

Objection Deadline: October 12, 2006 at 4:00 p.m. (prevailing Eastern Time)
Hearing Date: October 19, 2006 at 2:30 p.m. (prevailing Eastern Time)

DAVIS POLK & WARDWELL
450 Lexington Avenue
New York, New York 10017
Telephone: (212) 450-4000
Facsimile: (212) 450-6539
John Fouhey (JF 9006)
Marshall S. Huebner (MH 7800)
Benjamin S. Kaminetzky (BK 7741)

Attorneys for Debtors and
Debtors in Possession

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

-----	X
	:
In Re:	:
	:
DELTA AIR LINES, INC., et al.,	:
	:
Debtors.	:
	:
-----	X

**MOTION TO APPROVE AGREEMENTS BETWEEN
THE DEBTORS AND SECTION 1114 RETIREE
COMMITTEES TO MODIFY RETIREE BENEFITS**

Delta Air Lines, Inc. (“**Delta**”) and those of its subsidiaries that are debtors and debtors in possession in these proceedings (collectively, the “**Debtors**”),¹ respectfully represent:

¹ The Debtors are the following entities: ASA Holdings, Inc.; Comair Holdings, LLC; Comair, Inc.; Comair Services, Inc.; Crown Rooms, Inc.; DAL Aircraft Trading, Inc.; DAL Global Services, LLC; DAL Moscow, Inc.; Delta AirElite Business Jets, Inc.; Delta Air Lines, Inc.; Delta Benefits Management, Inc.; Delta Connection Academy, Inc.; Delta Corporate Identity, Inc.; Delta Loyalty Management Services, LLC; Delta Technology, LLC; Delta Ventures III, LLC; Epsilon Trading, LLC; Kappa Capital Management, Inc.; and Song, LLC.

Background and Jurisdiction

1. On September 14, 2005, each Debtor commenced with this Court a voluntary case under chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”). The Debtors are authorized to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

2. On November 10, 2005, this Court entered an order pursuant to section 1114 of the Bankruptcy Code appointing an official committee (the “**Non-Pilot Committee**”) to represent retired ground and flight attendant employees of Delta.

3. On March 17, 2006, this Court entered an order pursuant to section 1114 of the Bankruptcy Code appointing an official committee (the “**Pilot Committee,**” together with the Non-Pilot Committee, the “**Retiree Committees**”) to represent retired pilot employees of Delta.

4. The Court has subject matter jurisdiction to consider this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and may be determined by the Bankruptcy Court. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Relief Requested

5. As this Court is aware, the operating environment of the U.S. airline industry is a very difficult one, marked by intense competition that seriously limits the prices that legacy airlines like Delta can charge for their services. At the same time, the airline industry has become increasingly vulnerable to disruption from external events such as international terrorism, perceived or actual health epidemics and spikes in the

cost of jet fuel. In recent years, a confluence of declining revenues and dramatic increases in fuel costs has been especially devastating for Delta, which lost \$7.5 billion (excluding special and reorganization items) between 2001 and 2005. Indeed, in 2005 alone, Delta lost more than \$2.2 billion – almost \$900 million more than any other airline carrier. The magnitude of Delta’s financial problems and the extreme difficulty of the business environment in which it operates require that Delta reduce its controllable costs in every area of its operations in order to be a viable business over the long-term.

6. To achieve the savings necessary for reorganization, Delta has asked each of its constituencies to bear a fair share of the sacrifices needed for reorganization. In keeping with basic fairness and its goal of comprehensive cost-reduction, Delta reluctantly decided, pursuant to section 1114 of the Bankruptcy Code, to take the necessary measure of modifying the healthcare benefits of retired employees. As of the date of Delta’s bankruptcy petition, those benefits were, on balance, among the most generous and costly in the airline industry.

7. On August 8 and 9, 2006, Delta and its advisors presented a detailed proposal for healthcare benefit modifications to the Pilot Committee and the Non-Pilot Committee, respectively. These presentations included detailed briefings regarding Delta’s overall financial situation. Before, during, and after Delta submitted this proposal, Delta supplied the Retiree Committees and their advisors with thousands of pages of relevant materials concerning the benefits in question, as well as relevant financial and actuarial data. Delta also met at length (in person or by telephonic conference) with the Retiree Committees and their advisors on multiple occasions in an effort to answer questions and supply additional requested information.

