

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

In re:	)	Chapter 11
	)	
	)	Case No. 08-03675-BHL-11
ATA AIRLINES, INC.	)	
	)	
Debtor	)	

**DEBTOR'S OBJECTION TO PROOF OF  
CLAIM NUMBER 3153 FILED BY  
MITCHELL AIRCRAFT**

Hearing:	January 12, 2009 10:00 a.m. EST
Location:	U.S. Courthouse 46 E. Ohio Street, Room 349 Indianapolis, IN 46204
Telephonic Participation	
Dial-In:	1-800-559-0863
Passcode:	5294867#

**THIS IS AN OBJECTION TO YOUR CLAIM. YOU SHOULD IMMEDIATELY CONTACT THE OBJECTING PARTY TO RESOLVE THE DISPUTE. IF YOU DO NOT REACH AN AGREEMENT, YOU MUST FILE A RESPONSE TO THIS OBJECTION AND SEND A COPY OF YOUR RESPONSE TO THE OBJECTING PARTY NO LATER THAN 3 DAYS PRIOR TO THE HEARING. YOUR RESPONSE MUST STATE WHY THE OBJECTION IS NOT VALID. IF YOU DO NOT FILE A TIMELY RESPONSE, YOUR CLAIM MAY BE DISALLOWED WITHOUT FURTHER NOTICE OR HEARING. IF YOU FILE A TIMELY RESPONSE, THE HEARING WILL BE A PRE-TRIAL CONFERENCE FOR THE PURPOSE OF SETTING DISCOVERY AND TRIAL DATES AND DEADLINES.**

Pursuant to Rule 3007 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), ATA Airlines, Inc. (the "Debtor") files its Objection to Proof of Claim Number 3153 Filed by Mitchell Aircraft (the "Objection"). In support thereof, the Debtor respectfully represents as follows:

## **I. Jurisdiction**

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

## **II. Background**

2. On April 2, 2008 (the “Petition Date”), the Debtor filed a voluntary petition for relief under chapter 11 of title 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of Indiana, Indianapolis Division (the “Court”).

3. Prior to the Petition Date, the Debtor operated a diversified international passenger airline that operated in two principal business segments: (a) a low cost carrier operation that provided scheduled passenger service that leveraged a code share agreement with Southwest Airlines and (b) a charter operation focusing primarily on providing charter service to the United States government/military.

4. On August 7, 2008, the Court entered an Order Granting Motion to Establish a Bar Date for Filing Proofs of Claim and Approving Form and Manner of Notice Thereof (the “Bar Date Order”). Pursuant to the Bar Date Order, the deadline for filing a proof of claim was established as October 2, 2008 at 5:00 p.m. prevailing Eastern Time.

5. On August 29, 2008, Mitchell Aircraft (“Mitchell”) filed a proof of claim, claim number 3153, against the Debtor’s bankruptcy estate (the “Claim”) asserting the following: (a) an administrative claim pursuant to Section 503(b)(9) in an amount of \$4,862.68 (the “503(b)(9) Claim”), and (b) a general unsecured claim of \$31,000.00. This Objection only addresses the 503(b)(9) Claim.

### **III. Relief Requested and Applicable Authority**

6. The Debtor objects to the 503(b)(9) Claim because it is not based upon goods sold to the Debtor. Mitchell's 503(b)(9) Claim is based upon three separate charges: (i) an exchange fee (the "Exchange Fee") charged as part of a spare part exchange transaction (the "Exchange"), (ii) the costs to repair the spare part that was sent by the Debtor to Mitchell as part of the Exchange (the "Repair Charge"), and (iii) the cost of shipping the spare part from the Debtor to Mitchell (the "Freight Charge").

7. The Exchange Fee, Repair Charge, and Freight Charge do not qualify for administrative expense treatment pursuant to Section 503(b)(9) because they do not constitute the sale of goods as required by the plain language of Section 503(b)(9). Section 503(b)(9) of the Bankruptcy Code provides that an administrative expense claim shall be allowed for "the value of any goods received by the debtor within 20 days before the date of commencement of a case under this title in which the goods have been sold to the debtor in the ordinary course of such debtor's business." 11 U.S.C. § 503(b)(9).

8. Accordingly, the Debtor seeks entry of an order disallowing the amounts asserted in the 503(b)(9) Claim, and reclassifying those amounts as general unsecured claims.

### **Reservation of Rights**

9. The requested relief is without prejudice to any claims or causes of action belonging to the bankruptcy estate, nor does it constitute any waiver of claims or causes of action belonging to the bankruptcy estate. The requested relief, including any recharacterization of the Claim, does not constitute allowance of the Claim, and the Debtor expressly reserves the right to object to the allowance of the Claim. Additionally, the Debtor expressly reserves the right to amend,

modify or supplement the Objection, and to file additional objections, both technical and substantive, to the Claim.

**No Prior Request**

10. No prior request for the relief set forth herein has been made to this or any other court.

WHEREFORE, the Debtor respectfully requests that the Court enter an order granting the relief requested in this Objection and such other and further relief as may be just and proper.

Dated: December 2, 2008

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