

Hearing Date: March 3, 2020 at 11:00 a.m. (prevailing Eastern Time)

Derrick Talerico
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*Counsel for Jason Chen, Edgar Park
and AirTourist Holdings LLC*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X	:	
In re:	:	Chapter 11
AIRFASTTICKETS, INC.,	:	Case No. 15-11951 (SHL)
	:	
Debtor.	:	
-----X	X	

**DECLARATION OF DERRICK TALERICO IN SUPPORT OF
STATEMENT IN SUPPORT OF MOTION OF THE LIQUIDATING TRUST
OF AIRFASTTICKETS, INC. UNDER SECTION 105(A) FOR AN ORDER
ESTABLISHING PROCEDURES FOR THE EXCHANGE OF
INFORMATION AND REVIEW OF INTELLECTUAL PROPERTY, SOFTWARE
AND RELATED ASSETS OF TRAVANA, INC. AND FAREPORTAL, INC. ON A
CONFIDENTIAL BASIS, IN CONNECTION WITH CONTESTED MATTER**

I, Derrick Talerico, do hereby declare:

1. I am an attorney at law, admitted to practice in the courts of the State of California. I am an approved and authorized filer of the Southern District of New York Bankruptcy Court NextGen system. I am a partner in the firm of Zolkin Talerico LLP, which maintains its principal office as 222 Pacific Coast Highway, El Segundo, California 90245.

2. This Declaration is made in support of the above-referenced Statement of Jason Chen, Edgar Park, and AirTourist Holdings LLC (collectively, the "Chen Parties") filed concurrently herewith. The facts set forth herein are based upon my personal knowledge and if called as a witness, I could and would testify competently thereto.

3. Over the months following this Court's entry of the Custodian Stipulation,¹ I engaged in discussion and alternating responsibility with counsel for Fareportal for drafting the initial draft of a protective order, as agreed to and anticipated by the Custodian Stipulation. *See* June 2019 emails attached hereto as Exhibit 1. On November 14, 2019, I emailed a draft protective order to counsel for Fareportal, which was never responded to. *See* November 14, 2019 email to Malani Cademartori at Sheppard Mullin attached hereto as Exhibit 2. I apprised Force 10 of the status of the protective order and discussed the need for a protective order to be entered prior to distribution of the Travana Assets. *See* November 18, 2019 email to Erik Nathan of Force 10 attached hereto as Exhibit 3. Mr. Nathan represented to me that there was no immediate need for the protective order as none of the other parties to the Custodian Stipulation had asked for copies of the Travana Assets.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 1st day of March, 2020, at Los Angeles, California.


Derrick Talerico

¹ Capitalized terms not defined herein shall have the terms as ascribed to them in the Motion.

EXHIBIT 1

June 2019 Emails

**Re: Travana: Stipulation to Amendment of Order Vacating Protective Order.docx**

1 message

Derrick Talerico <dtalerico@ztlegal.com>

Tue, Jun 18, 2019 at 11:50 A

To: Malani Cademartori <MCademartori@sheppardmullin.com>

Cc: Thomas Monahan <TMonahan@sheppardmullin.com>

Thank you both.

On Tue, Jun 18, 2019 at 11:42 AM Malani Cademartori <MCademartori@sheppardmullin.com> wrote:

This is confirmed. We will draft a protective order to be entered by the AFT Court for your review by end of week. Thanks.

Sent from my iPhone

On Jun 17, 2019, at 3:44 PM, Derrick Talerico <dtalerico@ztlegal.com> wrote:

Thanks again for the call last Thursday. Just to confirm, Sheppard Mullin will continue to hold documents confidential and attorneys' eyes only that were produced under the Travana protective order, pending entry of a new stipulation / protective order in AFT that will allow the docs produced to Sheppard Mullin to be shared with counsel for the AFT Trustee for purposes of resolving the Fareportal AFT claim.

On Wed, Jun 12, 2019 at 12:40 PM Malani Cademartori <MCademartori@sheppardmullin.com> wrote:

Lets do 11:30 a.m. ET. Shall we call you or do you want to call my office?

Malani Cademartori
SheppardMullin | New York
+1 212-634-3085 | ext. 23085

From: Derrick Talerico <dtalerico@ztlegal.com>**Sent:** Wednesday, June 12, 2019 3:57 AM**To:** Malani Cademartori <MCademartori@sheppardmullin.com>**Subject:** Re: Travana: Stipulation to Amendment of Order Vacating Protective Order.docx

Any time Thursday is fine.

On Tue, Jun 11, 2019 at 1:51 PM Malani Cademartori <MCademartori@sheppardmullin.com> wrote:

Derrick,

I hate to do this, but Tom Monahan, the lead litigator can't make tomorrow now for an emergency. Can you do after 10 am EST on Thursday?

