

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

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:
In re : Chapter 11
:
SOUTHERN AIR : Case No. 12-12690 ()
HOLDINGS, INC., et al., :
:
Debtors.1 : Joint Administration Requested
:
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MOTION OF DEBTORS FOR (I) AUTHORITY TO
(A) CONTINUE THEIR WORKERS' COMPENSATION, LIABILITY,
PROPERTY, AND OTHER INSURANCE PROGRAMS AND (B) PAY ALL
OBLIGATIONS IN RESPECT THEREOF AND (II) ENTRY OF AN ORDER
AUTHORIZING AND DIRECTING FINANCIAL INSTITUTIONS TO HONOR AND
PROCESS CHECKS AND TRANSFERS RELATED TO SUCH OBLIGATIONS
PURSUANT TO SECTIONS 105(a), 362(d), AND 363(b) OF THE BANKRUPTCY CODE

Southern Air Holdings, Inc. ("Holdings") and its affiliated debtors in the above-
referenced chapter 11 cases, as debtors and debtors in possession (collectively, the "Debtors"),
submit this motion (the "Motion") and, in support thereof, respectfully represent as follows:

Jurisdiction

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C.
§§ 1334(b) and 157, and the Amended Standing Order of Reference from the United States
District Court for the District of Delaware, dated as of February 29, 2012. This is a core
proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28
U.S.C. §§ 1408 and 1409.

1 The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are:
(i) Southern Air Holdings, Inc., 6605; (ii) Cargo 360, Inc., 4233; (iii) Southern Air Inc., 2187; (iv) Air Mobility Inc.,
3824; (v) 21110 LLC, 3761; (vi) 21111 LLC, 8100; (vii) 21221 LLC, 1567; (viii) 21550 LLC, 8103; (ix) 21576
LLC, 6341; (x) 21590 LLC, 8105; (xi) 21787 LLC, 0617; (xii) 21832 LLC, 7893; (xiii) 23138 LLC, 7192;
(xiv) 24067 LLC, 6360; (xv) 46914 LLC, 0322; (xvi) Aircraft 21255, LLC, 5500; (xvii) Aircraft 21380, LLC, 1753;
and (xviii) CF6-50, LLC, 9733. The address for all Debtors is 117 Glover Avenue, Norwalk, Connecticut 06850.



Background

2. On the date hereof (the "Petition Date"), each of the Debtors commenced with this Court a voluntary case under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"). The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or statutory committee of creditors ("Creditors' Committee") has been appointed in these chapter 11 cases.

3. Contemporaneously herewith, the Debtors have filed a motion requesting joint administration of the chapter 11 cases pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules").

The Debtors' Businesses

4. Southern Air Inc. ("Southern Air"), the Federal Aviation Administration ("FAA") certificated, indirect subsidiary of Holdings, is an experienced provider of long-haul, wide-body air cargo transportation services. Southern Air operates a fleet of eleven aircraft, including four Boeing 777s, four Boeing 747-400s, and three Boeing 747-200s. Southern Air's staff and flight operations are positioned around the world to facilitate global operations for both governmental and commercial customers. Holdings is the direct or indirect parent company of the other Debtors.

5. As of the Petition Date, the Debtors employed approximately 611 full-time employees. For the twelve months ended July 31, 2012, the Debtors' unaudited and consolidated financial statements reflected revenues of approximately \$428.2 million and a net loss of \$159.8 million. As of July 31, 2012, the Debtors' unaudited and consolidated financial statements reflected assets totaling approximately \$206.9 million and liabilities totaling approximately \$486.5 million.

6. Additional information regarding the Debtors' business, capital structure, and the circumstances leading to this chapter 11 filing is contained in the *Declaration of Daniel J. McHugh in Support of the Debtors' Chapter 11 Petitions and First Day Relief*, filed contemporaneously herewith.

The Debtors' Insurance Programs

7. In connection with the operation of their businesses, the Debtors participate in various insurance programs through several insurance carriers (the "Insurance Carriers"), including, without limitation, (a) two types of workers' compensation programs (the "Workers' Compensation Programs") and (b) the following general insurance programs ("General Insurance Programs" and, together with the Workers' Compensation Programs, the "Insurance Programs"): (i) the Hull & Liability Policies (as defined and discussed in more detail below); (ii) FAA War Risk Insurance (as defined and discussed in more detail below); (iii) an owned and leased automobile collision policy, which includes coverage for vehicles not located on airport property; (iv) a commercial foreign package policy, which provides coverage for hired and non-owned vehicles overseas and employees traveling overseas; (v) general property insurance, which covers the Debtors' real property located in Norwalk, Connecticut; (vi) Mexican liability insurance, which is required by the Mexican government for the Debtors to operate in or out of Mexico; (vii) kidnap and ransom insurance; and (viii) an insurance policy covering liability pertaining to directors and officers, employment practices, fiduciary duties, and criminal activity.