8. Commencing the week of September 11, 2006, Delta and the Retiree Committees met repeatedly for negotiation sessions and exchanged proposals and counterproposals for modifying the healthcare benefits of each committee's respective constituencies. By working diligently together with the Retiree Committees, during the weeks of September 11, 18 and 25 and October 2, 2006, Delta was able to reach agreements with both Retiree Committees that will allow it to reduce its overall retiree healthcare costs while still maintaining a competitive and significant level of benefits for retirees. Pursuant to these agreements, Delta estimates it will save approximately \$50 million on an annual basis, inclusive of changes to benefits that Delta believes are freely and unilaterally amendable by virtue of Delta's reservation of rights to amend these benefits at any time.

9. Accordingly, by this motion (the "**Motion**"), pursuant to section 1114(e)(1)(B) and section 363(b) of the Bankruptcy Code, Delta seeks approval of certain modifications to (i) healthcare benefits for those ground and flight attendant retirees, their spouses and survivors described in the Non-Pilot Term Sheet (as that term is defined below) ("**Non-Pilot Retirees**"), as agreed to by the Non-Pilot Committee and embodied in the Section 1114 Non-Pilot Retiree Committee Agreement Term Sheet, attached hereto as Exhibit A (the "**Non-Pilot Term Sheet**") and (ii) healthcare benefits for those pilot retirees, their spouses and survivors described in the Pilot Term Sheet (as that term is defined below) ("**Pilot Retirees**"), as agreed to by the Pilot Committee and embodied in the Section 1114 Pilot Retiree Committee Agreement Term Sheet, attached hereto as Exhibit B (the "**Pilot Term Sheet**") (the Pilot Term Sheet, together with the

Non-Pilot Term Sheet the “**Retiree Term Sheets**”).² The Official Committee of Unsecured Creditors in these consolidated cases (the “**Creditors’ Committee**”) has examined the Retiree Term Sheets and has authorized the Debtors to represent that the Creditors’ Committee supports the instant Motion.³

10. Notably, section 1114(e)(1)(B) of the Bankruptcy Code provides that a debtor and the authorized representative(s) of retirees (in this case, the Retiree Committees) may agree to modifications of retiree benefits, without court approval. Moreover, a debtor’s agreement with the authorized representative to modify retiree benefits is binding upon all retirees. *See, e.g., Hourly Employees/Retirees of Debtor v. Erie Forge & Steel, Inc. (In re Erie Forge & Steel, Inc.)*, 418 F.3d 270, 276-77 (3d Cir. 2005); *Argeras v. GF Corp.*, 140 B.R. 884, 886 (N.D. Ohio 1992), *appeal dismissed sub nom. In re GF Corp.*, Nos. 92-3583, 92-3585, 1993 U.S. App. LEXIS 17218 (6th Cir. June 30, 1993) (unpublished). Therefore, the Debtors do not believe that the modifications of retiree healthcare benefits set forth in the Retiree Term Sheets require court or retiree approval. However, out of an abundance of caution, the Debtors have filed the instant Motion seeking court approval of these agreed-to modifications to retiree healthcare benefits, as set forth herein.

² This Motion provides only a summary overview of the Retiree Term Sheets. The Retiree Term Sheets themselves, and not this Motion, govern the terms and conditions agreed to by Delta and the Retiree Committees. In the event of any inconsistency between this Motion and the Retiree Term Sheets, the Retiree Term Sheets shall govern and this Motion shall not be referenced to resolve interpretive disputes. Failure to describe in this Motion any provision of the Retiree Term Sheets shall not affect such provision’s enforceability.

³ In addition to the healthcare benefit modifications described below and set forth in the Retiree Term Sheets, the Debtors have agreed that certain individual retirees covered by the Retiree Term Sheets will have general unsecured pre-petition claims in respect of certain of the modifications, all as more fully described in the Retiree Term Sheets.

Overview of the Non-Pilot Term Sheet

11. The Non-Pilot Term Sheet provides for the following changes, among others:

12. Provisions Applicable to Non-Pilot Retirees Under Age 65:

(a) Cost Sharing: Many Non-Pilot Retirees under the age of 65 currently pay differing amounts for their healthcare insurance due to having retired under a variety of different early retirement programs over the years. Under the Non-Pilot Term Sheet, certain retirees will go from paying no premiums at all for their coverage prior to reaching age 65 to paying the lesser of (i) \$115 monthly in 2007; \$120 monthly in 2008; and \$125 monthly in 2009 and thereafter or (ii) starting in 2011, 22% of the full cost of the coverage until they reach age 65. Others will go from paying 10% to 25% of the cost and still others will go from paying 22% to 35% of the cost. Delta has agreed to place limits on further changes to certain of these cost-sharing percentages through 2010.

