

IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

In re:) Chapter 11
)
ATA Holdings Corp., et al.,¹) Case No. 04-19866
) (Jointly Administered)
Debtors.)

**MOTION ON SHORTENED NOTICE TO REJECT REAL PROPERTY LEASE WITH
AMERICAN NATIONAL BANK & TRUST COMPANY**

ATA Airlines, Inc. ("ATA"), one of the debtors and debtors in possession (collectively, the "Debtor") in the above captioned chapter 11 cases (the "Chapter 11 Cases"), files this motion (the "Motion") for entry of an order (the "Order"), the proposed form of which is attached as Exhibit A, authorizing ATA to reject the Reservation Center Lease (as defined herein) effective as of Effective Date (as defined herein) pursuant to 11 U.S.C. § 365.

In support of this Motion, ATA states as follows:

JURISDICTION

1. On October 26, 2004 (the "Petition Date"), each of the Debtors filed with the United States Bankruptcy Court for the Southern District of Indiana, Indianapolis Division (the "Bankruptcy Court"), its respective voluntary petition for relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101 et seq. as amended (the "Bankruptcy Code") commencing these Chapter 11 Cases. 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.

¹ The Debtors are the following entities: ATA Holdings Corp. (04-19866), ATA Airlines, Inc. (04-19868), Ambassador Travel Club, Inc. (04-19869), ATA Leisure Corp. (04-19870), Amber Travel, Inc. (04-19871), American Trans Air Execujet, Inc. (04-19872), ATA Cargo, Inc. (04-19873), and Chicago Express Airlines, Inc. (04-19874).

2. No trustee or examiner has been appointed. On November 1, 2004, the United States Trustee appointed an official committee of unsecured creditors (the "UCC") pursuant to § 1102(a)(1) of the Bankruptcy Code.

3. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper before this Court under 28 U.S.C. §§ 1408 and 1409.

4. The statutory basis for the relief sought herein is Section 365(a) of the Bankruptcy Code.

BASIS FOR RELIEF

5. ATA and American National Bank & Trust Company of Chicago, not personally but solely as Trustee under Trust No. 432427 (the "Landlord") are parties to that certain Citicorp Plaza Office Lease dated May 25, 1995 (the "Reservation Center Lease").

6. Pursuant to the Reservation Center Lease, ATA leases from Landlord and Landlord leases to ATA certain premises in an office building which is part of an office complex known as Citicorp Plaza in Chicago, Illinois, all as more particularly described in Section 2.02 of the Reservation Center Lease (the "Leased Premises").

7. The Leased Premises are currently used by ATA as its Chicago reservations center. ATA intends to relocate its Chicago reservations center to Indianapolis, Indiana. As a result, ATA will have no further use for the Leased Premises and anticipates vacating and surrendering the Leased Premises by March 31, 2005.

REJECTION OF THE RESERVATION CENTER LEASE

8. Section 365(a) of the Bankruptcy Code provides that a debtor "subject to the court's approval, may assume or reject any executory contract or an unexpired lease." 11 U.S.C. § 365(a). The assumption or rejection of an unexpired lease or executory contract by a debtor is subject to review under the business judgment standard. See, e.g., Control Data Corp. v. Zelman (In re Minges), 602 F.2d 38, 43 (2d Cir. 1979) (Act case); In re Gucci, 193 B.R. 411, 414-15 (S.D.N.Y. 1996); In re Federated Dept. Stores, Inc., 131 B.R. 808, 811 (S.D. Ohio 1991) ("Courts traditionally have applied the business judgment standard in determining whether to authorize the rejection of executory contracts and unexpired leases"); In re Cutters, Inc., 104 B.R. 886, 889 (Bankr. M.D. Tenn. 1989). This standard is satisfied when a debtor demonstrates that rejection will benefit the estate. See, e.g., In re Riodizio, Inc., 204 B.R. 417, 424 (Bankr. S.D.N.Y. 1997); In re Stable Mews Assoc., Inc., 41 B.R. 594, 596 (Bankr. S.D.N.Y. 1984).

9. If the debtor's business judgment has been reasonably exercised, a court should approve the assumption or rejection of an unexpired lease or executory contract. See, e.g., Group of Institutional Investors v. Chicago, M., St. P. & P.R.R. Co., 318 U.S. 523, 550-51 (1943); Sharon Steel Corp. v. Nat'l Fuel Gas Distrib. Corp., 872 F.2d 36, 39-40 (3d Cir. 1989); In re Child World, Inc., 142 B.R. 87, 90 (Bankr. S.D.N.Y. 1992); see also Allied Tech., Inc. v. R.B. Brunemann & Sons, Inc. (In re Allied Tech., Inc.), 25 B.R. 484, 495 (Bankr. S.D. Ohio 1982) ("Court approval of a debtor in possession's decision to assume the lease should only be withheld if the debtor's judgment is clearly erroneous, too speculative or contrary to the provisions of the Bankruptcy Code").

10. The business judgment rule has vitality in chapter 11 cases and shields a debtor's management from judicial second-guessing. See, e.g., Official Comm. Of Subordinated

Bondholders v. Integrated Res., Inc. (In re Integrated Res., Inc.), 147 B.R. 650, 656 (S.D.N.Y. 1992); see also Committee of Asbestos-Related Litigants and/or Creditors v. Johns-Manville Corp (In re Johns-Manville Corp.), 60 B.R. 612, 615-16 (Bankr. S.D.N.Y. 1986) ("[T]he Code favors the continued operation of a business by a debtor and a presumption of reasonableness attaches to a debtor's management decisions.").

11. The Leased Premises are used to house ATA's Chicago reservations center. ATA has determined in its business judgment to relocate its Chicago reservations center to Indianapolis, Indiana. As a result of the anticipated relocation of the reservations center, ATA no longer have a need for the Leased Premises and the decision to reject the Reservations Center Lease is within ATA's sound business judgment.

12. ATA requests that any rejection of the Leased Premises be effective (the "Effective Date") as of the earlier of: (i) the date upon which ATA surrenders full possession of the Leased Premises to Landlord, or (ii) March 31, 2005.

NO PRIOR REQUEST

13. No prior motion for the relief requested herein for the Reservation Center Lease has been made to this or any other Court.

WHEREFORE, the Debtor requests that the Court enter an order, substantially in the form attached hereto as Exhibit A, authorizing but not requiring the Debtor to reject the Reservation Center Lease as of the Effective Date.

Respectfully submitted,

BAKER & DANIELS

By: /s/Jeffrey C. Nelson

Attorneys for the Debtors and Debtors-in-Possession

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was served this 3rd day of March, 2005, by electronic mail on the Core Group, 2002 List, Appearance List, and the following:

American National Bank & Trust Company of Chicago,
not personally but solely as Trustee under
Trust No. 43427
c/o Romanek Properties, Ltd.
8410 West Bryn Mawr
Chicago, IL 60631

Romanek Properties Ltd.
Attention: Director of Management
8420 West Bryn Mawr, Suite 190
Chicago, IL 60631

/s/ Jeffrey C. Nelson