

International Association of Baggage System Companies
Inaugural Meeting Minutes: April 18, 2007
Hackberry Creek Country Club
Irving, Texas
10:00 am – 1:30 pm

Key Speakers:

Mike Malkowski	Five Star Airport Alliance
Bruce McMickle	Forbo Siegling LLC
Darrin Ramsey	Five Star Airport Alliance

Attendees:

Matt Williams	Glidepath LLC
David Mead	Glidepath LLC
Gary Cline	Siemens
Michael O'Connor	FKI Logistex
Brian Nichter	FKI Logistex
Ewout Cassee	Vanderlande Industries
Ian Horrigan	Vanderlande Industries
Danny Bearden	Forbo Siegling LLC

Guests:

Ian MacTaggart	Brynwood Partners LP
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Others Present:

Debbie Talbert	Five Star Airport Alliance
Donna Hager	Assistant Minute Taker

Absent (invited but not present):

Jeffrey Gavenas	Siemens
Kenneth Hamel	Jervis B. Webb Company
Allan Brattset	Jervis B. Webb Company

List of Action Items:

Prior to next meeting:

- ☐ Submit your contact information (company and representatives)
- ☐ Complete and return Preliminary Membership Application
- ☐ Submit mark up and comments on sample Bylaws
- ☐ Check out www.iald.org as model for building our Association
- ☐ Confirm your attendance at the next meeting, Thursday, May 17th with Debbie Talbert

Deliver items to Debbie Talbert via email at dtalbert@fivestaraa.com or by fax at 972-389-6256 (private)

Meeting Agenda:

10:00 - 10:30	Association Overview – Mike Malkowski
10:30 - 10:50	Legal Aspects – Darrin Ramsey
10:50 - 11:20	Benefits of an Association – Bruce McMickle
11:20 - 11:40	Preliminary Matters - Mike Malkowski
11:40 - 12:00	Organization of an Association – Mike Malkowski & Bruce McMickle
12:00 - 12:15	Lunch is served
12:15 - 12:45	Membership & Bylaws – Darrin Ramsey & Debbie Talbert
12:45 - 1:00	Preliminary Orders of Business – Mike Malkowski
1:00 - 1:30	Questions & Answers
1:30	Adjournment – Bruce McMickle & Mike Malkowski

Proceedings:

The meeting was called to order at 10:00am by Chair, Mike Malkowski.
Everyone introduced themselves: name, title and company.

Association Overview:

Key Speaker – Mike Malkowski

How we got here

- The Concept: The history: the concept came many years ago. We in the industry discussed the concept of an association in trade shows and other venues nearly 20 years ago.
- The Beginnings: Bruce McMickle and Mike Malkowski began discussing the formation of the Association for the baggage handling industry, being its founding members, and the need/want was quickly realized. To keep the momentum going, we want to get involvement of those who will be the Charter Members. This impressive group from the baggage industry shows the need for this Association.
- The Development: Where we are today: We have draft Bylaws, antitrust provisions, and outline of operation, logos – we have developed and registered the domain name.
- Building a sound Association and its Benefits: We will go into more detail of what we've done today, then we'll start building from there.

Question from the group: Webb is not here today, why not?

Mike Malkowski: Webb's attorney spoke in detail with Darrin Ramsey. Ken Hamel sent us an email yesterday stating that they are fully backing this Association.

Why an Association

- To Help: Customers - started with Bruce McMickle and director of airports when they were having problems. Now we have an automated system. That Airport Director has expressed interest in being a Key Note Speaker in future meetings of this Association.
- A Voice: This group represents over a billion dollars in this industry and we have no voice.

- The Health: This Association is key to the health of our industry and our companies.
- To Educate: No question we need to educate. From the project managers on down.
- For Safety: Always a concern.
- Need to develop training, education and employment opportunities. New talent has not been trained.
- Develop fair, sound and standardized industry practices.
- We have no standards of qualification for baggage system companies – whether we can or cannot be on the bid list.

