

Hearing Date: December 1, 2015 at 10:00 p.m.
Objection Deadline: November 24, 2015 at 5:00 p.m.

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*Proposed General Bankruptcy and
Restructuring Counsel to the Debtor*

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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

**APPLICATION FOR AN ORDER AUTHORIZING THE
EMPLOYMENT OF ARENT FOX LLP AS GENERAL BANKRUPTCY
AND RESTRUCTURING COUNSEL FOR THE DEBTOR AND
DEBTOR IN POSSESSION *NUNC PRO TUNC* TO THE CONVERSION DATE**

The above-captioned debtor and debtor in possession (the “**Debtor**”) files this application (the “**Application**”) for entry of an order, substantially in the form attached hereto as **Exhibit A** (the “**Proposed Order**”), authorizing the Debtor to employ and retain Arent Fox LLP (“**Arent Fox**” or the “**Firm**”) as its general bankruptcy and restructuring counsel *nunc pro tunc* to October 27, 2015 (the “**Conversion Date**”), pursuant to 11 U.S.C. § 327(a), Fed. Rule Bankr.

Proc. 2014 and Local Rule 2014-1. This application shall serve as the engagement letter between Arent Fox and the Debtor. The terms of the engagement are the same as the terms that existed prior to the filing of the involuntary bankruptcy case. By separate application, the Debtor will seek to retain and employ Richards, Layton & Finger, P.A. (“RL&F”), as special counsel. In support of this Application, the Debtor concurrently submits the Declarations of Adam Meislik and Aram Ordubegian, incorporated herein by reference, and respectfully represents as follows:

I.

BACKGROUND

1. On July 28, 2015, certain of the Debtor’s creditors (the “**Petitioning Creditors**”) filed an involuntary petition against AirFastTickets, Inc. seeking an order for relief under chapter 7 of the Bankruptcy Code. Pursuant to the summons issued in conjunction with the involuntary petition, the Debtor had until August 21, 2015 to respond to the involuntary petition.

2. On August 20, 2015, the Petitioning Creditors filed a stipulation with the Court extending the Debtor’s time to respond to the involuntary petition, through and including September 21, 2015.

3. On September 21, 2015, in lieu of resisting the involuntary petition, the Debtor consented to the entry of the order for relief and filed its *Motion to Convert Chapter 7 Case to Chapter 11 Pursuant to 11 U.S.C. § 706(a)* [Dkt No. 10] seeking to convert its case to one under chapter 11 of the Bankruptcy Code.

4. On October 27, 2015 (the “**Conversion Date**”), the Court entered an order converting the Debtor’s case to chapter 11 of the Bankruptcy Code (the “**Chapter 11 Case**”), which included an Order for Relief.

5. The Debtor is managing its affairs as a debtor-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. As of the filing of this Application, no trustee, examiner or committee has been appointed.

6. Additional background facts surrounding the commencement of this Chapter 11 case is more fully described in *Declaration of Adam Meislik in Support Debtor's Motion for Authorization to Sell Substantially All of Its Property Free and Clear of All Liens, Claims, Encumbrances, and Other Interests to AirTourist, Inc.*, attached as Exhibit C to the *Debtor's Motion (i) for Authorization to (a) Sell Substantially All of Its Property Free and Clear of All Liens, Claims, Encumbrances, and Other Interests and (b) Assume and Assign Contracts and (ii) for Approval of Procedures for Determining Cure Amounts* [Dkt No. 27].

II.

JURISDICTION AND VENUE

7. This Court has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157 and 1334(b). Venue of these proceedings is proper in this judicial district pursuant to 28 U.S.C. §§ 1408 and 1409. Bankruptcy Code sections 327, 328, 504, and 1107, and Federal Rules of Bankruptcy Procedure 2014, 2016, and 5002, Local Bankruptcy Rule 2014-1 are the statutory predicates for the relief sought by this Application.

III.

RELIEF REQUESTED

8. The Debtor seeks to employ and retain Arent Fox *nunc pro tunc* to the Conversion Date to represent it as its general bankruptcy counsel in connection with its Chapter 11 Case for the tasks set forth below. Accordingly, the Debtor respectfully requests that the Court enter the Proposed Order authorizing it to employ and retain Arent Fox as its attorneys *nunc pro tunc* to the Conversion Date and as further described in the affidavit of Aram Ordubegian, a partner at

Arent Fox (the “**Ordubegian Affidavit**”), attached hereto as **Exhibit B** and the *Declaration of Adam Meislik in Support of Application to Employ and Retain Arent Fox LLP, as General Bankruptcy and Restructuring Counsel to the Debtor Nunc Pro Tunc to the Conversion Date* (the “**Meislik Declaration**”), a copy of which is attached hereto as **Exhibit C**.

