



Issue Date: 12 June 2006

In the Matter of:

MARK S. SASSMAN, SR.,
Complainant

Case No.: 2001-AIR-0007

v.

UNITED AIRLINES,
Respondent

DECISION AND ORDER DISMISSING COMPLAINT

This is a claim for whistleblower protection under the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21), 49 U.S.C. § 42121. The case was stayed on January 23, 2003, due to then pending bankruptcy proceedings of the Respondent. On March 3, 2006, the Respondent filed a request that the claim be dismissed because it had been discharged from bankruptcy with a confirmation order discharging and releasing the Respondent from claims such as this, and enjoining further proceedings by the Complainant and others similarly situated. On April 10, 2006, I issued an order to the Complainant to show cause why the claim should not be dismissed. The Complainant responded to the Order to Show Cause, requesting that the Department of Labor allow further proceedings on the claim to allow him to pursue settlement discussions and, if unsuccessful, to proceed to a ruling on his claim for reinstatement. The Respondent replied that the Bankruptcy Court Confirmation Order, along with the United States Bankruptcy Code, and Administrative Review Board orders relating to similar cases, compel the conclusion that the claim must be dismissed. I find that the claim must be dismissed pursuant to the Bankruptcy Code and the Confirmation Order. *See Davis v. United Airlines, Inc.*, ARB No. 02-105, ALJ No. 2001-AIR-5 (ARB Apr. 26, 2006).

IT IS THEREFORE ORDERED that the stay entered on January 23, 2003, is lifted, and this claim is DISMISSED with prejudice.

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ALICE M. CRAFT
Acting District Chief Judge

NOTICE OF APPEAL RIGHTS: To appeal, you must file a Petition for Review (“Petition”) with the Administrative Review Board (“Board”) within ten (10) business days of the date of issuance of the Administrative Law Judge’s decision. The Board’s address is:

Administrative Review Board, U.S. Department of Labor, Room S-4309, 200 Constitution Avenue, NW, Washington, D.C., 20210. Your Petition is considered filed on the date of its postmark, facsimile transmittal, or e-mail communication, but if you file it in person, by hand-delivery or other means, it is filed when the Board receives it. See 29 C.F.R. § 1979.110(a). Your Petition must specifically identify the findings, conclusions or orders to which you object. You waive any objections you do not raise specifically. See 29 C.F.R. § 1979.110(a).

At the time you file the Petition with the Board, you must serve it on all parties as well as the Chief Administrative Law Judge, U.S. Department of Labor, Office of Administrative Law Judges, 800 K Street, NW, Suite 400-North, Washington, D.C., 20001-8002. You must also serve the Assistant Secretary, Occupational Safety and Health Administration, and the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor, Washington, D.C., 20210. See 29 C.F.R. § 1979.110(a).

If no Petition is timely filed, the Administrative Law Judge's decision becomes the final order of the Secretary of Labor pursuant to 29 C.F.R. § 1979.110. Even if a Petition is timely filed, the Administrative Law Judge's decision becomes the final order of the Secretary of Labor unless the Board issues an order within thirty (30) days of the date the Petition is filed notifying the parties that it has accepted the case for review. See 29 C.F.R. §§ 1979.109(c) and 1979.110(a) and (b).