

Objection Deadline: December 13, 2006 at 4:00 p.m. (prevailing Eastern Time)  
Hearing Date: December 20, 2006 at 2:30 p.m. (prevailing Eastern Time)

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

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: **In Re:** : **Chapter 11 Case No.**  
: : **DELTA AIR LINES, INC., et al.,** : **05-17923 (ASH)**  
: : **Debtors.** : **(Jointly Administered)**  
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**MOTION TO APPROVE STIPULATION BETWEEN THE DEBTORS,  
THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS AND DP3  
REGARDING ALLOWED CLAIMS IN RESPECT OF POST-TERMINATION  
NON-QUALIFIED PENSION BENEFITS OF RETIRED DELTA PILOTS**

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

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<sup>1</sup> 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. 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**

3. As of the Petition Date, Delta sponsored two non-qualified defined benefit pension plans for its pilots, the Delta Pilots Bridge Plan and the Delta Pilots Supplemental Annuity Plan (together, the “**Non-Qualified Plans**”), that provided retirement benefits to pilots that would have been paid by the Debtors’ tax-qualified defined benefit pension plan but for limitations imposed on qualified plans by the Internal Revenue Code. On the Petition Date, the Debtors ceased making non-qualified benefit payments that were allocable to pre-petition service. The Non-Qualified Plans will terminate on or as of the effective date of the termination of the Delta Pilots Retirement Plan (the “**Qualified Plan**”), which the parties anticipate to be September 2, 2006. The termination of the Non-Qualified Plans and the Qualified Plan were the subject of prior orders of the Bankruptcy Court and are not at issue in this Motion. Rather, this Motion

deals only with the calculation methodology for certain claims in favor of retirees that will result if and when the Non-Qualified Plans terminate.

4. On June 2, 2006, the Bankruptcy Court entered the Stipulation and Consent Order between the Debtors, the Official Committee of Unsecured Creditors (the “**Committee**”) and DP3 [Docket No. 2656] (the “**Original Stipulation**”). The Original Stipulation, among other things, resolved certain outstanding litigation matters between the parties, and granted certain allowed claims to pilots who retired prior to the termination date of the Non-Qualified Plans (the “**NQ Termination Date**”) and had accrued and unpaid benefits arising thereunder for the period commencing on the Petition Date and ending on the NQ Termination Date, as well as others whose rights to benefits under the Non-Qualified Plans were derivative of the rights of such retired pilots, including alternate payees, survivors and contingent beneficiaries (collectively, the “**Covered Pilots**”). The Original Stipulation explicitly provided that the parties did not agree thereunder (i) as to whether any claim arose in connection with the Non-Qualified Plans for the period on and after the NQ Termination Date, and (ii) if there was such a claim, in what amount.

5. On August 28, 2006, the Bankruptcy Court entered the Further Order Concerning the Stipulation and Consent Order between the Debtors, the Committee and DP3 [Docket No. 3152] (the “**Further Order**”) that, *inter alia*, bound all pilots who retired prior to the NQ Termination Date who had accrued and unpaid benefits arising under the Non-Qualified Plans to the terms of the Original Stipulation except for 13 objecting retired pilots addressed therein. No party appealed either the Original Stipulation or the Further Order, and the time to appeal them has long since passed. Thus,

assuming the expected terminations, other than these 13 objecting retired pilots, all of the Covered Pilots will share the benefits set forth in the Original Stipulation, including a \$9 million administrative claim that will be paid in cash, and an approximately \$73.3 million pre-petition claim for the pre-termination period.

6. The Debtors, with the support and participation of the Committee, have been engaged in extensive negotiations with DP3, Inc. (“**DP3**”) regarding the existence and amount of any claim arising in connection with the Non-Qualified Plans for the period on and after the NQ Termination Date. DP3 and its actuary have engaged in thorough due diligence regarding the appropriate methodology for calculating such claims. After weeks of negotiations between the Debtors, the Committee and DP3, the parties reached a settlement that is embodied in the Stipulation Between the Debtors, the Official Committee of Unsecured Creditors and DP3 Regarding Allowed Claims in Respect of Post-Termination Non-Qualified Pension Benefits of Retired Delta Pilots (the “**Stipulation**”), attached hereto as Exhibit A. In summary, the Committee and the Debtors have agreed not to pursue the legal position that no claim arises in connection with the post-termination period. Moreover, the Debtors and the Committee have agreed to allow the claims of retired pilots calculated at a favorable-to-retirees interest rate of 7.2%.<sup>2</sup> This equates to allowed unsecured claims totaling approximately \$719 million for this period. Nor will DP3 or its counsel receive any additional fees or consideration from this settlement, which settlement has a current market value to Post-Termination Covered Pilots of hundreds of millions of dollars.