Thanks,

Malani

Sent from my iPhone

On Jun 10, 2019, at 9:54 PM, Malani Cademartori <MCademartori@sheppardmullin.com> wrote:

Let's shoot for 10 am EST. I'll send out a dial in when I find out who from my litigation team will be on.

Thanks,

Malani

Sent from my iPhone

On Jun 10, 2019, at 4:08 PM, Derrick Talerico <dtalerico@ztlegal.com> wrote:

Wow. Hearing the news right now.

With agreement on stand still, let's set a time for Wednesday. I can do 10am EST or between 4:00 - 6:00 EST.

On Jun 10, 2019, at 12:38 PM, Malani Cademartori <MCademartori@sheppardmullin.com> wrote:

Hi Derrick,

I'm in Court all afternoon and unlikely to return to the office (helicopter crashed into a building next to ours and it's on fire). Let's set up a time though cause I want my litigator on with me - I don't know all the history and I need to defer to them. Tomorrow is terrible for me, would Wednesday work at all. We'll hold everything at stand still till then of course

Malani

Sent from my iPhone

Pg 5 of 13

On Jun 10, 2019, at 2:34 PM, Derrick Talerico <dtalerico@ztlegal.com> wrote:

Malani - Just tried you at the office. Can you please give me a call back today so we can straighten this out?

On Sun, Jun 9, 2019 at 12:18 PM Derrick Talerico <dtalerico@ztlegal.com> wrote:

Do you have time to talk today? You can reach me at 310.403.0090

Thanks

On Fri, Jun 7, 2019 at 8:34 PM Malani Cademartori <MCademartori@sheppardmullin.com> wrote:

Wow. Ok. So you'll be in my state.

I know how it is. My 87 year old mother lives with us.

Let me know your windows or if you would rather talk on Monday. What you are doing this weekend is not a small task. I am living it.

Sent from my iPhone

On Jun 7, 2019, at 11:13 PM, Derrick Talerico <dtalerico@ztlegal.com> wrote:

Okay. I'm on a red eye to NJ tonight. Arrive at 5:15am. Helping to move my dad into an assisted living facility (he turns 95 this month). So I'll be on EST and generally available throughout the weekend. 310.403.0090

On Jun 7, 2019, at 7:44 PM, Malani Cademartori <MCademartori@sheppardmullin.com> wrote:

We don't intend to use any of the discovery yet or disclose it. There are clearly things to discuss and deal with, but doing it all in one day without discussing all the issues doesn't work either - and with no time for us to have that or those related conversations having been presented with a document today.

Let's set a time tomorrow to discuss. No one else needs to be on that call really, unless they want to.

Sent from my iPhone

On Jun 7, 2019, at 10:25 PM, Derrick Talerico <dtalerico@ztlegal.com> wrote:

Hopefully I'm mistaken or read something into this that's not there, in which case, I apologize.

Please let me know where this stands as soon as possible.

On Fri, Jun 7, 2019 at 6:26 PM Derrick Talerico <dtalerico@ztlegal.com> wrote:

My jaw is on the ground.

We were all on the call about a month ago when I proposed that we would be okay removing the protective order language from the Stip if FP agreed to revise the Travana PO termination order to call for destruction. We all heard you say you think you're client would be okay with that.

The PO language came out of the Stip in the next version because of that understanding. You never reported that your client was not okay with the condition.

We were all on the May 15 email where I listed the conditions necessary for the Chen parties to support a Stip without protective order terms: the Travana PO termination order revised to call for destruction

We were all on the May 28 email where I plainly stated a "reminder" that it's not in the Stip but a predicate for Chen support was to have the Travana PO termination order revised.

Pg 6 of 13

We were all on the May 30 email where I plainly stated that I was going to prepare an application to the Travana court to have the Travana PO termination order revised to call for destruction and represent to the court that Fareportal agreed

We were all on the May 31 email where I stated Chen signed off on the Stip and that I spoke with Charley regarding amending the Travana PO termination to call for destruction.

Even this morning, in response to a request for sign-off on the Travana stipulation Charley Maher drafted, you did not say this was never agreed to...just casually stated that you needed to pass it on to your litigation team before responding.

Nobody. Not ever, not once, and especially no one from Sheppard Mullin, challenged any of these statements or cast any shadow of doubt upon them. On May 30...where I specifically state I will represent to the SF court that Fareportal agreed to revise the Protective order termination...you were silent. At every turn, you have lead the Chen parties to believe that Fareportal would and had agreed to revise the termination order. Now, below, for the first time...after I repeatedly stated the condition and that Fareportal agreed..you now say it was never a condition that was agreed to?!? You even acknowledge that I "asked" for it...so did you intentionally lead me to believe it was agreed by your silence although you were secretly waiting to announce your "we never agreed" position?

I will file an application with the SF court tonight or tomorrow. I will attach all of our correspondence. My clients will have to consider withdrawing from the AFT Stipulation and opposing entry of the Order approving it.

Your position on this is shocking. There are other words to describe what appears to be happening here, but I will use my better judgment and just leave it at "shocking."

