

TESTIMONY OF

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BEFORE

AVIATION SUBCOMMITTEE OF THE SENATE
COMMERCE COMMITTEE

WASHINGTON, DC

MAY 7TH, 2008

Association of Flight Attendants – CWA, AFL-CIO

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Thank you, Chairman Rockefeller for holding this vital and timely hearing on the state of the airline industry and the proposed merger of Northwest and Delta Airlines. My name is Patricia Friend and I am the International President of the Association of Flight Attendants – CWA, AFL-CIO. AFA-CWA represents over 55,000 flight attendants at 20 U.S airlines and is the largest union in the world representing flight attendants. We especially want to thank the Committee for inviting us to testify today and giving voice to views and concerns of the working women and men that have kept these our nation's airlines flying during the good times . . . and through some very *difficult* times.

As a front line employee that has worked in the airline industry for over 40 years, I have had a unique perspective on the cyclical yet dramatic changes that have reshaped the industry and impacted jobs. As the President of a union representing employees from a broad cross section of the industry from legacy carriers like United, US Airways and Northwest; to low cost carriers like AirTran and Spirit; and to regional carriers like American Eagle, Mesa and Mesaba, I am here to testify that I believe we are at a major turning point in this industry. I and our members have seen the seismic changes brought on by deregulation and have born the brunt of bankruptcies that saw major and historic airlines like Pan Am, Eastern and TWA disappear forever. We braved through the tragic events of 9-11, reported for duty during the SARS panic and navigated through bankruptcies where corporate greed and judicial neglect battered our profession and sought to destroy good paying jobs with benefits. Mr. Chairman, the assault on the great American middle class was and is front and center in the airline industry.

We now face record jet fuel prices and the forces of globalization that threaten to remake this industry into something that I, nor none of my early flying partners, could have foreseen when I first put on my uniform in 1966.

I will not engage this Committee with a trip down memory lane and a recitation of exactly how much this industry has changed. As policymakers that have witnessed most of this change first hand and in many cases have played a role in the direction of this industry, you are as familiar with those changes as I am. But I can tell you that we are at point where it is absolutely vital that Congress must take a hard and serious look at where this industry is headed and begin a serious dialogue on forming a rational aviation policy for this country. Each and every one of you must ask yourselves what kind of aviation system do you envision for our country? As you witness this merger and reports of other mergers and the fact that four airlines ceased operations in a two week period in April, you must agree that our aviation industry is failing employees, consumers and communities. You have the ability and responsibility to determine the course for the airline industry. This industry, under this administration, has been handed over to management teams – some with little to no airline experience – who have destroyed middle class jobs and created the quagmire we are in today.

This country has lacked a sound and rational aviation policy since deregulation. Prior to deregulation, the airline industry was nurtured and developed by federal policy crafted to ensure that the industry was stable and was able to promote economic development in communities it served. In the post-deregulation environment, the industry was thrown

into a massive market driven restructuring. So what have the results been? Hundreds of bankruptcies and defunct airlines, thousands of displaced and unemployed airline workers and their families, the worst consumer rankings and on-time performance in history and a out-dated air traffic control system that cannot handle the demand. We have seen hundreds of communities across every single region of this country lose vital and crucial air service as airlines cut routes and scheduled service and move those assets to serve large communities along with every other airline. Despite the promises of deregulation, the industry still struggles to make a profit even when the price of a barrel of oil was half its current value. We've heard the excuses repeatedly from airline executives. They've blamed everything from the national economy, to low cost, start up airlines and to their favorite excuse – labor costs. It's interesting to me, that the one thing that has remained constant in the industry is the outrageous sums collected in pay and benefits by airline management regardless of the economic performance of their carrier. Corporate greed is the one thing that's remained constant during my career. If anything in that category has changed, it's that the amounts they reward themselves every year grows more and more excessive while employees earn less.

What we have today is an industry and aviation system that literally seems to be at the brink of collapse. Besides the urgently needed upgrades to the technology of our air traffic control system and the investment in the workforce to run that technology, we are seeing a business model that seems to leave out of its equation the impact for employees, communities and consumers. The only thing that seems to be driving this industry today is how big the bottom line return is for a select few. It doesn't matter that our aviation

system is a vital part of our national infrastructure and one that has made this country the powerful economic, cultural and military power that it is today. It is now a commodity that simply must be maximized to generate a profit for a select few.