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<sup>2</sup> This Motion and the Stipulation shall be without prejudice to the Debtors’ or the Committee’s right to utilize a different interest rate for purposes of calculating the present value of claims other than the Post-Termination Claim.

7. Accordingly, by this motion (the “**Motion**”), the Debtors seek authorization, pursuant to section 363 of the Bankruptcy Code, to enter into the Stipulation and to employ the methodology set forth therein to calculate all claims arising in connection with the Non-Qualified Plans for the period on and after the NQ Termination Date.

#### **Terms of the Stipulation**

8. The Stipulation contains the parties’ agreement as to the existence and amount of claims arising in connection with the termination of the Non-Qualified Plans for the period on and after the NQ Termination Date. Pursuant to the Stipulation, pilots who retired prior to the NQ Termination Date and who, absent termination of the Non-Qualified Plans, would otherwise have been entitled to receive benefits under the Non-Qualified Plans as of the NQ Termination Date (the “**Post-Termination Covered Pilots**”)<sup>3</sup> will each be given an allowed general non-priority unsecured claim (the “**Post-Termination Claim**”), contingent only on the termination of the Non-Qualified Plans. Distributions on account of the Post-Termination Claim will be made to Post-Termination Covered Pilots pursuant to a plan of reorganization based on the individualized calculations of each Post-Termination Covered Pilot’s expected benefits arising under the Non-Qualified Plans on and after the NQ Termination Date.<sup>4</sup> Such calculations will be based on (i) a 7.2% discount rate to present value such claims as of

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<sup>3</sup> For the avoidance of doubt, Post-Termination Covered Pilots also includes others whose rights to benefits under the Non-Qualified Plans are derivative of the rights of the retired pilots described above, including alternate payees, survivors and contingent beneficiaries.

<sup>4</sup> In the event of conversion to a Chapter 7 proceeding, the Post Termination Claim will be paid in accordance with the distribution provisions of the Bankruptcy Code.

the Petition Date and (ii) a life expectancy estimated using a mortality table based on RP 2000 sex distinct mortality combined healthy table, with no collar adjustment, projected to 2006 with Scale AA; disabled lives set forward five years.<sup>5</sup> Moreover, a Post-Termination Covered Pilot will only receive a Post-Termination Claim to the extent such Post-Termination Covered Pilot suffers actual economic loss as a result of the termination of the Non-Qualified Plans.<sup>6</sup> The Debtors estimate that the aggregate amount of the Post-Termination Claims for all Post-Termination Covered Pilots in the aggregate will be approximately \$718.8 million. Exhibit B hereto contains an illustrative example of the application of the methodology to an actual (but unnamed) retired pilot reflecting his total claims both hereunder and under the Original Stipulation.

9. No later than 60 days after the entry of the order attached hereto, the Debtors will amend their Schedules to list the amount of the Post-Termination Claim for each individual Post-Termination Covered Pilot as well as the amount of the NQ Admin Claim and the Balance Claim (each as defined in the Original Stipulation) for each Covered Pilot, calculated as provided for in the Original Stipulation (the “**Retired Pilot Schedule Amendment**”).<sup>7</sup> The Balance Claims and the Post-Termination Claims set forth in the Retired Pilot Schedule Amendment will be allowed for purposes of distribution if and only if the Non-Qualified Plans are terminated, as is expected.

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<sup>5</sup> While this description is admittedly very technical, it is fair to say that this is a recent and favorable-to-claimants mortality table, which has been accepted as such by DP3 and its counsel and actuaries.

<sup>6</sup> Thus, as was agreed to by the parties with respect to the Original Stipulation, the Post-Termination Claim will be reduced to compensate for all amounts to be paid on account of non-qualified pension benefits to retirees on disability from the Disability and Survivorship Trust.

<sup>7</sup> This shall supercede the requirement set forth in the Original Stipulation to file an omnibus order allowing the NQ Admin Claim and the Balance Claim for each Covered Pilot no later than 60 days after the termination of the Non-Qualified Plans.

Distributions on account of the Balance Claims and the Post-Termination Claims will be made pursuant to the Debtors' plan of reorganization or, in the event of a Chapter 7 liquidation, in accordance with the distribution provisions of the Bankruptcy Code. Moreover, the Balance Claims and the Post-Termination Claims will be deemed temporarily allowed solely for purposes of voting to accept or reject the Debtors' plan of reorganization in the amounts set forth in the Retired Pilot Schedule Amendment. The NQ Admin Claims will be allowed for all purposes and not subject to further contingencies in the amounts set forth in the Retired Pilot Schedule Amendment at the time of the Retired Pilot Schedule Amendment.<sup>8</sup>

10. Under the Debtors' plan of reorganization, holders of Post-Termination Claims will receive treatment no less favorable than that of the holders of other general unsecured claims against Delta (except for holders of certain *de minimis* claims).

