

Presentment Date: March 19, 2021 at 12:30 p.m. (prevailing Eastern Time)
Objection Deadline: March 19, 2021 at 11:30 a.m. (prevailing Eastern Time)

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*Counsel for the Liquidating Trust
of Airfasttickets, Inc.*

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:	:
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	Chapter 11
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AIRFASTTICKETS, INC.,	:
	Case No. 15-11951 (SHL)
	:
Debtor.	:
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NOTICE OF PRESENTMENT OF LIQUIDATING TRUST’S MOTION FOR AN ORDER ENTERING FINAL DECREE AND CLOSING THE CHAPTER 11 CASE

PLEASE TAKE NOTICE that upon the annexed *Liquidating Trust’s Motion for an Order Entering Final Decree and Closing Chapter 11 Case* (the “Motion”) filed by the Liquidating Trust of Airfasttickets, Inc. (the “Liquidating Trust”), through Adam Meislik (the “Liquidating Trustee”), the duly appointed trustee of the Liquidating Trust for the above-captioned debtor (the “Debtor”) pursuant to the confirmed *Debtor’s Second Amended Chapter 11 Plan of Liquidation* [Docket No. 238] (the “Plan”), the undersigned will present the attached proposed order to the Honorable Sean H. Lane, United States Bankruptcy Judge, Courtroom 701, at the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”), One Bowling Green, New York, New York 10004, on **March 19, 2021 at 12:30 p.m. (prevailing Eastern Time)**.

PLEASE TAKE FURTHER NOTICE that objections to the proposed order, if any,

must be in writing, must comply with the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and the Local Bankruptcy Rules for the Southern District of New York, must set forth the name of the objecting party, must state with particularity the basis for the objection and the specific grounds therefor, and must be filed with the Bankruptcy Court with a courtesy copy delivered to the Bankruptcy Court’s chambers, One Bowling Green, New York, New York 10004; and must be served on (a) the Office of the United States Trustee for the Southern District of New York, 201 Varick Street, Suite 1006, New York, New York 10014; (b) the attorneys for the Liquidating Trust, (i) Arent Fox LLP, 1301 Avenue of the Americas, Floor 42, New York, New York 10019 (Attn: Nicholas A. Marten, Esq.), (ii) Arent Fox LLP, 555 West Fifth Street, 48th Floor, Los Angeles, CA 90013 (Attn: Aram Ordubegian, Esq.); and (c) all parties who have requested notice pursuant to Bankruptcy Rule 2002; so as to be actually received no later than **March 19, 2021 at 11:30 a.m. (prevailing Eastern Time)** (the “Objection Deadline”). The electronic case filing docket number to which the filing relates shall be included in the upper right hand corner of the caption of all objections.

PLEASE TAKE FURTHER NOTICE that if the Bankruptcy Court determines to hold a hearing on the Application, parties wishing to telephonically appear or attend any such hearing must make arrangements through CourtSolutions LLC at www.Court-Solutions.com. Additional instructions for registering with CourtSolutions, LLC may be found at <http://www.nysb.uscourts.gov/sites/default/files/m543.pdf>.

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PLEASE TAKE FURTHER NOTICE that if no objections are timely filed, served, and received by the Objection Deadline, the proposed order may be entered without further notice or a hearing. If an objection is filed, you may be notified of a hearing to consider the requested relief.

Dated: March 2, 2021
New York, New York

ARENT FOX LLP

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*Counsel for the Liquidating Trust of
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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:	:
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AIRFASTTICKETS, INC.,	:
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Debtor.	:
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**LIQUIDATING TRUST’S MOTION FOR AN ORDER ENTERING
FINAL DECREE AND CLOSING THE CHAPTER 11 CASE**