Since deregulation, our aviation policy has been dictated and driven entirely by the marketplace. Is this a wise policy for an aviation system that is as important and vital to our country? I could not find any better words to describe my own feelings about this policy than those used by Senator Dorgan at a hearing of this Committee last year.

Senator Dorgan, when discussing the state of the aviation system, stated that he believed in the marketplace and that it often resulted in good things. But that the marketplace needed an umpire to make sure that it worked for everyone. I could not agree more.

Deregulation has resulted in some positive developments. The marketplace has indeed increased competition and reduced fares for consumers in some markets. But the unfettered marketplace has also led to the loss of air service to struggling communities, the increasing difficulty for airline employees to make a decent living, calls for a passenger bill of rights and, most troubling, life saving safety initiatives that are the first casualty of the cost cutting knife.

Some may interpret my comments as a call for deregulation. I'm not convinced that is the answer. What I am saying is that we need a serious national dialogue to start now, so that we can determine a sound and rational aviation policy that works for everyone in this country – employees, consumers and communities. And we cannot afford to wait.

Everything should be on the table in this discussion, including the possibility of re-regulation – or at least re-regulating part of the market.

Today, I and my members – indeed all aviation employees – look around at an industry where the days of an airline job leading to a secure, stable and exciting career is slipping away. The market forces have squeezed us to the point where some regional airlines are offering to start paying their employees \$13,000 a year with virtually no benefits to speak of. Pensions are gone or frozen. Job prospects in the industry are bleak and everyone is in fear that their job is the next to be eliminated. Airline management keeps telling us that they cannot afford to go on with the current price of fuel and that something must be done.

We've had an interesting past of growth, change and turmoil. We are in a present that is uncertain and bleak. Our future, if something isn't done to develop a sound aviation policy, is even less promising. The forces of globalization are now poised to bring sweeping changes to the airline industry yet again. The Open Skies Agreement between the United States and European Union, which went into effect this spring, includes a provision for so-called second stage negotiations that seeks to eliminate long-standing U.S. aviation law that ensures U.S. carriers are owned and controlled by U.S. citizens. If those negotiations result in a repeal of these laws, the U.S. aviation industry could be outsourced. The opening of markets across the Atlantic will create greater competition for our already struggling domestic aviation industry, which has recently relied on international flights to generate profits. While many of the U.S. airlines did nothing to

oppose the agreement last year, they are now citing the Open Skies Agreement and the increased competition it is unleashing as yet another factor in the need for consolidation and their worsening bottom line. As this competition increases over the coming years, no doubt greater pressure will be placed on the U.S. government to lift the cap on foreign ownership and control restrictions on U.S. airlines. This pressure will undoubtedly come from foreign governments eager to help their own flag carriers gain control of the domestic U.S. market. This is a future that will only lead to reduced jobs for U.S. citizens on flights overseas and opens the door for the widespread outsourcing of aviation jobs – an idea already broached by Northwest management.

The solution advanced by the industry today, and which seems to daily become almost accepted fact by many, is for greater consolidation. They tell us that in order to survive a world of dramatically high fuel prices and increased foreign competition, mergers and consolidation are necessary. I'm not so sure that we should rush headlong into supporting this call for greater consolidation without taking a very serious pause. With us standing at the edge of great change in this industry, it is important that we begin the debate, discussion and dialogue on what kind of national aviation policy we want.

That is why I am so glad that this merger between Northwest and Delta has drawn significant attention from the media, communities served by both carriers and here on Capitol Hill. The attention being paid to what will create the largest airline in the world is appropriate . . . and *necessary*. We must use it as an opportunity to begin that national discussion on our aviation policy.

In light of this proposed merger, I believe that it is important to note that while some protections are in place for consumers and communities, there are virtually no protections for airline workers in this merger. There has been little attention paid to the extreme upheaval that mergers create for the thousands of airline employees who find themselves unemployed or whose lives are disrupted.

This has not always been the plight of airline workers. There were many important protections in place for airline workers prior to the Airline Deregulation Act of 1978; the Allegheny-Mohawk Labor Protective Provisions (commonly known as the LPPs) were made a condition of government approval of virtually every airline merger. The LPPs contained extensive and specific protections – like displacement and relocation allowances, wage protections, transfer and seniority protections, layoff protection, and others – as part of a standardized set of provisions designed to shield workers from an unfair share of the burden resulting from corporate mergers.