8. A complete list of Insurance Programs and respective Insurance Carriers is attached hereto as Exhibit A.² Continuation of the Insurance Programs is vital to the preservation of value for the Debtors' businesses. Moreover, in many instances the coverage provided by the Insurance Programs is required by the regulations, laws, contracts, and/or aircraft operating leases that govern the Debtors' operations.

A. The Bidding System

9. The majority of the Debtors' Insurance Programs are procured through a competitive bidding system whereby various Insurance Carriers vie for customers by offering favorable terms and attractive rates (the "Bidding System"). Each year, the Debtors participate in the Bidding System and, to the extent applicable, select and enter into new policies with Insurance Carriers. The Debtors retain an insurance broker to negotiate with Insurance Carriers on their behalf and to assist them in participating in the Bidding System.

10. On behalf of the Debtors, the Debtors' insurance broker approaches various Insurance Carriers each year and coordinates and negotiates with such carriers to seek out the most competitive rates in an efficient and timely manner. After a period of collecting and reviewing quotes—which generally occurs as early as two (2) months before the previous year's Insurance Programs expire—the broker provides the Debtors with its results, the Debtors select and enter into new policies with the Insurance Carriers offering the most attractive rates and pay the negotiated annual premium. As of the Petition Date, the Debtors believe that they do not owe any amounts on account of new insurance policies, but negotiations are underway and payments may be due during the pendency of these chapter 11 cases.

² In addition to Insurance Carriers listed on Exhibit A, the Debtors maintain various insurance programs with respect to employee health, dental, disability, and life insurance benefits. These policies are addressed in a separate motion filed in these cases pertaining to the employee wages and benefits programs.

B. Hull, Spares, & Liability Insurance and FAA War Risk Insurance

11. The Debtors insure their aircraft fleet, in part, by obtaining aircraft “hull and spares all risks” and liability insurance (the “Hull, Spares, & Liability Insurance”), which is supplemented by a hull deductible insurance (the “Hull Deductible Insurance” and, together with the Hull, Spares, & Liability Insurance the “Hull & Liability Policies”). The Hull & Liability Policies are not procured as part of the Bidding System but rather with the assistance of a separate broker. Hull, Spares, & Liability Insurance covers loss or damage to personal property essential to providing air cargo transportation services including, without limitation, the Debtors’ aircraft, spare parts, and/or engines, as well as liability arising from certain bodily injury and property damage caused by events taking place in connection with the Debtors’ air cargo transportation businesses. Under the Hull Deductible Insurance the Debtors are indemnified with respect to loss or damage occurring while covered by the Hull, Spares, & Liability Insurance that would be covered but for the application of the deductibles thereunder. As an air cargo transportation provider, both policies are particularly critical to the Debtors’ businesses and operations. The current Insurance Carrier for the Debtors’ Hull & Liability Policies is Marias Falls Insurance Company, Limited. The Debtors have been making timely quarterly payments on the annual premium for the term ending on November 1, 2012 and, as of the Petition Date, the Debtors believe that they do not owe any amounts on account of the Hull & Liability Policies. The Hull & Liability Policies are up for renewal on November 1, 2012.

12. In addition to the Hull & Liability Policies, the Debtors also carry FAA war risk insurance (the “FAA War Risk Insurance”), for which the United States government is the Insurance Carrier. FAA War Risk Insurance supplements Hull, Spares, and Liability Insurance by providing coverage when the Debtors’ aircraft fly in a military theatre of operations

or in “watch list” countries, which would otherwise exclude such aircraft from coverage under Hull & Liability Insurance. Because of their governmental air cargo transportation services, the Debtors often operate aircraft both “in theatre” and in watch list countries. Indeed, the Debtors’ governmental air cargo services accounted for 43.5% of Southern Air’s revenue for the twelve months ended July 31, 2012. Accordingly, the Debtors are required to carry FAA War Risk Insurance. As of the Petition Date, the Debtors believe that they do not owe any amounts on account of FAA War Risk Insurance, but the policy is up for renewal on September 30, 2012.

