

# ***The 49ers***

**Prepared by**

**The Hong Kong Aircrew Officers Association**

**08 March 2002**

## **Prologue**

It was necessary in our July EGM to enact a rule change required to allow sacked pilots to remain members of the Association. *The 49ers'* memberships were extended in December and need renewal by 13<sup>th</sup> April. Therefore we have scheduled an EGM at the Mariners Club for the morning of 10<sup>th</sup> April 2002. Please mark this date in your diary.

Your Committee retains close contact with IFALPA and other organisations worldwide that continue to monitor our situation very closely. Associations such as US-ALPA offer their resources, wisdom and professional advice as ours is seen as a precedent-setting international case. Despite our struggle and the setback caused by 11<sup>th</sup> September, those organisations are impressed by our unity, resilience and strength more than eighth months after 9<sup>th</sup> July. They remind us that, had we taken any other course on 10<sup>th</sup> July, we would not be functioning today. They reiterate the need to persevere and not to concede in the false hope that surrendering would bring more than temporary industrial peace.

In the months ahead we will refocus on our Association Objectives and maintain the search for resolution by all available means. We will continue to protect our *49ers* for their sake and for our own. We will rebuff the attempted union-bust and preserve our professional careers.

## **Introduction**

On 9<sup>th</sup> July 2001, management fired 49 Cathay Pacific Airways pilots in what has become one of the most protracted labour disputes in commercial aviation. Although 3 pilots had been fired the previous week, and one more would be sacked several days later, the group became known as "*The 49ers*". Management's aim was reflected in their 9<sup>th</sup> July press conference, entitled "*The way to end the pilot's dispute*". To date, there is still no end in sight.

This *BTL Special Edition* will document the facts surrounding *The 49ers* issue. It will briefly cover the background and the contributing factors that led to the dispute. It will record the events to date, enabling objective decision-making concerning the Association's duty of care towards *The 49ers'* future and, correspondingly, towards the very future of our union.

## **Association's Objectives**

Any union's basic aim is the welfare of its members. *The 49ers* situation must be considered within the overall framework of the Association Rules and Objectives:

- 1. To protect and further the interests of the Aircrew Profession and to safeguard and improve the interests and rights of Members of the Association*
- 2. To take any lawful action deemed desirable for the benefit and advancement of Members and their families*
- 3. To take any lawful action deemed desirable to further the interests of Commercial Aviation*
- 4. To regulate the relations between Members and their employers.*

## **Background**

In June 1999, under threat of dismissal, agreement was reached for a new Conditions of Service (CoS) for the 700 pilots who had joined the Company prior to April 1993. After several weeks of unsuccessful negotiations, a revised set of CoS was put before the pilots in May with a deadline of

11<sup>th</sup> June. Pilots who did not sign the new CoS would have their service terminated with effect from 1<sup>st</sup> July. This caused significant stress on many pilots who were diagnosed by their doctors as being unfit to operate a commercial aircraft. Subsequently, a third set of CoS was negotiated at the 11<sup>th</sup> hour. Not all of the issues could be resolved within that timeframe but the industrial status quo existed for the first year whilst attempts were made to resolve other outstanding issues. Progressively, industrial relations deteriorated until, on 20<sup>th</sup> June 2001, the HKAOA passed a Limited Industrial Action (LIA) resolution, effective 1<sup>st</sup> July, designed to encourage management to return to formal negotiations in the Labour Department.

## **Negotiations**

On 16<sup>th</sup> June, the HKAOA and senior Company officials met where both parties summarised their respective positions. The HKAOA emphasised that it was optimistic that negotiation should resolve the situation and that both parties should not escalate the situation unnecessarily. On 21<sup>st</sup> June, both parties met under the conciliation services of the Labour Department. As the negotiations got underway, the HKAOA recounted that it had heard that a senior manager was telling pilots that management would *“sack 20-30 pilots and the rest would fall into line”*. The HKAOA reiterated that escalation should be avoided and, before the Labour Department officials, management strongly denied the reported incidents.

On 28<sup>th</sup> June, 3 days prior to the effective date for LIA, negotiations failed primarily due to the lack of data exchange; management refused to provide necessary rostering data to evaluate the current contract and left for a pre-arranged press conference. There was a short period whilst both parties portrayed their respective positions to the public and their “sponsors”. In a final effort to restart talks, the HKAOA delayed the implementation of LIA by a further 2 days and urged talks to resume. Management did not respond.

