BANKRUPTCY DEFINED – "THE NUTS AND BOLTS OF BANKRUPTCY"

1. What is Chapter 11 Bankruptcy?

Chapter 11 is one of four sections of the Federal Bankruptcy Code. American filed Chapter 11.

Chapter 11 was designed to help businesses in financial trouble restructure their organization and finances so they may continue to operate, rather than be liquidated.

In a Chapter 11 proceeding, a reorganization plan is filed, either by the debtor (in this case American Airlines), the creditors, or both. After the plan is submitted, it must be approved, or "confirmed" by the court. Once that occurs, the debtor and creditors must go by the terms spelled out in the plan. During the bankruptcy proceedings, the individual or business may continue doing business as usual, as long as regular operating reports are provided.

2. What are the differences between a Chapter 7 and a Chapter 11 bankruptcy?

A Chapter 7 filing is a liquidation proceeding where a company terminates operations. A trustee liquidates assets and pays out available funds to various classes of creditors pursuant to rules provided in the Bankruptcy Code.

A Chapter 11 filing is a reorganization proceeding that is intended to give a company an opportunity to restructure its operations and finances and emerge from bankruptcy pursuant to a plan of reorganization. In airline and other Chapter 11 bankruptcies, companies seek a seamless transition in operations upon a filing, so customers do not recognize a break or difference in service. In a Chapter 11 bankruptcy proceeding, a company may attempt to reorganize its operations in a "stand-alone" reorganization or sell some or most of its assets as a going concern.

A Chapter 11 filing does not guarantee that a company will obtain the new funding that is often necessary for a company to continue operating.

Though this kind of bankruptcy filing is structured to prevent liquidation, liquidation can occur in a Chapter 11 proceeding if attempts to reorganize fail.

3. What are the rights a Company obtains when it files for Chapter 11?

A company filing for Chapter 11 obtains the right to seek court authority to reject otherwise binding Contracts. Pursuant to the automatic stay, which becomes effective immediately upon a bankruptcy filing, there is a suspension of most creditors' debt collection efforts and most litigation. Debts become what are called bankruptcy "claims," which are usually dealt with in a plan of reorganization.

The purpose of the automatic stay is to ensure that virtually all cases that could be filed or has already been filed are dealt with in one place – the bankruptcy court.

4. What are exceptions to the automatic stay?

Exceptions to an automatic stay include certain "First Day Orders," which, if appropriate motions are filed and approved, may authorize the company to pay various bankruptcy claims as they come due. These claims might include certain employee wages and benefits, as well as claims by key vendors, foreign creditors, and, in the case of transportation companies, ticket holders. While most litigation is stayed, grievance and arbitration proceedings under a labor Contract may go forward, although any monetary damages may be dealt with in the bankruptcy process.

5. What happens in the Chapter 11 bankruptcy process?

When a company files a petition for Chapter 11, the automatic stay takes effect and the company immediately comes under the supervision of the bankruptcy court. The debtor may ask the court for the authority to reject or assume Contracts.

The company ultimately negotiates a Plan of Reorganization (POR) with creditors and other involved parties in the bankruptcy. The POR is a legal document that provides how the company will pay creditors and how it will

be governed following emergence from bankruptcy.

6. How is the Plan of Reorganization ('POR') approved?

The company's management has the exclusive right to file a POR for the first 120 days after filing the petition, although the bankruptcy court may shorten or extend that "exclusive" time period. Before a POR may take effect, it must be approved by the bankruptcy court and gain the required positive vote of various classes of creditors. There are usually prolonged negotiations over the POR between the company and various groups involved in the bankruptcy, as the approval of the POR is usually towards the end of a bankruptcy proceeding.

7. How is a company financed under Chapter 11?

A company filing for Chapter 11, now called the debtor-in-possession (DIP) because the debtor is still in possession of the business, usually seeks new financing. This is called debtor-in-possession financing and is used to pay for the operating needs of the company. As noted, the filing of a bankruptcy petition is not a guarantee that funding will be available.

8. What is the role of the bankruptcy judge?

The judge oversees the process and must review the debtor's "non-ordinary course" decisions, which includes any requests for rejecting labor Contracts or selling substantial assets. The judge will defer to the debtor's business judgment on many decisions. Many bankruptcy judges strongly encourage parties to settle legal disputes.

9. Who else is involved in a Company's bankruptcy filing?

The creditors have a formal role in a Chapter 11 bankruptcy. An official body called the Unsecured Creditors' Committee, usually consisting of the seven largest unsecured creditors, is appointed by the United States Trustee, a government official, to represent the interests of unsecured creditors. Unions who have substantial bankruptcy claims are entitled to appointment to such committees.