But no real protections from our federal government exist today to cushion airline workers involved in mergers. After Deregulation employers successfully lobbied for an end to the LPPs because, as they argued at the time, these matters are ‘better left to the collective bargaining process.’ Union contracts provide a level of protection for those employees covered by the agreement, but there is little to no protection for non-union airline employees.

Those same employers who wanted to leave these protections to the bargaining process now spend millions of dollars on union busting, trying to prevent their employees from attaining the right to bargain, or to strip that right from those who have had it for decades. And today, many of those same employers who hold press conferences to trumpet the fact that their mergers will not cause any layoffs often refuse to agree in writing to such guarantees.

Mr. Chairman, there is a distinct and vast difference between a commitment and a contract. Union employees have commitments in writing, non-union employees rely on a commitment that can change instantly.

Of all the well-developed rules referred to prior to Deregulation as the Allegheny-Mohawk Labor Protective Provisions, only one exists today – the provision establishing basic seniority protections in the event of a merger. And, that provision was only recently resurrected and included in last December's Omnibus Appropriations bill after the advocacy of AFA-CWA and the strong leadership of Senator Claire McCaskill and this Congress.

Earlier attempts by Congress to provide protections for airline employees during mergers provides us with an instructive history in the current context. We continue to feel the effects of the Airline Deregulation Act. The proposed Delta - Northwest merger is just the latest manifestation of the impact of Deregulation. But an attempt by Congress to cushion the clearly anticipated effects of the start of Deregulation proved to be a complete failure.

Congress included the Airline Employee Protection Program (EPP) in the Deregulation Act to assist adversely affected employees. At least 40,000 employees lost their jobs in the wake of Deregulation. The EPP was supposed to provide for both monthly compensation and first-hire rights at other airlines. However, displaced employees never received the benefits Congress promised and funding was never authorized for the benefits, turning the whole program into a cruel joke for airline employees in desperate need of a life line. So while Congress has recognized the need to assist airline employees facing the traumatic effects of industry consolidation in the past, a fully-funded federal effort is desperately needed now in what is shaping up to be another significant era of airline consolidation.

Executives at the airlines have, to date, promised that there will be no layoffs, but they refuse to put that commitment in writing. We all know that the minute the ink is dry on the merger agreement, executives will be looking for cost saving 'synergies' that will make the new airline ever more profitable. Many of the synergies that the executives will likely turn to first are precisely the steps that will harm the interests of the workers, such as furloughs, base closures, fleet reductions and, perhaps worst of all, outsourcing.

Workers cannot, and should not, be left to fend for themselves in this situation; we did not bring these problems on ourselves. The federal government set this chain of events in motion with the passage of the Deregulation Act and its subsequent neglect in forming a rational aviation policy for our country. The airlines themselves have compounded the

problems for workers with an almost endless string of cutbacks, bankruptcies, mergers and layoffs. Government and the airlines, then, bear the responsibility. And, either the federal government or the airlines must pay to offset what is otherwise the unfair burden placed on the workers resulting from Deregulation and its current aftermath.

As we look for solutions to cushion the enormous negative impact this latest merger will have on workers at Northwest and Delta, perhaps it's time to revisit the concept of employee protection from the Deregulation Act. No, we are not proposing to re-regulate the industry today; that's a worthy discussion for a different hearing that we welcome and we would encourage Congress to hold. But we do think that – at a minimum – something needs to be done to shield workers from the harshest effects of this merger and any future mergers.

The Deregulation Act provided monthly compensation and first-hire rights to protect displaced airline workers. Those same protections are needed and appropriate today on the eve of the Delta - Northwest merger and potential mergers to come. Congress could adopt and fund those protections, or it could require the employer, as a condition of approval of this merger, to fund those protections. We must stop shifting these costs on employees who are least able to shoulder that burden.

Most troubling to us, this merger also seriously jeopardizes the collective bargaining rights of all the Northwest employees who have fought for and won the legal right to have union representation. Virtually all employees at Northwest have chosen to join a

union. Delta, on the other hand, has only one major workgroup that is unionized – its pilots. I am proud to say today that the approximately 13,500 Delta flight attendants are now the closest to securing their future by forming a union through AFA-CWA as they are currently engaged in a representation election.

