

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

In re:)
) Case No. 04-19866-BHL-11
ATA HOLDINGS CORP. a/k/a Amtran, Inc.) Jointly Administered
et al.)
)
Debtors.)
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**OBJECTION OF SABRE INC. TO
NOTICE REGARDING MAXIMUM CURE AMOUNT**

Sabre Inc. ("Sabre"), through undersigned counsel, hereby objects to Debtors' Notice Regarding Maximum Cure Amounts dated November 29, 2004, and more particularly that certain Schedule Regarding Maximum Cure Amounts for Executory Contracts and Unexpired Leases That May Be Assumed and Assigned attached thereto, (the "Notice"). In support of this Objection, Sabre states as follows:

1. On October 26, 2004 (the "Petition Date"), the Debtors filed voluntary petitions in this Court commencing cases 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.

2. On or about November 29, 2004, Debtors served the Notice. The Notice seeks to establish the maximum amount that a Counterparty¹ to an executory contract or unexpired lease may assert in the event their contract is later assumed. Section 365 of the Bankruptcy Code does not require -- does not even contemplate -- determination of a cure

¹ Initially capitalized terms not otherwise defined have the meanings given to them in the Notice.

amount prior to the assumption of an executory contract. Neither does section 365 contemplate resolving issues of adequate assurance of future performance before the identity of the assignee is known with certainty. Section 365 does require, however, that Debtors cure all defaults, pre- and post-petition, existing under an assumed contract. The various Sabre agreements provide for interest, attorneys fees and other charges which are required to be paid under section 365 of the Bankruptcy Code and must be cured upon assumption. *See e.g. In re Child World, Inc.*, 161 B.R. 349, 353 (Bankr. S.D.N.Y. 1993).

3. Sabre is the Counterparty to five contracts listed on the Schedule attached to the Notice.² Debtors list the aggregate maximum cure amount applicable to those five contracts as \$63,000. Debtors currently have an outstanding balance of \$496,161.06 due and owing to Sabre.³ Of that amount, \$484,161.06 is pre-petition. Because the amounts due pursuant to the Contracts vary from month to month, Sabre cannot predict the cure amount that will be required on the date that any of the contracts are assumed. For example, certain services provided pursuant to the ITSA are billed based upon the

² Sabre is listed at entry 428 on page 31 of the Schedule. The four contracts Sabre is listed as being a counter-party to are the CRS Participating Carrier Agreement (Debtors are unable to identify which Debtor entity is party to this contract); Software License Agreement; Master Agreement for Software License and Professional Services; and Information Technology Services Agreement (the "ITSA") (collectively with the Borneman Contract, the "Contracts"). Sabre is also the Counterparty to the Flight Operations Agreement (the "Borneman Contract") listed at entry 73 on page 8 of the Schedule. (Debtors are also unable to identify which Debtor entity is party to the Borneman Contract.)

³ Sabre is unable to determine from the Schedule attached to the Notice, precisely to which contracts Debtors refer. Sabre and Debtors are parties to several Software Licenses, for example. Certain of the Contracts, such as the ITSA, have additional contracts (amendments, work orders and such) related to them. The outstanding amount includes all amounts due under contracts between Sabre and Debtors.

number of passengers boarding Debtors' airplanes. Other services are billed based upon the number of boarding passes issued.

3. Sabre objects to having to estimate a binding maximum cure amount Debtors will be obligated to pay if they assume the Contracts. Sabre also reserves its right to object to Debtors' future assumption or assignment of the Contracts unless and until such assumption or assignment complies with section 365 of the Bankruptcy Code, including prompt cure of all defaults and adequate assurance of future performance.

WHEREFORE, Sabre requests that this Court sustain Sabre's Objection and enter an Order granting such relief as is just.

Respectfully submitted this 10th day of December, 2004.

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