

SCHULTE ROTH & ZABEL LLP
Adam C. Harris
David M. Hillman
Lawrence V. Gelber
919 Third Avenue
New York, New York 10022
Telephone: (212) 756-2000

*Counsel to the Ad Hoc Committee
of Equity Holders*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X	:	
	:	Chapter 11
In re:	:	
	:	Case No. 16-10429 (SHL)
Republic Airways Holdings Inc., et al., ¹	:	
	:	(Jointly Administered)
Debtors.	:	
	:	
-----X	:	

**EMERGENCY MOTION OF AD HOC COMMITTEE
OF EQUITY HOLDERS TO ADJOURN HEARING**

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

The Ad Hoc Committee of Equity Holders, whose members hold more than 40% of the non-insider shares of common stock of Republic Airways Holdings Inc. ("Ad Hoc Committee"),² files this emergency motion pursuant to Rule 9006(b)(1) of the Federal Rules of Bankruptcy Procedure and the Court's Case Management Order, requesting an adjournment of the hearing date and objection

¹ The last four digits of the taxpayer identification numbers of each of the Debtors are 9146, 2301, 1397, 2737, 9146, 8757, 0079, and 4344.

² The members of the Ad Hoc Committee and their respective holdings are set forth the Verified Statement Pursuant to Bankruptcy Rule 2019 statement filed on March 7, 2016 [Dkt. No. 107], as the same may be amended from time to time.

deadlines by approximately 30 days each³ for (i) *Debtors' Motion for Entry of an Order Pursuant to 11 U.S.C. §§ 105, 361, 362(D)(1), 363(B), 364(C)(1), 364(C)(2), 364(C)(3), 364(D), 364(E), 503(B)(1) and 507(B) and Fed. R. Bankr. P. 4001 and 6004 (I) Authorizing Debtors to Obtain Postpetition Financing, (II) Granting Liens and Providing Superpriority Administrative Expense Status, (III) Modifying the Automatic Stay and (IV) Granting Related Relief* [Dkt. No. 246] (the "DIP Financing Motion") and (ii) *Debtors' Motion Pursuant to Sections 363(B), 363(M), and 365(A) of the Bankruptcy Code and Bankruptcy Rules 6004, 6006 and 9019 For Authorization to (I) Assume Codeshare and Related Agreements, as Amended, with Delta Air Lines, Inc., (II) Lease Certain Property of the Estate and (III) Settle Claims Between Delta Air Lines, Inc. and the Debtors* [Dkt. No. 244] (the "Delta Settlement Motion") (together, the "Motions"), and respectfully represents as follows:

FACTS

1. Late last Thursday evening, on the eve of a holiday and the Easter weekend and without any prior notice to the Ad Hoc Committee or its professionals, the Debtors filed the heavily redacted Motions, and set a hearing date of April 14, 2016 and an objection deadline of April 7, 2016. The Debtors' characterize these integrated Motions as "a comprehensive change in the circumstances, transactions and business relationships between the parties," and further assert that "[i]f approved, the Motions will effect a series of highly-structured financial and operational transactions among the parties that would be impossible to reverse in whole or in part. Any attempted reversal or modification of the relief requested by the Motions would undermine the validity of the these transactions in their entirety." Delta Settlement Motion, ¶2; DIP Financing Motion, ¶3. The Debtors further assert that the

³ The Ad Hoc Committee requested the Debtors consent to the proposed adjournment. That consent has not been forthcoming, thus necessitating the filing of this Emergency Motion.

Debtors and Delta Air Lines, Inc. ("Delta") have been involved in negotiations for over four months. Accordingly, the Debtors' view the proposed transactions with Delta as a seminal event in their efforts to restructure. Yet despite the acknowledged importance of the proposed transactions, the Debtors have afforded parties in interest just eight business days' to review – and if appropriate object to – their terms, even though there is no requirement that the Debtors obtain orders approving either Motion at any time prior to May 16, 2016. DIP Financing Motion, Ex. B, "Conditions to Closing," ¶ 1. Thus, no harm will befall these Debtors by granting the requested adjournment.

