

June 3, 2020

Dear Board of Directors,

I serve Delta as a First Officer on its Boeing 777 and am now in training for the A-350. I am proud of the work I do and grateful for the opportunities I have had as a female pilot with over 40 years' experience. As an employee and shareholder, I write to you now to advise you of management misconduct that compromises our safe operations, condones harassment of Delta employees, and, unless addressed internally, will result in increased litigation. Please know that I am available to discuss these matters with you and cooperate with any investigation that you may undertake.

By their recent misconduct, Delta's senior managers have demonstrated a failure to comply with the ethical standards upon which our corporate governance and safe operations are founded. On paper, Delta has codified *Policies and Procedures to Prevent Workplace Harassment*. As stated in our *Code of Ethics and Business Conduct*, "safety is our highest priority," *including the safety of our employees*. Nevertheless, Delta management has deliberately disregarded these standards.

Contrary to the Board's statements in opposition to Proposal 7 (Shareholder proposal – sexual harassment policy, Notice of Annual Proxy statement 2020):

1. Delta management does not follow Delta's ethical compliance policies.
2. Delta management does not conduct *bona fide* investigations of harassment incidents.
3. Delta management retaliates against employees who bring concerns forward.

The reasons Delta is not faced with the #metoo hashtag movement, as identified in Proposal 7:

1. Flight attendants are not protected by a union.
2. Female pilots fear termination pursuant to the suppressive mandate of Delta's social media policy.
3. In those cases where the women have spoken out, retaliation has ensued.

Delta is *not* investigating those executives and management employees involved in policy violations in order to hold them accountable. Not only should multiple executives be held accountable, but our company owes it to the shareholders the implementation of Delta's ***clawback policy*** to recoup the compensation paid during the period of misconduct during which they violated these company policies.

As a female Delta pilot, I was retaliated against for reporting safety concerns which FAA administrator Steve Dickson agreed were brought forth in "good faith" and admittedly resulted in a much-needed "catalyst for change." Yet, despite my good faith efforts, I was still forced into an abusive psychiatric evaluation and Delta refuses to even investigate those individuals responsible for this retaliation, let alone implement an appropriate remedial and/or disciplinary response. Because Delta managers have the unchecked authority to refuse to investigate themselves, it is important that an independent review of this matter be undertaken. The Board of Directors' inaction with respect to this matter will not only compromise the welfare of our employees and the

safety of Delta's operations, but it will leave victimized employees with no option to address their grievances other than litigation.

Delta's opposition statement to a shareholder's, Proposal 7, sexual harassment policy states:

**In accord with our core values, we take all forms of harassment very seriously. We have strong policies prohibiting harassment, and we provide training to all employees and managers on those policies.**

I am uncertain as to the management harassment prevention training that may be occurring; however, Delta does not take all forms of harassment seriously as reflected by the illustrative examples of harassment and retaliation identified below:

- ➔ As referenced above, as a female Delta pilot working on my doctoral research in Aviation Safety, with a focus on Safety Culture and SMS, I was retaliated against for reporting safety concerns in which FAA administrator Steve Dickson stated were brought forth in "good faith" and I was a "catalyst for change." Yet, despite my good faith efforts, I was still forced into an abusive psychiatric evaluation by a senior executive, Jim Graham. Delta management invested unprecedented sums of money, and provided unsolicited information to the assigned psychiatrist, in an apparent effort to obtain an ultimately discredited diagnosis that would remove me from flight.
- ➔ For a period of eight years, I had reported directly to supervisors, at the time of each incident's occurrence, the very events that comprised the 45-page safety report presented to SVP Steve Dickson and VP Jim Graham. At the time of their occurrence, no investigations were conducted into the reported incidents of non-compliance with federal aviation standards, coercion of pilots to fly fatigued, or subversion of our FAA-mandated Safety Management Systems (SMS) program. Nonetheless, after my safety report detailing these incidents and the lack of any prior investigation, Captain Graham determined that these incidents should be characterized as allegations of gender discrimination and assigned for investigation to an EEO manager with no flight operations experience.
- ➔ Last week a Delta flight attendant received the following voicemail from a fellow pilot who referenced his own inebriation:

*"Hey this is uh... Captain Williams we flew a few months back uh... I was just uh... kinda of just sitting here drinking scotch and thinkin' you'd probably make a better flight attendant than a pilot. I don't really feel like women should be in a cockpit unless they are giving a pilot blow job."*

- ➔ A female pilot, who had experienced years of sexual harassment, finally expressed her concerns to CEO Ed Bastian in January 2020 after her abusers utilized the HIMS program and a *known* false-positive test, in retaliation for her reporting harassment. An HR investigator subsequently interviewed her; however, as a result of that meeting, the

individuals she named in the harassment complaint continue to retaliate against her. Nevertheless, this pilot is forced to work with her persecutors, and her pleas for assistance have been ignored.

