

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

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In re : Chapter 11
:
SOUTHERN AIR : Case No. 12-12690 (CSS)
HOLDINGS, INC., *et al.*, :
:
Debtors.¹ : Jointly Administered
:
:
Re: Docket No. 121
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**ORDER PURSUANT TO SECTION
502(b)(9) OF THE BANKRUPTCY CODE AND
BANKRUPTCY RULES 2002(a)(7), (f), (I), AND 3003(c)(3),
(I) ESTABLISHING THE DEADLINE FOR FILING PROOFS OF CLAIM
AND (II) APPROVING THE FORM AND MANNER OF NOTICE THEREOF**

Upon the motion, dated October 11, 2012 (the "Motion"),² of Southern Air Holdings, Inc. and its affiliated debtors, as debtors and debtors in possession (collectively, the "Debtors"), for entry of the Bar Date Order, (a) establishing the deadline for each person (including, without limitation, individuals, partnerships, corporations, joint ventures, and trusts) to file Proofs of Claim based on prepetition claims against the Debtors; (b) establishing the deadline for Governmental Units to file Proofs of Claim based on prepetition claims against the Debtors; (c) approving the Proof of Claim Form; (d) approving the proposed Bar Date Notice; (e) approving the Publication Notice; and (f) approving the Notice Procedures, pursuant to section 502(b)(9) of the Bankruptcy Code and Bankruptcy Rules 2002(a)(7), (f), (I), (p), and

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.



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3003(c), as more fully set forth in the Motion; and the Court having 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*; 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 as set forth herein.
2. The Proof of Claim Form, substantially in the form attached to the Motion as Exhibit B, is approved.
3. **November 28, 2012 at 8:00 p.m. (Eastern Time)** shall be the deadline for each person (including, without limitation, individuals, partnerships, corporations, joint ventures, and trusts) to file any Proof of Claim against the Debtors.
4. **March 27, 2013 at 8:00 p.m. (Eastern Time)** shall be the deadline for each Governmental Unit to file any Proof of Claim against the Debtors.
5. The following procedures for filing Proofs of Claim are hereby approved and adopted in these cases:

- (a) Except as otherwise provided herein, all persons and entities (including, without limitation, individuals, partnerships, corporations, joint ventures, trusts, and Governmental Units) that assert a claim, as defined in section 101(5) of the Bankruptcy Code, against the Debtors which arose on or prior to the Petition Date, including any such claims which may have been preserved in any written agreement with the Debtors or in any pleading filed with the Bankruptcy Court, shall file a Proof of Claim on or before the applicable Bar Date;
- (b) Any person or entity (including, without limitation, individuals, partnerships, corporations, joint ventures, trusts, and Governmental Units) that asserts a claim that arises from the rejection of an executory contract or unexpired lease must file a Proof of Claim based on such rejection on or before the later of (i) the applicable Bar Date, and (ii) the date that is thirty (30) days following the effective date of such rejection (unless the order authorizing such rejection provides otherwise); *provided, however*, that a party to an executory contract or unexpired lease that asserts a claim on account of unpaid amounts accrued and outstanding as of the Petition Date pursuant to such executory contract or unexpired lease (other than a rejection damages claim) must file a Proof of Claim for such amounts on or before the Bar Date, unless one of the exceptions identified in paragraph 9 below, applies;
- (d) Proofs of Claim must substantially conform to the Proof of Claim Form or Official Bankruptcy Form No. 10 ("Official Form 10");³
- (e) Proofs of Claim must be **actually received** on or before the applicable Bar Date by Kurtzman Carson Consultants LLC ("KCC"), the official claims agent in the Debtors' chapter 11 cases, at the following address (the "Southern Air Claims Processing Center"):

Southern Air Claims Processing Center
c/o KCC
2335 Alaska Avenue
El Segundo, California 90245

- (f) The Debtors and KCC shall **not** be required to accept a Proof of Claim sent by facsimile, telecopy, or electronic mail transmission;
- (g) Proofs of Claim will be deemed timely filed only if **actually received** by the Southern Air Claims Processing Center on or before the applicable Bar Date;
- (h) Proofs of Claim must: (i) be signed by the claimant or, if the claimant is not an individual, by an authorized agent of the claimant; (ii) be written in

³ Official Form 10 can be found at <http://www.uscourts.gov/FormsAndFees/Forms/BankruptcyForms.aspx>.

the English language; (iii) denominate the claim in lawful currency of the United States as of the Petition Date; (iv) indicate the particular Debtor against which the claim is asserted; and (v) include supporting documentation (or, if such documentation is voluminous, include a summary of such documentation) or an explanation as to why such documentation is not available; *provided, however*, that a Proof of Claim may be filed without supporting documentation upon the prior written consent of the Debtors; *provided, further*, that any creditor that received such written consent shall be required to transmit such writings to the Debtors, upon request, no later than ten (10) days from the date of such request.