(b) Plan Design: Delta has agreed not to make certain changes to plan design in 2007 and has placed limits on the amount of plan design changes it will make through 2010.

13. Provisions Applicable to Non-Pilot Retirees Age-65 or Over (“**Age 65+ Non-Pilot Retirees**”):

(a) Plan Design: The Non-Pilot Term Sheet provides for the elimination of the current, self-insured plan design and instead provides for access to a Delta-affiliated plan that is intended to supplement Medicare benefits.

(b) Cost Sharing: Current Age 65+ Non-Pilot Retirees will be eligible to receive from Delta a \$50 monthly subsidy (which may increase in certain future years in accordance with the Consumer Price Index (the “CPI”) up to a maximum of 3% per year) that may be applied, subject to certain conditions, towards the premium for Delta-affiliated medical and prescription drug coverage (the “Age 65+ Non-Pilot Subsidy”). Certain other retirees who are not yet age 65 shall also be eligible, upon reaching age 65, for the Age 65+ Non-Pilot Subsidy and this Subsidy will be provided until at least through 2011 for most eligible Non-Pilot Retirees.

(c) Hardship Fund: Delta has agreed to provide up to \$2 million in 2007 for targeted supplemental premium subsidies to certain retirees who experience hardships from the changes outlined above. This hardship fund will be administered by an organization of current Delta retirees (at their sole discretion and with no further input from Delta).

Overview of the Pilot Term Sheet

14. The Pilot Term Sheet provides for the following changes, among others:

15. Provisions Applicable to Pilot Retirees Under Age 65 (“**Pre-65 Pilot Retirees**”): For Pre-65 Pilot Retirees, the contribution percentage for the Delta Pilots Medical Plan (“**DPMP**”) will generally continue to be 100% for those not yet age 60 and for those ages 60-64 will change from 28% to 51%, with some exceptions described more fully in the Pilot Term Sheet. Certain Pre-65 Pilot Retirees may be entitled to receive the Health Coverage Tax Credit (the “**HCTC**”), a federal program designed to assist with payment of healthcare premiums for some individuals whose pension plans have been

turned over to the Pension Benefit Guaranty Corporation (among other targeted groups).⁴ Delta will make changes to its normal administrative practices to assist eligible pilots in taking advantage of this opportunity.

16. Provisions Applicable to Pilot Retirees Age-65 or Over (“**Age 65+ Pilot Retirees**”):

(a) Plan Design: A series of costly plan designs that relate to those who retired many years ago will be eliminated in favor of a single plan design applicable to all retired pilots.

(b) Cost Sharing: Current Age 65+ Pilot Retirees will be eligible to receive from Delta a monthly subsidy (which may increase in certain future years in accordance with the CPI up to a maximum of 3% per year) that may be applied either towards Delta-provided coverage or, subject to certain conditions, towards the premium for Delta-affiliated medical and prescription drug coverage (the “**Age 65+ Pilot Subsidy**”). Certain other retirees who are not yet age 65 shall also be eligible, upon reaching age 65, for the Age 65+ Pilot Subsidy. The amount of this Subsidy will be either \$65 or \$80 depending on the retirement date of such Age 65+ Pilot Retirees, as defined in the Pilot Term Sheet.

The Retiree Term Sheets Have Been Entered Into Pursuant to the Debtors’ Sound Business Judgment and Should be Approved

17. Section 363(b) of the Bankruptcy Code authorizes a debtor, after notice and a hearing, to “use” property other than in the ordinary course of business. Courts in the Second Circuit and elsewhere have required that decisions to use property outside of

⁴ Such retirees will be eligible to pay 100% of the COBRA rate, and to receive a tax credit equal to 65% of such payment.

the ordinary course of business be based upon the sound business judgment of the debtor.⁵ As Judge Lifland has written, “[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 v. Johns-Manville Corp. (In re Johns-Manville Corp.)*, 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986).