The Liquidating Trust of Airfasttickets, Inc. (the “Liquidating Trust”), through Adam Meislik (the “Liquidating Trustee”), the duly appointed trustee of the Liquidating Trust for the above-captioned debtor (the “Debtor”) pursuant to the confirmed *Debtor’s Second Amended Chapter 11 Plan of Liquidation* [Docket No. 238] (the “Plan”), through its undersigned counsel, hereby files this motion (the “Application”) seeking entry of an order, substantially in the form attached hereto as **Exhibit A** (the “Proposed Order”), pursuant to section 350(a) of title 11 of the United States Code (the “Bankruptcy Code”), Rule 3022 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Rules 3022-1 and 9074-1 of the Local Rules for the Southern District of New York (the “Local Rules”), issuing a final decree and closing the Debtor’s above captioned chapter 11 case (this “Chapter 11 Case”). In support of this Motion, the Liquidating Trust respectfully states as follows:

JURISDICTION

1. The United States Bankruptcy Court of the Southern District of New York (this “Bankruptcy Court”) has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157 and 1334, and section 11.1(u) of the Plan. Venue of these proceedings and this Application is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

BACKGROUND

2. On July 27, 2015, an involuntary petition was filed against the Debtor seeking an order for relief under chapter 7 of the Bankruptcy Code in the Bankruptcy Court. On September 21, 2015, the Debtor consented to entry of the relief order [Docket No. 8]. On October 27, 2015, the Bankruptcy Court entered an order converting this Chapter 11 Case to one under chapter 11 of the Bankruptcy Code [Docket No. 28].

3. On February 25, 2016, the Bankruptcy 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* [Docket No. 109] (the “Bar Date Order”), establishing April 6, 2016 (the “General Bar Date”) as the deadline for all parties other than governmental units to file proofs of claim in the Chapter 11 Case asserting claims arising prior to the Petition Date, including Claims arising pursuant to section 503(b)(9) of the Bankruptcy Code, and April 25, 2016 (the “Governmental Bar Date”) as the deadline for governmental units to file proofs of claim in the Chapter 11 Case asserting claims arising prior to the Petition Date.

4. On October 26, 2016 (the “Confirmation Date”), the Bankruptcy Court entered its *Findings of Fact, Conclusions of Law and Order Confirming the Debtor’s Second Amended Chapter 11 Plan of Liquidation* [Docket No. 251] (the “Confirmation Order”) confirming the Plan.

5. The Plan established the date which is thirty (30) days after the Confirmation Date, or November 25, 2016, as the deadline for creditors to file proofs of claim seeking allowance of administrative expense claims (the “Administrative Expense Claim Bar Date” and, together with the General Bar Date and Governmental Bar Date, the “Bar Dates”), other than administrative expense claims of estate professionals. *See* Plan § 1.2.

6. On December 2, 2016 (the “Effective Date”), the Plan became effective. *See Notice of Occurrence of Effective Date of Plan* [Docket No. 262].

7. On the Effective Date, pursuant to and in accordance with sections 5.1-2 of the Plan and that certain Liquidating Trust Agreement annexed to the Confirmation Order as Exhibit B (the “Liquidating Trust Agreement”), the Liquidating Trust was granted certain rights and powers, including the rights to object to Disputed Claims, compromise or settle any such Claims prior to and after objection, seek estimation of any Claim, 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 Disputed Claims, and to make distributions to holders of Allowed Claims.

8. Since the Effective Date, the Liquidating Trust and its professionals worked to administer the Plan, including, among other things, objecting to and resolving Claims on behalf of the estates,¹ prosecuting avoidance actions and other value accretive causes of actions that

¹ *See, e.g.,* this Bankruptcy Court’s February 27, 2017 *Order Granting 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. 293] (the “Omnibus Claim Objection Order”), which sustained numerous objections to claims against the estate, and April 22, 2020 *Stipulated and Agreed Order*

generated over \$3 million in net value for the estate² and making distributions to certain holders of Allowed Claims.

9. On June 25, 2019, in connection with the disputed claim of Fareportal, Inc., the Bankruptcy Court entered its *Order Approving Stipulation to Establish Custodianship for Travana Assets* [Docket No. 382] (the “Travana Custodianship Order”) which, among other things, approved the *Stipulation to Appoint the Liquidating Trust of Airfasttickets, Inc. as Custodian for Intellectual Property, Software and Related Assets of Travana, Inc.* (the “Travana Custodian Agreement”) and authorized the Liquidating Trust to serve as Custodian under that agreement.

