massachusetts Avenue, N.W., Suite 700
Washington, D.C. 20036-2243
Telephone: (202) 624-7400

Counsel for Association of Flight Attendants-CWA, AFL-CIO

Dated: September 7, 2004