2. Pursuant to the DIP Financing Motion, the Debtors seek, among other things, a final order approving postpetition financing from Delta of up to \$75 million. The Debtors allege that the financing proposed by Delta presented the "best bid" as compared to the proposals submitted by other potential financing sources. The Ad Hoc Committee should be afforded a reasonable opportunity to review and understand the process resulting in the Debtors determination to select the Delta proposed financing. Moreover, the proposed credit agreement for the DIP Facility still had not been filed, which is yet another reason why an adjournment is appropriate.

3. Pursuant to the Delta Settlement Motion, the Debtors seek to, among other things:

- (a) "enter into and perform all obligations" under the (i) Amended Single Class Agreement, (ii) the Amended Dual Class Agreement, (iii) the Amended Ground Handling Agreement, and (iv) the A&R Slot Lease (each as defined therein);
- (b) to assume under section 365 of the Bankruptcy Code the (i) Amended Flying Agreements, (ii) LGA 2 Slot Lease, and (iii) Amended Ground Handling Agreement (each as defined therein); and
- (c) to allow Delta an unsecured claim in the amount of \$170 million not subject to objection, subordination or other challenge (the "Delta Claim").

4. As discussed above, the Delta Settlement Motion is not a garden-variety request for relief. Instead, it is arguably case dispositive, and at a minimum a potential harbinger of settlements to

come with the Debtors other codeshare partners, and if granted will have a direct and material impact on stakeholder recoveries.

5. For whatever reason, the Debtors' filed the Motions without any advance discussion with the Ad Hoc Committee or its professionals. They did not provide the Ad Hoc Committee professionals with copies of the operative documents (which were filed under seal) until March 28, 2016 and appear to have staged this process to deny stakeholders a fair and meaningful opportunity to evaluate the relief sought.

BASIS FOR REQUESTED ADJOURNMENT

6. The Court has the authority under Bankruptcy Rule 9006(b)(1), upon a showing of "cause," to extend the minimum notice provisions set forth in the Bankruptcy Rules. "Cause" exists here because minimum standards of due process and fundamental fairness require that parties in interest be afforded more than eight business days to evaluate the complex and potentially case dispositive relief sought in the Motions, especially when the Motions were apparently the product of extended negotiations and could massively dilute the interests of creditors and shareholders. Moreover, the Debtors (despite repeated requests) have (i) failed to timely provide the Ad Hoc Committee's professionals with copies of the operative documents that were filed under seal, (ii) refused to provide copies of the operative documents to members of the Ad Hoc Committee who executed non-disclosure agreements, and (iii) yet to file the credit agreement for the DIP Facility.

7. An adjournment is also appropriate here because the DIP Financing Motion, unlike most financing motions filed by chapter 11 debtors, does not cite any business exigency requiring access to post-petition financing by April 14. Thus, an adjournment will not prejudice the Debtors' operations because the Debtors have continued access to unrestricted cash, which the Debtors'

reported was approximately \$132 million as of the petition date. *See* Decl. of Bryan K. Bedford Pursuant to Local Bankruptcy Rule 1007-2 at ¶ 33. Moreover, Delta's commitment to provide DIP financing does not terminate until May 20, 2016, and the conditions to closing do not require entry of orders granting the relief in the Motions at any time prior to May 16, 2016. *See* DIP Financing Motion at Ex. B.

8. Finally, the requested adjournment will afford U.S. Trustee's Office time to consider and promptly act upon requests submitted for the formation an official equity committee. A letter requesting the formation of an official committee was sent within hours after the Debtors filed their Motions.⁴ *See* Exhibit A.

WHEREFORE, for the reasons set forth above, Ad Hoc Committee requests that the Court adjourn the Hearing, enter the form of proposed order attached hereto as Exhibit B and grant such other and further relief as may be just.

Dated: March 30, 2016
New York, New York

Respectfully submitted,

SCHULTE ROTH & ZABEL LLP

/s/ Adam C. Harris

Adam C. Harris
David M. Hillman
Lawrence V. Gelber
919 Third Avenue
New York, New York 10022
Telephone: (212) 756-2000
Facsimile: (212) 593-5955

Counsel to the Ad Hoc Committee of Equity Holders

⁴ We understand that several other equity holders have sent emails to the U.S. Trustee expressing their support for the formation of an official equity committee. Earlier today, the Debtors informed the U.S. Trustee that they do not support the appointment of an equity committee. If, as a result, the U.S. Trustee declines to appoint an equity committee, the Ad Hoc Committee will seek an order from this Court directing the U.S. Trustee to do so.