18. The Debtors seek to enter into the agreements set forth in the Retiree Term Sheets because they achieve necessary and significant cost savings for Delta and represent a consensual resolution to what otherwise likely would have been an unpredictable, time-consuming and costly litigation with one or both of the Retiree Committees. Moreover, the Debtors seek to enter into the agreements embodied in the Retiree Term Sheets because they are within the range of potential outcomes had the Debtors sought to litigate a section 1114 motion.

19. When determining whether to approve a proposed settlement, a bankruptcy court need not decide the numerous issues of law and fact raised by the

⁵ 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) (a judge determining a section 363(b) application must find from the evidence presented a good business reason to grant such application); *Comm. of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1071 (2d Cir. 1983) (same); *Official Comm. of Unsecured Creditors of Enron Corp. v. Enron Corp. (In re Enron Corp.)*, 335 B.R. 22, 27-28 (S.D.N.Y. 2005) (standard under section 363(b) is evidence of a good business reason); *In re Global Crossing Ltd.*, 295 B.R. 726, 743 (Bankr. S.D.N.Y. 2003) (“courts are loath to interfere with corporate decisions absent a showing of bad faith, self-interest, or gross negligence” (citing *Official Comm. of Subordinated Bondholders v. Integrated Res., Inc. (In re Integrated Res., Inc.)*, 147 B.R. 650, 656 (S.D.N.Y. 1992))); *Official Comm. of Unsecured Creditors v. Raytech Corp. (In re Raytech Corp.)*, 190 B.R. 149, 151 (Bankr. D. Conn. 1995) (explaining that the standard under section 363(b) is evidence of a good business reason); *In re Ionosphere Clubs, Inc.*, 100 B.R. 670, 675 (Bankr. S.D.N.Y. 1989) (noting that the standard for determining a section 363(b) motion is “good business judgment”); see also *Stephens Indus., Inc. v. McClung*, 789 F.2d 386, 390 (6th Cir. 1986) (holding that a bankruptcy court can authorize an action under section 363(b) “when a sound business purpose dictates such action”); *In re Phoenix Steel Corp.*, 82 B.R. 334, 335-36 (Bankr. D. Del. 1987) (stating that judicial approval of a section 363 motion requires, *inter alia*, that a good business reason exist for the requested relief).

settlement, but rather should “canvass the issues and see whether the settlement fall[s] below the lowest point in the range of reasonableness.” *Cosoff v. Rodman (In re W.T. Grant Co.)*, 699 F.2d 599, 608 (2d Cir. 1983) (internal quotation marks omitted); *see also In re Purofied Down Prods. Corp.*, 150 B.R. 519, 522 (S.D.N.Y. 1993) (citing *W.T. Grant* for the proposition that a “court need not conduct a ‘mini-trial’ to determine the merits of the underlying litigation”). In deciding whether a particular settlement falls within the “range of reasonableness,” courts traditionally consider the following factors:

- (a) the probability of success in the litigation;
- (b) the difficulties associated with collection;
- (c) the complexity of the litigation, and the attendant expense, inconvenience and delay; and
- (d) the paramount interests of creditors.

See, e.g., Six West Retail Acquisition, Inc. v. Loews Cineplex Entm’t Corp., 286 B.R. 239, 248 n.13 (S.D.N.Y. 2002) (citing *Nellis v. Shugrue*, 165 B.R. 115, 122 (S.D.N.Y. 1994)).⁶

20. Applying these principles to the agreements embodied in the proposed Retiree Term Sheets, the Debtors submit that they are well within the “range of reasonableness” of potential section 1114 litigation outcomes:

- (a) **Probability of Success In Litigation:** Although Delta believes it would prevail in litigation with the Retiree Committees pursuant to section 1114, there would be numerous risks inherent in such litigation. As with most litigations under section 1114, the most disputed issue would likely be whether the relief sought by Delta was “necessary” and “fair and equitable.” *See* 11 U.S.C. § 1114(g)(1). Although Delta strongly believes that the proposed modifications are “necessary” within the meaning of section 1114 and “fair and equitable” in the context of the tremendous sacrifices made by the other constituencies affected by Delta’s chapter 11 reorganization, the Retiree Committees would likely have

⁶ Although *Six West* and *Nellis* approved settlements pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure, their guidance is nonetheless instructive for reviewing an agreement submitted pursuant to section 363, which is closely related to Rule 9019 if not the statutory source for motions made pursuant to that Rule. *See Hicks, Muse & Co. v. Brandt (In re Healthco Int’l Inc.)*, 136 F.3d 45, 50 (1st Cir. 1998) (suggesting that “absent some clear Code source for the substantive power to approve settlements [under Rule 9019] . . . Congress [may have] envisioned section 363 as that source”).

challenged Delta on both of these points and resolution of the dispute would have turned on an intensive and necessarily unpredictable factual inquiry.