## **The First Week**

LIA began on 3<sup>rd</sup> July 2001, but its effects were quickly overshadowed when Typhoon Utor struck Hong Kong the following day. Airport operations were significantly affected, all airlines suffered major delays and diversions and tens of thousands of passengers were disrupted. One flight, from Los Angeles, was significantly delayed primarily due to a misinterpreted roster change. Two pilots were fired on 5<sup>th</sup> July as a direct consequence although one was permitted contractual Disciplinary and Grievance Procedures (DGP). Another non-union pilot was also fired for a separate incident on the same day after DGP. This paper will only deal with the union pilots although one other non-union pilot, who shared the same name as a union pilot, was also dismissed on 10<sup>th</sup> July.

On 9<sup>th</sup> July another 49 pilots were sent DHL express post notification that they had been terminated in accordance with a section of their contract that, management purports, permits either party to give the other 3 months’ notice, thereby attempting to circumvent contractual DGP. The Company held a press conference at 6pm explaining its rationale. One thing all 49ers shared in common was that none was given any reason for their dismissal. Despite the pilots being fired for “no reason” Cathay Pacific held a press conference stating that the officers’ employment files had been reviewed and that they had lost confidence in those pilots. They went on to suggest numerous incidents that had led to them to pick those individuals. This created a significant contradiction. If there was any reason for any of the dismissals, then those pilots had the contractual right to DGP

## **Termination Notification**

Over the next several days, pilots around the world discovered that they had become a 49er. Although the prime method of notification was by DHL courier package, many pilots were not at their home delivery address on 9<sup>th</sup> July. Some were in outports on duty, others were on leave or sick, and others just did not receive the letter. Some were either rung up in the middle of the night

or were fired by fax. Management refused to provide a list of fired pilots and many were forced to telephone in to find if they were on the “hit list”. One even reported for duty only to discover his electronic employee card would not allow him access at Cathay City. The confused situation was compounded by management denying access to the list of fired pilots.

## **Demographics**

By 12<sup>th</sup> July, 51 union pilots had lost their careers, 23 Captains and 28 First Officers. The demographics of the victims did not reflect the demographics of the aircrew body. Every pilot, save one, was flying long haul. One in three 49ers was Canadian even though Canadians represent only 15% of Cathay pilots. Only one locally employed pilot was terminated although nearly 10% of pilots are locally employed. Four of the union’s seven Labour Department negotiators were fired. Five of the union’s 20-strong General Committee were fired. The overall spread of pilots ranged from the most junior (2 years in the Company) to the most senior pilots (approaching retirement and with 23 years’ service). One had been a Fleet Manager.

Every pilot in the Company knew at least one officer who had been fired. Some were obviously selected, while other names were a complete surprise. The list appeared to include at least one representative of each cross section so as to leave every other officer to wonder if they too were also to be considered “bad apples” or maybe just unwanted? The action was clearly aimed at union pilots and the active Association officials took the greatest hit. It was clear that the committee and future union recruitment was the biggest target.

## **Individual Selection**

The breakdown of negotiations and the sackings of 9<sup>th</sup> July may have been unexpected to many union members, but the events of last summer were no accident. We know now that management had been planning how to implement their attack on the pilots for months prior. Firstly, they needed to compile data on likely individuals and this commenced in November 2000. By introducing a Sickness Management Program they compiled statistics on pilots who were unfit for work. Secondly, by questioning Crew Controllers and administrative personnel, they compiled anecdotal data for later use. Finally, by interviewing managers and others, they compiled a “hit list”.

Consequently, a meeting was held, colloquially termed the “Star Chamber”, with about 20 individuals from Flight Operations, ISD, Airport Ground Staff, Engineering, Crew Control and Crew Scheduling. They considered 85 names on the list to be fired. They then discussed each name. If no one advocated keeping the officer employed, he was chosen for termination. If anyone denigrated the officer, he was fired. If someone spoke up in favour of the officer, he was retained. This was the most biased and venal 'kangaroo court' in corporate history. Apparently, in some cases, the most 'damning' thing that was found on an individual’s record was a few sick days with supporting doctors’ notes or a 'difference of opinion' with a manager. Management had now created *The 49ers*.

## **Welfare**

Knowing the probable tactics involved in a union bust attempt, the Association had recommitted to the welfare of victimised pilots and their families before initiating LIA. The four basics (“The Big Four”) of food, housing, education and medical needed to be covered. However, the first priority was to attend to the psychological impact on the group welfare of the sudden loss of career and income. *The 49ers* were formed into a self-administering group by assigning various individuals basic roles. They understood the importance of remaining cohesive and united. Indeed, the future of the Association quite literally depended on how they endured.

