Hearing Date & Time: November 28, 2016 at 11:00 a.m. (Eastern Time)
Objection Deadline: November 21, 2016 at 4:00 p.m. (Eastern Time)

Bruce R. Zirinsky
Sharon J. Richardson
Gary D. Ticoll
ZIRINSKY LAW PARTNERS PLLC
375 Park Avenue, Suite 2607
New York, New York 10152
(212) 763-0192

Christopher K. Kiplok
Meaghan C. Gragg
Gregory C. Farrell
HUGHES HUBBARD & REED LLP
One Battery Park Plaza
New York, New York 10004
(212) 837-6000

Attorneys for the Debtors
and Debtors in Possession

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	**:**	**Chapter 11 Case No.**
REPUBLIC AIRWAYS HOLDINGS INC., *et al.*,	**:**	**16-10429 (SHL)**
Debtors.[1]	**:**	**(Jointly Administered)**

NOTICE OF HEARING ON DEBTORS' MOTION PURSUANT TO SECTIONS 105(a) AND 363(b) OF THE BANKRUPTCY CODE AND BANKRUPTCY RULE 6007 FOR APPROVAL OF (I) MERGER OF SHUTTLE AMERICA CORPORATION INTO REPUBLIC AIRLINE INC., AND (II) SURRENDER OF THE SHUTTLE AMERICA CORPORATION AIR CARRIER CERTIFICATE

1. The Debtors in these chapter 11 cases are the following entities: Republic Airways Holdings Inc.; Republic Airways Services, Inc.; Republic Airline Inc.; Shuttle America Corporation; Midwest Air Group, Inc.; Midwest Airlines, Inc.; and Skyway Airlines, Inc. The Debtors' employer tax identification numbers and addresses are set forth in their respective chapter 11 petitions.

PLEASE TAKE NOTICE that a hearing will be held at **11:00 a.m. (Eastern Time) on November 28, 2016** before the Honorable Sean H. Lane, United States Bankruptcy Judge, United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, New York 10004 to consider *Debtors' motion pursuant to sections 105(a) and 363(b) of the Bankruptcy Code and Bankruptcy Rule 6004 for approval of (i) merger of Shuttle America Corporation into Republic Airline Inc., and (ii) surrender of the Shuttle America Corporation air carrier certificate* (the "Motion").

PLEASE TAKE FURTHER NOTICE that any responses or objections (the "Objections") to the Motion shall be in writing, shall conform to the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules for the Southern District of New York, shall be filed with the Bankruptcy Court (a) by attorneys practicing in the Bankruptcy Court, including attorneys admitted pro hac vice, electronically in accordance with General Order M-399 (which can be found at www.nysb.uscourts.gov), and (b) by all other parties in interest, on a CD-ROM, in text-searchable portable document format (PDF) (with a hard copy delivered directly to Chambers), in accordance with the customary practices of the Bankruptcy Court and General Order M-399, to the extent applicable, and shall be served in accordance with General Order M-399 on (i) the attorneys for the Debtors, Zirinsky Law Partners PLLC, 375 Park Avenue, Suite 2607, New York, New York 10152 (Attn: Bruce R. Zirinsky, Esq. (bzirinsky@zirinskylaw.com), Sharon J. Richardson, Esq. (srichardson@zirinskylaw.com), and Gary D. Ticoll, Esq. (gticoll@zirinskylaw.com)) and Hughes Hubbard & Reed LLP, One Battery Park Plaza, New York, New York 10004 (Attn: Christopher K. Kiplok, Esq. (chris.kiplok@hugheshubbard.com) and Gabrielle Glemann, Esq. (gabrielle.glemann@hugheshubbard.com)), (ii) the Office of the United States Trustee, 201

Varick Street, Suite 1006, New York, New York 10014 (Attn: Brian Masumoto, Esq.), (iii) counsel to the Official Committee of Unsecured Creditors, Morrison & Foerster LLP, 250 West 55th Street, New York, New York 10019 (Attn: Brett H. Miller, Esq. (bmiller@mofo.com), Todd M. Goren, Esq. (tgoren@mofo.com), and Erica J. Richards, Esq. (erichards@mofo.com)), (iv) the Ad Hoc Committee of Equity Holders of Republic Airways Holdings Inc., Schulte Roth & Zabel LLP, 919 Third Avenue, New York, New York 10022 (Attn: Adam C. Harris, Esq. (adam.harris@srz.com), Lawrence V. Gelber, Esq. (lawrence.gelber@srz.com), and David M. Hillman, Esq. (david.hillman@srz.com)), and (v) all entities that requested notice in these chapter 11 cases under Fed. R. Bankr. P. 2002, so as to be so filed and received no later than **November 21, 2016 at 4:00 p.m. (Eastern Time)**.

PLEASE TAKE FURTHER NOTICE that if no Objections are timely filed and served, the relief requested in the Motion may be granted with no further notice or opportunity to be heard.

Dated: New York, New York
November 3, 2016

/s/ Bruce R. Zirinsky
Bruce R. Zirinsky
Sharon J. Richardson
Gary D. Ticoll
ZIRINSKY LAW PARTNERS PLLC
375 Park Avenue, Suite 2607
New York, New York 10152
(212) 763-0192
bzirinsky@zirinskylaw.com
srichardson@zirinskylaw.com
gticoll@zirinskylaw.com

Christopher K. Kiplok
Meaghan C. Gragg
Gregory C. Farrell
HUGHES HUBBARD & REED LLP
One Battery Park Plaza
New York, New York 10004
(212) 837-6000
chris.kiplok@hugheshubbard.com
meaghan.gragg@hugheshubbard.com
gregory.farrell@hugheshubbard.com

Attorneys for the Debtors and Debtors in Possession

Hearing Date & Time: November 28, 2016 at 11:00 a.m. (Eastern Time)
Objection Deadline: November 21, 2016 at 4:00 p.m. (Eastern Time)