9. The Debtor has selected Arent Fox as its general bankruptcy and restructuring counsel because Arent Fox has represented the Debtor by and through Mr. Meislik as the Debtor’s receiver and sole board member since July 21, 2015 and in connection with the involuntary case. During this time, Arent Fox has become familiar with the Debtor’s personnel, finances, and operations.

10. Moreover, the partners and associates of Arent Fox have considerable expertise in the fields of bankruptcy, insolvency, reorganizations, liquidations, debtors’ rights, debt restructuring and corporation reorganizations, commercial litigation, and intellectual property, among other practice areas. Accordingly, the Debtor believes that Arent Fox is well qualified to represent it in this Chapter 11 Case.

11. The Firm’s services for the Debtor are necessary to enable the Debtor to execute duties as a debtor in possession, including maximizing value to its creditors. Subject to further order of this Court, and without being exclusive, the Firm proposes to render the following types of legal services to the Debtor:

- a. Prepare the debtor’s motions, applications, answers, orders, memoranda, reports, and papers, etc., in connection with the administration of the debtor’s chapter 11 case;
- b. Advise the Debtor in connection with the administration of the debtor’s estate under chapter 11 of the Bankruptcy Code and compliance with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the guidelines and requirements of the Office of the United States Trustee;
- c. Consider and implement the debtor’s reorganization options and an appropriate exit strategy in the debtor’s chapter 11 case, including the sale of substantially all of the Debtor’s assets pursuant to section 363 of the Bankruptcy Code, assisting

RL&F to the extent necessary and as requested by the debtor, and/or a chapter 11 plan;

- d. Protect and preserve the debtor's estate by prosecuting and defending actions commenced by or against the debtor and analyzing claims filed against the debtor's estate and preparing necessary objections to proofs of claim filed against the estate;
- e. Investigate and prosecute the debtor's preference, fraudulent transfer, or other actions arising under the Bankruptcy Code and applicable law; and
- f. Render such other advice and services as the debtor may require in connection with the chapter 11 case.

12. Arent Fox has indicated a willingness to act on behalf of the Debtor and render the necessary professional services as attorneys for the Debtor.

13. The Debtor does not intend to have Arent Fox duplicate services and Arent Fox will coordinate with RL&F and the Debtor to make every effort to avoid and/or minimize duplication of services.

IV.

COMPENSATION

14. Subject to this Court's approval, and in accordance with Bankruptcy Code sections 328 and 1107, the Debtor wishes to employ Arent Fox with compensation at the expense of the Debtor's Estate on an hourly rate basis in accordance with its ordinary and customary hourly rates for services of this type and nature and for this type of matter in effect on the date such services are rendered and to reimburse Arent Fox for its actual, reasonable, and necessary out-of-pocket disbursements incurred in connection therewith. The principal attorneys presently designated to represent the Debtor are Aram Ordubegian, Andy S. Kong, and George V. Utlik. The guideline hourly rates for those individuals are \$705, \$565 and \$495, respectively.

15. The following are Arent Fox's current hourly rates for work of this nature:

- a. Partners: \$570 - \$940

- b. Of Counsel: \$555 - \$910
- c. Associates: \$320 - \$620
- d. Paraprofessionals: \$180 - \$320

Arent Fox's hourly rates are subject to adjustment on a periodic basis, typically annually.

16. In addition to Arent Fox's professional fees, its billing statements will include charges for reasonable and necessary third party and staff services employed in the course of its representation of the Debtor, as well as expenses incurred with respect to postage, messenger services, photocopying, filing fees, travel, computerized legal research, and facsimile transmission. These charges are separately itemized on Arent Fox's statements at scheduled rates based on the service involved and out-of-pocket disbursements incurred. No charges will be assessed for word processing or secretarial overtime in Arent Fox's representation of the Debtor. Arent Fox will charge the Debtor for these expenses in a manner and at a rate that is consistent with charges generally made to Arent Fox's other clients and with the U.S Trustee's guidelines.