Today's Agenda – the Building Phase

Reviewed today's agenda.

Preliminary matters – what to accomplish now and what to set for next meeting. Will be a very time consuming process.

Legal Aspects:

Key Speaker – Darrin Ramsey

This Association is just one of hundreds of trade associations. We have antitrust to consider, rules, guidelines and case law. We will provide you with sufficient rules to follow.

Brief Overview - What are the Anti-Trust Laws?

- The grand daddy of them all is the Sherman Act – it's the catch-all of anticompetitive governance. It provides for civil redress as well as criminal charges for anticompetitive misgivings.
Primarily to Sections – Section 1 prohibits unreasonable restraints on trade. Section 2 prohibits unreasonable business behavior designed to achieve or maintain monopoly power.
It was enacted in 1890 so there is a long history of debate and well-defined rules to follow. There is also a plethora of case law of its application to provide further guidance.
- Second is the Clayton Act
Prohibits certain types of price and related discrimination; exclusive dealing arrangements; mergers, acquisitions and other business arrangements that adversely affect competition or threaten to create a monopoly. (We've included the description in this presentation (Slide 6) for you to take back to your outside counsel.)
- FTC - purely civil liabilities. Grants the FTC the authority to enforce antitrust laws and other anticompetitive practices.
- State antitrust laws. Many states have their antitrust laws. Often the state antitrust laws mirror the Federal acts. Generally, if you follow the Federal rules, you'll be okay state-wise.

Notable Considerations

- Illegal conduct (*per se* violations): Agreements to fix prices, rig bids, boycott competitors, suppliers, customers and allocate markets or limit production are *per se* illegal violations.
- Rule of Reason Test – (Slide 7) Conduct that involves some restraint of trade may be permissible if the overall effect of the activity is to improve competition rather than restrict it.
- Acceptable activities evaluated under the *Rule of Reason* include: membership decisions (inclusion, exclusion, termination of); lobbying efforts; industry-wide surveys, data collection, statistical gathering and similar activities; and standardization and certification programs.
- Pro competitive: Certain types of “policing” of an industry is okay so long as the policing is pro-competitive; however, most forms of policing is considered anticompetitive. The term “policing” should be avoided.
- Lobbying is generally considered an unacceptable practice.
- Consequential damages - we need to set guidelines.

Enforcement

- The Department of Justice and the FTC enforce the Federal antitrust laws.
- State agencies may enforce the state laws and Federal laws.
- Private parties may sue for damages under Section 4 of the Clayton Act.

Why is compliance with Antitrust laws important?

- Fines up to \$100 million per antitrust violation.
- Courts or Government may impose permanent restrictions limiting business and trade association activities.
- Criminal liability generally reserved for most egregious cases.
- Government usually seeks injunctive relief in non-criminal cases.

Antitrust issues at the forefront of the Construction Industry

- Primary concern: Bid Rigging, which may take a variety of forms:
1. Bid Suppression; 2. Complementary bidding; 3. Bid rotation; 4. Subcontracting;
5. Price fixing; and 6. Market division. (See Slides 10 & 11).

Copperweld Exception

- Supreme Court carved out an exception to the standard rules for wholly-owned subsidiaries, “sister” corporations, commonly owned companies, partially-owned subsidiaries, affiliated corporations or unincorporated divisions.
- Essentially you can collude all day long with your subsidiaries.
- Supreme Court based its reasoning on the fact that such relationships have a unity of economic interest.

- Most states have adopted the Copperweld exception when applied to their own state antitrust laws however there are exceptions such as California.

Practical Antitrust Guidelines

- This list is verbatim from the Department of Justice. Please carefully review Slides 14 and 15.
- Much of what you will read here is basic common sense. Essentially if it doesn't pass the gut check, such activity should be avoided.
- Competitors should not agree to refuse to deal with certain suppliers, customers or others. We can put out a rating system on suppliers, customers, etc. but we cannot agree on how to treat the suppliers or customers based on the ratings.

