



March 16, 2024

Jacquelyn L. Thompson
2000 M Street, N.W., Suite 505
Washington, D.C. 20036
jthompson@fordharrison.com

Via Email

Re: Second Notice of Unlawful Interference with Organizing Campaign

Ms. Thompson:

I write on behalf of the Association of Flight Attendants-CWA, AFL-CIO (“AFA”) to request that Breeze Airways (“Breeze”) cease and desist from engaging in unlawful conduct under the Railway Labor Act (“RLA”) in connection with AFA’s organizing campaign. This is a follow-up to our cease and desist letter dated February 23, 2024 (enclosed), which notified you of separate instances of unlawful conduct by Breeze in connection with the organizing campaign. Due to Breeze’s refusal to correct its unlawful conduct and its brazen continuation of such conduct, we have included National Mediation Board (“NMB”) Investigator, Andres Yoder, on this correspondence.

Under the RLA, a carrier is prohibited from making inaccurate or misleading statements regarding voting procedures. *See* 45 U.S.C. § 152, Fourth; *USAir*, 17 NMB 377 (1990). Such statements have been determined by the NMB to constitute *per se* violations of the RLA, independent of the intent behind the statements. *See Allegheny Airlines, Inc.*, 4 NMB 7 (1962); *Zantop Int’l Airlines, Inc.*, 6 NMB 834 (1979) (misstatements by carrier on voting procedures impair employees’ freedom of choice); *Aeromexico*, 28 NMB 309 (2001) (misrepresentation of voting procedures constitutes election interference).

In our February 23, 2024 letter, we first notified Breeze of misleading statements regarding NMB voting procedures made by its CEO during an inflight presentation to flight attendants, in which he claimed, incorrectly, that not voting counts as an automatic “yes” vote for AFA. We further demanded that Breeze correct the obviously misleading statement in order to ensure voters’ freedom of choice in selecting their representative. Breeze refused.

In addition to refusing to ensure employees’ freedom of choice, Breeze continues to make further misleading statements about the NMB’s voting procedures. In a recent inflight presentation given to countless flight attendants, Breeze claimed that sample instructions and

ballots would be mailed to flight attendants. This material misstatement of voting procedures stands to jeopardize the voting process by leading flight attendants to assume that the ballots mailed to their homes are sample ballots and disregard them.

Despite being put on notice of its wrongdoing, Breeze continues to issue misleading statements on NMB voting procedures in an apparent attempt to compromise flight attendants' freedom of choice in selecting a representative. We therefore demand that Breeze cease and desist from making such patently incorrect and misleading statements on NMB procedures and immediately issue a correction to flight attendants in order to preserve their freedom of choice.

Separately, the RLA prohibits a carrier from attempting to influence, interfere, or coerce employees' selection of a collective bargaining representative. 45 U.S.C. § 152, Fourth. Contrary to Breeze's obligations under the RLA, we have received reports that management encouraged a flight attendant training class to vote against AFA and bombarded them with anti-AFA messages during required training. Breeze also made efforts to recruit at least one flight attendant still in training to make false allegations against AFA on behalf of Breeze's anti-AFA campaign. Breeze's unlawful conduct is particularly egregious considering that the target of its coercive messaging was a vulnerable group of flight attendants who were in required training classes. *See Pinnacle Airlines Corp.*, 30 NMB 163 (2000) (appearance or impression of surveillance has chilling effect on employee behavior); *Arkansas and Missouri Railroad Co.*, 25 NMB 36 (1997) (surveillance is a per se violation of laboratory conditions); *Laker Airways Ltd.*, 8 NMB 236 (1981) (polling employees' views on representation unlawful under RLA)).

Breeze has also made more general statements directing flight attendants to vote no and made unlawful threats about voting for AFA. We have received reports from flight attendants that management has threatened that certain positions will not be available to them if AFA is voted in. Similarly, on March 14, 2024, the Director of Inflight Services posted a sample ballot on Instagram, marked as voting no, with the accompanying statement: "This is what it will look like if you choose to protect the direct relationship we currently have." Further, a March 14, 2024 email from Breeze to its flight attendants stated in part, "to continue building a direct relationship with your leaders, you should vote for Option 3: "No." These statements, viewed individually or together, are coercive and impair flight attendants' freedom of choice in the voting process. *See* 45 U.S.C. § 152, Fourth; *Mid Pacific Airlines*, 13 NMB 178 (1986) (threats about consequences for voting for union unlawful).

Finally, the NMB instructed Breeze to post copies of the Notice of Election, Sample Instructions, and Sample Ballot at each carrier location. Contrary to this instruction, Breeze has only posted the information at its Salt Lake City base, without posting it at any of its other bases in the following locations: Provo, Utah; New Orleans, LA; Tampa, FL; Orlando, FL; Charleston,

SC; Norfolk, VA; Providence, RI; Bradley, CT. We request that Breeze immediately post the information at its other bases to prevent employees' freedom of choice from being impaired.

The foregoing unlawful conduct, considered separately or in its totality, stands to significantly impair flight attendants' freedom of choice in the upcoming election. We demand that Breeze immediately cease and desist of the foregoing unlawful conduct and to correct its misstatements to ensure that flight attendants' freedom of choice and the laboratory conditions requirement are maintained.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Burns". The signature is fluid and cursive, with a long horizontal stroke at the end.

Joe Burns
AFA-CWA General Counsel