C. Workers’ Compensation Programs

13. Under the laws of the various states in which they operate, the Debtors are required to maintain workers’ compensation coverage for their employees for claims arising from or related to employment with the Debtors. The Debtors’ Workers’ Compensation Programs comprise two distinct policies: (a) a standard workers’ compensation policy (the “Standard Workers’ Compensation Program”) and (b) the Defense Base Act workers’ compensation policy (the “DBA Workers’ Compensation Program”).

14. The Debtors’ Standard Workers’ Compensation Program has a foreign and domestic component. The domestic component is insured by Chubb Indemnity and Vigilant Insurance Company and the foreign component is insured by Vigilant Insurance Company. Despite the use of different Insurance Carriers, both components function the same way. The Standard Workers’ Compensation Program covers the Debtors’ employees when they are not working on military bases. The Standard Workers’ Compensation Program is a retroactive insurance plan, meaning that the Debtors’ annual premiums are calculated based on the Debtors’ historical loss run and forecasted growth in payroll during the period of coverage. Under the Standard Workers’ Compensation Program, the carrier is entitled to conduct an audit following

the coverage period to determine the accuracy of any projections and a retrospective adjustment will be made to premiums, as necessary. For the term ending on November 13, 2012, this premium is approximately \$932,243 for both the foreign and domestic components, all of which has been paid. The next audit is not expected until November 2013.

15. Pursuant to the Defense Base Act, the Debtors are required to carry the DBA Workers' Compensation Program as a consequence of their governmental air cargo transportation services. The DBA Workers' Compensation Program covers the Debtors' employees when they are on military bases. The United States Transportation Command ("USTC"), the governmental entity for which the Debtors perform air cargo transportation services, ultimately reimburses the Debtors for any premium payments made on account of the DBA Workers' Compensation Program. As of the Petition Date, the Debtors believe that they do not owe any amounts on account of the DBA Workers' Compensation Program.

16. As noted above, as of the Petition Date, the Debtors are not aware of any prepetition claims for which payments have not been paid on account of the various Insurance Programs. However, out of an abundance of caution, the Debtors are seeking the Court's authority to pay, in their sole discretion, any undisputed obligations, as and when they come due and payable.

Insurance Brokers

17. The Debtors retain insurance brokers, Aon Inc. ("Aon"), JLT Aerospace London and JLT Aerospace US (together, "JLT"), and Schoff Darby (collectively, the "Brokers") to assist them with the procurement and negotiation of certain Insurance Programs and, in some circumstances, to remit payments to the Insurance Carriers on their behalf, as more fully described above. Aon is retained to assist the Debtors in obtaining insurance coverage on advantageous terms and at competitive rates in the bidding system. Aon's fee is due in full upon

inception of the applicable Insurance Programs and such fee is reflected, as applicable, in the premium amounts enumerated on the list of Insurance Programs and respective Insurance Carriers attached hereto as Exhibit A. JLT is employed in London and in the United States in connection with the Debtors' acquisition of the Hull & Liability Policies and is paid a fee in quarterly installments; the final installment for 2012 was paid on June 7, 2012. Finally, Schoff Darby is retained in connection with the Debtors' general property insurance and is paid on commission for its services, which amount is reflected in the annual premium. The Brokers all have one year compensation agreements. As of the Petition Date, the Debtors are not aware of any prepetition fees or commissions owed to the Brokers on account of the Insurance Programs.

Relief Requested

18. By this Motion, the Debtors request, pursuant to sections 105(a), 362(d), and 363(b) of the Bankruptcy Code authority to (a) continue their Workers' Compensation Programs and General Insurance Programs on an uninterrupted basis and (b) pay, in their sole discretion, all undisputed prepetition premiums, deductibles, administrative fees, broker fees, and other prepetition obligations arising under or in relation to the Insurance Programs (the "Insurance Obligations").

19. To the extent any of the Debtors' employees hold valid claims under their Workers' Compensation Programs, the Debtors also seek authority to modify the automatic stay imposed by section 362 of the Bankruptcy Code (the "Automatic Stay") to permit these employees to proceed with their claims under the Workers' Compensation Programs. This request for modification of the Automatic Stay pertains solely to claims under the Workers' Compensation Programs. Any claims relating to any of the General Insurance Programs shall remain subject to the Automatic Stay.