Delta flight attendants have been working diligently to secure a better future through joining AFA-CWA and eventually securing a legally binding contract. Their hard work paid off when they filed cards from over 50% of all the Delta flight attendants requesting an election to join AFA-CWA. Late last month the National Mediation Board (NMB) mailed voting instructions to Delta flight attendants and the voting will end on May 28th. We remain confident that this dedicated group of Delta flight attendants will come together and choose union representation and a strong voice to protect themselves and the future of their profession, but the anti-union tactics of management have put that outcome in jeopardy while at the same time threatening the future collective bargaining rights of the Northwest flight attendants.

These flight attendants are fighting against tremendous odds and a company that is determined to do anything and everything possible to prevent flight attendants from joining a union. I am testifying for AFA-CWA today to express our outrage over Delta Air Lines' ubiquitous and coercive campaign to interfere with its flight attendants' right to freely select a bargaining representative under the Railway Labor Act. Since the NMB mailed its voting instructions to the Delta flight attendants on April 23, Delta management has flooded the flight attendant crew lounges with supervisors, and

wallpapered its facilities with anti-AFA posters urging flight attendants to not vote. Or as Delta puts it: “GIVE A RIP - DON’T CLICK, DON’T DIAL.”

At the same time Delta’s CEO was testifying before the House subcommittee in April, a letter over his signature, along with an anti-union video, was already in the mail to flight attendants’ homes. The first of what AFA-CWA expects will be many Delta-produced anti-union DVDs, was mailed out probably no later than the day after the NMB election commenced. The DVD, titled “Important Information for Delta Flight Attendants,” was included in a slick package featuring a personal message from Mr. Anderson outlining the reasons why a vote for AFA would have the effect of “negatively changing a great relationship.” Anderson goes on to reminisce about his days at unionized carrier Northwest by stating several blatant falsehoods:

“When I unilaterally gave pay raises and domestic partner benefits to flight attendants at Northwest, I received loud objections from the union because those benefits were paid directly because it was the right thing to do. The union often would criticize and vilify management in order to promote their own value.”

Perhaps Mr. Anderson’s memory is clouded, or he knowingly made these untrue statements. In any event they are false. Danny Campbell the former President of the Northwest flight attendants when they were represented by the International Brotherhood of Teamsters, has submitted a sworn affidavit to the NMB stating that Mr. Anderson was

not the CEO at Northwest when he “gave pay raises and domestic partner benefits to flight attendants” and further, Anderson never granted a pay raise to the Northwest flight attendants during his tenure as CEO. In fact, Anderson demanded pay cuts and benefit concessions beginning in 2002 and continuing with the successor Union to the Teamsters, the Professional Flight Attendants Association, through 2006.

The major push in Delta’s anti-union offensive is taking place at the flight attendant airport crew lounges located at Delta facilities across the system. Because crew lounges are the one, if not the only, central location for flight attendants to interact while at work, AFA-CWA has set up information tables manned by AFA-CWA activists as means to communicate the union’s message and to encourage flight attendants to vote. Delta has responded by flooding the crew lounges with Inflight supervisors, some of whom are wearing T-shirts with the message “How was your flight” on the back. Those supervisors are actively interfering with the ability of AFA-CWA supporters to speak to their co-workers.

On April 26, at Delta’s Atlanta crew lounge, a supervisor started shouting that AFA-CWA was “scum” as union activists were speaking to a flight attendant at their table. Later that same day, the International Base Manager told AFA-CWA activists to take down a small sign that said “STEP UP” even though the issue signs had been resolved by other Delta management personnel. Delta has also set up information tables and huge banners in the crew lounge with large posters imploring flight attendants to “GIVE A RIP - DON’T CLICK, DON’T DIAL.” In other words - don’t vote. Delta’s information

tables contain multiple signs and leaflets next to a continuous running video of CEO Richard Anderson imploring the flight attendants to reject unionization.