Bruce R. Zirinsky
Sharon J. Richardson
Gary D. Ticoll
ZIRINSKY LAW PARTNERS PLLC
375 Park Avenue, Suite 2607
New York, New York 10152
(212) 763-0192

Christopher K. Kiplok
Meaghan C. Gragg
Gregory C. Farrell
HUGHES HUBBARD & REED LLP
One Battery Park Plaza
New York, New York 10004
(212) 837-6000

Attorneys for the Debtors
and Debtors in Possession

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	**:**	**Chapter 11 Case No.**
REPUBLIC AIRWAYS HOLDINGS INC., *et al.*,	**:**	**16-10429 (SHL)**
Debtors.[1]	**:**	**(Jointly Administered)**

DEBTORS' MOTION PURSUANT TO SECTIONS 105(a) AND 363(b) OF THE BANKRUPTCY CODE AND BANKRUPTCY RULE 6004 FOR APPROVAL OF (I) MERGER OF SHUTTLE AMERICA CORPORATION INTO REPUBLIC AIRLINE INC., AND (II) SURRENDER OF THE SHUTTLE AMERICA CORPORATION AIR CARRIER CERTIFICATE

1 The Debtors in these chapter 11 cases are the following entities: Republic Airways Services, Inc.; Shuttle America Corporation; Republic Airline Inc.; Republic Airways Holdings Inc.; Midwest Air Group, Inc.; Midwest Airlines, Inc.; and Skyway Airlines, Inc. The Debtors' employer tax identification numbers and addresses are set forth in their respective chapter 11 petitions.

TABLE OF CONTENTS

Page

Preliminary Statement....1

Background....5

The Debtors' Business....6

Jurisdiction....7

Relief Requested....7

Streamlining the Debtors' Flying Operations Under a Single ACC Is Essential to their Future Operations....7

Streamlining the Debtors' Flying Operations Under a Single Republic Airline ACC Is Highly Beneficial to the Debtors' Estates....12

The Merger and Surrender of the Shuttle America ACC Are Supported by the Debtors' Business Judgment, Are in the Best Interests of the Debtors' Estates, and Should Be Approved by the Court....14

The Requested Relief Satisfies the Substantive Consolidation Standard....16

Request For Waiver of Stay....19

Notice....19

TABLE OF AUTHORITIES

Page(s)

Cases

ACC Bondholder Grp. v. Adelphia Commc'ns Corp. (In re Adelphia Commc'ns Corp.), 361 B.R. 337 (S.D.N.Y. 2007) 17

Chemical Bank N.Y. Tr. Co. v. Kheel, 369 F.2d 845 (2d Cir. 1966).....16

Comm. of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.), 722 F.2d 1063 (2d Cir. 1983).....14

Comm. of Asbestos-Related Litigants and/or Creditors v. Johns-Manville Corp. (In re Johns-Manville Corp.), 60 B.R. 612 (Bankr. S.D.N.Y. 1986) 15

F.D.I.C. v. Colonial Realty Co., 966 F.2d 57 (2d Cir. 1992).....17, 18

In re Jennifer Convertibles, Inc., 447 B.R. 713 (Bankr. S.D.N.Y. 2011).....17

In re Leslie Fay Cos., 207 B.R. 764 (Bankr. S.D.N.Y. 1997) 17, 19

In re Owens Corning, 419 F.3d 195 (3d Cir. 2005).....16

In re WorldCom, Inc., Case No. 02-13533 (AJG), 2003 WL 23861928 (Bankr. S.D.N.Y. Oct. 31, 2003).....17

Official Comm. of Subordinated Bondholders v. Integrated Res., Inc. (In re Integrated Res., Inc.), 147 B.R. 650 (S.D.N.Y. 1992).....15

Official Comm. of Unsecured Creditors of LTV Aerospace & Def. Co. v. LTV Corp. (In re Chateaugay Corp.), 973 F.2d 141 (2d Cir. 1992) 14

Pitt v. First Wellington Canyon Assocs. (In re First Wellington Canyon Assocs.), No. 89 C 593, 1989 WL 106838 (N.D. Ill. Sept. 8, 1989).....15

Smith v. Van Gorkom, 488 A.2d 858 (Del. 1985).....15

Union Sav. Bank v. Augie/Restivo Baking Co. (In re Augie/Restivo Baking Co.), 860 F.2d 515 (2d Cir. 1988).....16, 17

Statutes and Rules

11 U.S.C. § 105.....7, 16

11 U.S.C. § 363.....7, 14, 15

26 U.S.C. § 368.....11

28 U.S.C. § 157.....7

28 U.S.C. § 1334.....7

28 U.S.C. § 1408.....7

28 U.S.C. § 1409.....7

Fed. R. Bankr. P. 1015.....6

Fed. R. Bankr. P. 6004.....7, 19

IND. CODE § 23-1-40-1.....11

Regulations

14 C.F.R. § 119.61.....11, 16

14 C.F.R. § 119.63.....11, 16

TO THE HONORABLE SEAN H. LANE
UNITED STATES BANKRUPTCY JUDGE:

Republic Airways Holdings Inc. ("RAH") and those of its subsidiaries that are debtors and debtors in possession in these proceedings (together with RAH, "Republic" or the "Debtors") respectfully represent:

Preliminary Statement

1. The Debtors seek, through this motion ("Motion"), to streamline their flying operations and consolidate under a single Republic Airline Inc. ("Republic Airline") Air Carrier Certificate ("ACC") by merging their operating subsidiary Shuttle America Corporation ("Shuttle America") into their operating subsidiary Republic Airline, effective on or about January 31, 2017 (the "Merger").

2. As stated at the outset of these chapter 11 cases, the Debtors' primary business, operational, and financial objectives are to (i) obtain modified agreements from their codeshare partners to reflect the actual costs of their flying and allow an orderly restoration of service; (ii) agree to an early return of out-of-favor aircraft (Q400 and ERJ-145) and to resolve any related claims; (iii) streamline their operations by operating a single aircraft type (E170/175) and under a single ACC; and (iv) secure additional liquidity to fund future operational stability operations and growth, including through the restructuring of their aircraft indebtedness. The merger of Republic Airline and Shuttle America—and the consolidation of operations under a single ACC—is a critical component in achieving the Debtors' strategic business, operational, and financial objectives in these chapter 11 cases.