20. As part of their cash management system, the Debtors maintain disbursement accounts at certain banks and other financial institutions (the “Banks”). The Debtors may draw upon funds in their disbursement accounts to satisfy any obligations arising from the Insurance Programs. Accordingly, the Debtors further seek entry of an order authorizing and directing the Banks to receive, honor, process, and pay any prepetition check or electronic fund transfer request from the Debtors’ accounts to the extent that such checks or electronic fund transfers relate to any of the Insurance Obligations, whether such checks or electronic fund transfer requests were presented before or after the Petition Date. The Debtors also seek authority to issue new postpetition checks or effect new electronic fund transfers on account of the Insurance Obligations to replace any prepetition checks or electronic fund transfer requests that may have been dishonored or rejected as a result of the commencement of the Debtors’ chapter 11 cases. Finally, the Debtors request that the Banks and any party receiving payment from the Debtors be authorized and directed to rely upon the representations of the Debtors as to which payments are allowed by the requested relief. A proposed order is attached hereto as Exhibit B (the “Proposed Order”).

Basis for Relief Requested

21. The Debtors believe that the continuation of the Insurance Programs constitutes “ordinary course of business” practices, and, therefore, does not require court approval. *See* 11 U.S.C. § 363(c) (authorizing a debtor in possession to enter into transactions and use property of the estate in the ordinary course of business without notice or a hearing). Out of an abundance of caution, however, the Debtors seek authority pursuant to sections 363(b) and 105(a) of the Bankruptcy Code to continue their Insurance Programs and honor any Insurance Obligations thereof.

22. Pursuant to section 363(b) of the Bankruptcy Code, a debtor may, in the exercise of its sound business judgment and after notice and a hearing, use property of the estate outside of the ordinary course of business. 11 U.S.C. § 363(b). Section 105(a) of the Bankruptcy Code further provides:

The court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title. No provision of this title providing for the raising of an issue by a party in interest shall be construed to preclude the court from, *sua sponte*, taking any action or making any determination necessary or appropriate to enforce or implement court orders or rules, or to prevent an abuse of process.

11 U.S.C. § 105(a). The Debtors submit that the use of the estates' funds for payment of the Insurance Obligations is permitted by sections 105(a) and 363(b).

23. Most, if not all, of the Debtors' obligations under their Insurance Programs will constitute postpetition obligations of the Debtors' estates. However, to the extent that the Insurance Obligations constitute prepetition claims, payment of such obligations may be authorized under sections 105(a) and 363(b) of the Bankruptcy Code pursuant to the "doctrine of necessity." The "doctrine of necessity" functions in a chapter 11 case as a mechanism by which the bankruptcy court can exercise its equitable power to allow payment of critical prepetition claims not explicitly authorized by the Bankruptcy Code and further supports the relief requested herein. *See In re Lehigh & New Eng. Ry. Co.*, 657 F.2d 570, 581 (3d Cir. 1981) (noting that a court may authorize payment of prepetition claims if such payment is essential to continued operation of the debtor); *In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 176 (Bankr. S.D.N.Y. 1989) (authorizing the payment of prepetition employee wages and benefits while recognizing the judicial power to "authorize a debtor in a reorganization case to pay prepetition claims where such payment is essential to the continued operation of the debtor"); *see also In re Just for Feet, Inc.*, 242 B.R. 821, 824–25 (D. Del. 1999) (holding that section 105(a) "provides a statutory

basis for the payment of pre-petition claims” under the doctrine of necessity and noting that the Supreme Court, the United States Court of Appeals for the Third Circuit, and the District Court of Delaware all accept the authority of the bankruptcy court “to authorize payment of pre-petition claims when such payment is necessary for the debtor’s survival during chapter 11”); *In re Columbia Gas Sys., Inc.*, 171 B.R. 189, 191–92 (Bankr. D. Del. 1994) (explaining that the doctrine of necessity is the standard in the Third Circuit for enabling a court to authorize the payment of prepetition claims prior to confirmation of a reorganization plan). The rationale for the “doctrine of necessity” is consistent with the paramount goal of chapter 11: “facilitating the continued operation and rehabilitation of the debtor ...” *Ionosphere Clubs*, 98 B.R. at 176. Accordingly, under sections 105(a) and 363(b) of the Bankruptcy Code and pursuant to the “doctrine of necessity,” this Court is empowered to grant the relief requested herein.