11. The Post-Termination Claim shall be in full and complete satisfaction of all rights of all Post-Termination Covered Pilots arising in connection with the Non-Qualified Plans on or after the NQ Termination Date, and neither DP3 nor any Post-Termination Covered Pilot shall have or assert any other claim or cause of action against any Debtor or any fiduciaries, or their respective agents, employees, directors, professionals or other representatives, relating to such rights or claims.

12. As set forth in the Original Stipulation, neither DP3 nor the professionals working on its behalf will seek or receive any reimbursement of fees or expenses in connection with the Post-Termination Claim (i) from the Debtors or from these estates or

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<sup>8</sup> The NQ Admin Claim will be paid on or as soon as reasonably practicable after the effective date of the Debtors' plan of reorganization. In the event the Non-Qualified Plans are not terminated, the Debtors will apply the amounts paid to each Covered Pilot on account of the NQ Admin Claim to the amounts that it may otherwise owe such Covered Pilot.

fiduciaries (or their respective agents, employees, directors, professionals or other representatives) or (ii) from the Post-Termination Claim. The efforts of DP3 in pursuit of the Post-Termination Claim shall be a part of the justification for the request for fees as provided in the Original Stipulation. Such fees, *in toto*, including the request in connection with services previously rendered on behalf of DP3, shall (at most) be a reasonable percentage of the actual distribution value of the NQ Admin Claim and the Balance Claim. The actual percentage shall be determined by the Court after proper notice, and the fees shall be paid entirely from the distribution made on account of the NQ Admin Claim and the Balance Claim (and not from the Post-Termination Claim contemplated hereunder). The Debtors and the Creditors' Committee reaffirm their prior agreement not to oppose any request for such fees and expenses so long as the rate proposed does not exceed 10% of the aggregate distribution value of the NQ Admin Claim and the Balance Claim. Any other affected party reserves its right to object to the fee application, and nothing in the Stipulation is intended to change the provisions of the Original Stipulation or the Further Order with respect to fees.

**The Stipulation Has Been Entered Into Pursuant to  
the Debtors' Sound Business Judgment and Should be Approved**

13. 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 the ordinary course of business be based upon the sound business judgment of the

debtor.<sup>9</sup> 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).

14. Entry into the Stipulation is in the best interests of the Debtors, their estates, their creditors and other parties in interest. This complex, hard-fought deal allowing hundreds of millions of dollars of potential claims in favor of a valued retiree group meets the requirements of section 363 of the Bankruptcy Code; it is supported by a “good business reason” and is not tainted by “bad faith, self-interest or gross-negligence.”

15. The Debtors seek to enter into the Stipulation because it will enable them to provide very substantial claims (over \$800 million in the aggregate), with corresponding recoveries worth hundreds of millions of dollars, to retired pilots who served Delta for years or decades and will now suffer real economic consequences from the termination of the Non-Qualified Plans. Moreover, the Stipulation resolves what

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<sup>9</sup> 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).

otherwise likely would have been an unpredictable and time-consuming litigation with numerous individual retired pilots or their representatives.

16. Moreover, while appropriately compensatory to Delta's retirees, the agreement embodied in the Stipulation is within the range of potential outcomes had the Debtors sought to litigate with respect to the existence and amount of any claim arising in connection with the Non-Qualified Plans for the period on and after the NQ Termination Date. The terms of the Non-Qualified Plans and the Pilot Working Agreement ("PWA") support the conclusion that the termination of the Non-Qualified Plans would not give rise to any claim for the period on and after the NQ Termination Date.<sup>10</sup> See, e.g., Transcript of February 18, 2005 Omnibus Hearing at 148, In re UAL Corp., No. 02 B 48191 (Bankr. N.D. Ill.) (Non-qualified benefit plans are "derivative obligations" of qualified pension plans and that "with the termination of the qualified benefits, the derivative obligation to pay nonqualified benefits would likewise terminate.") In contrast, DP3 alleged that the benefits had vested and gave rise to claims.

