

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

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

**AFFIDAVIT OF MICHAEL KENNELLY IN SUPPORT OF MOTION FOR ORDER  
UNDER 11 U.S.C. §§ 105(a) AND 363(b)(1) AUTHORIZING THE DEBTORS TO  
IMPLEMENT A KEY EMPLOYEE RETENTION PLAN FOR KEY EMPLOYEES**

I, Michael Kennelly, being of legal age, do affirm upon penalty of perjury that the following is true and accurate to the best of my knowledge and ability:

1. I am a Managing Director in Huron Consulting Group's Corporate Advisory Services group. I provide this affidavit in support of the Debtors' Motion for an Order permitting it to implement certain aspects of a Key Employee Retention Plan, a plan which I was responsible for developing. I have personal knowledge of the facts described herein and, if called, could testify competently thereto.

**A. Personal Background**

2. I received my Bachelor's degree from the University of Notre Dame in 1985. I am a Certified Public Accountant.

3. I provide financial advisory, bankruptcy interim management, restructuring, valuation, business planning, compensation and corporate governance assistance to senior business executives and counsel. Prior to joining Huron Consulting Group ("Huron"), I was the worldwide managing partner of the Strategic Value Services group at Arthur Andersen

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<sup>1</sup> 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).

LLP. I worked with clients in a number of industries, including manufacturing, transportation, technology, healthcare, telecommunications, food, consumer products, retail, construction and energy.

4. I have worked extensively throughout my career in assisting companies with a variety of complex financial advisory issues, frequently in crisis situations. I typically provide hands-on management of complex turnaround situations and often serve as interim Chief Financial Officer and Chief Restructuring Officer in turnaround environments. I have assisted companies with finance, valuation, accounting, and litigation issues surrounding restructuring, financial and tax reporting, forensic, transaction advisory, compensation, litigation and strategic matters throughout my career. Also, I have provided expert testimony on a number of occasions in federal and state jurisdictions, including U.S. Bankruptcy Court and U.S. Tax Court. My strategic work includes advising companies with regard to a variety of strategic issues, including restructuring, mergers and acquisitions, transaction advisory, value-based management, performance management, market communication and compensation. I developed the Huron Value Framework, which Huron has used to help several global organizations define and execute their most advantageous alternatives. I have designed and implemented approximately 10 executive compensation plans, each time analyzing the relevant market to ascertain the going rates for talented employees.

**B. Background of the ATA Key Employee Retention Plan**

5. In or around September 2004, ATA retained Huron to, among other things, assist ATA in developing a Key Employee Retention Plan (“KERP”). The loss or threatened loss of several key employees, decreasing economic conditions, and public reports of a potential bankruptcy filing threatened the departure of a number of critical ATA employees.

The company requested that Huron utilize its experience in such situations to design an appropriate plan to retain those key employees.

6. As part of my engagement, my staff and I analyzed both past employee retention plans and the present circumstances of ATA. Because of the possibility of a bankruptcy, the chances for employee departure increased substantially.

7. Over a number of weeks, Huron analyzed the available data, reviewed the available filings in a number of bankruptcy cases, sought guidance from legal articles and data provided by ATA's outside counsel and consulted with the company. In total, we examined the compensation plans used in over 35 bankruptcy cases. Based on these analyses, we worked with ATA executives to develop a KERP to be offered to specific key employees, comprised of a number of parts. The size and expense of the plan are made necessary by the size of ATA, the average compensation of executives and other key employees in this industry, and the risk to the company should these individuals leave.

### **C. The Plan**

8. The KERP developed for ATA is limited to only specific employees, with components that provide retention payments to encourage key employees to stay through the reorganization process, along with a severance provision to protect those key employees terminated during the pendency of these cases without cause or who may die during the reorganization process.

9. Our research revealed that retention plans normally include variously constructed retention payments in the amount of 50% - 150% of current salary for senior executives. The typical retention term was tied to specific milestones and/or dates, with payments sometimes accelerated with the confirmation of a reorganization plan.

10. We devised a KERP to retain key employees throughout the reorganization process, regardless of the outcome. Retention Incentives would be tied to “Tiers,” dependent upon such key employee’s position and salary as of October 1, 2004 (respectively, the “Annual Salary”). “Tier I” employees – the Debtors’ Chief Restructuring Officer, Vice Chairman, and certain Senior Vice Presidents – will receive retention incentives aggregating 100% of their Annual Salary, respectively.<sup>2</sup> “Tier II” – certain other executives – will receive retention incentives aggregating 75% of their Annual Salary respectively. “Tier III” employees – certain directors – will receive retention incentives aggregating 40% to 75% of their Annual Salary, respectively. Finally, “Tier IV” allows for a discretionary pool to cover employees not initially named in the KERP, but subsequently deemed by the Debtor’s Executive Committee as critical at any point during these Chapter 11 Cases (collectively, the “Tier IV Discretionary Employees”). The Tier IV Discretionary Employees, upon being designated, will receive retention incentives of up to 50% of their Annual Salary, respectively.

11. Key Employees will earn the right to receive the first KERP Retention Incentive approximately 4 months after the Petition Date, and will earn the right to receive the second Retention Incentive upon the earliest of confirmation of the plan of reorganization by the U.S. Bankruptcy Court, October 15, 2005 and the “Termination Date,” as defined in the KERP. Payments are contingent upon being either the participant being employed by the Debtors on the date of payment, except in the case of a participant’s death, voluntarily termination for “Good Reason,” as defined in the KERP, or involuntarily termination without Cause, as defined in the KERP, prior to the date of payment.

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<sup>2</sup> Tier I employees originally included CEO, J. George Mikelsons, but I understand Mr. Mikelsons has declined to participate in the KERP. Also, I understand that since the filing of these cases, two Tier I employees have submitted their resignations.

12. Because the Debtors have already identified the participating key employees (except for Tier IV), the Debtors calculate the cost of the KERP as being approximately \$4.5 million; this sum allows up to \$500,000 for the discretionary Tier IV.

**D. How The Plan Compares To Those Approved By Other Bankruptcy Courts**

13. We compared the KERP against a number of plans enacted by companies in similar situations (many of the comparables are described in the chart attached hereto as Exhibit A). Based upon that analysis, we believe ATA's plan is reasonable and appropriate.

14. Based on the available data, Huron's knowledge of other Chapter 11 cases, and our review of the ATA situation, we believe this plan is necessary to assure that the company operates successfully during the pendency of its Chapter 11 proceeding for the benefit of its creditors. The plan is also necessary to help the company successfully emerge from Chapter 11 as an ongoing entity.

FURTHER AFFIANT SAYETH NOT.

/s Michael Kennelly

Michael Kennelly

Managing Director, Huron Consulting Group

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the foregoing was served this 9<sup>th</sup> day of December, 2004, by facsimile, electronic mail or overnight on the Core Group and 2002 List.

/s/Terry E. Hall