3. As of the filing of this Motion, the Debtors have obtained amended agreements with their three codeshare partners, Delta Air Lines, Inc. ("Delta"), United Airlines, Inc. ("United") and American Airlines, Inc. ("American") (collectively, the "Codeshare

Partners"), the Debtors' primary revenue source. With these amended agreements, the Codeshare Partners each aligned with the Debtors to support the Debtors' business plan of simplifying and streamlining their operations.

4. The Debtors' operating subsidiaries, Shuttle America and Republic Airline, each operate under a separate FAA-issued ACC, as required by regulations promulgated by the Federal Aviation Administration (the "FAA"). As of the filing of this Motion, the Debtors operate 38 aircraft under the Shuttle America ACC, 30 of which are dedicated to flying for Delta, 7 of which are dedicated to flying for United, and 1 of which is an unassigned spare. Though Shuttle America and Republic Airline have always been distinct legal entities, the Debtors have been working over the past 18 months to integrate their flying operations under a single ACC.

5. As discussed more fully below, the need to consolidate the Debtors' operations arises in large part from the national shortage of qualified pilots and acute national shortage of qualified regional airline pilots. As a result of this shortage and regulatory prohibitions on the Debtors' ability to allocate their crew resources between ACCs that create inefficiencies in the Debtors' business, it is critical to the Debtors' future operations to consolidate the Debtors' flying operations under a single ACC to optimize their crew resources. Consolidating operations under a single ACC also will significantly enhance the Debtors' ability to retain existing and recruit new pilots, and will substantially simplify the Debtors' operations by operating a single aircraft type under a single dispatch and operational control system, and will increase efficiency throughout the Debtors' operations, including by eliminating costly pilot training events for pilots transitioning between entities, and the need to maintain duplicative management support structures for two independent ACCs. In that regard, the amended agreements that the Debtors negotiated with Delta, United, and American each contemplate the

consolidation of the Debtors' flying operations under a single Republic Airline ACC, as does the new collective bargaining agreement the Debtors reached with their pilots in late 2015.

6. The Debtors' amended codeshare agreement with United provides for the complete transition of aircraft from Shuttle America to Republic Airline. The Debtors have begun this transition process and intend to complete the transition of aircraft operated for United and the transfer of employees from Shuttle America to Republic Airline by January 31, 2017, in the ordinary course. Under the Debtors' amended codeshare agreement with Delta, Shuttle America may assign its rights and obligations to Republic Airline. Under the amended American codeshare agreement, Republic Airline operates and will continue to operate all the aircraft for American, and American agreed to allow for interior modifications to aircraft that are necessary for consolidation under a single ACC, and such modification work will commence in December 2016. In addition, as described below, the new collective bargaining agreement provides, among other things, transfer rights to pilots that will result in substantial operational and financial costs and operational inefficiencies to the Debtors absent operations under a single ACC.

7. The Debtors are required to provide notice to the Codeshare Partners at least sixty (60) days in advance of operational consolidation to permit the Codeshare Partners to adjust their flying schedules and take other operational and technological steps necessary to ensure a smooth transition.[1] To obtain the maximum benefit for their estates, the Debtors have determined that they should complete the Merger and consolidation under a single ACC on January 31, 2017. The achievement of this goal requires Court approval of this Motion by November 30, 2016, which will provide sufficient time for the sixty-day notice to the Codeshare

1. The Debtors utilize integrated IT systems that are connected to their Codeshare Partners.

Partners. Approval of the Motion will provide certainty to the Debtors and unlock important benefits that will begin accruing immediately upon completion of the Merger.

8. The Merger easily satisfies and should be approved under the business judgment standard that courts apply to transactions outside of the ordinary course of business. Consolidation of the Debtors' flying operations through the Merger under a single Republic Airline ACC will result in significant economic benefits and operational efficiencies for the Debtors that will begin to accrue immediately upon the Merger, and is essential to the Debtors' ability to optimize their crew resources, which is crucial to their success following their emergence from chapter 11. Consolidating operations under a single ACC also will significantly improve the Debtors' ability to retain existing and recruit new pilots. The Debtors anticipate that operating under a single ACC will result in cost savings and efficiencies associated with reduced human capital requirements, the elimination of costly training events for crews transitioning between ACCs, and other operational efficiencies and cost avoidances, as well as significant non-monetary benefits to the Debtors.

9. When debtors seek approval to substantively consolidate their estates, they are asking the Court to ignore corporate separateness and treat two or more entities as a single entity. In contrast, the Motion is not asking the Court to ignore corporate separateness or formalities; rather the Debtors are seeking the Court's approval of a merger under state law based on sound business reasons that will benefit both the Debtors, their respective estates, and all their respective creditors. However, if the Court were to determine that it should apply the standard for substantive consolidation requests in deciding the Motion, the Debtors submit that the requirements of that standard are satisfied as well.

10. Under the Court's order approving the United settlement, Delta's and United's claims against Shuttle America and Republic Airline, aggregating $365.1 million, will be allocated between Shuttle America and Republic Airline such that the percentage recoveries to general unsecured creditors from the Shuttle America and Republic Airline estates will be equal or as nearly equal as possible. The Debtors' claim settlement with American, which is currently pending before the Court, provides for a similar allocation between Republic Airline and Shuttle America of American's proposed $250 million allowed claim. Thus, neither creditors of Republic Airline nor Shuttle America will be prejudiced by the Merger of the two entities as it will not affect their ultimate recoveries. To the contrary, the value of the cost savings and efficiencies that will result from the Merger will accrue to the benefit of all creditors of Shuttle America and Republic Airline. For this reason, among others, the Official Committee of Unsecured Creditors, the members of which, including Delta as an *ex officio* member, are estimated to hold approximately 75 percent of the value of general unsecured claims against the Debtors, supports the relief sought in this Motion.