An "unsecured creditor" is an individual or business whose claim against the debtor is not protected or secured by any collateral. A "secured" creditor is an individual or business that has secured collateral from the bankrupt company (usually before the bankruptcy was filed) that protects the creditor in case the bankrupt company cannot pay the money it owes.

Each member of the Unsecured Creditors Committee receives one vote. This committee can hire professionals, often including lawyers and accountants or investment bankers, to monitor the company's actions. The debtor pays for this cost.

Any party can appear on any matter before the bankruptcy court, and the court tends to pay special attention to the views of the committee.

PAYROLL – WILL I CONTINUE TO BE PAID?

1. Will we continue to get paid when the airline is in bankruptcy?

Yes, things like wages, salaries, and sick leave are considered as normal administrative expenses while in bankruptcy. The bankruptcy laws assure that employees will continue to be paid for their services during the reorganization.

BANKRUPTCY AND OUR CONTRACT – HOW DO WE NEGOTIATE NOW?

1. What happens to the APFA Contract after American files for bankruptcy?

Under the Bankruptcy Code, when a carrier files for bankruptcy, collective bargaining agreements with the company's work groups remain in full force and effect, and any changes are supposed to be negotiated.

2. *(updated 08DEC11)* **What happens if the company wants to alter or reject the Collective Bargaining Agreement?**

Section 1113 of the Bankruptcy Code establishes the method by which a debtor can reject a collective bargaining agreement. In considering a debtor's Section 1113 motion, the bankruptcy court will review certain actions the debtor has taken since the filing of its bankruptcy petition. Before authorizing rejection of a CBA, the debtor must demonstrate to the court that it has satisfied each of the following requirements:.

A. The debtor must make a proposal to the union to modify the CBA. American has indicated that it intends to make such a proposal. In his letter to APFA President Laura Glading, American's Senior Vice President Jeff Brundage stated, "American must now prepare to seek further changes to its APFA Agreement pursuant to Section1113 of the Bankruptcy Code. We will notify you promptly when we are prepared to present new proposals which reflect our changed circumstances."

B. American's proposal must be based on the most complete and reliable information available at the time of the proposal.

C. The proposed modifications must be necessary to permit American's reorganization.

D. The proposed modifications must assure that all creditors, the debtor and all of the affected parties are treated fairly and equitably.

E. American must provide APFA such relevant information as is necessary to evaluate the proposal.

F. Between the time American makes its proposal and the time the hearing on American's request to reject the existing CBA, it must meet at reasonable times with APFA.

G. At these negotiation sessions the debtor must confer in good faith in attempting to reach mutually satisfactory modifications of the collective bargaining agreement.

H. APFA must have refused to accept American's proposal without good cause.

I. The balance of the equities must clearly favor rejection of the collective bargaining agreement.

J. If the court grants American the right to reject the CBA, it can at that time implement its proposal.

Under Section 1113 (e) of the Bankruptcy Code, emergency short-term relief may be granted on an expedited basis without a full negotiating process if the court finds that the relief is "essential" to the continuation of business or to avoid "irreparable harm" to the bankruptcy estate.

3. How is the process supposed to work?

If American wanted to change our Contract as a result of filing for bankruptcy, the company would first make a contract proposal to the trustee that demonstrates the necessity of the proposed changes and shows that the proposal treats all of the affected parties "fairly and equitably".

The trustee is then supposed to negotiate in good faith with APFA in an attempt to reach a mutual agreement on any changes the Company wants to make to the Contract. If an agreement is reached and the members approve the changes then the approved changes to the Contract would go into effect.

If the parties do not reach an agreement on the changes, the court decides. Bankruptcy law says that for the court to alter or reject our Contract during bankruptcy, the company must prove all of the following to the court:

1. The changes are fair and equitable to all parties;
2. The company provided all of the relevant information necessary to evaluate the proposal;
3. APFA rejected the contract proposal without good cause; and
4. The balance of the equities clearly favors the changes being proposed.

APFA would also present our case to the court, detailing why the Flight Attendants rejected the changes. If the court finds that the changes meet all of the criteria outlined above, it can change our Contract without Flight Attendant approval.

History has shown that sometimes the workers' contract gets upheld, and sometimes the court orders changes. Just like any other legal proceeding, the judge and the appointed trustee overseeing the bankruptcy have the most influence on the outcome. Sometimes you get a judge sympathetic to the rights of workers, and sometimes you get one that sides with corporations.

If American decided to satisfy its debts by selling off the pieces of its assets, any and all successors must recognize the APFA-American Flight Attendant Contract.

The standard National Mediation Board certification, which covers APFA representation at American, applies to the carrier and its successors.

Absent unusual circumstances, any successor employer would have to recognize APFA as the bargaining agent for the Flight Attendants and would have to honor the APFA American Contract.