Guidelines for Antitrust Compliance

- Slides 16 and 17 outline the general rules to follow to avoid potential antitrust problems when conducting meetings.
- Agendas should be generated and circulated among the members. Agendas should be set in stone. Off topics should not be discussed.
- An attorney or compliance officer should always be present.
- Accurate minutes must be kept.
- Unscheduled, informal or secret meetings should never be held.

Questions

Q: (Glidepath) Rating system on GC's or Customer?

A: They're okay if the standards are objective and you don't mandate members to disassociate or not to work with companies given a poor rating. A company must decide on its own based on its own subjective reasoning and/or use of the rating system.

Q: Terms and conditions: L.D.'s and C.D.'s, whatever we decide as a group, how is that considered competitive or non-competitive?

A: One of the goals of this Association is to set standards. Standards can be set so long as you don't police the members, as long as the recourse is not punitive and the means of the standards are pro-competitive. The imposition of fines should be avoided. Violators could be required to provide audited financials - no one wants to do that.

Q: If we are charged violating antitrust laws, does this Association have in place funds to help us litigate?

A: The Bylaws will provide a means of indemnification for its members conducting Association business. The Association will also acquire certain insurance policies.

Q: What about excluding members? Logan and G&S Mechanical are not here.

A: Webb, Logan and G&S were not excluded from this meeting. As for standards, the Association can set objective membership requirements such as standards for inclusion, exclusion and termination of members. The Association can vote on different levels of

membership that carry different voting capacities. The Association can set requirements of related industry memberships.

Q: (From Glidepath - directed to Darrin Ramsey) Are you excluded from sharing our conversations with your organization?

A: (Darrin Ramsey) At these meetings I am stepping outside my duties to G&T/Five Star so Association business is Association business. As for our conversations, not sure what would be considered confidential since everything that we discuss should be in the open subject to recording in the minutes.

Benefits of an Association:

Key Speaker - Bruce McMickle

Bruce McMickle thanks the two companies, Transnorm and Siegling, that let him spend the necessary time to help in the formation of the Association. Bruce McMickle's been spending his time dealing with all these issues since the late 1980's trying to develop a healthy industry. It may take 5 years to accomplish our objectives.

To get all of the airports in-line over the next 5 years, there is \$5 billion worth of work in the baggage system industry funded by the TSA. It sounds healthy, but we need structure in our industry to realize these numbers – that's what we're striving for.

Forced work, indemnity, L.D.'s, C.D.'s, bonding/corporate guarantees (Slide19) - these are the issues we are trying to address with this Association from a contractual perspective in dealing with airports, airlines and General Contractors.

We've been dealing with these issues since the late 1980s – we need to be a unified voice in the airport industry. Who do they go to? The industry consultants, the Vic Thompson Company, Cage, Inc., have agreed to the Association's general philosophy. Vic Thompson thinks it's a good idea and will join as an Associate Member. Cage Inc. has more questions.

We need better communications and a unified voice to all elements within the airport community. We haven't talked to BNP as of this date, however, we will certainly recruit them.

So many industries have associations, get together and social events.

- Forced work - an issue for everyone
- Ridiculous to indemnify everyone connected to a given project
- L.D.'s should have limits
- The extent of C.D.'s in today's contracts are overwhelming. Why should a BHS company risk their future on one project?

Q: As long as we don't police it? It's so unhealthy, how do we get around it?

A: Darrin Ramsey: It's the *Rule of Reason* test, as long as overall effect of the remedy is pro-competitive, that is to improve competition rather than restrict it, the setting of standards and reasonable consequences should be okay. But every measure must be researched.

Bruce McMickle: The GC's do not have the legal expertise to know what they are signing in terms of C.D.'s and this is a surprising phenomenon.