24. As described above, the nature of the Debtors’ businesses and the extent of their operations make it essential for the Debtors to maintain their Insurance Programs on an ongoing and uninterrupted basis. The nonpayment of any premiums, deductibles, or related fees under one of the Insurance Programs could result in the Insurance Carriers attempting to terminate existing policies, declining to renew existing policies at competitive rates, or refusing to enter into new insurance agreements with the Debtors. If the Insurance Programs are not renewed, the Debtors could be exposed to substantial liability for damages resulting to persons and property of the Debtors and others, which exposure could have an extremely negative impact on the Debtors’ ability to reorganize successfully. Furthermore certain of the Insurance Programs are mandatory under the laws, regulations, aircraft operating leases, and/or contracts that govern the Debtors’ commercial and/or governmental operations; failure to maintain these programs could lead to costly penalties or fines and jeopardize the Debtors’ operations under

their aircraft leases. Finally, the Debtors are also obligated to remain current with respect to certain of their primary Insurance Programs pursuant to the guidelines established by the United States Trustee for the District of Delaware (the “U.S. Trustee”).

25. Moreover, applicable state law mandates that the Debtors maintain workers’ compensation coverage for their employees. Failure by the Debtors to pay the premiums associated with their Workers’ Compensation Programs would jeopardize the Debtors’ coverage and expose them to substantial liability in fines by various state workers’ compensation boards. The risk that eligible workers’ compensation claimants will not receive timely payments for prepetition employment-related injuries could also have a devastating effect on the financial well-being and morale of the Debtors’ current employees—perhaps going as far as resulting in employee departures. Employee departures at this critical time could result in a severe disruption of the Debtors’ businesses with a damaging impact on the Debtors, their value as an ongoing concern, and their ability to reorganize.

26. Courts in this district have granted relief similar to that relief requested herein. *See, e.g., In re Dallas Stars, L.P.*, Case No. 11-12935 (PJW) (Bankr. D. Del. June 19, 2011) [Docket No. 48]; *In re DSI Holdings, Inc.*, Case No. 11-11941 (KJC) (Bankr. D. Del. June 28, 2011) [Docket No. 52]; *In re L.A. Dodgers LLC*, Case No. 11-12010 (KG) (Bankr. D. Del. June 28, 2011) [Docket No. 43]; *In re Elec. Components Int’l, Inc.*, Case No. 10-11054 (KJC) (Bankr. D. Del. Apr. 1, 2010) [Docket No. 32]; *In re Simmons Bedding Co.*, Case No. 09-14037 (MFW) (Bankr. D. Del. Nov. 17, 2009) [Docket No. 46].³

27. Based on the foregoing, the Debtors submit that the continuation of the Insurance Programs and payment of Insurance Obligations, is essential to preserve the value of

³ Because of the voluminous nature of the unreported orders cited in this Motion, they are not attached hereto; however, copies of these orders are available upon request of the Debtors’ counsel.

the Debtors' estates for all creditors. Accordingly, the Debtors seek authority, pursuant to sections 105(a) and 363(b) of the Bankruptcy Code to honor their Insurance Obligations and continue their Insurance Programs uninterrupted and as such programs were in effect as of the Petition Date. The Debtors submit that payment of obligations due or arising under or related to these Insurance Programs will be paid in the ordinary course of business and in accordance with the terms of these programs and policies and in a manner consistent with prepetition practices.

**Debtors Seek a Waiver of the Automatic Stay
as It Applies to Valid Workers' Compensation Claims**

28. Section 362(a) of the Bankruptcy Code, commonly known as the "Automatic Stay," operates to stay,

- (1) the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title . . .

11 U.S.C. § 362(a)(1).

29. Section 362, however, permits a debtor, or other parties in interest, to request a modification or termination of the automatic stay for "cause." 11 U.S.C. § 362(d)(1).

30. To the extent the Debtors' employees hold valid Workers' Compensation claims ("Workers' Compensation Claims"), the Debtors seek authority, under section 362(d) of the Bankruptcy Code, to permit these employees to proceed with their Workers' Compensation Claims in the appropriate judicial or administrative forum; *provided, however*, that employees may only pursue their Workers' Compensation Claims in accordance with applicable Workers' Compensation Programs and recoveries, if any, shall be limited to the proceeds from the applicable Workers' Compensation Programs. The Debtors believe cause exists to modify the Automatic Stay because staying the Workers' Compensation Claims could have a detrimental

effect on the financial well-being and morale of the Debtors' employees and lead to the departure of certain employees. As discussed above, such departures could cause a severe disruption in the Debtors' businesses to the detriment of all parties in interest. To this end, the Debtors seek to waive (a) the Automatic Stay as it relates to valid Workers' Compensation Claims and (b) the corresponding notice requirements under Bankruptcy Rule 4001(d).