(b) **Difficulties Associated with Collection:** As Delta is not seeking to recover damages from the Retiree Committees, this factor is not directly applicable to any litigation under section 1114. However, as with any litigation, any section 1114 victory by Delta would have been subject to appeal and the implementation of changes and realization of savings may have been subject to indefinite delay. The proposed Retiree Term Sheets will result in savings beginning on January 1, 2007.

(c) **Complexity of the Section 1114 Litigation, and the Attendant Expense, Inconvenience and Delay:** Over the past several months, the parties have spent hundreds of hours researching legal and factual issues related to retiree healthcare benefits, and Delta already has produced thousands of pages of documents, responded to voluminous interrogatories, and engaged in multiple, multi-hour telephonic and in-person meetings. Any litigation under section 1114 would have resulted in numerous depositions, additional discovery and a multi-day trial that would have imposed great costs on the Debtors' estates.

(d) **Paramount Interests of Creditors:** Finally, the Debtors have appropriately exercised their fiduciary duties in determining that the paramount interests of creditors are best served by the Retiree Term Sheets. As this Court well knows, notwithstanding Delta's extensive efforts to cut costs and improve revenues, its place within the intensely competitive and often unpredictable operating environment of the airline industry is far from secure. Despite the fragility of its business position, Delta's retiree healthcare costs are currently among the highest (and its retiree benefits programs among the most generous) in the entire airline industry. It follows that the Retiree Term Sheets, which will generate approximately \$50 million in annual savings and make Delta's retiree healthcare costs competitive with its industry peers, are in the best interests of the Debtors' estates. Moreover, as noted above, the Creditors' Committee fully supports the instant Motion and the agreements reflected in the Retiree Term Sheets.

21. For the foregoing reasons, the Debtors submit that the Retiree Term Sheets are well within the reasonable range of possible outcomes that Delta would have achieved through litigation pursuant to section 1114 and represent a sound exercise of the Debtors' business judgment.

**The Retiree Term Sheets Are Among the Types of
Compromises Favored by the Chapter 11 Process**

22. The Debtors submit that both Retiree Term Sheets are among those types of compromises strongly favored in chapter 11 because they strike a balance between (i) Delta's need to reduce its cost structure to competitive market levels, and (ii) fairness to Delta's retirees, who have provided years of valuable service to Delta, and to other constituencies in these cases. Settlements are "favored and, in fact, encouraged" in bankruptcy. *Nellis*, 165 B.R. at 123; *see also Protective Comm. for Indep. Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414, 424 (1968) ("Compromises are a normal part of the process of reorganization. In administering reorganization proceedings in an economical and practical manner it will often be wise to arrange the settlement of claims as to which there are substantial and reasonable doubts.") (internal citation and quotation marks omitted); *In re Hass*, 273 B.R. 45, 50 (Bankr. S.D.N.Y. 2002) (Hardin, J.) (approving settlement of claims under section 727(a) in chapter 7 liquidation case and noting that "[c]onsensual resolution of litigation has been favored in the law from time immemorial, whether by the parties themselves, or through mediation or other techniques of dispute resolution").

23. Moreover, the settlement of section 1114 issues embodied in the Retiree Term Sheets are entitled to substantial deference. *See, e.g., Smart World Techs., LLC v. Juno Online Servs., Inc. (In re Smart World Techs., LLC)*, 423 F.3d 166, 175 (2d Cir. 2005) (A debtor's "duty to wisely manage the estate's legal claims is implicit in the debtor's role as the estate's only fiduciary. As fiduciary, the debtor bears the burden of maximizing the value of the estate, including the value of any legal claims. Courts have

thus concluded that in some instances, fiduciary duty requires the chapter 11 debtor to pursue a cause of action, but in other instances may require settlement.”) (citations, footnote and internal quotation marks omitted). Although a decision to approve a compromise or settlement is within the sound discretion of the bankruptcy court, *see In re Drexel Burnham Lambert Group, Inc.*, 134 B.R. 499, 505 (Bankr. S.D.N.Y. 1991), a court should not substitute its own judgment for that of the debtor, *see In re Neshaminy Office Bldg. Assocs.*, 62 B.R. 798, 803 (E.D. Pa. 1986). This rule “reflect[s] the considered judgment that little would be saved by the settlement process if bankruptcy courts could approve settlements only after an exhaustive investigation and determination of the underlying claims.” *Purofied Down Prods.*, 150 B.R. at 522-23.