Exhibit A

SchulteRoth&Zabel LLP

919 Third Avenue
New York, NY 10022
212.756.2000
212.593.5955 fax

www.srz.com

Writer's Direct Number
212.756.2253

Writer's E-mail Address
adam.harris@srz.com

March 25, 2016

VIA E-MAIL AND U.S. MAIL

William K. Harrington, Esq.
Brian Masumoto, Esq.
Office of the United States Trustee
201 Varick Street, Suite 1006
New York, New York 10014

Re: *In re Republic Airways Holdings, Inc.*, Case No. 16-10429 (SHL)

Dear William and Brian,

Schulte Roth & Zabel LLP, on behalf of the common stock holders of Republic Airways Holdings Inc. listed on Exhibit A holding roughly 50% of the outstanding common stock (collectively, the "Ad Hoc Committee"), hereby requests that the Office of United States Trustee appoint an official committee of equity holders in the chapter 11 cases (the "Bankruptcy Cases") of Republic Airways Holdings and its affiliates (collectively, "Republic") pursuant to Bankruptcy Code section 1102(a)(1).¹ As a threshold matter, we have discussed this request with Republic's counsel and understand that Republic supports the formation and believes an equity committee would be a constructive partner to help facilitate a successful restructuring.

The appointment of an equity committee is warranted when, as here, the interests of the equity must be adequately represented and protected. *See In re Williams Commc 'n Group, Inc.*, 281 B.R. 216, 220 (Bankr. S.D.N.Y. 2002). The solvency of the debtor's chapter 11 estate is one of the most important factors guiding the decision whether to appoint an equity committee. *See id.* Other factors considered are "the number of shareholders, the complexity of the cases, and whether the cost of the additional committee significantly outweighs the concern for adequate representation." *Id.*; *see also In re Wang Lab, Inc.*, 149 B.R 1, 2 (Bankr. D. Mass. 1992). Each factor, as explained below, supports the appointment in this case.

¹ While not all of the members of the Ad Hoc Committee have determined that they would serve on an official equity committee, there is sufficient interest both within the Ad Hoc Committee and outside of it from parties that have expressed a willingness to serve.

March 25, 2016

Page 2

1. **Republic is Solvent**

An official equity committee is warranted in this Bankruptcy Case because Republic is clearly solvent. Republic's Chief Executive Officer stated that "on a consolidated basis, Republic had assets and liabilities of \$3,561,000,000 and \$2,971,000,000 respectively" as of January 31, 2016. *See* Declaration of Bryan K. Bedford Pursuant to Local Bankruptcy Rule 1007-2 (Dkt. No. 4) ("Bedford Decl.") ¶ 33. Thus, on a balance sheet basis, Republic's net equity is \$590,000,000. Moreover, Republic's common stock continues to trade in the over-the-counter market, with a daily average volume of 5.1 million shares traded since the bankruptcy was filed. The day *before* the bankruptcy petition was filed, the common stock traded at \$3.44. On the news of the bankruptcy filing, the stock plummeted the next day to \$0.62. It has since rebounded up to \$1.12 as of the market close on March 24th, nearly doubling since the Bankruptcy Case was filed on February 25, 2016. This is powerful contemporaneous evidence that the equity market believes that there is significant value for Republic's shareholders. Notably, several courts have held, outside the equity committee context, that positive equity market value is dispositive in determining solvency, absent a reason to distrust the market. *See Bank Nat'l Ass'n v. Verizon Communications, Inc.*, 761 F.3d 409 (5th Cir. 2014); *VFB, LLC v. Campbell Soup Co.*, 482 F.3d 624 (3d Cir. 2007); *Statutory Comm. of Unsecured Creditors v. Motorola, Inc. (In re Iridium Operating LLC)*, 373 B.R. 283 (Bankr. S.D.N.Y. 2007). These facts show that this is not a case where the debtor is hopelessly insolvent. Indeed, we believe the opposite is true.

2. **Republic has a Significant Number of Public Shareholders**

Republic has nearly 51 million non-insider shares outstanding, which are widely held by approximately 9,400 stockholders of record as of December 31, 2015. *See* Bedford Decl. at 60; Republic Airways Holdings Inc., Annual Report (Form 10-K), at 29 (March 11, 2016).