31. Relief from the automatic stay was granted for similar purposes in other cases in this district. *See, e.g., In re Dallas Stars, L.P.*, Case No. 11-12935 (Bankr. D. Del. June 19, 2011) [Docket No. 48]; *In re DSI Holdings, Inc.*, Case No. 11-11941 (KJC) (Bankr. D. Del. June 28, 2011) [Docket No. 52]; *In re L.A. Dodgers LLC*, Case No. 11-12010 (KG) (Bankr. D. Del. June 28, 2011) [Docket No. 43]; *In re Simmons Bedding Company*, Case No. 09-14037 (MFW) (Bankr. D. Del. Nov. 17, 2009) [Docket No. 46].

32. Pursuant to this Motion, the Debtors do not seek a waiver, termination, or modification of the automatic stay with respect to any claims other than the Workers' Compensation Claims.

Reservation of Rights

33. Nothing contained herein is intended to be or shall be construed as (a) an admission as to the validity of any claim against the Debtors, (b) a waiver of the Debtors' or any appropriate party in interest's rights to dispute any claim, or (c) an approval or assumption of any agreement, contract, program, policy, or lease under section 365 of the Bankruptcy Code. Likewise, if this Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended to be and should not be construed as an admission to the validity of any claim or a waiver of the Debtors' rights to dispute such claim subsequently.

The Debtors Satisfy Bankruptcy Rule 6003(b)

34. Bankruptcy Rule 6003 provides that, to the extent relief is necessary to avoid immediate and irreparable harm, a bankruptcy court may approve a motion to “pay all or part of a claim that arose before the filing of the petition” prior to twenty-one (21) days after the Petition Date. FED. R. BANKR. P. 6003. As described above, the Debtors’ business operations rely on the continuation of the Insurance Programs on an uninterrupted basis and payment of all undisputed prepetition Insurance Obligations are essential to preserve the Debtors’ businesses and the value of the Debtors’ estates for all stakeholders. If the Insurance Programs are allowed to lapse without renewal, the Debtors could be exposed unnecessarily to substantial liability for damages resulting to persons and property of the Debtors and others, which could cripple the Debtors financially and irreparably impair their prospects for a successful reorganization. The Debtors submit that the relief requested in this Motion is necessary to avoid immediate and irreparable harm to the Debtors, as described herein, and that Bankruptcy Rule 6003(b) has been satisfied.

Waiver of Bankruptcy Rules 6004(a) and (h)

35. To implement the requested relief successfully, the Debtors seek a waiver of the notice requirements under Bankruptcy Rule 6004(a) and the fourteen (14) day stay of an order authorizing the use, sale, or lease of property under Bankruptcy Rule 6004(h).

**Waiver of Bankruptcy Rule
4001(a)(3) and Local Rule 4001-1**

36. The Debtors request a waiver of any stay of the effectiveness of the order approving this Motion under Bankruptcy Rule 4001(a)(3). The Debtors also request a waiver of the procedures that may be required pursuant to Rule 4001-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the

“Local Rules”). Pursuant to Bankruptcy Rule 4001(a)(3), “[a]n order granting a motion for relief from an automatic stay made in accordance with Rule 4001(a)(1) is stayed until the expiration of fourteen days after entry of the order, unless the court orders otherwise.” FED. R. BANKR. P. 4001(a)(3). Local Rule 4001-1 sets forth certain procedures for movants seeking to modify the Automatic Stay. As set forth above, modifying the Automatic Stay to allow valid Workers’ Compensation Claims to proceed is essential to prevent a detrimental effect on the financial well-being and morale of the Debtors’ employees and lead to the departure of certain employees. As discussed above, such departures could cause a severe disruption in the Debtors’ businesses to the detriment of all parties in interest. Accordingly, the Debtors submit that ample cause exists to justify the waiver of the fourteen-day stay imposed by Bankruptcy Rule 4001(a)(3), to the extent such stay applies, and of the procedures set forth in Local Rule 4001-1, to the extent such procedures apply.

Notice

37. No trustee, examiner, or Creditors’ Committee has been appointed in these chapter 11 cases. Notice of this Motion has been provided to (a) the Office of the United States Trustee for the District of Delaware; (b) the Debtors’ thirty (30) largest unsecured creditors on a consolidated basis; (c) the Securities and Exchange Commission; (d) the Internal Revenue Service; (e) the United States Attorney’s Office of the District of Delaware; (f) the United States Transportation Command; (g) the Defense Logistics Agency - Energy; (h) Canadian Imperial Bank of Commerce, New York Agency (“CIBC”); (i) counsel to CIBC; (j) Oak Hill Capital Management (“Oak Hill”); (k) counsel to Oak Hill; (l) all lessors under aircraft operating leases with Southern Air; and (m) any other party directly affected by this Motion. The Debtors respectfully submit that such notice is sufficient under the circumstances.