11. The Merger of the Shuttle America and Republic Airline estates, which will result in the transition of the Debtors' flying operations to a single Republic Airline ACC, is a sound exercise of the Debtors' business judgment, is in the best interests of the Debtors, their estates, and all parties in interest.

Background

12. On February 25, 2016 (the "Commencement Date"), the Debtors each commenced in this Court a voluntary case under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"). The Debtors are authorized to continue to operate their businesses and manage their properties as debtors in possession pursuant to Bankruptcy Code sections 1107(a) and 1108.

13. The Debtors' chapter 11 cases are being jointly administered for procedural purposes only pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules").

14. On March 4, 2016, the United States Trustee formed an Official Committee of Unsecured Creditors in the Debtors' cases (the "Official Committee"), which is currently comprised of GE Engine Services, LLC, Pratt & Whitney Component Services, Embraer S.A., United Airlines, Inc., American Airlines, Inc., Residco (ALF IV, INC), and International Brotherhood of Teamsters Airline Division. No trustee or examiner has been appointed in the Debtors' cases.

The Debtors' Business

15. RAH is a holding company that provides scheduled regional passenger services through its wholly-owned operating air carrier subsidiaries, Shuttle America and Republic Airline. Republic offers approximately 900 flights daily to 97 cities in 36 states, Canada, Mexico, the Caribbean, and Central and South America through Republic's fixed-fee codeshare agreements with American, Delta, and United, operating under the designations of American Eagle, Delta Connection, and United Express, including service out of the Codeshare Partners' respective hubs and focus cities. Republic's operational fleet consists of approximately 170 aircraft.

16. For the year ended December 31, 2015, on a consolidated basis, Republic had operating revenue of $1,344,000,000, operating expenses of $1,259,200,000, and a net loss of $27,117,000. In 2015, Republic carried 21,900,000 passengers an average of 479 miles per passenger, with a passenger load factor of 79.2%.

17. Detailed information regarding Republic's business, capital structure, and the circumstances leading to the commencement of these chapter 11 cases is set forth in the

Declaration of Bryan K. Bedford Pursuant to Local Bankruptcy Rule 1007-2, filed with the Court on the Commencement Date.

Jurisdiction

18. This Court has jurisdiction to consider this motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Relief Requested

19. By this Motion, the Debtors request entry of an order pursuant to Bankruptcy Code sections 105(a) and 363(b) and Bankruptcy Rule 6004, authorizing the Debtors to (a) implement the Merger and consolidate their flying operations under a single Republic Airline ACC by January 31, 2017; and (b) following the Merger, surrender the Shuttle America ACC.

20. For the reasons discussed herein, the Debtors submit that the requested relief is reasonable, represents an appropriate exercise of their sound business judgment, and is in the best interests of the Debtors' estates and all stakeholders in these chapter 11 cases. A proposed order (the "Proposed Order") approving the Motion is annexed hereto as Exhibit A.

Streamlining the Debtors' Flying Operations Under a Single ACC Is Essential to their Future Operations

21. These chapter 11 cases were commenced against the backdrop of a growing national shortage of qualified pilots in the United States, and an acute shortage of qualified regional airline pilots. This shortage is primarily a result of Congressional legislation enacted in 2010, which became effective in August 2013 and January 2014, that imposed more restrictive "time and duty rest" requirements resulting in an increase in the number of pilots that the Debtors historically needed to operate their schedules, and raised flight hour requirements

thereby dramatically decreasing the pool of qualified and competent new pilots available for hire. The shortage made it increasingly difficult to maintain the necessary pilot staffing levels needed to sustain reliable performance requirements under the Debtors' codeshare agreements with its Codeshare Partners. As a result of the pilot shortage, the Debtors were forced to ground operating aircraft and reduce scheduled flying for each of the Codeshare Partners. In addition, the pilot shortage drove significant increases in the cost of collectively bargained wages, benefits, and work rules for pilot labor, which adversely affected the Debtors' financial position and cash flows from operations.

22. Thus, the single most important aspect of the Debtors' chapter 11 cases—and the gating item to the Debtors' ability to successfully emerge from bankruptcy as a going concern—was the prompt negotiation and implementation of new codeshare agreements with the Debtors' Codeshare Partners. The Debtors have successfully obtained restructured codeshare and related agreements with each of their Codeshare Partners, clearing the pathway for a successful emergence from chapter 11. Although the majority (132) of the Debtors' operating aircraft are currently operating under the Republic Airline ACC, the Debtors operate 38 aircraft under the Shuttle America ACC, 30 of which are dedicated to flying for Delta, 7 of which are dedicated to flying for United, and 1 of which is an unassigned spare. The Debtors' amended codeshare agreements with Delta and United each contemplate the consolidation of the Debtors' flying operations under a single Republic Airline ACC.

23. Concurrently with the pilot labor shortage, the Debtors' collective bargaining agreement with the International Brotherhood of Teamsters (the "IBT"), the union which represents the Debtors' pilots, became amendable in October 2007, just as the United States was heading into a deep recession and financial crisis. The Debtors entered protracted and

very difficult negotiations with the IBT that ultimately extended over a period of eight years. Over the course of the eight years of bargaining, the Debtors' pilot labor agreement had fallen behind its peer group within the regional airline industry.

24. During the height of the labor dispute and largely because of the Debtors' inferior pilot labor agreement, the Debtors experienced unprecedented pilot attrition and severely challenged new pilot hiring. Hiring and retention headwinds peaked following the July 2015 lawsuit filed by officials of the IBT challenging the Debtors' compensation practices of providing recruitment bonuses to new hires and overtime pay to pilots. These factors adversely affected the Debtors' ability to operate their flight schedule and required the Debtors to reduce their level of operations based on available crew resources. The problems associated with the Debtors' limited crew resources were compounded by the fact that Shuttle America and Republic Airline each operate under separate ACCs, prohibiting the Debtors' ability to share their crew resources efficiently and cost-effectively.