Sheppard Mullin is advised to maintain the confidential nature of the documents produced under the protective order until my application to the Travana court is resolved.

On Fri, Jun 7, 2019 at 5:29 PM Malani Cademartori <MCademartori@sheppardmullin.com> wrote:

Derrick,

I don't think I'll be able to sign off on this tonight since it arrived today and needs to be vetted fully. In any event, I am also sure that representing that we have agreed in principal is not going to be accurate because that's the same as signing off on it. We won't agree to that language.

Further, it strikes me that the following statement is inaccurate:

As a condition to the stipulation, the parties agreed to request that the Court's order vacating the protective order be revised to call for the destruction of all documents produced under and subject to the protective order.

That was never a condition to the stipulation nor do I think that all the parties actually agreed to make the request. I know you asked for it, but I told you that we would need to review and consider your positions which, in any event, we're not properly part of the Custodian Stip nor should effect it. The agreement, if any, was to deal with all of this as part of the 2004 Motion.

Malani

Sent from my iPhone

On Jun 7, 2019, at 8:13 PM, Derrick Talerico <dtalerico@ztlegal.com> wrote:

Malani - Are you able to sign off on this? If not, I will need to file a motion to amend the protective order tonight. I will attach the stipulation and let the judge know that Fareportal has agreed in principal but was unable to confirm Fareportal's sign off on the language of the stipulation. If come Monday, you are able to provide sign-off, I will withdraw the motion and submit the stipulation in lieu. It all seems very unnecessary. If we cannot get sign-off from Fareportal, we may have to oppose the entry of the AFT custodian stipulation pending the Travana court approval of the revised termination order, as that has been a condition of the custodian stip.

On Fri, Jun 7, 2019 at 9:35 AM Malani Cademartori <MCademartori@sheppardmullin.com> wrote:

I need to pass this by my litigation team before I can respond. I'll let you know.

Malani

Sent from my iPhone

On Jun 7, 2019, at 12:34 PM, Derrick Talerico <dtalerico@ztlegal.com> wrote:

All - Attached is the draft Travana stipulation, subject to review/approval by the Travana Trustee. This does not call for AFT or HNA to sign...just Chen and Fareportal. If anyone has any comments, please provide them as soon as possible so this can be finalized and filed so the court can receive it during business hours.

----- Forwarded message

From: **Charles P. Maher** <cmaher@rinconlawlp.com>
Date: Fri, Jun 7, 2019 at 8:39 AM
Subject: Travana: Stipulation to Amendment of Order Vacating Protective Order.docx
To: Derrick Talerico <dtalerico@ztlegal.com>

Derrick,

I got your email. Attached is a draft stipulation. I have not had the opportunity to discuss it with the Trustee. I think she will be OK with it and am sending it to you now because of the time pressure. There is a possibility I might be wrong. I will let you know once I am able to talk to her.

Charley

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<Stipulation to Amendment
of Order Vacating Protective
Order.docx>

Attention: This message is sent by a law
firm and may contain information that is
privileged or confidential. If you received
this transmission in error, please notify the
sender by reply e-mail and delete the
message and any attachments.

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EXHIBIT 2

November 14, 2019 Email



Derrick Talerico <dtalerico@ztlegal.com>

AFT Protective Order

1 message

Derrick Talerico <dtalerico@ztlegal.com>

Thu, Nov 14, 2019 at 7:47 AM

To: Malani Cademartori <MCademartori@sheppardmullin.com>

Malani - I know this fell far off the back burner, but I understand that the Custodian is preparing copies of the Travana materials for the parties, per the terms of the Stipulation. In anticipation of these materials to be distributed, I prepared a protective order as discussed among the parties. I believe these terms and structure are minimally burdensome, and still allow the parties to use the Travana materials as needed for litigation.

Please let me know your thoughts. I did not send this to Hogan Lovells yet - thought we'd get to an agreeable form first.

FYI - I'm in Australia until November 29, but I am working and can still be reached by email/text/phone...just understand that I'm in a different time zone, so my response may not be immediate.

--

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AFT Protective Order Stipulation.doc

79K

EXHIBIT 3

November 18, 2019 Email



Derrick Talerico <dtalerico@ztlegal.com>

Re: AFT - Protective Order

1 message

Adam Meislik <ameislik@force10partners.com> Mon, Nov 18, 2019 at 3:32 PM
To: Derrick Talerico <dtalerico@ztlegal.com>, Erik Nathan <enathan@force10partners.com>

Erik, please update

On Mon, Nov 18, 2019, 3:30 PM Derrick Talerico <dtalerico@ztlegal.com> wrote:
Hey - Still in Australia, Tuesday morning here.

Where do you stand with copies for the parties? I sent Malani (Sheppard) a draft protective order 4 days ago, but haven't heard back from her yet. I'd like to have that in place before you distribute.

Call me if you can.

--

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