No Previous Request

38. No previous request for the relief sought herein has been made to this or any other Court.

WHEREFORE the Debtors respectfully request entry of the Proposed Order granting the relief requested herein and such other and further relief as the Court may deem just and appropriate.

Dated: September 28, 2012
Wilmington, Delaware

/s/ M. Blake Cleary
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*Proposed Attorneys for the
Debtors and Debtors in Possession*

Exhibit A

Insurance Obligations

Type of Coverage	Insurer	Policy Number	Duration	Deductible ¹	Annual Premium
Combined Specialty Insurance: D&O Liability, EPL, Fiduciary, Crime	Westchester Fire Insurance Company	g25009861003	Jan. 14, 2012 –Jan. 13, 2013	D&O: \$25,000; EPL: \$75,000; Crime: \$25,000	\$94,233
Commercial Foreign Package Policy	The Insurance Co. of the State of Pennsylvania	WR10003580	Nov. 13, 2011–Nov. 13, 2012	Property: \$2,500 Theft/Robbery: \$5,000	\$2,750
Defense Base Act Workers' Compensation Insurance	Vigilant Insurance Company	99151667	Apr. 1, 2012– Apr. 1, 2013	Nil	\$50,100
FAA War Risk Insurance	United States Government	PWR-10012011-9S	October 1, 2011–September 30, 2012	\$100,000	\$541,584
Foreign Workers' Compensation	Vigilant Insurance Company	0099151631	Nov. 13, 2011–Nov. 13, 2012	Nil	\$13,125
Hull, Spares, & Liability Insurance	Insurance - Marias Falls Insurance Company Limited, Insurer - underwriters at Lloyds of London and Various	J51105437	December 15, 2011–November 1, 2012	Aircraft: \$1,000,000 Spare kits: \$10,000	\$2,591,664
Hulls Deductible Insurance	Insurance Companies, Reinsurer - underwriters at Lloyds of London and Various Insurance Companies	J51105441		Aircraft: \$1,000,000 Engines: 777/747: \$100,000	\$804,760

¹ All amounts set forth in the Deductible and Annual Premium columns are the dollar amounts that must be paid in U.S. dollars.

Type of Coverage	Insurer	Policy Number	Duration	Deductible¹	Annual Premium
Mexican Liability	Allianz Mexico S.A.	AVIMATR/00009952	Nov. 13, 2011–Nov. 13, 2012	Nil	\$7,000
Owned and Leased Auto and Collision	United States Fire Insurance Company	1337322231	May 21, 2012–May 21, 2013	Comprehensive: \$1,000 Collision: \$1,000	\$39,181.00
Property Insurance	The Main Street Group	FRB53526	May 20, 2012–May 20, 2013	\$1,000	\$781.00
		MSB37149	February 8, 2012–February 8, 2013	\$25,000	\$38,141.00
Special Risk: Kidnap and Ransom	Federal Insurance Company	68048462	Nov. 13, 2011 – Nov. 13, 2012	Nil	\$5,200
Workers' Compensation and Employer's Liability Policy	Chubb Indemnity/Vigilant Insurance Company	0099151630	Nov. 13, 2011 – Nov. 13, 2012	Incurred Retrospective Plan	\$919,118

Exhibit B
Proposed Order

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

-----X
: **Chapter 11**
: **Case No. 12-12690 ()**
: **Jointly Administered**
: **Re: Docket No.**
-----X

**ORDER (I) AUTHORIZING
DEBTORS (A) TO CONTINUE THEIR WORKERS'
COMPENSATION, LIABILITY, PROPERTY, AND OTHER INSURANCE
PROGRAMS AND PAY ALL OBLIGATIONS IN RESPECT THEREOF AND
(II) AUTHORIZING AND DIRECTING FINANCIAL INSTITUTIONS TO HONOR
AND PROCESS CHECKS AND TRANSFERS RELATED TO SUCH OBLIGATIONS
PURSUANT TO SECTIONS 105(a), 362(d), AND 363(b) OF THE BANKRUPTCY CODE**