17. Moreover, even had this issue been litigated and this Court had found that a claim was proper, a second litigation over the appropriate interest rate for present value purposes would also have been necessary. The Bankruptcy Code of course requires that future claims be reduced to a present value. See, e.g., In re Loewen Group Int'l, Inc., 274 B.R. 427, 434-35 (Bankr. Del. 2002) ("Section 502(b) requires the discounting of all claims asserted in respect to future liabilities to account for the time value of money and

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<sup>10</sup> Delta, with the consent of ALPA as the only precondition, has the express right to amend or terminate the Non-Qualified Plans at any time. Section 26C of the PWA specifically provides that Delta will not amend or terminate the Non-Qualified Plans "except as agreed by the pilots in the service of Delta Air Lines, Inc., as represented by the Air Line Pilots Association, International ("ALPA"), and the Company." ALPA subsequently agreed in Letter of Agreement #51 not to oppose the termination of the Non-Qualified Plans if such termination occurred after the termination of the Qualified Plan.

foster bankruptcy's objective of treating all similar claims equally.”); In re Winston Mills, Inc., 6 B.R. 587, 599 (Bankr. S.D.N.Y. 1980) (“A reduction of an award to present value is necessitated by the fact that money presently in hand is always more useful than staggered payments in the future.”). Rather than litigate, the Debtors, the Committee and DP3 have agreed to an interest rate—7.2%—that is very fair under the circumstances.

**The Stipulation is Among the Types of  
Compromises Favored by the Chapter 11 Process**

18. The Debtors submit that the Stipulation is among the types of compromises strongly favored in chapter 11 because it strikes a balance between (i) the Debtors’ need to reduce its cost structure to competitive market levels, and (ii) fairness to the Debtors’ retirees, who have provided the Debtors with years of valuable service, and to other constituencies in these cases. Settlements are “favored and, in fact, encouraged” in bankruptcy. *Nellis v. Shugrue*, 165 B.R. 115, 123 (S.D.N.Y. 1994) (upholding decision approving settlement pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure); *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”).

19. Moreover, settlement by the debtor with respect to the existence and amount of claims is 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.” *In re Purofied Down Prods. Corp.*, 150 B.R. 519, 522-23 (S.D.N.Y. 1993).

20. The settlement embodied in the Stipulation is the result of extensive negotiations among the Debtors, the Creditors’ Committee and DP3. DP3 is a not-for-profit corporation formed in October 2003 with the stated intent of seeking to preserve pensions, health insurance and other benefits of retired Delta pilots and their dependents and survivors. DP3, its counsel and its actuary have engaged in thorough due diligence, both over the phone and in person, to assist in their analysis of the settlement. The

Creditors' Committee and its professionals have also fully participated in settlement discussions, which have taken place over many weeks. The Debtors submit that a settlement such as this resulting from studied negotiations among groups with such disparate interests is entitled to particular deference from the Court.

21. In reaching this settlement, the Debtors were mindful of the sacrifices that will be made by retired pilots as a result of the chapter 11 process, and the Stipulation fairly values the claims that retired pilots have in connection with the termination of the Non-Qualified Plans. While the Debtors or the Committee could have argued that retired pilots were not entitled to any Post-Termination Claims, or that a much higher discount rate applied, they did not. The parties chose instead to focus negotiations on the appropriate discount rate to use when calculating individuals' claims. Moreover, while debtors in other cases have utilized older mortality tables to try to reduce their obligations with respect to claims arising under their non-qualified defined benefit pension plans, the mortality table off which the Post-Termination Claim calculations are based is among the most current and accurate available.

22. In light of the foregoing, the Debtors respectfully (i) submit that the Stipulation results from the sound exercise of the Debtors' business judgment and is a fair resolution of the questions that exist regarding the existence and amount of any claim arising in connection with the Non-Qualified Plans on and after the NQ Termination Date and (ii) request that the Court authorize Delta to enter into the Stipulation under section 363(b) of the Bankruptcy Code and to employ the methodology set forth therein to calculate all claims arising in connection with the Non-Qualified Plans for the period on and after the NQ Termination Date.

**DP3 Is Entitled to General Exculpation from Liability  
with Respect to the Stipulation as a Matter of Law**

23. The Debtors respectfully request that any order granting the instant Motion reflect that DP3, along with its current and former advisors, professionals, and agents (including any attorneys, financial advisors, actuaries, and other professionals retained by DP3, but solely in their capacities as such), are generally exculpated from liability with respect to the Stipulation and this Motion. This Motion is predicated on the fact that 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. See supra note 9. Because (i) the business judgment of DP3 is not implicated and, (ii) retired pilots and other parties in interest are free to object to the relief requested herein, the exculpation is warranted under the circumstances. Moreover, the failure to exculpate organizations such as DP3 may have a chilling effect on the willingness of other groups to enter into settlements with the Debtors in the future to try to secure benefits that inure to larger group.

