

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

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

**MOTION UNDER BANKRUPTCY CODE
SECTION 363 FOR AUTHORITY TO
SELL CERTAIN SURPLUS AIRCRAFT
INVENTORY TO DSC TRADING, LLC**

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:	800-559-0863
Passcode:	5294867#

ATA Airlines, Inc. (the “Debtor”) files this Motion Under Bankruptcy Code Section 363 for Authority to Sell Certain Surplus Aircraft Inventory to DSC Trading, LLC (the “Motion”). In support of the Motion, the Debtor respectfully represents the following:

Jurisdiction

1. This Court has jurisdiction to consider this Motion 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.

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. On April 16, 2008 the United States Trustee appointed the Unsecured Creditors' Committee (the "Committee").

4. 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.

5. Also prior to the Petition Date, on December 18, 2005, the Debtor entered into a Consignment Agreement (the "Agreement") with DSC Trading, LLC ("DSC"). A copy of the Agreement is attached hereto as **Exhibit A**. Pursuant to the terms of the Agreement, DSC would sell certain of the Debtor's surplus aircraft inventory on consignment. The Agreement provided that DSC would be paid a commission (the "Commission") of 25 percent of the inventory's sale price. The payment schedule under the Agreement was structured such that DSC would retain the sale proceeds owed to the Debtor (the "Retained Sale Proceeds") for a period of time in order to allow DSC to provide refunds to any purchaser seeking to return the Inventory. After an accounting of the sale proceeds and the retention of the Commission, DSC would remit the Retained Sale Proceeds to the Debtor.

6. Currently, DSC holds \$74,458.16 worth of Retained Sale Proceeds. These funds were retained by DSC as a result of sales of Inventory made August through November of 2008. In addition, DSC in possession of certain remaining inventory belonging to the Debtor (the "Inventory") that DSC was unable to sell on consignment. Attached as **Exhibit B** is a listing of the items included in the Inventory.

Relief Requested and Applicable Authority

7. By this Motion, the Debtor seeks entry of an order pursuant to Section 363(b) of the Bankruptcy Code authorizing the Debtor to sell the Inventory to DSC. DSC has agreed to purchase the Inventory for \$94,800, to be paid out in three equal installments of \$31,600. The first installment will be due upon the Court's entry of an order approving the Motion. The second installment will be paid 30 days later and the final installment will be paid 60 days after the entry of the order. In addition, DSC will turn over the full amount of the Retained Sale Proceeds to the Debtor, pursuant to the terms of the Agreement.

8. The purchase price offered by DSC represents a recovery of approximately 3.5 % of the Debtor's acquisition cost for the Inventory. The Inventory consists of consumable/expendable material. As a comparison, similar items owned by the Debtor and sold at auction by Starman Bros. Auctions, Inc. ("Starman") were sold for a recovery of approximately 7.7%, after accounting for the commission paid to Starman. While the DSC offer represents a lower recovery percentage, the Debtor believes that the offer should be accepted for several reasons. First, the Inventory has been on consignment with DSC since before the Petition Date and has never sold, and appears to have little or no saleable quality. Moreover, selling the Inventory at auction will require the Debtor to incur costs associated with the recovery of the Inventory from DSC and the sale of the Inventory at an additional auction. Finally, even if the Debtor were to recover the Inventory and sell it at auction, given the inability of DSC to sell the Inventory over the past year, the Debtor does not believe that the results of such an auction would result in a higher recovery than the proposed sale to DSC. Accordingly, the costs associated with recovery and sale of the Inventory at auction outweigh the benefit, if any, the Debtor would realize by selling the Inventory at auction.

9. The Debtor has not taken steps to market the Inventory to parties other than DSC. For the reasons discussed above, the Debtor has determined that DSC's offer is the highest and best offer that the Debtor will receive for the Inventory. Accordingly, the Debtor seeks entry of an order authorizing the Debtor to sell the Inventory to DSC, free and clear of all liens, claims and encumbrances, for the Purchase Price.

Selling the Inventory Under Bankruptcy Code Section 363
is within the Business Judgment of the Debtor

10. Section 363(b) of the Bankruptcy Code provides that a Chapter 11 debtor must seek court approval to sell property of the estate outside the ordinary course of business. 11 U.S.C. § 363(b).

11. The sale of the Inventory is in the best interest of the Debtor and its estate. The Debtor has ceased operations, is winding down its business and no longer has a need for the Inventory. Furthermore, the sale of the Inventory to DSC will allow the Debtor to maximize the value to the estate by minimizing transaction costs associated with the sale.

12. The Debtor has accordingly determined, as an exercise of its sound business judgment, that the sale of the Inventory is in the best interest of the Debtor, its estate, its creditors, and all parties in interest and, consequently, the Debtor should be authorized to sell the Inventory to DSC.

WHEREFORE, the Debtor respectfully requests that the Court enter an order (i) granting the Motion (ii) authorizing the Debtor to sell the Inventory to DSC; and (iii) granting the Debtor such other legal and equitable relief to which it is justly entitled.

Dated: December 30, 2008

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