

## INDEPENDENT REFEREE REPORT

### Jurisdictional dispute between Local 3140 and Local 3010 of Communication Workers of America

On Thursday, November 6, 2014, at 10:00 a.m., I conducted a hearing on a jurisdictional dispute between Locals 3140 and 3010 of CWA. The hearing was conducted electronically at the CWA International Headquarters located at 501 3<sup>rd</sup> Street, N.W. Washington DC 20001-2797.

The location of the unit in dispute is San Juan, Puerto Rico.

Representing Local 3140 was President Ellis Ryan, Secretary-Treasurer Georgina Felix and Area Representative and Shop Steward Heqda Delgado. Representing Local 3010 was President Rafael Castro, Secretary Treasurer Luis Benitez and American Airlines Agent Edgar Ramos.

### **BACKGROUND**

There is no real difference of opinion on the facts that led to this dispute. The difference is what do these facts mean? Since 1997, Local 3140 has represented about 28 employees at US Airways Terminal in San Juan, Puerto Rico and about 350 US Airways employees in Miami, Florida. Local 3010 did not have any airline members in San Juan, Puerto Rico.

US Airways and American Airlines merged in December 2013 to form what is called "The New American Airlines". An election was held to see if the American Airlines employees who had not been represented by a union, wished to be represented. Local 3010's Exhibit 3 showing the election results "In the Matter of the Representation of Employers of American Airlines, Inc., Passenger Services Employees", as certified by the National Mediation Board on September 17, 2014 is as follows:

<b>Election Results for Passenger Service Employees</b>	
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Eligible Employees	13,962
Total Valid Votes	11,187
CWA/IBT Association	9,612
Other Votes	28
"No" Votes	1,547
Void Votes	4

As a result of the election, Local 3140's membership went from 350 former US Airways employees to approximately 1450 American Airlines employees. In Local

3010's area in San Juan, Puerto Rico the membership went from 28 former US Airways employees to 110 American Airlines employees.

Local 3140 has represented US Airways agents in San Juan, Puerto Rico since 1997 and feel that they should represent the New American Airlines. The CWA Charter Jurisdiction assigned to CWA Local 3140 reads as follows: *"Over all work performed by employees eligible for Union membership who are employed by US Airways at all airports in the state of Florida, the islands served by US Airways and the Orlando Reservation Center. City ticket offices; and such other jurisdictions as may be assigned by the Executive Board of the Union."*

Local 3140 submitted as their Exhibit 1, 31 letters supporting them as the bargaining unit. These letters of support represented approximately 26% of the 117 members they say they should represent. There is a small discrepancy as to whether the number of American Airlines employees in Puerto Rico is 110 or 117. We do not feel that this should make a difference for this jurisdictional dispute.

## **FINDINGS**

It appears that each of the locals has the ability to service the members. Local 3140 has represented US Airways in San Juan Puerto Rico. Local 3140 attempted to follow an internal union vote with the new American Airline employees. Article XIII, Section 4 (a) 1, does make provisions for an election between two local unions, but only if both local unions agree. Local 3010 did not agree. Article XIII, Section 4 (a) 2, provides for an independent referee to be appointed when the locals do not agree to an election.

Local 3140's Charter issued on July 1, 2000 reads: *Over all work performed by employees eligible for Union membership who are employed by US Airways at all airports in the state of Florida, the islands served by US Airways and the Orlando Reservation Center, City ticket offices; and such other jurisdiction as may be assigned by the Executive Board of the Union."*

Local 3010 has been attempting to organize American Airlines in San Juan, Puerto Rico for sometime, going back to 2003. In 2011 a full time organizer was hired to work on the American Airlines organizing campaign. The organizer was paid through what is called a 75/25 plan (75% of the salary was paid by CWA International and 25% of the salary plus expenses was paid by Local 3010).

This dispute is not about US Airways, but about the "New American Airlines" and who will represent those workers in San Juan.

In awarding jurisdiction we must look at a number of things, including how the members will best be served. In this case, as was pointed out at the hearing, we should add to that list, geography, language and culture. How accessible will the

members be to their elected officers and other members? San Juan is 1,000 plus miles from Miami, Florida. Local 3140 does have representatives who have the ability to fly free on the new American Airline. Spanish is the dominant language on the Island of Puerto Rico; although many on the Island are bilingual, each local union has some bilingual representatives. Puerto Rico is apart of the USA, but it does have a distinctive culture of its own.

Local 3010's Charter Jurisdiction issued on April 1, 2001 reads: *"Over all work performed by employees eligible for Union membership employed as: Installers for Jaff, Central Telecommunications, Bermudez u Longo, EMEC, Prime Teleconstruction and Artcom; and such other jurisdiction as may be assigned by the Executive Board of the Union."*

The CWA Executive Board on September 18, 2014 assigned *"all American Airline Agents that work within the geography of CWA District 3 in Puerto Rico will be chartered in Local 3010."*

Each local union's assigned jurisdiction ends with this language: *"and such other jurisdiction as may be assigned by the Executive Board of the Union."* Article XIII, Section 3 (a) reads: *"the Convention or the Executive Board by an affirmative vote of three-fourth (3/4) may change the jurisdiction of any local."*

## **AWARD**

After having considered the information presented by the parties, the charters of the parties and the Constitution of CWA, I award the jurisdiction of all American Airline agents in Puerto Rico to Local 3010.

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Willie L. Baker, Jr.  
Independent Referee  
November 18, 2014