

FILED
U.S. DISTRICT COURT
NORTHERN DIST. OF TX.
NORTH DIVISION
2005 MAY 27 PM 12:39

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

CLERK OF COURT

HON. ELAINE L. CHAO,
SECRETARY, UNITED STATES
DEPARTMENT OF LABOR,
Plaintiff,

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v.

ALLIED PILOTS ASSOCIATION,
Defendant.

CIVIL NO.

4-05 CV-338 Y

COMPLAINT

Plaintiff, Elaine L. Chao, Secretary, Department of Labor alleges as follows:

NATURE OF THE ACTION

1. Plaintiff brings this action under Title IV of the Labor-Management Reporting and Disclosure Act of 1959, as amended (Act of September 14, 1959, 73 Stat. 519, et seq., 29 U.S.C. §§ 481-484, hereinafter referred to as "LMRDA" or "the Act").

JURISDICTION AND VENUE

- 2. This Court has jurisdiction over this action pursuant to 29 U.S.C. § 482(b).
- 3. Venue lies in this district pursuant to 28 U.S.C. § 1391(b) and 29 U.S.C. § 482(b).

PARTIES

4. Plaintiff, Elaine L. Chao (Chao), is the duly appointed Secretary of Labor, United States Department of Labor. Chao is authorized to bring this action under section 402 of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (29

U.S.C. § 482(b)).

5. Defendant, Allied Pilots Association (APA), is a national labor organization, and at all times relevant to this action has been an unincorporated association maintaining its principal office at 14600 Trinity Boulevard, Suite 500, City of Fort Worth, County of Tarrant, State of Texas, within the jurisdiction of this Court. APA can be served with process at the above business address.

FACTUAL ALLEGATIONS

6. The APA is a national labor organization engaged in an industry affecting commerce within the meaning of sections 3(i), 3(j) and 401(a) of the Act (29 U.S.C. §§ 402(i), 402(j) and 481(a)), at all times material to this cause of action.

7. The APA, purporting to act pursuant to its Constitution and Bylaws, conducted an election of officers on June 22, 2004, which election was subject to the provisions of Title IV of the Act (29 U.S.C. §§ 481-484).

8. By letter dated July 1, 2004, to the national's appeal board, the complainant, Mark L. Hunnibell (Hunnibell), a member in good standing of the APA, protested the APA's election.

9. By decision dated September 16, 2004, the Appeal Board denied the protest.

10. Having exhausted the internal remedies available, and having received a final decision, Hunnibell filed a timely complaint with Chao, the Secretary of Labor on October 15, 2004, in accordance with section 402(a)(1) of the Act, 29 U.S.C. § 482(a)(1).

11. By a series of letters dated October 27, 2004, December 20, 2004, March 1, 2005, April 7, 2005, and April 22, 2005, the APA agreed that the time within which Chao may bring suit with respect to the APA's election be extended to May 27, 2005.

12. Pursuant to section 601 of the Act (29 U.S.C. § 521), and in accordance with section 402(b) of the Act (29 U.S.C. § 482(b)), Chao investigated the complaint and, as a result of the facts shown by her investigation, found probable cause to believe that violations of Title IV of the Act (29 U.S.C. §§ 481- 484) had occurred in the conduct of the APA's June 22, 2004, election that may have affected the outcome of the election and that had not been remedied at the time of the institution of this action.

COUNT 1
VIOLATION OF THE ACT: SECTION 401(a)

13. Section 401(a) of the Act (29 U.S.C. § 481(a)) was violated during the conduct of the aforesaid election when the APA failed to hold the election by secret ballot in that members cast their votes over the Internet in such a manner that the voters and their individual ballot choices could have determined.

14. The violation of section 401(a) of the Act (29 U.S.C. §§ 481(a)) found and alleged above, may have affected the outcome of the APA's election for the offices of President, Vice President, and Secretary-Treasurer.

PRAYER FOR RELIEF

Chao, therefore, requests this Court:

(a) Declare the APA's election for the offices of President, Vice President, and Secretary-Treasurer to be null and void;

(b) Direct the APA to conduct new elections for such offices, under the supervision of Chao;

(c) For the costs of this action; and

(d) For such other relief as may be appropriate.

Respectfully submitted,

PETER D. KEISLER
ASSISTANT ATTORNEY GENERAL

RICHARD B. ROPER
UNITED STATES ATTORNEY



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U.S. Department of Labor

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CERTIFICATE OF INTERESTED PERSONS

I, Tami C. Parker, counsel for the United States of America, do hereby certify pursuant to Local Rules 3.1(f) and 7.4 of the Northern District of Texas that, other than the Hon. Elaine L. Chao, Secretary, Department of Labor, Defendant, the Allied Pilots Association, counsel for Allied Pilots Association, and possibly the original complainant, Mr. Mark L. Hunnibell, counsel for the United States is currently unaware of any person, organization, or other legal entity with a financial interest in the outcome of this case.

Respectfully Submitted,

RICHARD B. ROPER
UNITED STATES ATTORNEY



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