3. **Republic's Bankruptcy Case is Complex**

The financial and operational complexity of Republic's business and restructuring strategy further supports the formation of an equity committee. Republic provides regional passenger services with approximately 1,000 daily flights to 105 cities in 38 states, Canada, the Caribbean and the Bahamas. *See* Bedford Decl. ¶ 2. Service is provided through fixed-fee code-share agreements with United, Delta and American (collectively, the "Codeshare Partners"). *Id.* Republic has engaged the Codeshare Partners to recover its increased costs as a result of, among other things, higher labor rates with its pilot union. *Id.* ¶ 9. Additionally, Republic's aircraft fleet consists of approximately 230 aircraft with four aircraft types from two manufacturers. *Id.* ¶ 14. Republic intends to rationalize its fleet to use a single aircraft type to streamline operations. *Id.* ¶ 28. Republic's stated objective is to use its Bankruptcy Case to implement an operational restructuring (as opposed to a balance sheet restructuring). Republic's shareholders must be adequately represented because the development and implementation of Republic's strategy to renegotiate its contracts with the Codeshare Partners and rationalize its fleet are likely to result in rejection claims that, if not managed appropriately, could substantially dilute equity value. The Official Committee of Unsecured Creditors (whose co-chairs are two of the three Codeshare Partners and other trade creditors) and Republic shareholders thus have clearly competing interests, necessitating representation through an official committee having equal

March 25, 2016

Page 3

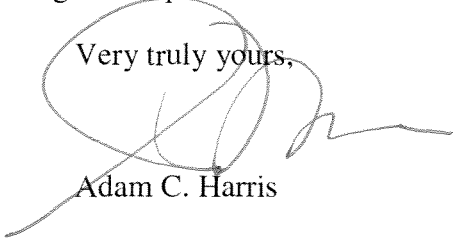
stature in these cases. If unfairly denied a seat at the bargaining table, the existing equity could be substantially diluted without any opportunity to influence the process or mitigate the dilutive impact of Republic's strategy. For these reasons, interests of equity security holders must be adequately represented in these Bankruptcy Cases.

4. **Need For Equity Representation Outweighs Cost**

The cost of an additional committee does not significantly outweigh the concern for adequate representation. Costs, in any bankruptcy case, are a legitimate concern. Here, those costs do not "significantly outweigh" the need for shareholder representation, especially in light of Republic's willingness to support the formation of an equity committee and the substantial equity value that exists today. Moreover, Republic filed its Bankruptcy Case with \$130 million in unrestricted cash. *See* Bedford Decl. ¶ 2. Under these facts, it would be unfairly harsh to compel the equity holders to self-finance their active participation in the Bankruptcy Case and be forced to rely on reimbursement at the conclusion of the Bankruptcy Case based on a substantial contribution pursuant to 11 U.S.C. § 503(b)(3)(D). We are mindful of these costs and intend to work closely and collaboratively with Republic and the Creditors' Committee.

For the foregoing reasons, we respectfully request the prompt appointment of an equity committee. We look forward to hearing from you soon. Please feel free to call me to discuss further should you have any questions regarding this request.

Very truly yours,


Adam C. Harris

cc: Bruce R. Zirinsky, Esq., Debtors' Counsel
Christopher K. Kiplok, Esq., Debtors' Counsel
David M. Hillman, Esq.
Lawrence V. Gelber, Esq.
Andrew Axelrod (Axar)
Grant Mitchell (Axar)
Thomas Higbie (Solus)
Stephen Blauner (Solus)
Matthew McQuade (Trishield)
Jonathan Bednarz (Trishield)
Richard Paige (GLG)
Eric Mason (GLG)
Jack Neumark (Drawbridge)
Matt Mortara (Drawbridge)
Ryan Cunningham (Quantum)

March 25, 2016
Page 4

EXHIBIT A

	<u>Common Shares</u>	<u>% of Outstanding</u>
Axar	10,115,000	19.9%
Solus	4,942,300	9.7%
GLG	3,118,728	6.1%
Trishield	2,531,863	5.0%
Quantum	2,000,000	3.9%
Drawbridge	2,400,000	4.7%
Total	25,107,891	49.3%
Shares Outstanding at 12/31/15:	50,948,385	100.0%