This single mother with a special-needs child was forced into an in-patient rehabilitation center on June 1, 2020, for a month when she had hard evidence that she did not drink, including multiple negative alcohol tests and a polygraph examination confirming her veracity. Forcing her into in-patient treatment was also in conflict with her authorized FMLA leave for her special-needs son, ignored by management. Management is now mandating that she accept a specific AME (aviation medical examiner) in conflict with the contract. The management-selected doctor receives financial contributions from Delta for his non-profit corporation, in violation of our code of ethics as well as the FAA's code of ethics. Delta management has also refused to provide her the documentary evidence (litigation package) that would substantiate the lone positive test on which the company bases its punitive actions. She has requested that she not be forced to work with her harassers, one of which is her regional director who openly discussed the fit of her pants in a meeting with other managers, utilizing a vulgar term '*camel toes*'. Delta has failed, and refused, to provide a work environment free from retaliation and harassment.

- Women are treated differently on the flight line. After an incident, a female captain aborted a flight on the runway. Management called her male first officer to ask his opinion as to how she did. This is not the response or the respect male captains receive when incidents occur. Management should speak to the captain regardless of gender.
- Another female captain provided HR with copies of explicit sexual text messages from a management pilot. She rejected his advances. She reported him. HR did a perfunctory investigation during which they asserted she was partially responsible for his actions. No remedial action was taken and the management pilot remains in his position. By contrast, the female victim was subject to retaliation during her next training cycle. She subsequently left on disability as a result of the stress arising from this harassment and Delta's aggravation of that harassment. This woman reports that she was warned if she filed charges against Delta, that Captain Graham would take action to terminate her disability benefits.
- It has been brought to my attention that Delta is violating company policy preventing new mothers from returning to work before the end of their leave of absence. In one case a Regional Director queried a female pilot's husband's financial status to determine if her working was necessary to support the family. Another pilot was allowed to return, but was forced to sign an NDA.
- On more than one occasion Delta has failed to interview, and/or employ a female pilot as a management pilot notwithstanding the fact that the female possessed the highest experience.

- ➔ A chief pilot had advised senior management of a problem at Delta regarding sexual harassment with no result, other than that he is no longer a chief pilot. Below is a segment of his email:

*I have been approached by several of our female pilots who have concerns about sexual harassment in the flight deck and on layovers. The comments I have gotten have to do with, yes it is occurring, overtly and insidiously as well. Many of our women are very concerned about how to handle the situation. The main fear is that they will not get support from management.*

**Delta maintains and refers to its internal investigation Policy and Protocol, which specifically includes all types of harassment to better protect the safety of our employees and maintain oversight of all (including sexual harassment) reports** (Opposition Proposal 7).

The above statement is inaccurate. For example, Delta asserted that they were investigating the alleged sexual harassment claims within a safety report I provided to management in 2016, yet trial testimony proved that no one *ever* completed *any* investigation, safety or otherwise, either at the time of the initial reporting or at the time of my subsequent safety report eight years later.

As referenced above, on January 28, 2016, I presented a 45-page safety report, to Flight Operations Senior Vice President Steve Dickson, and Vice President Jim Graham, which related to my doctoral research at Embry-Riddle. Captain Graham treated the safety and compliance issues that I reported as gender issues and relied on the Delta EEO representative's characterization of my safety concerns as exaggerated to subject me to a compulsory psychiatric investigation.

I filed an AIR 21 complaint as a result of this retaliation. Discovery yielded email documentation confirming that, on October 9, 2015, five months *prior to* Captain Graham's reliance on my safety report to trigger compulsory psychiatric evaluation, he advised his subordinate Regional Director OC Miller of his *intent to* subject me to a psychiatric evaluation based on my prior communications raising concerns with respect to Delta's compliance with the FAA's SMS mandate. October 18, 2015, Captain Graham advised Captain Dickson that he contemplated placing me into a psychiatric evaluation *after* our scheduled January 28, 2016 meeting took place. Clearly, Captain Graham utilized the EEO investigation as a pretext to justify his premeditated plan.

Discovery also yielded a memorandum indicating that Mr. Bastian met with Captain Graham and senior legal counsel in a thirty-minute meeting, concerning which I was the subject, the very day of my meeting with the HR investigator ... nine days *before* my removal from duty.

Delta management authorized funds to pay a psychiatrist close to \$74,000 (not including the price for neuropsychological testing) for a diagnosis that was subsequently discredited. The diagnosis was refuted by 10 Mayo Clinic specialists and by the FAA medical Appeals Board. The Mayo Clinic charge was \$3300, confirming the magnitude of the witch hunt in which Delta managers and the Delta psychiatrist engaged in an effort to remove me from flight. The Delta psychiatrist is currently facing prosecution with the potential loss of his license, not only on my case, but also with another, as a result of the psychiatrist's unethical threat that any challenge to his professional conduct would be treated as a sign of an adverse mental health condition.

