

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

In Re:)	Case No. 04-19866
)	
ATA HOLDINGS CORP., et al., ¹)	Chapter 11
)	
Debtor.)	

**RESPONSE OF ECAST SETTLEMENT CORPORATION TO DEBTOR
C8 AIRLINES, INC.'S OBJECTION TO CLAIM NUMBERS 2142, 2143, AND 2144
AND MOTION TO ALLOW CLAIMS 2142, 2143, AND 2144 AS TIMELY FILED**

eCAST Settlement Corporation (“eCAST”), by and through its undersigned counsel, hereby replies to Debtor C8 Airlines, Inc.’s (fka Chicago Express Airlines, Inc.) Objection to Claim Numbers 2142, 2143, and 2144, moves that Claim Numbers 2142, 2143, and 2144 be allowed as timely filed, and in support thereof, avers the following:

1. On October 26, 2004, Debtor Chicago Express Airlines, Inc. filed a voluntary petition under Chapter 11 of Title 11 of the United States Bankruptcy Code, and relief was ordered thereon. Debtor’s bankruptcy was assigned case number 04-19874.

2. On October 29, 2004 an Order Granting the Motion to Jointly Administer Case Number 04-19874 under Lead Case Number 04-19866 was filed.

3. On December 21, 2004, an Order Granting Debtor’s Motion to Set a Last Day to File Proofs of Claim was filed (Docket No. 877 in 04-19866) setting a proof of claim deadline of January 24, 2005.

4. Claimant MBNA America (Delaware), N.A. (“MBNA”) was not served with copies of the Order Granting Debtor’s Motion to Set a Last Day to File Proofs of Claim or of

¹ The Debtors are the following entities: ATA Holdings Corp. (04-19866), ATA Airlines, Inc. (04-19868), Ambasadair 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 C8 Airlines, Inc., formerly named Chicago Express Airlines, Inc (04-19874).

the original Motion (Docket No. 42 in 04-19866), apparently because the Debtor did not list a debt to MBNA in its Schedule F.

5. On October 26, 2005, MBNA filed a general unsecured proof of claim in the amount of \$131.01 for the unpaid, pre-petition balance on Debtor Chicago Express Airlines, Inc.'s account number *****2411. The claim was designated as Claim Number 8 ("Claim 8") on the Court's claims register in case number 04-19874.

6. On October 26, 2005, MBNA filed a general unsecured proof of claim in the amount of \$4,543.34 for the unpaid, pre-petition balance on Debtor Chicago Express Airlines, Inc.'s account number *****4001. The claim was designated as Claim Number 9 ("Claim 9") on the Court's claims register in case number 04-19874.

7. On October 26, 2005, MBNA filed a general unsecured proof of claim in the amount of \$211.76 for the unpaid, pre-petition balance on Debtor Chicago Express Airlines, Inc.'s account number *****4143. The claim was designated as Claim Number 10 ("Claim 10") on the Court's claims register in case number 04-19874.

8. The accounts represented by Claims 8, 9 and 10 were subsequently sold to eCAST. Joint Notices of Transfer of Claims 8, 9 and 10 were filed in case number 04-19874 on May 22, 2006.

9. On February 28, 2008, Debtor C8 Airlines, Inc. (fka Chicago Express Airlines, Inc.) filed an Objection to eCAST's claims seeking to disallow the claims as tardily filed (according to the Debtor, the claims are identified as numbers 2142, 2143, and 2144 on the official claims register at www.bmccorp.net/ATA).

RESPONSE

10. eCAST does not dispute the fact that Court Claims 8, 9 and 10 were untimely filed. However, the original claimant, MBNA, was denied the opportunity to timely file a claim because it was not served with the Motion to Set a Last Day to File Proofs of Claim or the Order thereon.

11. Further, Debtor failed to include a debt owed to MBNA in its Schedule F of unsecured claims.

12. “[C]reditors have a right to adequate notice and the opportunity to participate in hearings/meetings in the court of a bankruptcy case, e.g., the meeting of creditors, the confirmation hearing, and/or other processes, such as the proof of claim process, before disallowance or discharge of their claims.” *In re Greenburgh*, 151 B.R. 709, 715 (Bankr. E.D. Pa. 1993).

13. In *In re Smith*, the Bankruptcy Court allowed a late filed proof of claim because the creditor did not have proper or adequate notice of the bankruptcy case. *In re Smith*, 217 B.R. 567 (Bankr. E.D. Ark. 1998).

14. If a creditor is “known” then the debtor is obligated to give the creditor actual notice of the bar date. *In re Interstate Cigar Company*, 150 B.R. 305, 309 (Bankr. E.D. N.Y. 1993) citing *In re Thomson McKinnon Securities, Inc.*, 130 B.R. 717, 720 (Bankr. S.D. N.Y. 1991); *In re Charter Co.*, 125 B.R. 650, 654 (Bankr. M.D. Fla. 1991).

15. The burden of establishing that a creditor has received appropriate notice rests with the debtor. *In re Hairopoulos*, 118 F.3d 1240, 1244 (8th Cir. 1997) (citations omitted). The Debtor has not come forward with any evidence to show that MBNA received proper notice of the deadline to file claims.

16. In accordance with Fed. R. Bankr. P. 9006(b)(1)(2), eCAST respectfully requests that the Court permit eCAST's claims to be deemed timely filed due the excusable neglect of original creditor MBNA.

WHEREFORE, eCAST Settlement Corporation respectfully requests that Debtor C8 Airlines, Inc.'s (fka Chicago Express Airlines, Inc.) Objection to Claim Numbers 2142, 2143, and 2144 (Court Claim Numbers 8, 9, and 10) be overruled and moves that Claim Numbers 2142, 2143, and 2144 be allowed as timely filed.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that on the 24th day of March 2008, I served or caused to be served via electronic means and/or first class United States mail, postage prepaid, a true and correct copy of the foregoing RESPONSE OF ECAST SETTLEMENT CORPORATION TO DEBTOR C8 AIRLINES, INC.'S OBJECTION TO CLAIM NUMBERS 2142, 2143, AND 2144 upon the parties listed below:

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Under penalty of perjury, I declare that the foregoing is true and correct.

DATE: 3/24/2008

BY: /s/Karl T. Ryan
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