Exhibit B

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X	:	
	:	Chapter 11
In re:	:	
	:	Case No. 16-10429 (SHL)
Republic Airways Holdings Inc., <i>et al.</i> , ¹	:	
	:	(Jointly Administered)
Debtors.	:	
	:	
-----X	:	

**ORDER GRANTING EMERGENCY MOTION OF AD HOC COMMITTEE OF EQUITY
HOLDERS TO ADJOURN HEARING**

Upon consideration of the *Emergency Motion of the Ad Hoc Committee of Equity Holders to Adjourn Hearing*, the Motion is hereby granted. The hearing date and objection deadline for the (a) "*Debtors' Motion for Entry of an Order Pursuant to 11 U.S.C. §§ 105, 361, 362(D)(1), 363(B), 364(C)(1), 364(C)(2), 364(C)(3), 364(D), 364(E), 503(B)(1) and 507(B) and Fed. R. Bankr. P. 4001 and 6004 (I) Authorizing Debtors to Obtain Postpetition Financing, (II) Granting Liens and Providing Superpriority Administrative Expense Status, (III) Modifying the Automatic Stay and (IV) Granting Related Relief*" [Dkt. No. 246] and (b) "*Debtors' Motion Pursuant to Sections 363(B), 363(M), and 365(A) of the Bankruptcy Code and Bankruptcy Rules 6004, 6006 and 9019 For Authorization to (I) Assume Codeshare and Related Agreements, as Amended, with Delta Air Lines, Inc., (II) Lease Certain Property of the Estate and (III) Settle Claims Between Delta Air Lines, Inc. and the Debtors*" [Dkt. No. 244] shall be set as follows:

Hearing Date: May 17, 2016
Objection Deadline: May 10, 2016

Dated: March __, 2016

Honorable Sean H. Lane

United States Bankruptcy Judge

¹ The last four digits of the taxpayer identification numbers of each of the Debtors are 9146, 2301, 1397, 2737, 9146, 8757, 0079, and 4344.

SCHULTE ROTH & ZABEL LLP

Adam C. Harris

David M. Hillman

Lawrence V. Gelber

919 Third Avenue

New York, New York 10022

Telephone: (212) 756-2000

*Counsel to the Ad Hoc Committee
of Equity Holders*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

Republic Airways Holdings Inc., *et al.*,¹

Debtors.

Chapter 11

Case No. 16-10429 (SHL)

(Jointly Administered)

**ORDER TO SHOW CAUSE SHORTENING NOTICE FOR EMERGENCY MOTION OF
AD HOC COMMITTEE OF EQUITY HOLDERS TO ADJOURN HEARING**

Upon consideration of the Declaration of Adam C. Harris, Esq. dated March 30, 2016, in support of an order to show cause ("Order to Show Cause") shortening notice for the *Emergency Motion of Ad Hoc Committee of Equity Holders to Adjourn Hearing*, attached hereto as Exhibit A (the "Emergency Adjournment Motion"), and for good cause shown:

IT APPEARING that an Order to Show Cause shortening notice for the Emergency Adjournment Motion is necessary, it is hereby

ORDERED that a hearing will be held before the Honorable Sean H. Lane, United States Bankruptcy Judge, at the United States Bankruptcy Court, Southern District of New York, in Courtroom 701, One Bowling Green, New York; New York 10004, on April ____, 2016 at _____ .m. (ET), or as soon thereafter as counsel may be heard

¹ The last four digits of the taxpayer identification numbers of each of the Debtors are 9146, 2301, 1397, 2737, 9146, 8757, 0079, and 4344.

ORDERED that objections to the relief requested in the Emergency Adjournment Motion must be in writing and must state with particularity the grounds therefore and must be filed and served upon (i) Adam C. Harris and David M. Hillman, Schulte Roth & Zabel LLP, 919 Third Ave., New York, NY 10022; and (ii) the Office of the United States Trustee, 201 Varick Street, Suite 1006, New York, New York 10014 (Attn: Brian Masumoto, Esq.) so as to be received no later than April ____, 2016 at _____.m. (ET).

Dated: _____, 2016
New York, New York

The Honorable Sean H. Lane
UNITED STATES BANKRUPTCY JUDGE