The General Committee did not have the capacity to deal with the sudden influx of work whilst simultaneously meeting the needs of the rest of the Association. The advantage of self-administration included time (all *49ers* were immediately available 24/7, whereas other pilots had a full work schedule), motivation, skill level (9 of *The 49ers* had Committee experience and knew how the system operated) and expertise (any group of pilots contains a broad cross-section of additional skills such as accounting, tax and law). Additionally, *The 49ers* set up their own counselling and support groups.

### **Financial Impact – 49ers**

All of *The 49ers* were contractually entitled to a minimum of 3 months' salary in lieu of notice. In fact, management withheld payment of such funds on the pretext of possible tax liability. Management then informed the Inland Revenue Department (IRD) that all of *The 49ers* were leaving Hong Kong; the result was that the IRD issued immediate tax demands to be paid within 7 days irrespective that many of *The 49ers* are permanent residents of Hong Kong. When some of *The 49ers* approached the IRD they were initially treated sympathetically and told that the tax demands could be held over provided they were not leaving Hong Kong. However, as soon as the officials found out that they were "the Cathay pilots", they immediately changed their stance and insisted that the demands be paid in full by the due date.

The situation was worse for based officers who used their crew mailboxes as their IRD contact address. Management returned their tax demands to the IRD as "address unknown". Thus, these officers did not know they had outstanding tax demands. Failure to pay tax demands by the due date can result in significant financial penalty. Only 2 of *The 49ers* were not subjected to this treatment by the IRD and both have Chinese names.

Management further exacerbated circumstances by misreporting *The 49ers'* income. The payment, purportedly in lieu of notice, was reported as income and therefore taxable, whereas payments in lieu of notice are actually non-taxable. Similarly, management reported housing assistance and travel allowance as fully taxable income. The result was that *The 49ers* received tax demands far in excess of their actual tax liability but they still had to pay them immediately. Despite the IRD's alacrity in issuing these demands, some *49ers* have still not been repaid money owing.

### **Financial Impact - Association**

Consequently, because of the tax demands and the withholding of the pay in lieu of notice, the Association had an immediate drain on resources to meet members' initial needs. Fortunately, the Association had begun accumulating contingency reserves 5 years earlier, and was able to manage *The 49ers'* needs without threatening its own solvency by making short-term loans to them.

*The 49ers*, despite a 100% salary and benefits cut and inflated tax demands, were expected to be "self-funding" for the first 3 months. Thereafter, the Association adopted financial responsibility for their welfare. Combined with the increased day-to-day union running costs due to the dispute, at the Annual General Meeting on 26<sup>th</sup> September, the Membership voted to increase union subscriptions from 1% of salary to 5%.

A sub-committee was immediately formed to evaluate the ongoing financing of "*The Big Four*": food, housing, medical and education. A simple policy resulted which catered for subsistence calculated as a multiple of *The 49ers'* individual union dues. In other words, pilots who had higher income paid greater union dues and received greater subsistence; this reflected that the day-to-day needs of an older pilot were probably higher than that of an average junior member. If a pilot was based in an area with free education, then no subsistence towards schooling was paid.

Housing was complicated by Hong Kong's high costs but flexibility produced manageable costs to the union. A competitive medical package was obtained which benefited from a group discount.

Reverting to a lifestyle that focused on the essentials underscored the philosophy of "The Big Four" policy. From the beginning, nine of the 49ers have taken no assistance and many have taken well below their allotment. As the dispute continued, some pilots moved out of Hong Kong and some have been able to secure alternate sources of family income, while others found creative ways to reduce their needs. Consequently, *The 49ers'* subsistence continues to decline and is now more than 40% below budget.

## Legal Protection

Hong Kong is not renowned for its advanced employee and labour protection legislation. For example, legislation, belatedly introduced prior to the return of Hong Kong from British to Chinese rule in 1997, was repealed almost immediately after the handover. The Government is openly pro-business and the legal employment protections reflect this stance. Considering these limitations, the Association investigated how best to effect legal remedy to the dismissals.

The result was that *The 49ers* were divided into 4 groups for individual claims. The 4 groups are divided into 4 jurisdictions with different causes of action:

Hong Kong	23 plaintiffs	Unlawful dismissal, breach of employment contract, breach of Employment Ordinance
United Kingdom	12 plaintiffs	Unfair dismissal
Australia	5 plaintiffs	Unfair contracts under Industrial Relations Act
United States	8 plaintiffs	Wrongful termination in violation of public policy, Libel per se

Additionally, the union officers and officials who believed that they had been discriminated against due to their union activities made a formal complaint to the Labour Department. After investigation, the Department of Justice (DoJ) decided not to proceed with a criminal prosecution against individual managers. Given the burden of proof required in a criminal complaint, the DoJ felt that it did not have sufficient evidence to assure a high probability of a successful prosecution.

