



CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed December 1, 2016


United States Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re: § Chapter 11
ERICKSON INCORPORATED, *et al.*,¹ § Case No. 16-34393-hdh
Debtors. § Jointly Administered)

**ORDER GRANTING DEBTORS' FIRST OMNIBUS MOTION UNDER BANKRUPTCY
CODE SECTION 365 FOR AUTHORITY TO REJECT CERTAIN AIRCRAFT LEASES
WITH COPTER LEASE, L.L.C. *NUNC PRO TUNC* TO THE PETITION DATE**

[Related to Docket No. 22]

Upon the motion (the "**Motion**")² of the Debtors for entry of an order (this "**Order**") pursuant to sections 365 and 1110 of the Bankruptcy Code, and Bankruptcy Rules 2002, 6004

¹ The Debtors in these Chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, include: Erickson Incorporated (7561); EAC Acquisition Corporation (3733); Erickson Helicopters, Inc. (5052); Erickson Transport, Inc. (9162); Evergreen Helicopters International, Inc. (1311); Evergreen Equity, Inc. (9209); and Evergreen Unmanned Systems, Inc. (3961). The location of the Debtors' service address is 5550 SW Macadam Avenue, Suite 200, Portland, OR 97239.

² Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Motion.



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and 6006 authorizing the Debtors to reject certain aircraft leases set forth on **Exhibit B** to the Motion attached thereto and (b) deeming the rejection consistent with section 1110(c)(1) of the Bankruptcy Code all as more fully described in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and venue being proper in this District pursuant to 28 U.S.C. § 1408; and due and proper notice of the Motion having been provided to (i) the Office of the United States Trustee; (ii) the holders of the 20 largest unsecured claims against Erickson Incorporated and Erickson Helicopters, Inc.;³ (iii) Randall Klein, Goldberg Kohn, Ltd., 55 East Monroe Street, Suite 3300, Chicago, Illinois 60603-5792, lead counsel for Wells Fargo Bank, N.A., as DIP Revolving Facility Agent and Existing First Lien Agent; (iv) David Weitman, K&L Gates LLP, 1717 Main Street, Suite 2800, Dallas, Texas 75201, local counsel for Wells Fargo Bank, N.A., as DIP Revolving Facility Agent and Existing First Lien Agent; (v) Scott L. Alberino, Akin Gump Strauss Hauer & Feld LLP, 1333 New Hampshire Avenue, N.W., Washington, DC 20036-1564, counsel for an ad hoc group of holders of 8.25% Second Priority Senior Secured Promissory Notes due 2020; (vi) Edward M. Fox, Esq., Seyfarth Shaw LLP, 620 8th Avenue, New York, NY 10018, counsel to Wilmington Trust, National Association, as indenture trustee and notes collateral agent for the 8.25% Second Priority Senior Secured Promissory Notes due 2020; (vii) the Securities and Exchange Commission; (viii) the Internal Revenue Service and (ix) the parties listed on Exhibit B and Exhibit C to the Motion; and it appearing that no other or further notice need be provided; and a hearing having been held to consider the relief requested in the Motion; and upon the *Lancelot Declaration*, filed contemporaneously with the Motion, the record of the Hearing and all of the proceedings had

³ Erickson Incorporated and Erickson Helicopters, Inc. are the only Debtors with holders of unsecured claims.

before the Court; and the Court having found and determined that the relief sought in the Motion is in the best interests of the Debtors, their estates and creditors, and all parties in interest and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is hereby ORDERED that:

1. The Motion is granted as provided herein.
2. Pursuant to section 365 of the Bankruptcy Code and Bankruptcy Rule 6006, the rejection of both of the aircraft leases between Erickson Helicopters, Inc. and Copter Lease, L.L.C. listed on **Exhibit B** to the Motion (the “*Aircraft Leases*”) is authorized and approved *nunc pro tunc* to the Petition Date; provided, the Excess Aircraft related to the Aircraft Leases (the “*Copter Excess Aircraft*”) shall not be deemed abandoned by the Debtors' estates until the earlier of (a) the fifteenth (15th) day after entry of this Order and (b) the date on which the Aircraft Lease counterparty takes possession of such Copter Excess Aircraft.
3. The Debtors are required to (i) maintain their current insurance coverage and continue the existing storage maintenance program applicable to each item of the Copter Excess Aircraft until the earlier of (a) the fifteenth (15th) day after entry of this Order and (b) the date on which the Aircraft Lease counterparty takes possession of such Copter Excess Aircraft and (ii) thereafter to cease insuring and maintaining such Copter Excess Aircraft. The Debtors shall not use the Copter Excess Aircraft or remove any components of the Copter Excess Aircraft prior to the Aircraft Lease counterparty taking possession of such Copter Excess Aircraft.
4. If a counterparty does not retrieve the Copter Excess Aircraft within fifteen (15) days of entry of this Order, such counterparty shall be responsible for the costs of storing such aircraft and maintaining such aircraft in addition to all other attendant costs as reasonably determined by the Debtors, including the costs of insuring the relevant Copter Excess Aircraft.

5. If a counterparty does not remove the Copter Excess Aircraft or make timely payments for storage, the Debtors may file a motion to compel removal of the Copter Excess Aircraft and/or payment of storage and maintenance together with other attendant costs.

6. The return of the Copter Excess Aircraft in accordance with the Procedures satisfies the “surrender and return” requirements of section 1110(c) of the Bankruptcy Code, in the event section 1110 of the Bankruptcy Code is applicable.

7. Surrender and return is without prejudice to the rights of a counterparty to assert damages as part its claim for rejection damages, if any, or the Debtors or any other party to object to any such claims.

8. As soon as reasonably practicable, the Debtors shall make available to the applicable counterparties records and documents in Debtors’ possession relating to the Copter Excess Aircraft which are required to be returned under the applicable Aircraft Lease.

9. Upon written request from an affected counterparty, the Debtors shall cooperate reasonably with such counterparty with respect to the execution of, or providing of information required for a lease termination document or other documentation, as appropriate, to be filed with the FAA or the Capetown International Registry, if applicable, in connection with such Copter Excess Aircraft. However, the affected counterparty shall be solely responsible for all costs associated with such documentation and for the filing thereof with such applicable authorities.

10. The Debtors are authorized to execute and deliver all instruments and documents and take any additional actions as are necessary or appropriate to implement and effectuate the Procedures.

11. The Debtors shall ensure that no assets of the Debtors constituting the collateral of the DIP Revolving Facility Agent and the Existing First Lien Agent are returned to the

counterparties to the Aircraft Leases. Further, upon the surrender and return of the Copter Excess Aircraft to the counterparties to the Aircraft Leases, the Debtors shall provide to the DIP Revolving Facility Agent a detailed listing of the equipment, inventory, or other items of assets constituting the Debtors' assets and removed from the Copter Excess Aircraft.

12. To the extent applicable, the fourteen-day stay under Bankruptcy Rule 6004(h) is waived.

13. The Motion satisfies Bankruptcy Rules 6006 and 9014.

14. This Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

END OF ORDER

Submitted by:

HAYNES AND BOONE, LLP

Kenric D. Kattner

State Bar No. 11108400

Kourtney Lyda

State Bar No. 24013330

1221 McKinney Street, Suite 2100

Houston, TX 77010

Telephone: 713.547.2000

Facsimile: 713.547.2600

Email: kenric.kattner@haynesboone.com

Email: kourtney.lyda@haynesboone.com

and

Ian T. Peck
State Bar No. 24013306
Autumn Highsmith
State Bar No. 24048806
2323 Victory Avenue, Suite 700
Dallas, TX 75219
Telephone: 214.651.5000
Facsimile: 214.651.5940
Email: ian.peck@haynesboone.com
Email: autumn.highsmith@haynesboone.com

PROPOSED ATTORNEYS FOR DEBTORS