24. Moreover, the Debtors have agreed to indemnify and hold harmless DP3 and its officers, directors, trustees, advisors, professionals or agents (including attorneys, financial advisors and actuaries retained by DP3) but solely in their capacity as such for all loss, liability, damages and costs related to the fees and expenses incurred in defending any claim arising from the negotiation, execution or support of the Stipulation, except with respect to bad faith, willful misconduct or ultra vires acts as determined by a final order of the Bankruptcy Court, in an amount not to exceed \$500,000. DP3 has provided valuable assistance to the estate in negotiations with retired pilots.

### Waiver of Memorandum of Law

25. 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

26. 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 (i) in accordance with the Case Management Order and (ii) on all Post-Termination Covered Pilots, in addition to an explanatory cover letter (attached hereto as Exhibit B) providing information concerning this Motion and the Stipulation. As this Motion was filed on November 27, 2006 and will be served as soon as practicable thereafter, the Debtors have provided retired pilots with more time to respond than required pursuant to the Case Management Order. Moreover, this Motion lists each party on whom objections must be served, along with the corresponding mailing address, to make it easier for retired pilots to file and serve objections.

27. **Pursuant to the Case Management Order [Docket No. 660], 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. In order to comply with these procedures, any objections must be filed on the Court's ECF System and**

**copies thereof served on the following parties on or before December 15, 2006: (i) Davis Polk & Wardwell, 450 Lexington Avenue, New York, NY 10017, Attn: Marshall S. Huebner, Esq., (ii) Akin Gump Strauss Hauer & Feld LLP, 590 Madison Avenue, New York, NY 10022, Attn: Daniel H. Golden, Esq., Lisa G. Beckerman, Esq., and David H. Botter, Esq., (iii) Miller & Martin PLLC, 1170 Peachtree Street, N.E., Suite 800, Atlanta, GA 30309-7706, Attn: Dean Booth and Shelley D. Rucker, (iv) Office of the United States Trustee for the Southern District of New York, 33 Whitehall Street, Suite 2100, New York, NY 10004, Attn: Greg M. Zipes, Esq., (v) Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549, Attn: Michael A. Berman, (vi) Securities and Exchange Commission, 3 World Financial Center, New York, NY 10281, Attn: Nathan Fuchs, (vii) Internal Revenue Service, 290 Broadway, New York, NY 10008, Attn: Sid Brown and (viii) Bankruptcy Services LLC, 757 Third Avenue, New York, NY 10017, Attn: Robert Saraceni.**

**28. A party without access to the Court's ECF System may file an objection by mailing a copy thereof to the United States Bankruptcy Court for the Southern District of New York, 300 Quarropas Street, White Plains, NY 10601-4140, Attn: Awilda Rodriguez so that it is actually received on or before December 13, 2006. Parties who file objections in this manner must also serve such objections on the parties listed in the preceding paragraph.**

**29. Pursuant to the Notice Regarding E-Mails and Faxes Sent to the Court entered by the Bankruptcy Court on September 21, 2006 [Docket No. 3242], sending letters, objections and other correspondence to the Bankruptcy Court via**

**fax or email is improper and, absent prior permission, will not be accepted, reviewed or otherwise considered, unless the party has demonstrated to the Court s/he cannot communicate with the Bankruptcy Court by any other method. All faxes and e-mails received by the Bankruptcy Court without prior approval will be disregarded and not considered filed with or received by the Bankruptcy Court for any purpose.**

**30. This Motion addresses only the issue of the proper methodology to calculate the general unsecured claims, if any, that arise in connection with the termination of the Non-Qualified Plans for the period on and after the NQ Termination Date. THE TERMINATION OF THE NON-QUALIFIED PLANS WAS THE SUBJECT OF PRIOR ORDERS OF THE BANKRUPTCY COURT, AND OBJECTIONS CONTESTING THIS ISSUE WILL NOT BE ADDRESSED BY THE DEBTORS.**

**31. FOR ANY PARTY THAT OBJECTS TO THIS MOTION AND THE RELIEF REQUESTED HEREUNDER, THE DEBTORS AND THE COMMITTEE RESERVE THE RIGHT TO CONTEST THE EXISTENCE AND AMOUNT OF ANY CLAIM ARISING IN CONNECTION WITH THE NON-QUALIFIED PLANS FOR THE PERIOD ON AND AFTER THE NQ TERMINATION DATE.**

32. Objecting to, or failing to object to, this Motion and the relief requested herein shall be without prejudice to the pending appeal of the Court's Findings of Fact, Conclusions of Law and Order Granting Debtors' Motion Seeking a Determination that They Satisfy the Financial Requirements for a Distress Termination of the Delta Pilots

Retirement Plan and Approval of Such Termination entered on September 5, 2006

[Docket No. 3178].