17. Arent Fox intends to apply to the Court for allowance of compensation and reimbursement of expenses in accordance with the applicable provisions of the Bankruptcy Code, the applicable Federal Rules of Bankruptcy Procedure, the Local Rules, and Orders of this Court. Compensation will be payable to Arent Fox in compliance with the above rules, on an hourly basis, plus reimbursement of actual, necessary expenses incurred by Arent Fox.

18. Prior to the petition date, Arent Fox received a retainer of \$350,000 from the Debtor. After the appointment of a receiver on or about July 21, 2015 by the Delaware Court of Chancery ("Chancery Court"), Arent Fox's fees and expenses prior to the petition date were subject to approval of the Chancery Court. Prior to the appointment of the receiver, the Debtor paid Arent Fox a total of \$160,702.09 in fees and expenses. On July 31, 2015, the Chancery

Court approved \$33,328.00 in fees and expenses incurred through that date. Subsequently, on September 13, 2015, the Chancery Court approved another \$25,732.00 of fees and expenses incurred through that date. Arent Fox was given authority to apply the retainer before the entry of an order for relief.¹ Accordingly, on October 29, 2015, Arent Fox drew down \$68,378.62 from the retainer for unpaid fees accrued prior to entry of the order for relief. As a result, in total, Arent Fox has been paid \$288,140.71 prior to the Conversion Date, and holds a remaining retainer of \$32,200.78.

19. There are no arrangements between the Firm and any other entity for the sharing of compensation received or to be received in connection with this case, except insofar as such compensation may be shared among the partners, of counsel, and associates of the Firm.

V.

CONNECTIONS WITH THE DEBTOR AND OTHER PARTIES

20. To the best of the Debtor's knowledge, information, and belief, and except as otherwise set forth in the accompanying Ordubegian Affidavit, neither Arent Fox nor its respective attorneys are a creditor, equity security holder, or an "insider" of the Debtor as that term is defined in section 101(31) of the Bankruptcy Code. Moreover, Arent Fox and its respective attorneys have no connection with and no interests adverse to the Debtor, its creditors, the Estate, or any other party-in-interest herein or their respective professionals in matters relating to the Debtor and its Estate, and none of the attorneys comprising or employed by Arent Fox are related to any judge of the United States Bankruptcy Court for the Southern District of New York, the U.S. Trustee, or any person employed in the Office of the United States Trustee.

21. To the best of the Debtor's knowledge and based upon the attached Ordubegian Affidavit, neither the Firm nor any of its partners, of counsel, or associates is or was, within two

¹ The Chancery Court's order required Arent Fox to seek after-the-fact Chancery Court approval of all fees for which that retainer was applied, and to move for relief from stay if necessary to effectuate that result.

years before the date of the filing of the petition, a director, officer, or employee of the Debtor.

22. To the best of the Debtor's knowledge and except as otherwise disclosed in the Ordubegian Affidavit, Arent Fox: (i) does not hold or represent any interest adverse to the Debtor with respect to the matters for which it is being retained; (ii) Arent Fox is a "disinterested person" as that phrase is defined in Bankruptcy Code section 101(14) (as modified by Section 1103(b) of the Bankruptcy Code); (iii) neither Arent Fox nor its professionals have any connection with the Debtor, its Estate, or its creditors; and (iv) Arent Fox's employment is necessary and in the best interests of the Debtor's Estate.

23. The Debtor intends to timely file its schedules of assets and liabilities as well as statement of financial affairs. Arent Fox will file additional and supplemental disclosure statements upon the filing of the schedules, if necessary.

VI.

NOTICE AND NO PRIOR APPLICATION

24. Notice of this Application shall be provided to: (a) the Office of the United States Trustee for the Southern District of New York; (b) the Debtor's twenty (20) largest unsecured creditors; (c) counsel to the proposed purchaser; (d) counsel to Nikolaos Koklonis, the Debtor's majority stockholder; (e) counsel to the petitioning creditors; and (f) all parties that have requested or that are required to receive notice pursuant to Bankruptcy Rule 2002. The Debtor submits that no other or further notice is necessary.

25. No prior application has been made for the relief requested herein to this or any other Court.

WHEREFORE, for the reasons set forth herein, the Debtor respectfully requests that the Court enter the Proposed Order, substantially in the form attached hereto as **Exhibit A**, granting the relief requested herein and such other and further relief as the Court deems just and proper.

Dated: November 13, 2015

AirFastTickets Inc.
Debtor

By: 

Adam Meislik