The increased presence of Inflight supervisors in the crew lounge coupled with the overwhelming amount of literature and posters urging flight attendants to reject AFA-CWA has created a hostile, coercive environment that has destroyed the “laboratory conditions” the NMB is supposed to protect during a representation election. There is no basis for Delta to excuse this interference as simply “informational,” much less that it represents Delta’s “neutrality” during the election. The Company clearly is pulling out all the stops to destroy any chance that its flight attendants will be able to select a representative freely and without interference.

On May 2, Delta executives attempted a coup d’ grace, announcing a pay raise for all “non-contract” employees scheduled to take effect on July 1, after the flight attendants election is scheduled to be completed. The wording of Delta’s announcement makes it clear to all flight attendants that the raise will not be provided if they vote for the union. For obvious reasons, this is a textbook example of interference. AFA-CWA wants to make it clear: we support the pay raise for flight attendants. Like their colleagues at other airlines, the Delta flight attendants have suffered drastic cuts in pay and benefits as a result of the airline’s recent bankruptcy. But, this Committee should ask Mr. Anderson to state, on the record and under oath, if the raise will be given to flight attendants *whether or not* they vote for the union. If he refuses, and insists on maintaining the right to deny the raise to flight attendants if they vote for the union, then the coercive effect of the raise

will be clear. If, on the other hand, he agrees to grant the raise regardless of the election outcome, AFA-CWA will waive its right to object to the raise as interference.

The incidents of Delta interference I have discussed are, in AFA-CWA's view, only a sample of the coercive acts Delta executives will unleash on its flight attendants in the weeks preceding the May 28, ballot count. Indeed, Delta's conduct in the past week reflects its utter contempt and indifference to the election rules the NMB is responsible for enforcing. AFA-CWA has urged the NMB to fulfill its statutory obligation to supervise this election in a manner that prevents Delta from blithely poisoning the laboratory conditions necessary for a lawful election. To that end, AFA-CWA has argued that "extraordinary circumstances" exist in this election process and demand an immediate Board investigation under Rule 17.0 of the NMB Representation Manual. We have requested that, while the investigation is ongoing, the Board should order Delta to:

- immediately cease its interference and coercion with respect to AFA-CWA's communication activities in the flight attendant crew lounges;
- cease its deliberate misstatements regarding voter eligibility;
- cease its intrusive and false communication to flight attendants, and
- send a notice to all flight attendants on the eligibility list to report all incidents of interference and coercion to the NMB.

Failure to stem Delta's unlawful activities will irrevocably taint the laboratory conditions needed for a legitimate election. This Board's track record on interference leaves AFA-CWA with grave doubts that any action will be taken by the NMB.

In the context of this merger, the company's anti-union tactics take on added urgency; the merger should not be permitted to become a vehicle for union busting. Airline executives have realized the opportunity that this merger presents: not just a chance to prevent thousands of non-union employees from gaining a union, but also a chance to eliminate the unions that already provide protection for their members at Northwest.

While Delta flight attendants vote on whether to join the union, the Northwest flight attendants face a very real threat to their collective bargaining rights. Northwest flight attendants have been union members for 60 years. Their proud tradition of union representation is threatened by management's use of this merger process to attempt to eliminate the Northwest flight attendants collective bargaining agreement which, in turn, poses a real threat to the job security for thousands of flight attendants.

In fact, we view the current representation election among the Delta flight attendants as not just an opportunity for them to gain a voice on the job and a seat at the table, but as the "first line of defense" to protect the over 60 years of collective bargaining rights for the Northwest flight attendants. This is due to the unique way that representation elections are governed by the National Mediation Board. Although the Railway Labor Act (RLA) makes no mention of such an extraordinary requirement, the NMB rules state that in order for a representation election to be considered valid, a majority of all eligible voters must turn out to vote in the election. If 95% of flight attendants who cast a vote

want to join AFA-CWA but only 49.9% of all the eligible flight attendants cast a vote, then the election is invalid.

In effect, a person who chooses not to cast a vote in an NMB election is counted as a “no” vote, encouraging management to focus their efforts on voter suppression in every election. I ask the members of the Committee to consider if they, or most of their colleagues, would be sitting here today if our Congressional elections were governed under the same onerous rules, where turnout is more important than the votes cast.

Based on the number of Delta flight attendants who have signed AFA authorization cards, and the number of Northwest flight attendants who are already union members, AFA has the support of a solid majority of the combined workforce. Since at least 1926, national labor policy as defined by this Congress has been to encourage unionization of workers. Congress could further that goal, and prevent airline mergers from becoming an occasion for union busting, simply by defining victory under the RLA organizing rules as *a majority of the votes cast*.