33. 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: November 27, 2006  
New York, New York

By: /s/ Marshall S. Huebner  
Marshall S. Huebner (MH 7800)

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Attorneys for Debtors and  
Debtors in Possession

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

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**In re:** :  
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**ORDER APPROVING STIPULATION BETWEEN THE DEBTORS,  
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REGARDING ALLOWED CLAIMS IN RESPECT OF POST-TERMINATION  
NON-QUALIFIED PENSION BENEFITS OF RETIRED DELTA PILOTS**

Upon the motion dated November 27, 2006 (the “**Motion**”)<sup>1</sup> of Delta Air Lines, Inc. (“**Delta**”) and those of its subsidiaries that are debtors and debtors in possession (collectively, the “**Debtors**”),<sup>2</sup> pursuant to section 363(b) of the Bankruptcy Code, for an order approving the Stipulation; 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

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

<sup>2</sup> 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, Inc.; Kappa Capital Management, Inc.; and Song, LLC.

Motion and the requested relief being a core proceeding that the Bankruptcy Court can determine pursuant to 28 U.S.C. § 157(b)(2); and venue being proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; 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 Stipulation 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 Stipulation; 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 363(b) of the Bankruptcy Code, the Stipulation is authorized and approved in all respects; and it is further

ORDERED that the methodology set forth in the Stipulation shall be employed by the Debtors to calculate all claims arising in connection with the Non-Qualified Plans for the period on and after the NQ Termination Date for all pilots who retired prior to the NQ Termination Date and who, absent termination of the Non-Qualified Plans, would

otherwise have been entitled to receive benefits under the Non-Qualified Plans as of the NQ Termination Date; and it is further

ORDERED that, as described in the Motion, a Post-Termination Covered Pilot shall only receive a Post-Termination Claim to the extent such Post-Termination Covered Pilot suffers actual economic loss as a result of the termination of the Non-Qualified Plans; and it is further

ORDERED that no later than 60 days after the entry of this Order, the Debtors shall list the amount of the Post-Termination Claim for each individual Post-Termination Covered Pilot as well as the amount of the NQ Admin Claim and the Balance Claim for each Covered Pilot in the Retired Pilot Schedule Amendment. The Balance Claims and the Post-Termination Claims set forth in the Retired Pilot Schedule Amendment shall be allowed for purposes of distribution only if the Non-Qualified Plans are terminated and shall be deemed temporarily allowed solely for purposes of voting to accept or reject the Debtors' plan of reorganization in the amounts set forth in the Retired Pilot Schedule Amendment; and it is further

ORDERED that the NQ Admin Claims shall be allowed for all purposes and not subject to further contingencies in the amounts set forth in the Retired Pilot Schedule Amendment at the time of the Retired Pilot Schedule Amendment. The NQ Admin Claims shall be paid on or as soon as reasonably practicable after the effective date of the Debtors' plan of reorganization. In the event the Non-Qualified Plans are not terminated, the Debtors shall apply the amounts paid to each Covered Pilot on account of the NQ Admin Claim to the amounts that it may otherwise owe such Covered Pilot; and it is further

ORDERED that under the Debtors' plan of reorganization, holders of Post-Termination Claims shall receive treatment no less favorable than that of the holders of other general unsecured claims against Delta (except for holders of certain *de minimis* claims); and it is further

ORDERED that DP3 and its current or former advisors, professionals, or agents (including any attorneys, financial advisors, actuaries, and other professionals retained by DP3, but solely in their capacities as such) shall not have or incur any liability to any retired pilot or other person for any act or omission in connection with the Stipulation and the Motion, 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 a court; and it is further

ORDERED that objecting to, or failing to object to, the Motion and the relief requested therein shall be without prejudice to the pending appeal of the Court's Findings of Fact, Conclusions of Law and Order Granting Debtors' Motion Seeking a Determination that They Satisfy the Financial Requirements for a Distress Termination of the Delta Pilots Retirement Plan and Approval of Such Termination entered on September 5, 2006; and it is further

ORDERED that the Motion and the Stipulation shall be without prejudice to the Debtors' or the Committee's right to utilize an interest rate different than that described therein for purposes of calculating the present value of claims other than the Post-Termination Claim; and it is further

ORDERED that the failure to specifically describe or include any particular feature of the Stipulation in this Order shall not diminish or impair the effectiveness of

such feature, it being the intent of this Court that the Stipulation be approved in its 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 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

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UNITED STATES BANKRUPTCY JUDGE

## **EXHIBIT A**

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

**STIPULATION BETWEEN THE DEBTORS, THE OFFICIAL  
COMMITTEE OF UNSECURED CREDITORS AND DP3 REGARDING  
ALLOWED CLAIMS IN RESPECT OF POST-TERMINATION  
NON-QUALIFIED PENSION BENEFITS OF RETIRED DELTA PILOTS**

**Background**

Delta Air Lines, Inc. (“**Delta**”) and those of its subsidiaries that are debtors and debtors in possession in these proceedings (collectively, the “**Debtors**”)<sup>1</sup> each commenced with the Bankruptcy Court a voluntary case under chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”) on September 14, 2005 (the “**Petition Date**”).

