

UNITED STATES BANKRUPTCY COURT
 SOUTHERN DISTRICT OF NEW YORK

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 In re: : Chapter 11
 :
 AIRFASTTICKETS, INC., : Case No. 15-11951 (SHL)
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 Debtor. :
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**STIPULATED AND AGREED ORDER
 RESOLVING OBJECTIONS OF LIQUIDATING TRUST OF
AIRFASTTICKETS, INC. TO CLAIM NO. 86 OF FAREPORTAL, INC.**

This Stipulation and Agreed Order is entered into between (i) the Liquidating Trust of Airfasttickets, Inc. (the “Liquidating Trustee”), through Adam Meislik, the duly appointed trustee of the Liquidating Trust (the “Liquidating Trustee”), by its undersigned counsel, and (ii) Fareportal, Inc. (“Fareportal”, and collectively with the Liquidating Trust, the “Parties” and each a “Party”). The Parties hereby stipulate and agree as follows:

WHEREAS, on July 27, 2015, this bankruptcy case was commenced (the “Case”) upon the filing of an involuntary petition against Airfasttickets, Inc. (the “Debtor”) seeking an order for relief under chapter 7 of Title 11 of the United States Code (the “Bankruptcy Code”) with the United States Bankruptcy Court for the Southern District of New York (the “Court”).

WHEREAS, on October 27, 2015, after the Debtor consented to the involuntary petition, the Court entered an order converting the case to one under chapter 11 of the Bankruptcy Code [Docket No. 28].

WHEREAS, on November 24, 2015, the Court approved the sale of substantially all of the Debtor’s intellectual property, software and related assets to Travana [Docket No. 65] (the “Sale Order”).

WHEREAS, on February 26, 2016 the Court entered the *Order Granting Debtor's Motion Pursuant to 11 U.S.C. § 502(b)(9), Fed. R. Bankr. P. 2002 and 3003(c)(3), and Local Rule 3003-1 for Entry of an Order (i) Establishing Deadline for Filing Proofs of Claim and Procedures Related Thereto and (ii) Approving Form and Manner of Notice Thereof [ECF No. 109]* (the "Claims Bar Date Order"), which established April 6, 2016 (the "General Bar Date") as the deadline for parties to file general unsecured claims.

WHEREAS, on October 3, 2016, Fareportal filed a proof of claim (No. 86) (the "Claim") asserting a prepetition general unsecured claim in the "unliquidated amount of no less than \$10,000,000.00" based, in part, on Fareportal's assertion that its trade secrets, including without limitation, its software source code, was sold to Travana, Inc. ("Travana") as part of the Sale.

WHEREAS, on October 26, 2016, the Court entered its order [Docket No. 251] (the "Confirmation Order") confirming the *Debtor's Chapter 11 Plan of Liquidation* [Docket No. 157], as amended [Docket No. 238] (the "Plan") and approving the *Liquidating Trust Agreement for the Liquidating Trust of Airfasttickets, Inc.* (the "Liquidating Trust Agreement") attached thereto, thereby establishing the Trust Agreement and duly appointing Adam Meislik as the Liquidating Trustee. The Plan became effective on December 2, 2016 (the "Effective Date"). See Docket No. 262.

WHEREAS, on the Effective Date, pursuant to and in accordance with section 5.2 of the Plan and article VI Liquidating Trust Agreement, the Liquidating Trust was granted rights and powers, including the rights to object to Claims,¹ seek estimation of any Claim, and to assert and enforce all rights of setoff and recoupment and other defenses that the Debtor or its estate may have with respect to any such Claims. Likewise, section 6.5(c) of the Liquidating Trust

Agreement empowers the Liquidating Trust to compromise or settle any such Claims prior to and after objection “without further Bankruptcy Court approval[.]”

WHEREAS, on January 13, 2017, the Liquidating Trust filed its *First Omnibus Objection of the Liquidating Trust of Airfasttickets, Inc. to Certain Proofs of Claim (Amended and Superseded Claims, Claims to be Reclassified and/or Reduced, and No Liability Claims)* [Docket No. 280] (the “Omnibus Objection”) which, among other things, objected to the Fareportal Claim on the basis that (i) it was filed without supporting documentation or damages computations for its assertions and (ii) there is no basis for a liability Fareportal in the Debtor’s books and records.

WHEREAS, on February 8, 2017, Fareportal responded to the Omnibus Objection [Docket No. 287] (the “Fareportal Response”) disputing the accuracy of the Debtor’s books and records and asserting that the Liquidating Trust was on notice of the bases for the Fareportal Claim prior to its filing, due to Fareportal’s prior filings in this Case.

WHEREAS, on February 13, 2017, the Liquidating Trust filed a reply in further support of its Omnibus Objection [Docket No. 290] (the “Omnibus Reply”) to, among other claims, the Fareportal Claim. The Omnibus Reply also provided that the Fareportal Claim was filed more than six months after the General Bar Date.

WHEREAS, on April 11, 2017, the Court entered its Order [Docket No. 301] (the “Fareportal Order”) deeming the adjudication of the Fareportal Claim to be a contested matter (the “Contested Matter”) and preserved all of the parties rights, including without limitation, (i) the AFT Trust's right to amend, modify or supplement the Omnibus Objection as to the Fareportal Claim on any available substantive or procedural ground or to request estimation of

¹ Capitalized terms not defined herein shall have the meaning ascribed to them in the Plan.

the Fareportal Claim under section 502(c) of the Bankruptcy Code; and (ii) Fareportal's right to oppose such objections or arguments and to seek authorization to file a late-filed proof of claim.