25. In late September 2015, the Debtors and the IBT reached a new three-year pilot labor agreement. Under the terms of the Debtors' new pilot labor agreement, the Debtors are contractually obligated to permit an increasing number of pilots, as of October 29, 2015, to transfer between the Shuttle America and Republic Airline ACCs without affecting the pilots' seniority and all transfer restrictions will be eliminated by April 2018. This contractual obligation will be devastating if the Debtors do not consolidate their flying operations under a single ACC, as it would impose serious operational and financial burdens on the Debtors, including frequent retraining requirements that must be complied with every time a pilot moves across ACCs, regardless of the pilot's previous training and experience with any particular aircraft.

26. The Debtors began the process of transitioning their flying operations to Republic Airline well before the commencement of these chapter 11 cases. The transition has involved a comprehensive collaboration among the Debtors, the FAA and outside industry experts to align Shuttle America's and Republic Airline's procedures and operations. Following the commencement of these chapter 11 cases, in the spring of 2016, the Debtors streamlined their operations by returning out-of-favor Q400 aircraft. The Debtors negotiated amendments to their codeshare and related agreements with Delta that provided for the wind-down of the Debtors' flying of out-of-favor ERJ-145 aircraft and contemplated the Debtors' consolidation of their flying operations under the Republic Airline ACC. The Debtors also negotiated amendments to their codeshare and related agreements with United that provide for the complete transition of aircraft from Shuttle America to Republic Airline.

27. As of the Commencement Date, Shuttle America operated 32 aircraft dedicated to flying under the United Express Agreement, dated as of December 28, 2006, United Contract # 172884 by and among United, Republic Airline and Shuttle America (as amended by the Fourteenth Amendment to the United Express Agreement, dated May 27, 2016 (the "Restructured United Express Agreement," and as previously restated, supplemented or otherwise modified, the "United Express Agreement"). Beginning in the summer of 2015, the Debtors began the process of transitioning flying under the United Express Agreement from Shuttle America to Republic Airline. In the Restructured United Express Agreement, Shuttle America exercised its rights under the United Express Agreement to assign the United Express Agreement to Republic Airline. The Restructured United Express Agreement provides for the complete transition of all aircraft flown for United from the Shuttle America ACC to the Republic Airline ACC in 2017. The Debtors intend to transition the remaining 7 aircraft flown

under the Restructured United Express Agreement from the Shuttle America ACC to the Republic Airline ACC by January 31, 2017, in the ordinary course of business.

28. Under the Delta Connection Agreement dated and effective January 13, 2005 by and among Delta, Shuttle America and RAH (as amended by Amendment Number Fourteen to the Dual Class Agreement, dated March 23, 2016, the "Restructured Delta Dual Class Agreement," and as previously amended, restated, supplemented or otherwise modified, the "Delta Dual Class Agreement"), Delta agreed that "Shuttle America may assign all of its rights, title, interest, and obligations under the Agreement to Republic Airline." (Restructured Delta Dual Class Agreement § 12.G.) In order to consolidate its operations under the Republic Airline ACC, the Debtors seek authority in this Motion to implement the Merger, effective on or about January 31, 2017, under which Shuttle America, an Indiana corporation, will be merged into Republic Airline, also an Indiana corporation, and Republic Airline, as the surviving entity, will replace Shuttle America under the Restructured Delta Dual Class Agreement. The Merger will occur under Title 23, Article 1, Chapter 40-1 of the Indiana Code and it is intended that the Merger shall constitute a plan of reorganization within the meaning of section 368(a)(1)(A) & (D) of the Internal Revenue Code of 1986, as amended. IND. CODE § 23-1-40-1 (2016); 26 U.S.C. § 368.

29. Under FAA regulations, within 30 days of the Debtors' consolidation of operations under the single Republic Airline ACC, the Debtors are required to surrender the Shuttle America ACC to the FAA. 14 C.F.R. §§ 119.61, 119.63 (2016). With respect to the 59 aircraft owned, debt-financed, or leased by Shuttle America, the Debtors are in the process of obtaining waivers from their aircraft finance counterparties concerning certain covenants in the financing agreements to allow Shuttle America to merge into Republic Airline without breaching

the agreements, and following the Merger, the Debtors will deliver to Shuttle America's aircraft finance counterparties the documentation necessary to confirm Republic Airline's assumption of Shuttle America's obligations under the financing agreements. The Debtors also intend to transfer the approximately 470 pilots, 500 flight attendants, and 140 other employees currently working for Shuttle America from Shuttle America to Republic Airline on or before January 31, 2017. After the Merger and the Debtors' consolidation of their operations under the Republic Airline ACC, in accordance with FAA regulations, the Debtors will surrender the Shuttle America ACC to the FAA.

30. The relief sought in this Motion represents the final step in a process outlined above that began long before the commencement of these chapter 11 cases and continued during their pendency, including the pre-petition pilot collective bargaining agreement that contemplates a single ACC, the negotiation and approval of the three amended codeshare agreements that also contemplate a single ACC, the ongoing transition of flying for United from Shuttle America to Republic Airline, and the claims settlements with all three Codeshare Partners that implicitly recognize and acknowledge the benefits to ***all*** creditors of a merger and consolidation of the operations of Shuttle America and Republic Airline.

Streamlining the Debtors' Flying Operations Under a Single Republic Airline ACC Is Highly Beneficial to the Debtors' Estates

31. Consolidation of the Debtors' flying operations through the Merger under a single Republic Airline ACC will result in significant economic benefits and operational efficiencies for the Debtors that will begin to accrue immediately upon the Merger, and is essential to the Debtors' ability to optimize their crew resources, which is crucial to their success following their emergence from chapter 11. Consolidating operations under a single ACC also will significantly improve the Debtors' ability to recruit and retain new pilots. The Debtors'

business plan anticipates cost savings and efficiencies associated with reduced human capital requirements, the elimination of costly training events for crews transitioning between ACCs, and other operational efficiencies and cost avoidances, as well as significant non-monetary benefits to the Debtors.