DP3, Inc. d\|b\|a Delta Pilots’ Pension Preservation Organization (“**DP3**”) is a Delaware not-for-profit corporation formed in October 2003 with the stated intent of seeking to preserve pensions, health insurance and other benefits of retired Delta pilots and their dependents and survivors. DP3 has actively participated in these cases since their inception in an effort to protect the pension rights of retired Delta pilots.

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<sup>1</sup> 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.

On June 2, 2006, the Bankruptcy Court entered the Stipulation and Consent Order between the Debtors, the Official Committee of Unsecured Creditors (the “**Committee**”) and DP3 [Docket No. 2656] (the “**Original Stipulation**”). The Original Stipulation, among other things, resolved certain outstanding litigation matters between the parties, and granted certain allowed claims to pilots who retired prior to the termination date of the Non-Qualified Plans (the “**NQ Termination Date**”) and had accrued and unpaid benefits arising thereunder for the period commencing on the Petition Date and ending on the NQ Termination Date, as well as others whose rights to benefits under the Non-Qualified Plans were derivative of the rights of such retired pilots, including alternate payees, survivors and contingent beneficiaries (collectively, the “**Covered Pilots**”). The Delta Pilots Bridge Plan and the Delta Pilots Supplemental Annuity Plan shall together be referred to herein as the “**Non-Qualified Plans.**” The Original Stipulation, which is now a final order, explicitly provided that the parties did not agree thereunder (i) as to whether any claim arose in connection with the Non-Qualified Plans for the period on and after the NQ Termination Date, and (ii) if there was such a claim, in what amount. On August 28, 2006, the Bankruptcy Court entered the Further Order Concerning the Stipulation and Consent Order between the Debtors, the Committee and DP3 [Docket No. 3152] (the “**Further Order**”) that, *inter alia*, bound all pilots except for 13 objecting parties addressed by name therein who retired prior to the NQ Termination Date who had accrued and unpaid benefits arising under the Non-Qualified Plans to the terms of the Original Stipulation. The Further Order is also now a final order.

The Debtors, with the support and participation of the Committee, have been engaged in extensive negotiations with DP3 regarding the existence and amount of any

claim arising in connection with the Non-Qualified Plans for the period on and after the NQ Termination Date. After weeks of negotiations between the Debtors, the Committee and DP3, the parties reached a settlement of this issue, which is embodied herein.

#### Agreement

IT IS HEREBY STIPULATED AND AGREED by and between Delta, the Committee and DP3, by their undersigned counsel, as follows:

1. Pilots who retired prior to the NQ Termination Date and who, absent termination of the Non-Qualified Plans, would otherwise have been entitled to receive benefits under the Non-Qualified Plans as of the NQ Termination Date (the “**Post-Termination Covered Pilots**”)<sup>2</sup> will each be given an allowed general non-priority unsecured claim (the “**Post-Termination Claim**”), contingent only on the termination of the Non-Qualified Plans. Distributions on account of the Post-Termination Claim shall be made to Post-Termination Covered Pilots pursuant to a plan of reorganization based on individualized calculations of each Post-Termination Covered Pilot’s expected benefits arising under the Non-Qualified Plans on and after the NQ Termination Date. Such calculations will be based on (i) a 7.2% discount rate to present value such claims as of the Petition Date and (ii) a life expectancy estimated using a mortality table based on RP 2000 sex distinct mortality combined healthy table, with no collar adjustment, projected to 2006 with Scale AA; disabled lives set forward five years. Moreover, a Post-Termination Covered Pilot will only receive a Post-Termination Claim to the extent such Post-Termination Covered Pilot suffers actual economic loss as a result of the

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<sup>2</sup> For the avoidance of doubt, Post-Termination Covered Pilots also includes others whose rights to benefits under the Non-Qualified Plans are derivative of the rights of the retired pilots described above, including alternate payees, survivors and contingent beneficiaries.

termination of the Non-Qualified Plans.<sup>3</sup> The Debtors estimate that the aggregate amount of the Post-Termination Claims for all Post-Termination Covered Pilots in the aggregate will be approximately \$718.8 million.