Delta violated our contract by disclosing the initial mental health review to the FAA and then refused to accept the FAA ruling confirming my fitness for flight when it conflicted with management's agenda. Management thereafter attempted to improperly influence a third psychiatrist, who served as the tiebreaker between Delta's psychiatrist and the Mayo Clinic panel, by encouraging him to conduct a secondary investigation with *no expense spared*. His first bill was \$2600. The second "no expense spared evaluation" was \$4500. Despite Delta's interference, both investigations confirmed my fitness for flight.

Delta incurred a sizable investment of professional time in its efforts to ground me by including Regional Director Captain Phil Davis, the Director of Health Services, Dr. Faulkner, HR investigator Kelly Nabors, and multiple attorneys (Chris Puckett, Meg Taylor, and Mellissa Seppings) in this effort. Management authorized funding for Delta in an attempt to justify its indefensible position in a multi-million dollar litigation process, concluding in a nine-day trial. That was not the end. March 3, 2020, Delta management authorized a legal action to sweep this situation under the rug with a frivolous collateral estoppel motion, in a last-ditch effort to win on a technicality. Notwithstanding, the federal administrative law judge advised Delta at the end of the trial:

The other thing that I will tell you, I'll just be upfront, you are not going to like my findings, factually. If you really want this out there, I would think long and hard about this. You can settle at any point you want to, but the facts in this case -- I'm going to lay it out -- I'm going to lay it out -- and from what I'm hearing it's not pretty. You've got some -- you have a pilot that was identified, went through, I'll call it a "gauntlet," to get reinstated.

Trial testimony confirms that SVP Captain Jim Graham provided sharply contradictory testimony at his deposition and during his subsequent trial appearance despite the fact that, at both times, he had taken an oath to tell the truth. His actions, and those who assisted him with his efforts, violated the contract with the intent to cause me harm, violated our Rules of the Road and Code of Ethics and Business Conduct. I have made numerous requests for an investigation of this situation and these individuals to no avail. At a minimum, the federal administrative law judge's stern admonition -- "you are not going to like my findings" -- should have triggered some level of introspection on Delta's part to prevent the recurrence of this travesty. But I have met with nothing but resistance, denials, and obfuscation.

**We have avenues to report concerns and we address those concerns—including conducting investigations into alleged wrongdoing—promptly and thoroughly** (Opposition Proposal 7).

There are avenues to report, but they are either not authentic, cherry-picked, or ignored. Over a year ago, Delta assigned an attorney who was involved in the initial action against me, Melissa Seppings, to investigate, but she refused to review trial testimony and refused to recuse herself based upon her own involvement in the process that led to my victimization. I filed another complaint naming all parties involved, including Ms. Seppings, and still Delta refuses to investigate anything, alleging that the matter has already been investigated. But there could have been no genuine investigation since neither I nor any of the witnesses I have identified have ever been interviewed. Indeed, if the investigation had gone no further than a review of the AIR 21

trial transcripts, and consideration of the federal administrative law judge’s caustic observations, none of these individuals would be working for Delta today. Trial testimony can be found at my attorney’s website under the Delta Safety tab: <https://www.ssmplaw.com/>

A lengthy investigation is unnecessary, as a simple reading of the deposition and trial transcripts will prove the alleged violations.

In response to my multiple efforts to persuade Delta management to conduct an honest and authentic investigation, and their continual refusal, I filed an EEOC complaint. Delta then retaliated for filing that complaint, by using my EEOC complaint (submitting it to the judge notwithstanding that the evidentiary record had been closed) in an attempt to punish me for the protected activity of asserting a claim under Title VII of the Civil Rights Act of 1964. Therefore, I filed yet another EEOC complaint and I am awaiting the interview process.

Retaliation and harassment continue at Delta. Therefore, I am asking you to please reconsider your position on Proposal 7 Shareholder proposal – sexual harassment policy. This proposal is necessary because Delta management does not follow its policies. Those who should be investigating are involved in the wrongdoing.

More importantly, I am asking the board of directors to follow your mandate to audit and investigate the described actions above. Leadership begins at the top, and when our leaders behave in an unethical manner, with complete disregard for their own policies, that sends a message to all employees. The statement below, based on extensive gender discrimination research, identifies the conditions which I describe as an industry-wide problem, but that does not justify Delta’s behavior. We should be the leader in the industry in all areas—safety depends upon it.

Sexual harassment is a safety issue and has no place on the flight deck. Many in the industry feel that it is up to women to “put up and shut up” because of the masculinized culture prevalent in the industry. Silencing women does not make the issue go away, and it creates a cockpit environment where crew members are not comfortable speaking up.

*N. Newton MAPC*

Sincerely,

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