## Individual Problems

Needless to say, being a *49er* is not easy. Far from being a paid holiday, the sudden loss of career, compensation and security has taken a heavy toll on each of the officers and their families. Though the additional 4% in subscriptions for remaining employed members is significant, it is unlikely that any member would willingly change places with a *49er*.

In a prolonged dispute, it is natural to expect that we would tend psychologically to "deny" *The 49ers* to try to make the problem "go away". Consequently, some might have a tendency to believe propaganda and rumours that help us to justify that conclusion ("They deserved it", "*The 49ers* are living it up", "There's nothing I can do anyway"). To counteract that psychology, we need to understand the realities *The 49ers* have had to face.

For example:

- Two of *The 49ers* and their families were literally evicted by management from their Cathay leased houses. Imagine the degradation of that. One officer had already arranged with his landlord to stay in his home but managers and lawyers still contacted him and threatened to evict him and his family if he did not give up possession of his home.

- Management and lawyers are sending letters claiming money payments whilst simultaneously refusing to repay other outstanding monies.
- Management has generally delayed and prevaricated to hinder access to files that are protected by the Data Privacy Ordinance. Complaints to the Data Privacy Office were politely rebuffed.
- Management booked repatriation flights on alternate carriers to ensure *49er* families flew home in Economy class rather than in contractually obligated higher classes with Cathay Pacific, despite the higher cost to the company.
- *The 49ers* that had received credit cards through promotions advertised for Cathay Pacific employees found their cards cancelled without notice.
- All *49ers* receive no travel benefits despite contractual entitlement, even qualified retirement travel.
- *49ers* are not permitted “companion travel” if nominated by another CX employee.
- Management are withholding payment of some of *The 49ers*’ rental deposits and ticket refunds.

For every *49er* victimisation story you hear, there are more than 49 others. Every *49er* has lost more than “just” his career. Did you know that, despite the recession, there *are* quite a few aviation vacancies out there? One recurring theme is that other employers just won’t touch *any* ex-Cathay pilots because they are seen as too much trouble. In effect, there already exists a Cathay blacklist. Therefore, despite no reasons being given, our colleagues are “branded” as troublemakers with no future prospects. Imagine how you would feel if that was you? *The 49ers* were carefully selected so that each and every one of us harbours just that fear.

## Psychological Operations

“PsyOps” is a normal tactic in any union-bust situation. It involves the dissemination of rumours designed to undermine the effectiveness of the union and its officers. In his book, Marty Levitt, a union-buster turned unionist, describes how he would use gullible employees to spread rumours and untruths. The rumours that you do hear are not random, but are carefully scripted by a consulting firm that busts unions as a specialty.

Rumour: *The 49ers* are “living it up” on subsistence payments.

Fact: *49er* Subsistence salary is limited to half of previous basic salary.

Rumour: Individual *49ers* have come to management to make private deals.

Fact: No private deals have been made.

Rumour: *The 49ers* have rejected offers to return to work.

Fact: No return to work offer of any kind has been made to the *49ers* or to the committee.

Rumour: *The 49ers* are hijacking committee decisions.

Fact: With 4 GC members amongst them, *The 49ers* maintain 20% of the voting power of the committee. The committee maintains strong objectivity and *49ers* are excluded from any voting deemed conflict of interest. Both Vice Presidents are non-*49ers*.

Rumour: *The 49ers* were troublemakers and deserved to be dismissed.

Fact: Management declined a request for D&G Procedure to any of the 49ers and refuse the prospect of an independent observer viewing employment files. Many of the 49ers actually have several letters of commendation on their personal files and no 49er was given warning that his employment was under immediate threat.

Rumour: *The 49ers* have prevented resolution of the dispute and undermined possible deals due to a lengthy list of demands.

Fact: No demands have been made with respect to 49er reinstatement.

Rumour: Your union dues are being wasted on doomed 49er court cases.

Fact: The legal budget is carefully scrutinized and budgeted. Only those cases that show definite promise of benefit to the union as a whole are undertaken.