32. Among other things, consolidation of the Debtors' flying operations under a single ACC is critical to the Debtors' ability to comply with their new pilot labor agreement. Under the terms of the labor agreement, the Debtors are obligated to allow an increased number of pilots to transfer between Shuttle America and Republic Airline without impact on their seniority until April 2018, at which time all pilots will be permitted to transfer between entities without restrictions. With no restrictions to pilot transfers, the rate of transfers will increase significantly as pilots seek better opportunities without regard to operator costs. However, operating under two ACCs, the Debtors would be required under FAA regulations to retrain a pilot each time she or he transfers from one ACC to the other. Retraining pilots each time they transition between ACCs will impose significant financial burdens and operational inefficiencies on the Debtors and significant disruption to their operations.

33. Operating a single ACC will improve the Debtors' operations, increase efficiencies, and generate significant cost savings. Following the consolidation of their operations under a single ACC, the Debtors will be able to operate under a single dispatch and operational control structure. Currently, under regulations promulgated by the FAA, the Debtors are required to independently staff certain management and supporting staff positions for each of the Shuttle America and Republic Airline ACCs. For example, Republic must employ directors of safety, flight operations, and maintenance for each ACC. Following the Merger and the

consolidation of the Debtors' operations under the Republic Airline ACC, they will be able to eliminate or significantly reduce these duplicative positions.

34. In addition, consolidation of the Debtors' flying operations under a single Republic Airline ACC will allow the Debtors to eliminate inefficiencies that occur when they transition aircraft between ACCs under the Restructured United Express Agreement. Currently, the Debtors are required to undertake an administratively burdensome process that includes obtaining FAA approval and, for certain aircraft, notification to aircraft financiers before aircraft can be transitioned between ACCs. This process typically takes approximately three days. Streamlining operations under a single ACC will allow the Debtors to eliminate this administrative inefficiency and the associated costs.

The Merger and Surrender of the Shuttle America ACC Are Supported by the Debtors' Business Judgment, Are in the Best Interests of the Debtors' Estates, and Should Be Approved by the Court

35. Section 363(b)(1) of the Bankruptcy Code provides, in pertinent part, that the "trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b)(1). Although Bankruptcy Code section 363 does not specify a standard for determining when it is appropriate for a court to authorize the use, sale, or lease of property of the estate, the Second Circuit has required that such use, sale, or lease be based upon the sound business judgment of the debtor. *See Official Comm. of Unsecured Creditors of LTV Aerospace & Def. Co. v. LTV Corp. (In re Chateaugay Corp.),* 973 F.2d 141, 143 (2d Cir. 1992); *Comm. of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.),* 722 F.2d 1063, 1070 (2d Cir. 1983) (requiring "some articulated business justification" to approve the use, sale or lease of property outside the ordinary course of business). In that regard, "[w]here the debtor articulates a reasonable basis for its business decisions (as distinct from a decision made arbitrarily or capriciously), courts will generally not entertain objections to the

debtor's conduct." *Comm. of Asbestos-Related Litigants and/or Creditors v. Johns-Manville Corp. (In re Johns-Manville Corp.),* 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986).

36. The business judgment rule shields a debtor's management from judicial second-guessing. *In re Johns-Manville Corp*., 60 B.R. at 615-16 ("[A] presumption of reasonableness attaches to a debtor's management decisions."). Once a debtor articulates a valid business justification, "[t]he business judgment rule 'is a presumption that in making a business decision the directors of a corporation acted on an informed basis, in good faith and in the honest belief that the action taken was in the best interests of the company.'" *Official Comm. of Subordinated Bondholders v. Integrated Res., Inc. (In re Integrated Res., Inc.),* 147 B.R. 650, 656 (S.D.N.Y. 1992) (quoting *Smith v. Van Gorkom*, 488 A.2d 858, 872 (Del. 1985)), *appeal dismissed*, 3 F.3d 49 (2d Cir. 1993). Thus, if a debtor's actions satisfy the business judgment rule, then the transaction in question should be approved under section 363(b)(1). Indeed, when applying the "business judgment" standard, courts show great deference to a debtor's business decisions. *See Pitt v. First Wellington Canyon Assocs. (In re First Wellington Canyon Assocs.),* No. 89 C 593, 1989 WL 106838, at *3 (N.D. Ill. Sept. 8, 1989) ("Under this test, the debtor's business judgment . . . must be accorded deference unless shown that the bankrupt's decision was taken in bad faith or in gross abuse of the bankrupt's retained discretion."), *denying reconsideration*, 1989 WL 165028 (N.D. Ill. Dec. 28, 1989).

37. For the reasons discussed above, the Merger of Shuttle America into Republic Airline to consolidate their operations under a single ACC is a sound exercise of the Debtors' business judgment. Following the Merger and consolidation of the Debtors' operations under the Republic Airline ACC, the Shuttle America ACC will be of no value to the Debtors' estate and the Debtors will be required to surrender the ACC to the FAA within 30 days of the

Debtors' consolidation of operations under the single Republic Airline ACC. 14 C.F.R. §§ 119.61, 119.63 (2016). Accordingly, the Court should approve the surrender of the Shuttle America ACC following the consolidation under the single Republic Airline ACC.

The Requested Relief Satisfies the Substantive Consolidation Standard

38. As discussed above, the Merger is a sound exercise of the Debtors' business judgment and may be approved by the Court under the business judgment standard that courts use to review transactions under section 363 of the Bankruptcy Code. The Debtors are not seeking by this Motion to substantively consolidate the Shuttle America and Republic Airline estates or asking the Court to ignore corporate formalities and treat two separate entities as a single entity for plan distribution purposes. *Cf. Union Sav. Bank v. Augie/Restivo Baking Co. (In re Augie/Restivo Baking Co.)*, 860 F.2d 515, 518 n.1 (2d Cir. 1988) ("Substantive consolidation usually results in . . . pooling the assets of, and claims against, two entities; satisfying liabilities from the resultant common fund; eliminating inter-company claims; and combining the creditors of the two companies for purposes of voting on reorganization plans."); *In re Owens Corning*, 419 F.3d 195, 205-06 (3d Cir. 2005) (explaining that the concept of substantive consolidation began with the "commonsense deduction" that "[c]orporate disregard as a fault may lead to corporate disregard as a remedy").