10. On November 25, 2020, the Bankruptcy Court entered its *Order (I) Approving Distributions to Holders of Allowed General Unsecured Claims; (II) Deeming Certain Administrative Expense Claims and Priority Unsecured Claims to be Fully Satisfied* [Docket No. 435] (the “Distribution Order”) which, among other things, approved the final list of holders of Allowed Claims who had returned the requisite tax information and were, therefore, entitled to distributions under the Plan. Following entry of the Distribution Order, the Liquidating Trust proceeded with making distributions pursuant to the Distribution Order. As of the filing of this Application distributions have been made.

11. Effective as of February 3, 2021, the Liquidating Trust resigned as Custodian under the Travana Custodian Agreement and its rights, duties and obligations thereunder were assumed by Force Ten Partners LLC as the successor Custodian.

Resolving Objections of Liquidating Trust of Airfasttickets, Inc. to Claim No. 86 of Fareportal, Inc. [Docket No. 428] (the “Fareportal Settlement Order”), which approved the settlement of the final disputed claim against the estate.

² See, e.g., this Bankruptcy Court’s December 27, 2017 *Order Approving Settlement of Claims Among the Liquidating Trust of Airfasttickets, Inc., Nikolaos Koklonis, Frank Ferro, ELeni Vareli, and National Union Fire Insurance Company of Pittsburg, PA.* [Docket No. 338] (the Koklonis Settlement Order”).

12. As of the filing of this Application, the administration of the Debtor's estate is substantially complete. Accordingly, contemporaneously with this Application, the Liquidating Trust is filing its *Application for Entry of an Order Authorizing Termination of Retention of Claims and Noticing Agent* (the "Application to Terminate Claims Agent") seeking, among other things, entry of an order authorizing the Liquidating Trust to terminate BMC Group, Inc. as the claims agent in this Chapter 11 Case.³ The Application to Terminate Claims Agent was served on notice of presentment, pursuant to Local Rule 9074-1 of the Bankruptcy Court, with the same presentment date and time as this Application, March 19, 2021 at 12:30 p.m. (prevailing Eastern Time) (the "Presentment Date").

BACKGROUND

13. By this Motion, the Liquidating Trust seeks entry of the Proposed Order closing the Chapter 11 Case; provided, however, that the Bankruptcy Court shall retain its jurisdiction as is provided in Article XI of the Plan.

BASIS FOR RELIEF

14. Section 350(a) of the Bankruptcy Code provides that "[a]fter an estate is fully administered and the court has discharged the trustee, the court shall close the case." 11 U.S.C. § 350(a). Bankruptcy Rule 3022, which implements section 350 of the Bankruptcy Code, further provides that "[a]fter an estate is fully administered in a chapter 11 reorganization case, the court, on its own motion or on motion of a party in interest, shall enter a final decree closing the case." Fed. R. Bankr. P. 3022.

15. The term "fully administered" is not defined in either the Bankruptcy Code or the Bankruptcy Rules. The Advisory Committee Note to Bankruptcy Rule 3022, however, sets

³ Additional details concerning the administration of this Chapter 11 Case are contained in the Final Decree

forth the following non-exclusive factors to be considered in determining whether a case has been fully administered:

- whether the order confirming the plan has become final;
- whether deposits required by the plan have been distributed;
- whether the property proposed by the plan to be transferred has been transferred;
- whether the debtor [or its successor] has assumed the business or management of the property dealt with by the plan;
- whether payments under the plan have commenced; and
- whether all motions, contested matters, and adversary proceedings have been finally resolved.

See, e.g., In re Union Home & Indus. Inc., 375 B.R. 912, 916 (B.A.P. 10th Cir. 2007) (recognizing that bankruptcy courts weigh the factors contained in the Advisory Committee Note when deciding whether to close a case); *In re Johnson*, 402 B.R. 851, 856 (Bankr. N.D. Ind. 2009) (same); *In re Mold Makers, Inc.*, 124 B.R. 766, 768 (Bankr. N.D. Ill. 1990) (using the factors contained in the Advisory Committee Note as a guide when deciding whether to close the debtor's chapter 11 case). The Editors' Comment to Bankruptcy Rule 3022 describes it as "a flexible Rule to permit the court to determine that an estate is fully administered and should be closed even though payments or other activities involving the debtor and its creditors might continue." *In re Gould*, 437 B.R. 34, 37-38 (Bankr. D. Conn. 2010) (quoting Fed. R. Bankr. P. 3022 ed. cmt). The Editors' Comment further notes that "the Advisory Committee interprets 'fully administered' very loosely and encourages courts to use substantially more discretion in deciding whether to close a Chapter 11 case than Code § 350 and the Rule literally read." *Id.*

Application.