It is our hope, and the hope of thousands of Delta flight attendants, that they will overcome these difficult election procedures and decide next month to join AFA-CWA. They will then have the right to bargain for improved work rules through a legally binding contract and the historic collective bargaining rights of the Northwest flight attendants will have been protected in the newly merged Delta Airlines. Delta and Northwest flight attendants, working under the umbrella of AFA-CWA’s constitution and

bylaws, can move forward on integrating their two groups and negotiating for an improved contract for what will be the largest flight attendant workgroup in the United States. This does not require new legislation; all we ask is that the Committee urge these employers to remain neutral so, as originally envisioned by Congress when it adopted the Railway Labor Act, the employees can decide the issue of union representation for themselves, without coercion, interference or influence by the employer.

Bargaining rights are paramount if the flight attendants are to have an opportunity to negotiate over the impact this merger will have on their work lives. Our primary concern is that Delta executives will use the merger to eliminate the rights of employees to have a seat at the table when the airline is fully merged with Northwest.

Delta executives have not been shy about their efforts to prevent the employees from forming unions. In fact, in a meeting with AFA-CWA Northwest leadership, Northwest management stated flatly that there would not be a seat at the table for the flight attendants in the merger discussions. He went on to state that the current Delta was a non-union company and that the “New Delta” had every intention of remaining a non-union company; Delta planned to defeat the union and prevent the flight attendants from having, or keeping, the bargaining rights that are essential in the face of this merger.

Delta has already demonstrated that they will again continue to spread disinformation and make every effort to prevent Delta flight attendants from casting ballots in the upcoming election. Is this what we’ve come to in this country? I would ask this Committee: what is

wrong with our system when the majority of these flight attendants want union representation and yet face such great barriers to achieve that goal?

Using this merger as an opportunity to destroy unions provides these airlines, and all who would follow, with an opportunity to drive down wages, work rules and benefits for all airline employees. It can create a domino effect that will force even unionized carriers to match those drastic cuts in order to compete. They will set industry standards back to levels we have not seen in decades. If Delta is a non-union carrier, as well as the largest carrier, they will be poised to set in motion an unprecedented remaking of the entire airline industry that will destroy airline jobs as a stable and secure middle class career once and for all.

Flight attendants face one other devastating threat in this merger, one that no other work group is likely to encounter. This merger may resurrect efforts by Northwest executives to outsource our best jobs to flight attendants based outside the U.S. Such outsourcing of flight attendant jobs on international routes to foreign nationals will resurface and become a standard industry practice. When Northwest first proposed doing just this during bankruptcy, a bipartisan group of House and Senate members rose up to decry such a move as jeopardizing aviation safety and especially security. With a union fighting to protect the Northwest flight attendants jobs, and support from members of Congress, Northwest management backed off such a proposal and thousands of good paying jobs remained for Northwest flight attendants. Only if the union retains its bargaining rights following the merger will the flight attendants have the legal standing to continue the

fight against such outrageous ideas as outsourcing flight attendant jobs; such an idea is just the tip of the iceberg. Many of the current Delta executives were involved in earlier outsourcing attempts when they were at Northwest Airlines.

I urge the members of this Committee to send a strong and clear signal to Northwest, and especially to Delta executives, that they must not use this merger as a means to destroy the collective bargaining rights of the employees. I would urge this Committee to use its good offices to monitor Delta management as this representation election progresses over the next five weeks so that they do not engage in election activities similar to those of five years ago – actions that violated the spirit of the Railway Labor Act, even if the NMB ruled they did not violate the letter of the law. And finally, I hope that you will use your influence to persuade Delta management to remain neutral in this representation election. If they are successful in their goal to keep the “new Delta” non-union, we could see this merger as the beginning of the end for the airline industry as a source of decent and respectable jobs.

While much will be made over the coming months about the impact of this merger on consumers and communities, I urge you to remember the hundreds of thousands of airline employees across this country. Keep us in mind as you review this merger and the impact that it will have on our lives and our families. We are the ones who have the most to lose; and we have the least protection. Most importantly, don't let them destroy the one thing we have protecting us – our unions.