## **49ers Assistance**

One of the precepts advertised prior to June 2001 was that the union would care financially for any pilot wrongfully terminated by management. The balancing factor was that he would be required to assist the Association. Having a pool of pilots available for tasking has been enormously beneficial. For example, the Association has used the visual medium of Video Compact Discs (VCDs) to communicate with its members and families spread around the World. They are cheap (60¢US), can be played on any computer or disc player and they can be edited easily in-house. A normal 2-hour members' meeting can be edited onto a 45-minute disc and distributed anywhere in the World within about 10 days. It can also be on the Internet, viewable with simple free software, within about 4 days. However, it takes several many man-hours, maybe 16-20 to produce a single master disc. *The 49ers* supply that manpower.

*The 49ers* and their spouses have been effectively utilized since the outset on a multitude of tasks for the benefit of other members. We have used their expertise and we now have experts in accounting, administration, communications, government policy, local and international law, politics, research and video technology, not to mention a myriad of computer-based skills. Some *49ers* assist full-time in Hong Kong and others work part-time overseas. Some work online from wherever they are in the World, but each *49er* takes time to do at least a two-week rotation in the HKAOA office. It is true that we have *49ers* that have enjoyed less time off than their employed colleagues.

## **Subsequent Intimidation**

As the dispute lengthened, the pilots were more unified than ever. Management decided on a new tactic because they had had too much negative publicity from their initial attack. The new tactic is individual intimidation.

During September and October, management targeted six Captains for so-called misdemeanours and used DGP to investigate. There was a range of charges up to and including gross insubordination. All charges, if proven, were termination offences. Using contractual DGP, all pilots put forward evidence to defend themselves. In each case, not one offence was proven and the hearing officers merely opined that they had lost confidence in the officer and he was demoted to the rank of First Officer, thereby incurring a substantial pay cut. A DGP is based on the principles of common sense and natural justice, which was clearly not applied in these cases. Consequently, no Captain appealed his demotion through to the final stage. Six more Captains joined the ranks of *The 49ers*.

Having subjugated the Captains, it was now time for management to target more junior ranks. One First Officer was demoted to Second Officer for periods of sickness, despite required certification by company-approved doctors. From October through to December, four First Officers immediately eligible and in-line for promotion to Captain were interviewed and told that they were



unsuitable for Command. The reasons given did not relate to their flying skills but more towards their “industrial attitude”, “lack of commitment” and the “wearing of yellow” – the colour associated with *The 49er* hostages.

The beginning of 2002 saw another twist to the First Officer intimidation. Pilots who were still several months from a command course were told that they should go away and consider their behaviour and how they might improve. Not one example was given of inadequate or improper conduct, however, they were recategorised as “unsuitable for Command” in seniority order nonetheless. Indeed, General Managers are now saying that command in seniority order is finished and that future commands will be on “merit”. If that is the case, Cathay Pacific Airways has ceased to be a career airline. Even a large contract airline has a contract term longer than 3 months.

George Orwell’s “Thought Police” had arrived. Now every pilot had to live in the fear that every time he did or said anything, he might incur an interview with the Director Flight Operations and his 3 General Managers and his future income and career progression would be hindered. All this was without any recourse to contractual provisions or protection.

To date, *The 49ers* number some 62 pilots who have been directly affected by management’s selective intimidation.

### **Replacement Workers**

Our current challenge, as individuals, is to prevent our union from behaving like management. Practically, it means that we have, to date, resisted taking any action against the pilots who have been employed to replace our *49ers*. Just because management chose to victimize 62 union pilots and their families, we must do all we can to resolve the issue before resorting to action against individuals, too.

However, the code of “turning the other cheek” can only last so long. Management openly acknowledged that sacking 49 pilots in one day, in a misguided attempt to break our union, was a mistake. It is one thing to recognise an error and another thing to correct it. We had to give management every reasonable opportunity to choose the correct path. Nonetheless, there will come a time when management will have to be held accountable for not yet resolving *The 49er* issue. That time is rapidly approaching.

### **Assessment**

At the December EGM, your Committee gave a formal presentation that summarised the last 9 years in Cathay Pacific Airways. It concluded that:

- The Association remains under attack
- The Members remain under attack
- The contract remains under attack

Since then, management have rebuffed reasonable appeals to discuss legitimate Flight Safety concerns and tried to oust your elected Committee, one *49er* has died and yet more pilots have been prevented from their rightful Command in Seniority order.

The General Committee assesses that management’s union-bust attempt continues unabated, and the pilot profession in Hong Kong has never been in greater danger.