- (i) Proofs of Claim must specify by name the Debtor against which the Proof of Claim is asserted, and if the holder asserts a claim against more than one Debtor, a separate Proof of Claim must be filed against each Debtor; and
- (k) Any person or entity that files a Proof of Claim by mail and wishes to receive a file-stamped copy by return mail must include an additional copy of the Proof of Claim and a self-addressed postage-paid envelope.

6. The Prepetition Agent is authorized, but not required, to file a Master Proof of Claim on behalf of itself and the Prepetition Lenders, on account of their claims arising under the Prepetition Credit Agreement against the Debtors.

7. Upon the filing of a Master Proof of Claim by the Prepetition Agent, the Prepetition Agent (and its successors and assigns) shall be deemed to have filed a Proof of Claim in the amount set forth opposite its name therein in respect of its claims against each of the Debtors. The claims of the Prepetition Agent and the Prepetition Lenders, as applicable, and each of their respective successors and assigns named in the Master Proof of Claim, shall be treated as if each such entity had filed a separate Proof of Claim in each of the chapter 11 cases of the Debtors in the amount set forth in the Master Proof of Claim; *provided, however*, that the Prepetition Agent may, but shall not be required to, amend the Master Proof of Claim from time to time to, among other things, reflect a change in the holders of the claims set forth therein or a

reallocation among such holders of the claims asserted therein resulting from any transfer of such claims.

8. Nothing in this order or in the Master Proof of Claim shall affect the substantive rights of the Prepetition Agent, the Prepetition Lenders, or their respective successors in interest, including, without limitation, the right to vote separately on any plan of reorganization proposed in the chapter 11 cases.

9. The following parties are not required to file a Proof of Claim on or before the Bar Date:

- (a) any person or entity that has already properly filed a Proof of Claim against a Debtor with the Clerk of the Court or KCC in a form substantially similar to Official Form 10;
- (b) any person or entity whose claim is listed on a Debtor's Schedule D, E, or F, and (i) the claim is not described as "disputed," "contingent," or "unliquidated"; (ii) the claimant agrees with the amount, nature, and priority of the claim set forth in the Schedules; and (iii) the claimant agrees that the claim is an obligation of the specific Debtor which has listed the claim on its Schedules;
- (c) any holder of a claim that has been allowed by order of the Bankruptcy Court entered on or before the applicable Bar Dates;
- (d) any person or entity whose claim has been satisfied in full prior to the applicable Bar Date;
- (e) any Debtor holding a claim against another Debtor;
- (f) any wholly-owned direct or indirect subsidiary of any Debtor holding a claim against a Debtor;
- (g) any officer, director, or employee for a claim for indemnification, contribution, or reimbursement; *provided, however*, that any officer, director, or employee must file a Proof of Claim if they wish to assert any other claims against any of the Debtors, unless another exception identified herein applies;
- (h) any holder of a claim allowable under sections 503(b) or 507(a) of the Bankruptcy Code as an administrative expense of the Debtors' chapter 11 cases; *provided, however*, that any party asserting a 503(b)(9) Claim that

has not been scheduled on the Debtors' Schedules and any party that disputes the Debtors' scheduling and treatment of a 503(b)(9) Claim in the Debtors' Schedules must file a Proof of Claim on or before the applicable Bar Date;

- (i) any current employee asserting a claim solely to the extent that an order of the Court authorized the Debtors to honor such claim in the ordinary course as a wage or benefit;
- (j) any person or entity whose claim is related to any obligations arising under that certain prepetition credit agreement, dated as of September 6, 2007 (the "Prepetition Credit Agreement") by and among, among others, Cargo 360, Inc., Canadian Imperial Bank of Commerce, New York Agency (the "Prepetition Agent") as administrative agent, and the lenders party thereto from time to time (the "Prepetition Lenders"); *provided, however,* that any person or entity who wishes to assert a prepetition claim that is not based solely upon the obligations arising under the Prepetition Credit Agreement, must file a Proof of Claim on or before the applicable Bar Date;
- (k) any person or entity that holds an interest in any Debtor, which interest is based **exclusively** on the ownership of common or preferred stock, membership interests, partnership interests, or warrants or rights to purchase, sell, or subscribe to such a security or interest; *provided, however,* that any interest holder who wishes to assert any claim (as opposed to ownership interest) against any of the Debtors that arises out of or relates to the ownership or purchase of an interest, including claims arising out of or relating to the sale, issuance, or distribution of the interest, must file its Proof of Claim on or before the Bar Date, unless another exception identified herein applies;⁴ and
- (l) any holder of a claim for which the Court has already fixed a specific deadline to file a Proof of Claim.