24. In light of the foregoing, the Debtors respectfully (i) submit that the Retiree Term Sheets result from the sound exercise of the Debtors’ business judgment and are fair resolutions of the section 1114 process and (ii) request that the Court authorize Delta’s entry into them under section 363(b) of the Bankruptcy Code.

The Retiree Committees Are Entitled to General Exculpation from Liability with Respect to the Retiree Term Sheets as a Matter of Law

25. In chapter 11 proceedings, official committees like the Retiree Committees are entitled to qualified immunity from suit as a matter of law with respect to the actions they take within the scope of the authority conferred upon them by statute or the court. *See, e.g., In re PWS Holding Corp.*, 228 F.3d 224, 246 (3d Cir. 2000); *Pan Am Corp. v. Delta Air Lines*, 175 B.R. 438, 514 (S.D.N.Y. 1994); *Philip v. L.F. Rothschild Holdings, Inc. (In re L.F. Rothschild Holdings, Inc.)*, 163 B.R. 45, 49 (S.D.N.Y. 1994); *In re Refco Inc.*, 336 B.R. 187, 190 & n.2 (Bankr. S.D.N.Y. 2006); *ABF Capital Mgmt. v.*

Kidder Peabody & Co. (In re Granite Partners, L.P.), 210 B.R. 508, 516 (Bankr. S.D.N.Y. 1997). In order to overcome this qualified immunity, a party challenging the actions of an official committee or its members must plead and prove willful misconduct or ultra vires activities. *See PWS Holding*, 228 F.3d at 246; *Pan Am*, 175 B.R. at 514. The Debtors respectfully request that any order granting the instant Motion reflect this standard of liability, which already applies to the Retiree Committees as a matter of law.

Waiver of Memorandum of Law

26. Because the relevant issues of law are addressed herein, the Debtors respectfully request that the Court waive the requirement pursuant to Rule 9013-1(b) of the Local Bankruptcy Rules for the United States Bankruptcy Court for the Southern District of New York that the Debtors file a separate memorandum of law in support of this motion.

Notice

27. Consistent with the procedures described in the Court's Order Approving Notice, Case Management and Administrative Procedures entered October 6, 2005 (the "**Case Management Order**"), the Debtors have served notice of this Motion on (i) the Core Parties (as defined in the Case Management Order), (ii) the Non-Pilot Committee, (iii) the Pilot Committee and (iv) the Non-ECF Service Parties (as defined in the Case Management Order).⁷ Pursuant to the Case Management Order, the relief requested herein may be granted without a hearing if no objections are timely filed and served in accordance with the Case Management Order.

⁷ In addition, Delta will send a plain English letter to all applicable retirees providing information concerning this Motion and summarizing the Retiree Term Sheets.

28. No previous request for the relief sought herein has been made by the Debtors to this or any other court.

WHEREFORE, the Debtors respectfully request the Court grant the Debtors the relief requested herein and such other and further relief as is just and proper.

Dated: October 5, 2006
New York, New York

By: /s/ Benjamin S. Kaminetzky
Benjamin S. Kaminetzky (BK 7741)

DAVIS POLK & WARDWELL
450 Lexington Avenue
New York, New York 10017
Telephone: (212) 450-4000
Facsimile: (212) 450-6539

Attorneys for Debtors and
Debtors in Possession

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

----- X
:
In re: :
:
:
: **Chapter 11 Case No.**
DELTA AIR LINES, INC., et al., :
: **05-17923 (ASH)**
:
Debtors. : **(Jointly Administered)**
:
:
----- X