\* \* \*

## Conclusion

Your Association is founded on the objective of safeguarding its members and their families. The most basic aim of that objective is protecting a member's employment. That aim comes before improvements to our own contracts and benefits and every other aspect of union activity. Though this dispute has disrupted all of our lives for some time, that objective must come before the goal of industrial peace. We must protect the employment of every individual member above all else. As a union, there can be no other way.

Each and every one of *The 49ers* was targeted to intimidate **you** in an attempt to bust your union, your contract and your career. Not one of *The 49ers* was fairly dismissed. Let me repeat that and I urge you to think about that for a moment – **not one** of *The 49ers* was fairly dismissed. Furthermore, none of the demoted or recategorised pilots received natural justice, as required by our CoS. Some had spoken up more than others, some had challenged an autocratic management more than others, some were apparently random, but **not one** was fairly dismissed or punished. If any of them had breached their contract, there is an established DGP to be followed. That procedure was blatantly avoided and as a Union, we have absolutely no choice but to seek fair process and fight for the protection of all of our members.

If we decide that it is okay to sacrifice this pilot or that pilot to end the dispute, then our actions are worse than the management that sacked them in the first place - because we have committed to defend them and their families. If we assess individual *49ers* based on our personal opinions or hearsay, we are no different than those who sat around the table and chose whose lives to destroy. To be judge and jury on the lives of families, whom we barely know and without evidence, is to claim the lowest rung on the ladder of ethics and morals.

We have all heard the rhetoric from management why they cannot possibly reinstate all the sacked, demoted and recategorised aircrew. That is all it is – rhetoric. There is absolutely nothing stopping management from implementing reinstatement or initiating an agreed fair process. If they can reinstate one *49er* they can reinstate all *49ers*. Management can no more ask us to give up *49ers* than we can ask them to give up airplanes. Sacrificing a single member for the sake of temporary industrial peace goes completely against the basic tenets of Unionism. It cannot, must not and will not be forsaken – not by your president, not by your committee, not by your negotiators, and not by you.

What we *can* do is continue to seek a creative way out of this debacle. If management can reach agreement with some *49ers* that are willing to accept a financial compensation package, we will certainly not stand in the way. It is possible that a handful of *49ers* may not be able to face coming back. It was certainly management's plan to discourage all *49ers* from wanting to return, and that was the reason they were so poorly treated, even after their dismissal. That plan seems to have failed, however, and nearly every *49er* I have spoken to is keen to return to the career he earned and loved. For those *49ers* who wish to return to our airline, this union must and will fight for their careers.

Yet, as non-*49ers*, we may be in receipt of the biggest reward for our own efforts; for if we do not continue to fight for resolution of the *49er* issue, we will most certainly be next. Management has no intention of backing off its "Frank Lorenzo" style goal of employee control and contract destruction. We have witnessed a great deal, but management have a lot more to come yet. Not until every pilot's contract is equivalent with the lowest common denominator and seniority and contractual rights are a thing of the past will management be satisfied. Think of how many times in the past nine years, they have declared an end to the cuts if we give just a little bit more. Without doubt, the worst cuts are yet to come and, if we show that we would sell careers and contracts for peace, we will learn to envy *The 49ers* we left behind.

There is every real possibility that you will see an attempt by management to purchase your morality in the next two months in the form of a “peace” contract, apparently better than the one you are on now. Directly or indirectly, you will of course be asked to give up on some of *The 49ers*. Such a contract would be a deal with the Devil - there can be no other way to describe it. Similarly, the long-term consequences will be dire. You could be faced with an ethical dilemma and I believe it will be soon. Prepare yourself now because this Association will be making the only choice it can make.

A handwritten signature in black ink that reads "Nigel Demery". The signature is written in a cursive, somewhat stylized font.

**Nigel Demery**  
**President**  
**08 March 2002**

Annexes:

- Annex A: In Memoriam, Greg England.
- Annex B: Why we Fight - The 49ers Roll of Honour
- Annex C: No Paid Holiday - The Real 49ers Stories

## Appendix A

### *In Memoriam*

I think Greg's tragedy affected all Cathay Pacific pilots, but to *The 49ers* there was a sense of loss that was greater and somehow difficult to describe. I knew little of most other *49ers* before 9<sup>th</sup> July. Indeed, many of our group had little in common and would have never interacted socially; but that fateful day we became a band of brothers with an unbreakable bond. 8th July Greg had been just another smiling young face on the line to me – one more fresh pilot who still had the twinkle in his eye from believing he had the world on a platter. After the sackings, he would become much more.