39. Nonetheless, if the Court determines to consider the Motion under the substantive consolidation standard or treat the Motion as a motion for substantive consolidation, the Debtors respectively submit that there is a sound basis to approve the Motion under that standard. The Court is authorized to substantively consolidate the Shuttle America and Republic Airline estates under its general equitable powers set forth in section 105(a) of the Bankruptcy Code. 11 U.S.C. § 105(a); *see Augie/Restivo*, 860 F.2d at 518 n.1; *Chemical Bank N.Y. Tr. Co. v. Kheel*, 369 F.2d 845, 847 (2d Cir. 1966) ("It has been questioned whether the consolidation of

assets and liabilities should not await the court's action on a plan of liquidation . . . . but there are cases, of which this is one, where such determination to consolidate prior to the plan is required by the exigencies of the situation."). Substantive consolidation is appropriate where it results in the equitable treatment of creditors. *See id.* ("The sole purpose of substantive consolidation is to ensure the equitable treatment of all creditors."); *see also F.D.I.C. v. Colonial Realty Co.*, 966 F.2d 57, 60 (2d Cir. 1992) (substantive consolidation is to be "determined solely in light of the principles and rules of equity"); *ACC Bondholder Grp. v. Adelphia Commc'ns Corp. (In re Adelphia Commc'ns Corp.)*, 361 B.R. 337, 359 (S.D.N.Y. 2007) (explaining that a court may only order substantive consolidation if it determines that doing so would ensure equitable treatment of all creditors) (internal quotations omitted); *In re WorldCom, Inc.*, No. 02-13533 (AJG), 2003 WL 23861928, at *35 (Bankr. S.D.N.Y. Oct. 31, 2003) (substantive consolidation may be ordered when benefits to creditors exceed harm suffered).

40. In determining whether substantive consolidation will ensure the equitable treatment of creditors, courts in the Second Circuit consider two critical factors: (1) "whether creditors dealt with the entities as a single economic unit and did not rely on their separate identity in extending credit" or (2) "whether the affairs of the debtors are so entangled that consolidation will benefit all creditors." *In re Augie/Restivo*, 860 F.2d at 518 (internal quotation omitted). Substantive consolidation, however, is a flexible concept and a "principal question is whether creditors are adversely affected by consolidation and, if so, whether the adverse effects can be eliminated." *In re Jennifer Convertibles, Inc.*, 447 B.R. 713, 723-24 (Bankr. S.D.N.Y. 2011). "When deciding whether to order substantive consolidation, the courts in this circuit also use a balancing test to determine whether the relief achieves the best result for all creditors." *In re WorldCom*, 2003 WL 23861928, at *36; *see In re Leslie Fay Cos.*, 207 B.R. 764, 780 (Bankr.

S.D.N.Y. 1997) (approving substantive consolidation where objecting creditors would be the direct beneficiaries). Here it is notable that the Official Committee of Unsecured Creditors, including Delta as an *ex officio* member, the members of which are estimated to hold approximately 75 percent of the value of unsecured claims against the Debtors, supports the relief sought in this Motion.

41. The substantive consolidation of Shuttle America and Republic Airline will not harm creditors of either Shuttle America or Republic Airline, and, as discussed in detail above, will result in substantial benefits to both of their estates and all of the creditors of both entities. Under the Court's order approving the Debtors' comprehensive settlement with United, at the time of determination of any distributions to be made under a plan of reorganization, United's $191.6 million general unsecured claim against Republic Airline and Shuttle America and Delta's $173.5 million general unsecured claim against Shuttle America will each be allocated between Shuttle America and Republic Airline "such that the percentage recoveries in respect of such distributions to general unsecured claims against Republic Airline and Shuttle America . . . are equal or as nearly equal as is possible." United Settlement Order [ECF No. 678] at 4. The Debtors' proposed claim settlement with American, which is currently pending before the Court, provides for American's $250 million general unsecured claim against Republic Airline also to be allocated between Shuttle America and Republic Airline to ensure that the percentage recoveries from the two Debtors are equal. *See* Ex. 1 (Proposed Order) to American Settlement Mot. [ECF No. 957] at 7-8. Thus, the substantive consolidation of the Shuttle America and Republic Airline estates will not prejudice the creditors of either entity because it will not affect their ultimate recoveries in these proceedings. *See Colonial Realty Co.*, 966 F.2d at 61 (explaining that the "threat of unfairness arises when [substantive consolidation]

redistributes wealth among the creditors of various entities") (internal quotation omitted). To the contrary, the value of the cost savings and efficiencies that will result from the Merger and substantive consolidation will accrue to the benefit of all creditors of Shuttle America and Republic Airline. As no creditors will be detrimentally affected by the consolidation, the Court should approve the Merger and consolidation. *See In re Leslie Fay Cos.*, 207 B.R. at 780 (approving substantive consolidation where the only classes of creditors to be detrimentally affected by the consolidation consented).

Request For Waiver of Stay

42. As discussed herein, there are immediate and material benefits to the Debtors, and immediate entry and implementation of the order is of vital importance to the Debtors. To implement the foregoing successfully, the Debtors seek a waiver of the fourteen-day stay of an order authorizing the use, sale, or lease of property under Bankruptcy Rule 6004(h).

Notice

43. Notice of this Motion has been provided to parties in interest in accordance with the Order Pursuant to 11 U.S.C. § 105(a) and Fed. R. Bankr. P. 1015(c), 2002(m) & 9007 Implementing Certain Notice and Case Management Procedures approved by the Court dated March 2, 2016 (ECF No. 70), and the motion will be available for inspection on Republic's Case Website (located at https://cases.primeclerk.com/RJET/). Republic submits that no other or further notice need be given.