10. Any holder of a prepetition claim against the Debtors who receives notice of the Bar Dates (whether such notice was actually or constructively received) and is required, but fails, to file a Proof of Claim in accordance with this Order on or before the Bar Date applicable to such claim holder, shall not be permitted to vote to accept or reject any chapter 11 plan filed in

⁴ The Debtors reserve all rights with respect to any such claims including, among others, the right to assert that such claims are subject to subordination pursuant to section 510(b) of the Bankruptcy Code.

these chapter 11 cases, to participate in any distribution in Debtors' chapter 11 cases on account of such claim, or to receive further notices regarding such claim.

11. The Bar Date Notice, substantially in the form attached to the Motion as Exhibit C, is approved.

12. Pursuant to Bankruptcy Rule 2002(a)(7), the Debtors shall serve the Bar Date Notice and a Proof of Claim Form by first-class mail on:

- (a) the U.S. Trustee;
- (b) counsel to the Creditors' Committee;
- (c) all known holders of claims listed on the Schedules at the addresses stated therein (as amended or supplemented from time to time);
- (d) all parties known to the Debtors as having potential claims against any of the Debtors' estates;
- (e) all counterparties to the Debtors' executory contracts and unexpired leases listed on the Schedules (including all collective bargaining agreements) at the addresses stated therein (as amended or supplemented from time to time);
- (f) all parties to litigation with any of the Debtors (as of the date of the entry of this Bar Date Order);
- (g) all parties who have requested notice pursuant to Bankruptcy Rule 2002;
- (h) all persons or entities that have previously filed Proofs of Claim;
- (i) the IRS;
- (j) the SEC;
- (k) the USAO
- (l) USTC;
- (m) DLA-Energy; and
- (n) all Governmental Units in these cases.

13. The Publication Notice, substantially in the form attached to the Motion as Exhibit D, is approved.

14. Pursuant to Bankruptcy Rules 2002(f) and (I), the Debtors shall publish the Publication Notice once in the national edition of The New York Times, at least thirty (30) days prior to the Bar Date, thereby further satisfying the requirements of Bankruptcy Rule 2002(a)(7), which publication shall be deemed good, adequate, and sufficient publication notice of the Bar Dates and the procedures for filing Proofs of Claim in these cases.

15. Should the Debtors amend or supplement their Schedules subsequent to entry of the order establishing the Bar Date, the Debtors will give notice of any amendment or supplement to the holders of the claims affected thereby, and such holders shall be afforded until the later of (a) the applicable Bar Date, and (b) the date that is thirty (30) days after the mailing of such notice to file Proofs of Claim in respect of their claims; *provided, however*, that creditors are not entitled to an extension of the applicable Bar Date if an amendment to the Schedules increases the scheduled amount of an undisputed, liquidated, non-contingent claim.

16. If the Debtors determine after the mailing date of the Bar Date Notice that an additional party or parties should receive the Bar Date Notice, the date by which a Proof of Claim must be filed by such additional party or parties shall be the later of (a) the Bar Date and (b) the date that is thirty (30) days after the mailing date of the Bar Date Notice to such additional party or parties.

17. Notwithstanding the decretal paragraphs above, the last day for any entity asserting a claim arising from the recovery of a voidable transfer will be the later of (a) the Bar Date and (b) the first business day that is at least thirty (30) days after the mailing of notice of entry of any order approving the avoidance of the transfer.

18. The Debtors and KCC are authorized and empowered to take such steps and perform such acts as may be necessary or appropriate to implement and effectuate the terms of this Order.

19. Entry of this Order is without prejudice to the right of the Debtors to seek a further order of this Court fixing a date by which holders of claims or interests not subject to the Bar Dates established herein shall file such Proofs of Claim or interests or be forever barred from asserting such claims or interests against the Debtors or their estates.

20. The Court shall retain jurisdiction with respect to this Order and any related proceedings.

Dated: 10/24, 2012
Wilmington, Delaware



CHRISTOPHER S. SONTCHI
UNITED STATES BANKRUPTCY JUDGE