Upon the motion, dated September 28, 2012 (the "Motion"),² of Southern Air Holdings, Inc. and its affiliated debtors, as debtors and debtors in possession (collectively, the "Debtors") for (a) authority to (i) continue their Workers' Compensation Programs and various other Insurance Programs on an uninterrupted basis and (ii) pay, in their sole discretion, all Insurance Obligations and (b) entry of an order authorizing and directing financial institutions to receive, honor, process, and pay all checks and transfers related to such obligations, as more fully set forth in the Motion; and upon consideration of the *Declaration of Daniel J. McHugh in Support of the Debtors' Chapter 11 Petitions and First Day Relief*; and the Court having

¹ The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are: (i) Southern Air Holdings, Inc., 6605; (ii) Cargo 360, Inc., 4233; (iii) Southern Air Inc., 2187; (iv) Air Mobility Inc., 3824; (v) 21110 LLC, 3761; (vi) 21111 LLC, 8100; (vii) 21221 LLC, 1567; (viii) 21550 LLC, 8103; (ix) 21576 LLC, 6341; (x) 21590 LLC, 8105; (xi) 21787 LLC, 0617; (xii) 21832 LLC, 7893; (xiii) 23138 LLC, 7192; (xiv) 24067 LLC, 6360; (xv) 46914 LLC, 0322; (xvi) Aircraft 21255, LLC, 5500; (xvii) Aircraft 21380, LLC, 1753; and (xviii) CF6-50, LLC, 9733. The address for all Debtors is 117 Glover Avenue, Norwalk, Connecticut 06850.

² All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.

jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated as of February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the parties listed therein, and it appearing that no other or further notice need be provided; and the Court having reviewed the Motion; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors and their respective estates and creditors; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED.
2. The Debtors are authorized, but not directed, to the extent consistent with the terms and conditions of the DIP Credit Agreement,³ pursuant to sections 105(a), 362(d), and 363(b) of the Bankruptcy Code, and in accordance with the Debtors' prepetition policies and practices to: (a) to continue the Insurance Programs uninterrupted and (b) pay, in their sole discretion, all Insurance Obligations; *provided, however*, that such payments shall not exceed \$20,000 on account of prepetition Insurance Obligations.
3. Pursuant to section 362(d) of the Bankruptcy Code, to the extent any of the Debtors' employees hold claims under the Debtors' Workers' Compensation Programs, such

³ The DIP Credit Agreement shall mean that certain Senior Secured Super-Priority Debtor-in-Possession Credit Agreement, by and among Cargo 360, CIBC, and various financial institutions and other persons from time to time parties thereto, dated as of September 28, 2012.

employees are authorized to proceed with their Workers' Compensation Claims to resolution in the appropriate judicial or administrative forum; *provided, however*, that employees may only pursue their Workers' Compensation Claims in accordance with the applicable Workers' Compensation Programs and recoveries, if any, shall be limited to the proceeds from the applicable Workers' Compensation Programs only.

4. The Banks are authorized and directed to receive, honor, process, and pay (a) any prepetition checks or electronic fund transfer requests from the Debtors' accounts with respect to the Insurance Obligations and (b) any postpetition checks or new fund transfer requests from the Debtors' accounts with respect to the Insurance Obligations. The Banks and any third party receiving payment from the Debtors are authorized and directed to rely on the Debtors' designation of any particular check or electronic payment request as being approved by this Order.

5. Nothing contained in this Order or in the Motion is intended to be or shall be construed as (a) an admission as to the validity of any claim against the Debtors, (b) a waiver of the Debtors' or appropriate party in interest's rights to dispute any claim, or (c) an approval or assumption of any agreement, contract, program, policy, or lease under section 365 of the Bankruptcy Code. Likewise any payment made pursuant to this Order is not intended to be and shall not be construed as an admission to the validity of any claim or a waiver of the Debtors' rights to dispute such claim subsequently.

6. The requirements of Bankruptcy Rule 6003(b) have been satisfied.

7. The requirements of Bankruptcy Rule 6004(a) are waived.

8. The requirements of Bankruptcy Rule 4001(a)(3) are waived.

9. The requirements of Local Rule 4001-1 are waived.

10. Notwithstanding any applicability of Bankruptcy Rule 6004(h), the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

11. The Debtors are authorized to take all steps necessary to carry out this Order.

12. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation and/or enforcement of this Order.

Dated: _____, 2012
Wilmington, Delaware

UNITED STATES BANKRUPTCY JUDGE