WHEREFORE, the Debtors request entry of the order annexed hereto, granting the relief requested herein and such other and further relief as is just.

Dated: New York, New York
November 3, 2016

/s/ Bruce R. Zirinsky

Bruce R. Zirinsky
Sharon J. Richardson
Gary D. Ticoll
ZIRINSKY LAW PARTNERS PLLC
375 Park Avenue, Suite 2607
New York, New York 10152
(212) 763-0192
bzirinsky@zirinskylaw.com
srichardson@zirinskylaw.com
gticoll@zirinskylaw.com

Christopher K. Kiplok
Meaghan C. Gragg
Gregory C. Farrell
HUGHES HUBBARD & REED LLP
One Battery Park Plaza
New York, New York 10004
(212) 837-6000
chris.kiplok@hugheshubbard.com
meaghan.gragg@hugheshubbard.com
gregory.farrell@hugheshubbard.com

Attorneys for the Debtors and Debtors in Possession

EXHIBIT A

PROPOSED ORDER

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	**:**	**Chapter 11 Case No.**
REPUBLIC AIRWAYS HOLDINGS INC., *et al.*,	**:**	**16-10429 (SHL)**
Debtors.[1]	**:**	**(Jointly Administered)**

ORDER PURSUANT TO SECTIONS 105(a) AND 363(b) OF THE BANKRUPTCY CODE AND BANKRUPTCY RULE 6004 FOR APPROVAL OF (I) MERGER OF SHUTTLE AMERICA CORPORATION INTO REPUBLIC AIRLINE INC., AND (II) SURRENDER OF THE SHUTTLE AMERICA CORPORATION AIR CARRIER CERTIFICATE

A hearing having been held on November 28, 2016 (the "Hearing"), to consider the motion, dated November 3, 2016 (the "Motion"),[2] of Republic Airways Holdings Inc. ("RAH"), and certain of its wholly-owned direct and indirect subsidiaries, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively with RAH, "Republic" or the "Debtors"), pursuant to sections 105(a) and 363(b) of the Bankruptcy Code and rule 6004 of the Federal Rules of Bankruptcy Procedure, for approval of (i) merger of Shuttle America Corporation into Republic Airline Inc., and (ii) surrender of the Shuttle America Corporation Air Carrier Certificate ("ACC"), each 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 Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.); and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to

1. The Debtors in these chapter 11 cases are the following entities: Republic Airways Holdings Inc.; Republic Airways Services, Inc.; Republic Airline Inc.; Shuttle America Corporation; Midwest Air Group, Inc.; Midwest Airlines, Inc.; and Skyway Airlines, Inc. The Debtors' employer tax identification numbers and addresses are set forth in their respective chapter 11 petitions.

2. Capitalized terms not otherwise defined herein have the meanings ascribed to them in the Motion.

28 U.S.C. §§ 1408 and 1409; and due and sufficient notice of the Motion having been provided in accordance with the Court's Case Management Order dated March 2, 2016 (ECF No. 70) ("CMO"), and it appearing that no other or further notice need be given; and the Court having considered the Motion, the papers in support thereof, the Bedford Declaration, and all of the proceedings had before the Court; and the appearances of all interested parties having been noted in the record of the Hearing; and after due deliberation and sufficient cause appearing therefor, and for reasons stated in the record of the Hearing;

IT IS HEREBY FOUND AND CONCLUDED that:

A. The statutory predicates for the relief requested in the Motion are sections 105 and 363 of the Bankruptcy Code and Bankruptcy Rule 6004.

B. Proper, timely, adequate and sufficient notice of the Motion has been provided in accordance with the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules and the CMO, and no other or further notice of the Motion or the entry of this Order shall be required.

C. Based on the record before the Court, the Debtors have demonstrated good and sufficient reasons for the Court to approve the Motion.

D. The Merger and the transactions contemplated in the Motion, and entry of this Order, is in the best interests of the Debtors' estates and creditors.

E. Sound business reasons have been articulated for the Merger and the transactions contemplated in the Motion.

F. As set forth in the Motion, the Debtors will, upon entry of and in reliance on this Order, *inter alia*, take numerous steps and actions with respect to effectuating the Merger and consolidating their flying operations under a single ACC.

G. Each of the foregoing findings by the Court will be deemed a finding of fact if and to the full extent that it makes and contains factual findings and a conclusion of law if and to the full extent that it makes legal conclusions.

IT IS HEREBY ORDERED that:

1. The Motion is hereby granted as provided herein. To the extent any objections or reservations of rights to the Motion have not been withdrawn or resolved by this Order, they are overruled in all respects on the merits.

2. Pursuant to section 363(b) of the Bankruptcy Code, the Debtors are authorized to effect the Merger on or about January 31, 2017, and enter into any all transactions and take any actions contemplated thereby.

3. Pursuant to section 363(b) of the Bankruptcy Code, Shuttle America is authorized, but not directed, to surrender the Shuttle America ACC within 30 days of the Debtors' consolidation of operations under the single Republic Airline ACC.

4. Shuttle and Republic Airline are authorized to take all such actions as may be necessary or appropriate to effect the Merger, including causing a certificate of merger to be filed with the Secretary of State of the State of Indiana in accordance with the Indiana Business Corporation Law.

5. The Debtors are authorized to execute, deliver, implement and fully perform any and all obligations, instruments, documents and papers and to take any and all actions that may be reasonably necessary or appropriate to effect the Merger.

6. Any person or entity that did not timely object to the Motion is deemed to consent to the relief granted herein.

7. Notwithstanding the provisions of Bankruptcy Rule 6004, this Order shall not be stayed for 14 days after the entry hereof, but shall be effective and enforceable immediately upon entry by this Court.

8. The Motion satisfies rules 2002 and 6004 of the Federal Rules of Bankruptcy Procedure.

9. This Court shall retain jurisdiction to hear and determine all matters arising from or related to this Order.

Dated: New York, New York
_____, 2016

_____
Honorable Sean H. Lane
United States Bankruptcy Judge