

OPEIU Local 108  
Meeting Minutes of  
January 31, 2008

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Submitted: February 17, 2008

**I. Call to order**

Paul Bohelski called to order the regular meeting of the OPEIU Local 108 Membership at 1800 hrs. on January 31, 2008 in Houma, Louisiana.

An update was given with regard to the Members Only Benefits Program. After a complete redesign of the PerksCard Program and the printing of new membership cards, we expect to begin distribution of the member's only benefits program information within four to six weeks to each Local 108 pilot member. As previously reported, the materials will include all information necessary to utilize the many new membership benefits of Local 108.

**II. Systems Board of Adjustment Update**

On Wednesday, January 30, Local 108 and PHI convened its 2008 (first quarter), PHI Helicopter Pilots' System Board of Adjustment. The four-member Board consisted of Capt. Paul Huertas (acting Chairman), and Capt. Mel Sayler, representing the Union. Mr. Richard Rovinelli and Mr. Ed Gatza were selected and appointed to serve as the two Board members for the Company.

The Union presented four cases at the SBA. Two of those cases dealt with the alleged wrongful terminations of Captains John Strickland and Bill Sorenson, both fired during the Strike action in 2006. The Board members could not reach a decision, and the Union promptly filed for arbitrator panels in accordance with Article 37, Section 5. We expect to have both arbitrators selected and hearing dates set by mid-March. Depending on the arbitrator's calendar and the availability of all parties, we are hopeful that the evidentiary hearing will be completed before the end of May, and a decision rendered within ninety days thereafter.

Two other grievances were also deadlocked at the SBA. One complaint deals with the issue of a simple designation from the company that will enable the union to know in what order fixed-wing pilots hold their seniority. The other grievance deals with the unilateral implementation and enforcement of a new-hire initial training and reimbursement agreement. PHI and the Union have agreed to continue discussions in an effort to resolve their differences on those matters. If a resolution is not reached by close of business on Friday, February 29, 2008, the Union will proceed accordingly.

### III. State of California v. PHI

As reported, a trial date of Tuesday, January 15, 2008 was set for the appeal of the California Division of Labor Standards Enforcement decision, issued on October 4, 2007. The CA DLSE found in favor of three EMS Pilots and ordered PHI to pay them for illegally withholding \$658.50 from their last paychecks during the Strike, including penalties and interest in the amount of **\$12, 560.78** to each pilot.

This case is still pending before a Judge in California who will soon decide, based upon the documentary evidence in the record, if a trial is indeed necessary. Given that there appears to be no genuine issue as to any material fact it is unlikely that a trial will be necessary; therefore, we expect a decision from the Judge in the near future.

### IV. Arbitration Award– Use of Contract Pilots

On September 5, 2007 a hearing was conducted before Arbitrator John B. Barnard. On December 15, 2007, Arbitrator Barnard ruled in favor of the Union that the grievance filed with respect to the illegal use of contract pilots in this case was timely filed by the Union and thus arbitrable.

On January 3, 2008 in a further delay tactic and symptom of bad-faith bargaining by the company, PHI filed a Complaint in Lafayette Federal District Court to have the arbitrator's Decision and Award vacated. On January 30, the Union answered that Complaint and filed its own Counterclaim to have Arbitrator Barnard's Decision and Award upheld and enforced by the Court. In its counterclaim, the Union included the issue of PHI's continuing refusal to process another grievance filed on June 6, 2007 that also deals with the use of contract pilots in violation of its own language found in the Green Book.

While all of this is expensive, frustrating and designed to weaken the resolve of our union members, we shall continue in our fight for industrial justice at PHI.

Here is what the United States Supreme Court has said about this maneuver:

Collective Bargaining Agreements commonly provide grievance procedures to settle disputes between union and employee with respect to the interpretation and application of the agreement and require binding arbitration for unsettled grievances. In such cases (and this is such a case), the Court made clear almost 30 years ago that the courts play only a limited role when asked to review the decision of an arbitrator. *The courts are not authorized to reconsider the merits of an award even though the parties may allege that the award rests on errors of fact or on misrepresentation of the contract.* \* \* \* As long as the arbitrator's award "draws its essence from the collective bargaining agreement," and is not merely "his own brand of industrial justice," the award is legitimate.

\* \* \* \*

*“The courts, therefore, have no business weighing the merits of the grievance, considering whether there is equity in a particular claim, or determining whether there is particular language in the written instrument which will support the claim.”*

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It has been further stated; [A]s long as the arbitrator is even arguably construing or applying the contract and acting within the scope of his authority, that a court is convinced he committed serious error does not suffice to overturn his decision. Of course, decisions procured by the parties through fraud or through the arbitrator's dishonesty need not be enforced. (There is nothing of that sort involved in this case).

This particular action is separate and apart from the pending lawsuit before the same Judge, at the same Court, scheduled for November 2008. Cases of this sort are generally decided within six months or less. In that Judge Doherty is familiar with the parties in this dispute, we expect that her decision will be swift and just.

#### **V. Local 108 Voluntary Trusteeship Continues**

In light of the continuing legal assault by PHI, and the mounting legal challenges and associated costs, former Local 108 executive board members have requested the OPEIU to continue the voluntary trusteeship for a period of time necessary to see the Local Union through its legal and financial challenges, and that such extension will allow it to rebuild the Local Union.

#### **VI. Adjournment**

Having no further business, the meeting adjourned at 1925 hrs.