Greg *loved* Hong Kong. More than anyone I know, he had made Hong Kong his home – not just a bearable place to hang his hat for the freshman years of his career, but *home*. Greg was an avid and talented ice hockey player long before he came to Cathay Pacific and when he found that he could play hockey *and* live in Hong Kong, his mind was set. In his few years here, he had picked up written and spoken Cantonese. I remember being amused by the fact the he not only talked like a local, but he *ate* like a local. He loved living downtown amongst the hustle and bustle, the crowds and the street stalls. Coupled with a job that paid him to do what we all loved, the world was his oyster.

9<sup>th</sup> July was harder on Greg than any other *49er*. You could see it in his eyes. While I did my best to be strong for my family and for others, Greg was candid about the emotional devastation he felt. I wasn't the only one that saw the warning signs and his new colleagues moved quickly to get him involved with union tasks and to monitor his emotional health. I was pleased to see a turnaround in him as time went by. By the time of his death, he had reached a level of acceptance and could laugh and joke about *49erdom*. I don't think we will ever know exactly what happened that ill-fated morning, and I don't really care to. While many chose to speculate over Greg's death, there was one thing that every *49er* knows in his heart – were it not for 9<sup>th</sup> July, Greg would be with us today.

Everyone who attended Greg's memorial service was touched deeply, but I know that there wasn't a dry *49er* eye in the house. His good friend told us how Greg never held a grudge, never thought of vengeance; he just wished he could have his job back. Although his death makes me angry, we can all learn something from Greg.

On 29<sup>th</sup> January, we didn't just lose a friend and a colleague – we lost a brother. Greg, we will never, ever forget. When we despair, we will remember you, hold our head high and return to the struggle. Yours will not be in vain. Keep the faith brother,

*Anonymous 49er*

## Appendix B

### Why We Fight – *The 49ers'* Roll of Honour

#### Sacked

Captain Ron Boyle  
Captain Ken Carver  
Captain George Crofts  
Captain John Dickie  
Captain Mike Fitz-Costa  
Captain Doug Gage  
Captain Ken Gerhards  
Captain Brad Harris  
Captain Graham Hetherington  
Captain Chris Kelly  
Captain Steve Lang  
Captain Nick Lee  
Captain Doug MacLeod  
Captain Duncan Middlemass  
Captain Keith Munro  
Captain Paul Robinson  
Captain David Spong  
Captain Phil St Hill  
Captain Peter Van Der Meulen (rehired)  
Captain Henry Van Keulen  
Captain John Warham  
Captain Phil Yaosumi  
Captain Craig Young  
First Officer Dana Acorn  
First Officer Richard Bennett  
First Officer Campbell Blakeney-Williams  
First Officer Steve Bulteel  
First Officer Bruce Burton  
First Officer Kai Chung  
First Officer Dave Clapson  
First Officer Mark Evans  
First Officer Quentin Herron  
First Officer David Honner  
First Officer Brian Keene  
First Officer Pierre Morrisette  
First Officer Mark O'Toole  
First Officer Mike Palmer  
First Officer Steve Parrock  
First Officer Matt Rogers  
First Officer Brett Rosewall  
First Officer Bruce Schoettler  
First Officer Drew Searle  
First Officer Steve Shaw  
First Officer Chris Sweeney  
First Officer Steve Urqhart  
First Officer Craig Van Polgeest  
First Officer Brett Wilson  
Junior First Officer Pat Doherty  
*Junior First Officer Greg England*  
Junior First Officer Damon Neich-Buckley

## Appendix C

### No Paid Holiday - The Real 49ers Stories

Most of us know that being a 49er is no “paid holiday”, but few of us outside of that circle have a real feel for what it is like. We asked 49ers to send us a brief and candid summary of their thoughts and the following is a selection of quotes from that input. I urge all of you to take the time to read each one.

“My kids keep asking my wife and I whether or not we can afford an item now that I am unemployed. My daughter's basketball team all bought T-shirts with their names on the back. A little something that brings a team together and a memento. My daughter was the only one that didn't want to burden us with the financial cost of buying a cotton shirt. The price was probably about 100 HKD, but she was prepared to sacrifice a team shirt when every other player was getting one. I was proud of her but at the same time, I was heart-broken that this is the position my family and I have been put into.”

“I can't tell you how much it means to us to have the members support us through this. We couldn't have done this without your help. I know we can all get back to work because you're prepared to be patient. We also know how much of a sacrifice many of you have made. We can get by on half pay now, but I know there were times when 5% was a lot of money to us.”

“The rejection that my wife and I feel right now is almost unbearable. We feel as if we are being “kicked while we are down”.”