4. What happened to the Flight Attendant Contracts in the Continental and TWA bankruptcies?

Continental Airlines filed for bankruptcy protection in 1983 and 1991. In the first bankruptcy, Continental eliminated the Collective Bargaining Agreement and replaced it with unilaterally created work rules.

Wages were cut by 60%, and vacation, sick and other benefits also were drastically reduced.

These actions were taken before Section 1113 was added to the bankruptcy code when there were no special procedures in place relating to a debtor's rejection of a labor Contract.

A year after the second bankruptcy filing, the Flight Attendants were able to negotiate their first Collective Bargaining Agreement in nine years. That Contract, however, primarily incorporated most of the then existing work rules which management had imposed.

Wages were increased but remained at 50% of what they were in 1983, before the first bankruptcy filing. Under that Agreement, the highest wage rate in the Contract's first year was $14.00, vacation peaked at 21 days after 10 years and there were no trip or duty rigs.

Prior to its purchase by American Airlines, TWA had undergone three bankruptcies – in 1992, 1995 and 2001.

At the time of the first bankruptcy, the Flight Attendants had not negotiated a Contract since their strike in 1986.

In August 1992 the Flight Attendants reached an Agreement with management that deferred wage increases until 1995. However, by August 1994, it had become clear that because of the carrier's financial condition it would not be able to pay for the scheduled wage increases. Instead, Flight Attendants along with the other labor groups negotiated a second concessionary Contract that remained in place until 1999.

One and half years later, in January 2001 TWA again sought bankruptcy protection. As part of the transaction with American, the Unions agreed that their Contracts could be changed so as to mirror the equivalent provisions in the American labor Agreements. Also American demanded that the scope and successorship provisions in the TWA Collective Bargaining Agreements be eliminated.

WHAT IF AMR SELLS ITS ASSETS?

1. Can someone make an offer for American Airlines in bankruptcy?

Yes, if American Airlines decides to sell its assets, another airline or interested party can make an offer for American as a whole or only for

certain assets it deems valuable. The judge would have to approve any sale and, if there were more than one competing offer, would determine which competing bid to approve.

2. What happens to our Contract if American sells its assets?

If American decided to satisfy its debts by selling off the pieces of its assets, any and all successors must recognize the APFA-American Flight Attendant Contract.

The standard National Mediation Board certification, which covers APFA representation at American, applies to the carrier and its successors.

Absent unusual circumstances, any successor employer would have to recognize APFA as the bargaining agent for the Flight Attendants and would have to honor the APFA – American Contract.

WHAT HAPPENS TO MY PENSION?

1. What happens to the Pension Plan now that American has filed for bankruptcy?

Any filing typically does not have an immediate effect on a defined benefit pension plan. Active employees will not lose currently vested pension benefits as a result of bankruptcy and retirees receiving a benefit will continue to do so. As a part of a restructuring under bankruptcy, American could attempt to terminate the pension plan. APFA would vigorously oppose any such action. Even if this happened, the plan would still be obligated to pay all vested and funded benefits for current and future retirees. If the plan did not have sufficient assets to pay for the vested benefits (a “distress termination”), the Pension Benefit Guarantee Corporation would guarantee payment of vested pension benefits, subject to certain regulations and maximums. *The Defined Contribution Plan (the 401(k)) is not affected by a bankruptcy filing.*

2. What is the funding status of the Pension Plan?

The funding level of the Pension Plan is based on the investments of the plan assets. As the market goes up and down, so does the funding level of the Plan. In its most recent filing with the Department of Labor AMR stated that the Flight Attendant Pension Plan was funded at 97%.

3. Can the Retirement Plan be terminated?

Under the Collective Bargaining Agreement, the Company may terminate the Retirement Plan only with APFA's consent. However, if the Company is in reorganization in bankruptcy and meets certain stringent conditions specified in the Bankruptcy Code, including in Section 1113, a bankruptcy court could allow abrogation of the Collective Bargaining Agreement in this respect and permit the company to terminate the Retirement Plan without APFA's consent. Even if a termination instituted by the company (a so-called "voluntary termination") is permissible under the foregoing, it may not occur unless it also meets the requirements for either a "standard termination" or a "distress termination," which are discussed in the following questions.

In addition, the Pension Benefit Guaranty Corporation (PBGC), the federal government agency that administers and guarantees certain pension benefits, could act on its own to terminate the Retirement Plan (a so-called "involuntary termination"), if it determines that the plan has not met applicable minimum funding standards or will be unable to pay benefits when due, or determines that its possible long-run loss in providing guaranteed benefits under the plan will increase unreasonably if the plan is not terminated.