- Bonding, corporate guarantees: We need to lower the ranges – they're wanting 100% bonding.
- Establish better communications with consultants – too much adversity.
- Establish strong relationships with the TSA and their surrogates - \$5 billion worth of work is available which is being financed by the government. We need to establish better communication with the TSA.
- Provide recruiting and training services for the membership through Texas universities for Project Managers, Controls Engineers and other disciplines which are tailored to our industry. We see a huge benefit by providing these services through the Association – by developing a pool of talent, continually improving the talent and adding fresh talent.
- Provide an industry voice to media publishers. We should have editorials in all our trade magazines.
- Develop an organization that includes Associate Members:
 1. Suppliers of OEM's – represent a fraction of the contract value, but are very important to the overall success of a project
 2. GC's – General Contractors are important
 3. Consultants should and need to be a part of this Association or there will be adverse problems
 4. EDS companies should be Associate Members
- Promote the use of standardized throughput requirements for each EDS manufacturer, consultants and the TSA. There's a tremendous amount of disparity as to the throughput requirements in today's BHS industry.
- We need to approach universities to promote project management curriculums for our industry.
- Bid shopping: This is a negative that needs to be addressed. There are only 6 states that have laws on the books concerning bid shopping.

Q: (Vanderlande) Consultants are part of the problem, what if they're in the same room. We would like an open forum to discuss the problems without consultants.

A: Bruce McMickle: That's why this Association needs to take the initiative to work closer to the consulting community. They present problems that need to be addressed. We should, as an Association, set standards. It would be dangerous for the consultants not to be members.

Q: (Vanderlande) Who decides who's going to be a voting member?

A: All BHS manufacturers.

Preliminary Matters:

Key Speaker - Mike Malkowski

Mike Malkowski thanks Bruce McMickle for putting the work into the formation of this Association and is proud to have Bruce McMickle as one of its founding members.

Mike Malkowski thanks Danny Bearden and Siegling in becoming an Associate Member. Danny helped host this meeting.

We need to keep the ball rolling – keep focused and engaged and moving forward. What we've done so far is not set in stone, but we've taken some liberties.

VOTE:

Most of these companies are located in Texas. Mike Malkowski moves to incorporate in Texas. Anyone opposed?
No one opposed.
We will incorporate in Texas.

VOTE:

We need to establish a mailing address. If we do that through a UPS Store, it will be a physical address, not a post office box. Mike Malkowski moves that we establish a mailing address through a UPS Store. Anyone opposed?
No one opposed.
We will establish a mailing address through a UPS Store.

VOTE:

We need to establish a temporary place of business. Five Star's building has extra office space. Mike Malkowski proposes we temporarily open an office there for all members access, and establish two phone lines and a fax line at that location. Mike Malkowski moves that a temporary place of business, phone and fax lines be established in the Five Star Airport Alliance's offices in Carrollton. Anyone opposed?
No one opposed.
Temporary place of business, phone and fax lines will be established at Five Star's building.

- Legal and administration support. We are volunteering Darrin Ramsey for legal support and Debbie Talbert for administrative support and asking others to help.
- Leadership and cooperation of all charter members. Everyone here is equal even though we don't always see eye to eye. We need to treat each other fairly. We have the foundation, now it's time to build the organization. We need a commitment to get engaged and build this Association. We need to take the first step by establishing the Charter Members – the people in this room.
- Establish the membership. Who else to invite and at what level? We need to start laying the ground work.
- Organization of the Association. We looked into another association in the lighting industry, which we should use as a model. The website is www.iald.org.

Bylaws of the Association:

Key Speaker – Darrin Ramsey

Mike Malkowski went over the purpose of the IABSC earlier (Slide 24). The purpose of the Bylaws is key. We need your input as soon as possible. Please have these sample Bylaws reviewed by your counsel or compliance department and send comments to Debbie.