“I rarely get more than three hours of sleep at night and that obviously has a very negative effect on me. The stress is becoming increasingly difficult to deal with. My wife was sick in bed for two full days last week, which I have never seen happen in 20 years together with her. She is getting better, but this got her behind the power curve and that 's not where either of us need to be right now.”

“I've gone through the full gauntlet of emotions, but one of the hardest to explain to a non-49er is pride. I'm not proud that I was fired or for some of the thoughts that run through my head on the hard days. I'm proud because my 49er peers include some of the brightest and hardest working and most able pilots I've ever met. I'm proud, because I'm one of a group that refuse to give up, that continue to fight for what they know they rightfully deserve.”

“It can get hard to smile sometimes, but I can't help but crack a grin when I bump into someone I barely know who's wearing a yellow ribbon. If we can hold together this strong after eight months and Sept 11, we can do anything. This thing isn't over by a mile.”

“Our attitude affects the children and although they do not fully understand the situation, they think that their parents are not much fun to be around these days. “These days” is basically an ongoing nightmare that has lasted eight months so far. When is it going to end?”

“I had a friend tell me the other day tell me he didn't want to stay if I didn't get my job back. Nice sentiment, I said, but not very realistic. Then he pointed out that he'd be further ahead by going somewhere else than watching his contract get chopped to nothing and then getting fired himself in 5 years. He's got a point; now I'm not sure who has more at stake here.”

“It can get pretty depressing being so far away from the action. Coming back to Hong Kong to do my two weeks in the TST office made all the difference in the world. To see how much was going on in the background and to see how much support there still is gave me a huge injection of confidence.”

"Imagine if you will getting fired, perhaps while on reserve, or in a hotel at an outport, or while on leave or maybe even just showing up for work, a TPE turnaround perhaps. You have done nothing wrong, no letters, and no interviews. Nothing up to that point indicates that your livelihood was in jeopardy. Now you are unemployed, no income, no benefits, no health insurance, nothing. It's all gone. And you have done nothing wrong."

"This whole episode has made me far more aware of the things that matter in life. I guess it is similar to bereavement. I have learnt that being able to spend more time with my young family is far more valuable than mere money."

"I need regular reassurance that the AOA membership has not forgotten us. Just one or two phone calls a month or an E Mail or two is all it takes. I had a call from someone out of the blue last week. It was brilliant. He was someone who I just knew at work. I enjoyed his company at work, but we didn't socialise. I helped him out a couple of times over the years and that was it. Then out of the blue this guy phoned me up. He tried and tried. He left messages. Eventually he got through. I was and still am overwhelmed by what on the outside appears to be just a minor gesture of support."

"I didn't do anything to deserve what I got. I don't want to move on - I want my job back. Only we as a union can make that happen. We have to, and we will."

"Some said 'find a job'. OK, I'll give that a try. "Why did you leave Cathay?" Uh, erm, well you see there is this dispute and I, well, erm.... I got fired and... erm uh.... " Oh, I see.... We haven't got anything right now but we'll keep you on file."

"Its tough sometimes to think this thing has dragged out for eight months. But who would have believed we had the will to last this long and still be holding together? I think we've got a lot to be proud of."

"You know most of us were surprised it took this long for a tragedy (Greg's death) to happen. If anyone of you is surprised then you are underestimating what this is doing to the 49ers and their families."

"Life as a 49er is a mix of good fired days and bad fired days. There are more bad ones than good ones. On some days it can be virtually impossible to function. This isn't a paid holiday... I am sure many of you could get by quite nicely on the allowance we get from the union, but there are some that can't. For one reason or another they are at a financial point in their life where they need all they can get. We have all been there. You want something really bad and for a few months, maybe a year or so you are prepared to stretch a little and get it. Then you get fired and that stretch becomes almost impossible on the allowance. Well if that allowance disappears, then we are talking bankruptcy..."

"Its pretty tough sometimes, but the support has been amazing. There's a few guys I really never knew that well before July 09 who call twice a month without fail. To know that the bulk of the membership is prepared to stick it out means the world to us."

"My wife is resistant to catching up with Cathay people because she doesn't like pity. There is an inclination for people to feel sorry for her rather than pledge they won't give up on her family and will never forget. She has had people say things like you poor thing, I don't know what I'd do if it happened to me. They are good people that don't know what to say - perhaps we should tell them. You say "we are all in this together, we won't stop until reinstatement, together we are going to make this right again, could have been any one of us."

"We'll be back in uniform. I know we will."