11. Courts in the Second Circuit have recognized that the above factors are non-exclusive and are “plainly an aid or checklist that serves to insure that there is no unfinished business before the Court or in the case.” *In re Kliegl Bros. Universal Elec. Stage Lighting Co., Inc.*, 238 B.R. 531, 542 (Bankr. E.D.N.Y. 1999); *In re IDC Servs., Inc.*, 1998 U.S. Dist. LEXIS 13449, at *10-11 (S.D.N.Y. Aug. 28, 1998) (stating that the factors provide a “flexible standard” and holding that the bankruptcy court was not clearly erroneous in closing the debtor’s case when the plan had been confirmed and all disputed claims, except one, had been resolved). The entry of a final decree is essentially an administrative task. *Kliegl Bros.*, 238 B.R. at 541; *see also Gould*, 437 B.R. at 38 (noting that a final decree “simply delineates on the docket that the case is closed; it represents the administrative conclusion of a case for record keeping purposes”) (quoting *In re Fibermark, Inc.*, 369 B.R. 761, 765, 767 (Bankr. D. Vt. 2007)).

12. In addition to the factors set forth in the Advisory Committee Note, in determining whether to issue a final decree, courts have considered whether the plan of reorganization has been substantially consummated. *See Johnson*, 402 B.R. at 856 (considering substantial consummation as a factor in determining whether to close a case); *In re Gates Cmty. Chapel of Rochester, Inc.*, 212 B.R. 220, 224 (Bankr. W.D.N.Y. 1997) (same); *Walnut Assocs. v. Sidel*, 164 B.R. 487, 493 (E.D. Pa. 1994) (same).

16. The Chapter 11 Case has been “fully administered” within the meaning of section 350 of the Bankruptcy Code. The Plan was substantially consummated within the meaning of section 1101(2) of the Bankruptcy Code, making it appropriate for the Bankruptcy Court to enter a final decree closing the Chapter 11 Case. Among other things:

- Airfasttickets, Inc. has no ongoing operations;
- the Confirmation Order entered with respect to the Plan is final and non-appealable;

- the Effective Date of the Plan has passed;
- all disputed claims and adversary proceedings have been resolved; and
- other than reserves for funding the Chapter 11 Case's final administrative tasks, all funds required by the Plan have been distributed by the Liquidating Trust.

14. As of the date of this Motion, the Chapter 11 Case has no remaining motions, contested matters or adversary proceedings by or against the Debtor pending before this Bankruptcy Court. Claims against the estate have been fully administered and a first (and likely final) distribution to holders of allowed general unsecured claims has been made.

15. As of the Presentment Date of this Motion, the Liquidating Trust will have filed its remaining post-confirmation quarterly report(s) and have paid all quarterly fees to the U.S. Trustee, and shall pay any outstanding fees promptly.

17. Based on the foregoing, the Plan Administrator requests entry of a final decree closing the Cases.

NO PRIOR REQUEST

18. The Liquidating Trust has not previously sought the relief requested herein from this Bankruptcy Court or any other court.

NOTICE

19. Notice of this Application has been provided to: (a) the U.S. Trustee for Region 2; and (b) all parties who have requested notice pursuant to Bankruptcy Rule 2002.

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CONCLUSION

WHEREFORE, the Liquidating Trust respectfully requests that this Bankruptcy Court enter an order, substantially in the form of the Proposed Order annexed hereto as Exhibit A, closing this Chapter 11 Case and grant such other and further relief as is just and proper.

Dated: March 2, 2021
New York, New York

ARENT FOX LLP

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