**ORDER APPROVING AGREEMENTS BETWEEN
THE DEBTORS AND SECTION 1114 RETIREE
COMMITTEES TO MODIFY RETIREE BENEFITS**

Upon the motion dated October 5, 2006 (the “**Motion**”)¹ of Delta Air Lines, Inc. (“**Delta**”) and those of its subsidiaries that are debtors and debtors in possession (collectively, the “**Debtors**”),² pursuant to section 1114(e)(1)(B) and section 363(b) of the Bankruptcy Code, for an order approving the Retiree Term Sheets; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. § 1334 and the Standing Order of Referral of Cases to Bankruptcy Court Judges of the District Court for the Southern District of New York, dated July 10, 1984 (Ward, Acting C.J.); and consideration of the Motion and the requested relief being a core proceeding that the Bankruptcy Court can determine pursuant to 28 U.S.C. § 157(b)(2);

¹ Unless otherwise defined herein, each capitalized term shall have the meaning ascribed to it in the Motion.

² The Debtors are the following entities: ASA Holdings, Inc.; Comair Holdings, LLC; Comair, Inc.; Comair Services, Inc.; Crown Rooms, Inc.; DAL Aircraft Trading, Inc.; DAL Global Services, LLC; DAL Moscow, Inc.; Delta AirElite Business Jets, Inc.; Delta Air Lines, Inc.; Delta Benefits Management, Inc.; Delta Connection Academy, Inc.; Delta Corporate Identity, Inc.; Delta Loyalty Management Services, LLC; Delta Technology, LLC; Delta Ventures III, LLC; Epsilon Trading, LLC; Kappa Capital Management, Inc.; and Song, LLC.

and venue being proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and the Retiree Committees being the court-approved “authorized representatives” of retirees under section 1114 in these cases; and due and proper notice of the Motion having been provided; and it appearing that no other or further notice need be provided; and the relief requested in the Motion being in the best interests of the Debtors, their estates, their creditors and all other parties in interest in these cases; and entering into the Retiree Term Sheets representing a prudent exercise of the Debtors’ business judgment; and the Debtors having articulated good, sufficient and sound business justifications and compelling circumstances for entering into the Retiree Term Sheets; and the Court having reviewed the Motion [and having held a hearing with appearances of parties in interest noted in the transcript thereof]; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor; it is hereby

ORDERED that the relief requested in the Motion is hereby granted; and it is further

ORDERED that, pursuant to section 1114(e)(1)(B) and section 363(b) of the Bankruptcy Code, the Retiree Term Sheets are authorized and approved in all respects; and it is further

ORDERED that the Debtors, pursuant to section 363(b) of the Bankruptcy Code, and in their sole discretion, are authorized to enter into the Retiree Term Sheets, and implement all the changes to retiree healthcare contemplated thereby, and to execute, deliver, implement and fully perform any and all obligations under the Retiree Term

Sheets and all related instruments, documents and papers and to take any and all actions reasonably necessary or appropriate in connection thereto; and it is further

ORDERED that the failure to specifically describe or include any particular feature of the Retiree Term Sheets in this Order shall not diminish or impair the effectiveness of such feature, it being the intent of this Court that the Retiree Term Sheets be approved in their entirety; and it is further

ORDERED that the Court shall retain jurisdiction with respect to any disputes arising from this or other actions to interpret, administer or enforce the terms and provisions of this Order; and it is further

ORDERED that the Retiree Committees, and their respective current or former members, advisors, professionals, or agents (including any attorneys, financial advisors, actuaries, and other professionals retained by the Retiree Committees, but solely in their capacities as such) shall not have or incur any liability to any retiree, spouse, survivor or other beneficiary for any act or omission in connection with, related to, or arising out of the section 1114 process, retiree healthcare, or the negotiation and execution of the Retiree Term Sheets, including all documents ancillary thereto and all decisions, actions, inactions and alleged negligence or misconduct relating thereto, except with respect to bad faith, willful misconduct or ultra vires acts as determined by a final order of this Court; and it is further

ORDERED that the Hardship Fund described in the Motion shall be administered by an organization of current Delta retirees (at their sole discretion and with no further input from Delta); and it is further

ORDERED that the notice procedures satisfy Bankruptcy Rules 2002, 6004, 9014, 9019 and Local Bankruptcy Rules 6004-1(a) and 9006-1 by providing the counterparties with notice and an opportunity to object and be heard.

Dated: _____, 2006
White Plains, New York

UNITED STATES BANKRUPTCY JUDGE