WHEREAS, it has been nearly three years since the Fareportal Order was entered and the Contested Matter declared to be contested, during which time extensive pretrial discovery, litigation and negotiations have indefinitely delayed the adjudication of the Contested Matter, which, in turn, has delayed and disrupted distributions to beneficiaries of the Liquidating Trust.

WHEREAS, in connection with Fareportal and the Liquidating Trust's efforts to resolve the Contested Matter, Fareportal, the Liquidating Trust and certain other parties entered into that certain *Stipulation to Appoint the Liquidating Trust of Airfasttickets, Inc. as Custodian for Intellectual Property, Software and Related Assets of Travana, Inc.* dated May 31, 2019 [Docket No. 376, Ex. B] (the "Custodian Agreement"), approved by the Court through its *Order Approving Stipulation Establishing Custodianship for Travana Assets* [Docket No. 382] (the "Custodian Order").

WHEREAS, the Liquidating Trust and Fareportal have engaged in good-faith, arm's length negotiations and, as a result of which, the Parties have resolved all of the issues relating to the Claim and the Omnibus Objection.

NOW, THEREFOR, IT IS HEREBY ORDERED THAT:

1. The terms of this Stipulation and Agreed Order are hereby approved and so ordered.
2. The recitals set forth above are incorporated herein.
3. This Stipulation and Agreed Order does not constitute an admission by any of the Parties of any liability with respect to the subject matter hereof.

4. The Claim is hereby allowed as a general unsecured claim in the amount of \$3,000,000.00, which shall receive treatment as an Allowed General Unsecured Claim under Class 2-A in accordance with the terms of the Plan and the Liquidating Trust Agreement.

5. Upon entry of this Stipulation and Agreed Order, Fareportal and its heirs, successors, and assigns fully, finally and forever release, relinquish and discharge the Debtor, the Debtor's estate, the Liquidating Trust, Liquidating Trustee and their heirs, successors, agents and attorneys from all rights, claims, demands, damages of any kind, and causes of action of every nature, whether known or unknown, asserted or unasserted, except with respect to Fareportal's right to receive distributions on account of the Claim pursuant to the Plan, as expressly provided in this Stipulation and Agreed Order, and the Parties' rights, duties and obligations under the Custodian Agreement.

6. Upon entry of this Stipulation and Agreed Order, the Debtor, the Debtor's estates, the Liquidating Trust and the Liquidating Trustee and their heirs, successors, and assigns fully, finally and forever release, relinquish and discharge Fareportal and its heirs, successors, agents and attorneys from all rights, claims from all rights, claims, demands, damages of any kind, and causes of action of every nature, whether known or unknown, asserted or unasserted, other than with respect to the Parties' rights, duties and obligations under the Custodian Agreement.

7. For the avoidance of doubt, this Stipulation and Agreed Order shall not impact the Parties' rights, duties and obligations under the Custodian Agreement or the Custodian Order.

8. Upon entry of this Stipulation and Agreed Order, the Liquidating Trust or BMC Group, Inc., as the claims agent, shall be authorized to adjust the claims register to reflect the terms of this Stipulation and Agreed Order without further authorization from this Court.

9. The Parties executing this Stipulation and Agreed Order hereby represent and warrant that they are authorized to execute this Stipulation and Agreed Order on behalf of the entities named in their corresponding signature block.

10. Upon entry of this Stipulation and Agreed Order, the Parties represent and warrant to each other that this Stipulation and Agreed Order shall be valid, binding, and enforceable by and against each of the Parties hereto.

11. The Parties acknowledge that they have read and fully understand the terms of this Stipulation and Agreed Order agree that they are entering into this Stipulation and Agreed Order knowingly and voluntarily and agree to all of its provisions.

12. Notwithstanding the possible applicability of Bankruptcy Rule 6004(h), the terms of this Stipulation and Agreed Order shall be immediately effective and enforceable upon its entry.

[Remainder of the page intentionally left blank.]

13. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Stipulation and Agreed Order.

**LIQUIDATING TRUST OF
AIRFASTTICKETS, INC.**

By: /s/ Aram Ordubegian
Aram Ordubegian

ARENT FOX LLP
555 West Fifth Street, 48th Floor
Los Angeles, CA 90013-1065
Tel.: (213) 629-7400
Fax.: (213) 629-7401
Email: aram.ordubegian@arentfox.com

*Counsel for Liquidating Trust of
Airfasttickets, Inc.*

IT IS SO ORDERED.

Dated: April __, 2020
New York, New York

FAREPORTAL, INC.

By: /s/ Malani J. Cademartori
Malani J. Cademartori

**SHEPPARD, MULLIN, RICHTER &
HAMPTON LLP**
30 Rockefeller Plaza
New York, New York 10112
Tel.: (212) 653-8700
Email: mcademartori@sheppardmullin.com

Counsel for Fareportal, Inc.

THE HONORABLE MICHAEL E. WILES
UNITED STATES BANKRUPTCY JUDGE