The Employee Retirement Income Security Act of 1974, as amended (ERISA), requires that the plan administrator provide 60-day advance written notice to all affected parties of its intent to terminate a plan. If the PBGC is advised that the proposed plan termination violates a Collective Bargaining Agreement and that the termination is being challenged under procedures specified in the Collective Bargaining Agreement, the PBGC will suspend the termination proceeding until resolution of the challenge. However, the PBGC still has the authority to proceed with an involuntary termination, if the requirements of an involuntary termination are met.

4. What are the requirements for a "standard termination," and how are plan assets allocated in that event?

If a pension plan's assets exceed its liabilities, it may be terminated in a "standard termination." In a "standard termination," plan assets are used to purchase insurance company annuities designed to cover all liabilities of the plan (for all active, retired and terminated participants and survivors). The Retirement Plan provides that any assets remaining after such a fully funded termination would revert to the company.

5. What are the requirements for a "distress termination"?

If a pension plan's liabilities exceed its assets, the Retirement Plan may be terminated only in a "distress termination." A "distress termination" may occur only if the PBGC determines that the entity sponsoring the plan (i.e., the company), as well as each entity in the sponsor's controlled group of entities, satisfies one of four alternate criteria for a distress termination, pursuant to Section 4041(c) of ERSIA, as follows:

- The entity is in liquidation in bankruptcy, or the entity is in reorganization in bankruptcy, and the bankruptcy court determines that unless the plan is terminated the entity will not be able to pay its debts pursuant to a plan of reorganization and will be unable to continue in business outside the reorganization process, and the court approves the plan termination, or
- The PBGC determines that termination is required to enable the entity to pay its debts and continue in business, or
- The PBGC determines that termination is required for the entity to avoid pension plan costs that have become unreasonably burdensome solely as a result of a decline in the entity's workforce covered by all of the entity's pension plans.

6. If the PBGC does take over the pensions, how is my pension calculated?

If there have been no improvements to the plan in the last five years, your pension is calculated using the formula in our contract up to the PBGC maximum.

7. What is the PBGC maximum?

It varies based upon your age when the PBGC starts paying you. The amount goes up with inflation. For 2011, if you are 65 or older, your PBGC maximum is $4,500 a month, $54,000 a year. If your pension is less than this PBGC maximum, they will cover this amount If you are age 55 when the PBGC starts paying you, your PBGC maximum is $2,025 a month, $24,300 a year. Check out http://www.pbgc.gov/wr/benefits/guaranteed-benefits/maximum-guarantee.html

8. Will the impact of a bankruptcy on our pensions be different for different age groups in our workforce?

If you are not yet retired, when the pension is turned over to the PBGC, your pension stops growing. This has a very different impact based upon what you have vested by that date and your expectations for retirement. If you have 40 years of service, your pension is going to be much closer to what you anticipated than if you only have 10 years. In either case, what is vested up to the date of the bankruptcy is not lost, subject to the PBGC Maximum.

9. I pulled a pension estimate projecting my pension if I retire in two years. Is that dollar amount insured if the pension goes to the PBGC?

No. If the pension is turned over to the PBGC, your pension will stop growing on the day AA files for bankruptcy, so your estimate that assumes you will continue to accrue credited service for two more years, is too high.

10. We currently have several different options when selecting how we want to receive our pension, such as Level Income Option, Period Certain, etc. Will these all still be available options if the PBGC takes over the plan?

No. Generally, PBGC does not guarantee any monthly pension amount that is greater than the monthly benefit your plan would have provided if you had retired at your normal retirement age. This means that the level income options would no longer be available or severely restricted.

11. Are the only choices for the court in bankruptcy to turn the pension over to the PBGC (termination) or to keep it as is?

No, the union and the company can negotiate a wide range of changes. For instance, the company could keep the pension, but we agree to "freeze" the accrual of credit. Your pension stays with AA and all of our current rules, but you will receive your pension based upon what you have accrued only to today, or some date certain, instead of your actual retirement date.

12. What happens to American's stock in bankruptcy?

The shares probably will become worthless or even more diluted in bankruptcy.

WHAT HAPPENS TO RETIREE MEDICAL?

1. What happens to our retirement health and life insurance benefits under Chapter 11 bankruptcy?

Section 1114 covers Union and non-Union retiree health and life insurance benefits. The procedures are similar to Section 1113.

2. How are retiree medical benefits affected by a bankruptcy?

A filing does not have an immediate impact on retiree medical benefits. They are not guaranteed by a governmental agency. However, they are part of the Flight Attendant Collective Bargaining Agreement. A Company may not modify benefits unless APFA agrees to such modification or unless the court specifically authorizes modification. Similar to the requirements that must be met to modify any Collective Bargaining Agreements, the bankruptcy code sets certain procedures to obtain permanent modifications to these benefits.