



Issue Date: 06 June 2006

CASE NO: 2003-AIR-16

In the Matter of:

MICHAEL POHL
Complainant

v.

UNITED AIRLINES
Respondent

FINAL DECISION AND ORDER OF DISMISSAL

This proceeding arises under the employee protection provision of Section 519 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, 49 U.S.C. § 42121 *et seq.*, and its implementing regulations, 29 C.F.R. § 1979. This case was assigned to the undersigned on February 10, 2003. On March 4, 2003, I issued an Order Staying Proceedings pursuant to the automatic stay provision of the Bankruptcy Code (Code), 11 U.S.C. § 362(a). The Code provides that in a case under Chapter 11, an automatic stay continues until “a discharge is granted or denied.” 11 U.S.C. § 362 (c)(2)(C).

On January 20, 2006, the Bankruptcy Court entered an order (Confirmation Order) confirming United Airlines’ Second Amended Plan of Reorganization (Plan) Pursuant to Chapter 11 of the United States Bankruptcy Code. On February 24, 2006, Respondent served Complainant, and filed with this Court, a Notice of Discharge from bankruptcy. Section 1141(d) of the Code provides that entry of the Confirmation Order discharges and releases the debtor from claims and causes of action that arose before the confirmation date. On March 8, 2006, the undersigned issued an Order directing the parties to Show Cause why the stay of the above-captioned proceeding should not be lifted and Complainant’s complaint dismissed.

On March 24, 2006, Complainant filed a Response to Show Cause (Complainant’s Response) asserting that the above-captioned matter should not be dismissed. On April 4, 2006, Respondent filed a Response to Order to Show Cause (Respondent’s Response) in which it argued that the above-captioned matter is a claim released, discharged, and enjoined from proceeding under the Confirmation Order, the Plan, and the applicable regulations, 11 U.S.C. §§ 524(a) and 1141(c)-(d).

Section 1141(d)(1) defines the effect of confirmation of a Chapter 11 reorganization plan as follows:

Except as otherwise provided in this subsection, in the plan, or in the order confirming the plan, the confirmation of a plan—

(A) discharges the debtor from any debt that arose before the date of such confirmation . . . whether or not—

(i) a proof of the claim based on such debt is filed or deemed filed under section 501 of this title;

(ii) such claim is allowed under section 502 of this title; or

(iii) the holder of such claim has accepted the plan;¹

Section 524(a) provides that “a discharge ‘operates as an injunction against the commencement or continuation of an action, the employment of process, or an act, to collect, recover, or offset any debt’ that is discharged under the plan.” *Davis v. United Airlines, Inc.*, ARB No. 02-105, ALJ No. 2001-AIR-5 (ARB Apr. 26, 2006), slip op. at 3, citing 11 U.S.C.A. § 524(a).

The Confirmation Order provides that “[e]xcept as otherwise specifically provided in the Plan . . . all Entities who have held, hold, or may hold Claims against or Interests in the Debtors or against the Released Parties and Exculpated Parties are permanently enjoined, from and after the Effective Date, from: (i) commencing or continuing in any manner any action or other proceeding of any kind on account of or in connection with or with respect to any such Claim against or Interest in the Reorganized Debtors, the Exculpated Parties, the Released Parties” *In re UAL Corp.*, Case No. 02-B-48191, Confirmation Order para. 4(e) (Bankr. N.D.Ill. Jan. 20, 2006).

Complainant asserts that Respondent is not yet “fully released from the protection of the bankruptcy court.” (Complainant’s Resp. ¶ 1). He also asserts that the Bankruptcy Court is the forum with jurisdiction over the discharge of the instant claim. (*Id.* ¶ 2). Complainant states that the instant claim “has never been identified as being an issue brought before the bankruptcy court as being one that has any financial impact on the future of United Airlines.” (*Id.* ¶ 3). Finally, he alleges that Respondent may have obtained approval of the Plan by “providing known false information to the bankruptcy court,” and that its entry into bankruptcy was “done under fraud and deceit.” (*Id.* ¶ 4). However, Complainant’s assertions are conclusory, and he does not provide supporting authorities for these assertions. Nor does he suggest any reason why the portions of the Bankruptcy Code, Confirmation Order, and the Plan should not be interpreted as each expressly provides.

¹ “Debt” means “liability on a claim.” 11 U.S.C.A. § 101(12). “Claim” means the “right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured. . . [or the] right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured.”

ACCORDINGLY, as Complainant has not proffered any legally supported rationale for deviating from the relevant statutory text and Bankruptcy Court orders, the stay of this proceeding is lifted and the complaint DISMISSED with prejudice.

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DANIEL L. LELAND
Administrative Law 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 DC 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, DC 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, DC 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).