IABSC organizational structure (Slide 25) - The regular members are in this room except Webb. There will be 7 officers and 7 directors.

Members are companies – their representative(s).

Discussion ensure whether or not Bruce McMickle could serve as an officer and a director. How would it look to other Associate Members? Darrin Ramsey explained that Bruce is exempt because he is a founder of this Association – he can serve on the board and be an officer.

Structuring New Business and Our Next Meeting:

Everyone to provide their contact information, Membership Application, and comments on Bylaws to Debbie Talbert prior to the next meeting.

Proposals:

- Keep the IABSC to these people
- Statement of Intent to establish a foundation first
- Formulate membership – establish a time line
- Meeting format – can we cut down on the time?
- Where to have the next meeting – prefer here in Dallas
- Next 3 meetings to be scheduled mid-week, the third Wednesday, for the next 3 months.

Hosting: May – Siemens
June – Glidepath
July – FKI
Next – Vanderlande

Questions & Answers:

Q: (Bruce McMickle to Ewout Cassee) Are you a member of other associations?

A: (Ewout Cassee) An association in Europe but it's grown so big – 60 to 80 members. Too many members don't get anything done. As to dues, there's a cost to everyone.

Bruce McMickle: We should be able to project our membership and structure our dues.

Q: (Glidepath) International in the name – how is it okay with companies abroad if they're not going to be included in this organization?

A: (Bruce McMickle) Ken for example, from Glidepath. Canadian companies.

(Glidepath) We need to qualify the International part.

(FKI) It should be okay since many of the domestic companies do international work.

Q: Logan and Inter-Roller will want to join. Will we allow them?

A: Them not being voting members does not equal non-competitive. We need to establish levels of qualification.

We will develop share market statistics from this Association and we can't eliminate people.

Regular Member = Turn Key Member = only baggage handling companies.

BCS will want to vote. That will be discussion for the next meeting. Mike Malkowski moves to put on next meeting's agenda: Associate Members - voting rights.

Q: Will a budget be established?

A: We can't address that today, we first need to establish guidelines.

VOTE:

Does everyone here agree that they want to be a Member?

Everyone in attendance acknowledged their desire to be a Member of this Association.

Discussion:

Terms & Conditions:

- Who's opinion is validated?
- Consequences if you go outside of an organization.
- If an owner comes back and tries to use action, the bylaws come into affect.
- Standards should be set; who decides who a voting member gets to be.

- Bruce McMickle:
 - Is it fair to charge larger companies more for dues because they are able to pay more?

- Mike Malkowski:
 - Estimate membership levels and supplier levels.
 - Anticipate 7 directors and 7 officers.
 - Propose each director and each officer serve for 1 year periods.
 - Warranty starts when you start using the system – beneficial use.

- Danny Bearden:
 - Associate Members will have a huge interest in the Association and he doesn't think that suppliers are going to be interested in voting decisions.

- Bruce McMickle:
 - A supplier should be able to express their interests to the Association.

Tentative Agenda For Next Meeting:

- Associate members – what role they are playing
- Bylaws - everyone to mark up the sample bylaws and send to Debbie

- Establish voting standards - the key element – formulating who votes: Charter members only? Associates?
- Establish committees/officers/directors
- Formulating the membership - what the levels of membership should be – airline/airport, education, associates/suppliers to the OEM
- Dues structure/budget – who handles the money, who does the accounting
- Assistance in the formulation of all the documentation - Debbie will need assistance – all companies to participate in documentation
- Develop meeting format and resolution process – how do you bring things to the meeting? We all need to participate.
- Identify key issues and prioritize – address objections/issues
- Association rules and governing methods
- Developing a website. Founding members have secured a domain name – IABSC.org – and will establish a general email address

Adjournment:

The meeting was adjourned at 1:30p.m. by Chair, Mike Malkowski. The next meeting in May will be hosted by Siemens.

Minutes submitted by: Deborah Talbert