2. No later than 60 days after the entry of an order approving this Stipulation, the Debtors will amend their Schedules to list the amount of the Post-Termination Claim for each individual Post-Termination Covered Pilot as well as the amount of the NQ Admin Claim and the Balance Claim (each as defined in the Original Stipulation) for each Covered Pilot, calculated as provided for in the Original Stipulation (the “**Retired Pilot Schedule Amendment**”).<sup>4</sup> The Balance Claims and the Post-Termination Claims set forth in the Retired Pilot Schedule Amendment shall be allowed for purposes of distribution if and only if the Non-Qualified Plans are terminated, as is expected. Distributions on account of the Balance Claims and the Post-Termination Claims shall be made pursuant to the Debtors’ plan of reorganization or, in the event of a Chapter 7 liquidation, in accordance with the distribution provisions of the Bankruptcy Code. Moreover, the Balance Claims and the Post-Termination Claims shall be deemed temporarily allowed solely for purposes of voting to accept or reject the Debtors’ plan of reorganization in the amounts set forth in the Retired Pilot Schedule Amendment. The NQ Admin Claims shall be allowed for all purposes and not subject to further

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<sup>3</sup> Thus, as was agreed to by the parties with respect to the Original Stipulation, the Post-Termination Claim will be reduced to compensate for all amounts to be paid on account of non-qualified pension benefits to retirees on disability from the Disability and Survivorship Trust.

<sup>4</sup> This shall supercede the requirement set forth in the Original Stipulation to file an omnibus order allowing the NQ Admin Claim and the Balance Claim for each Covered Pilot no later than 60 days after the termination of the Non-Qualified Plans.

contingencies in the amounts set forth in the Retired Pilot Schedule Amendment at the time of the Retired Pilot Schedule Amendment.<sup>5</sup>

3. Under the Debtors' plan of reorganization, holders of Post-Termination Claims shall receive treatment no less favorable than that of the holders of other general unsecured claims against Delta (except for holders of certain *de minimis* claims).

4. The Post-Termination Claim shall be in full and complete satisfaction of all rights of all Post-Termination Covered Pilots arising in connection with the Non-Qualified Plans on and after the NQ Termination Date, and neither DP3 nor any Post Termination Covered Pilot shall have or assert any other claim or cause of action against any Debtor or any fiduciaries, or their respective agents, employees, directors, professionals or other representatives, relating to such rights and claims.

5. As set forth in the Original Stipulation, neither DP3 nor the professionals working on its behalf shall seek or receive any reimbursement of fees or expenses in connection with the Post-Termination Claim (i) from the Debtors or from these estates or fiduciaries (or their respective agents, employees, directors, professionals or other representatives) or (ii) from the Post-Termination Claim. The efforts of DP3 in pursuit of the Post-Termination Claim shall be part of the justification for the request for fees as provided in the Original Stipulation. Such fees, *in toto*, including the request in connection with services previously rendered on behalf of DP3, shall (at most) be a reasonable percentage of the actual distribution value of the NQ Admin Claim and the Balance Claim. The actual percentage shall be determined by the Court after proper

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<sup>5</sup> The NQ Admin Claim shall be paid on or as soon as reasonably practicable after the effective date of the Debtors' plan of reorganization. In the event the Non-Qualified Plans are not terminated, the Debtors shall apply the amounts paid to each Covered Pilot on account of the NQ Admin Claim to the amounts that it may otherwise owe such Covered Pilot.

notice, and the fees shall be paid entirely from the distribution made on account of the NQ Admin Claim and the Balance Claim (and not from the Post-Termination Claim contemplated hereunder). The Debtors and the Creditors' Committee reaffirm their prior agreement not to oppose any request for such fees and expenses so long as the rate proposed does not exceed 10% of the aggregate distribution value of the NQ Admin Claim and the Balance Claim. Any other affected party reserves his or her right to object to the fee application, and nothing in this Stipulation is intended to change the provisions of the Original Stipulation or the Further Order with respect to fees.

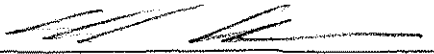
6. The Debtors agree that the order approving this Stipulation shall provide for the exculpation of DP3 and its current or former officers, directors, trustees, advisors, professionals or agents (including any attorneys, financial advisors, actuaries, and other professionals retained by DP3), but solely in their capacity as such for all claims except for bad faith, willful misconduct or ultra vires acts as determined by a final order of the Bankruptcy Court. The Debtors further agree to indemnify and hold harmless DP3 and its officers, directors, trustees, advisors, professionals or agents (including attorneys, financial advisors, actuaries retained by DP3) but solely in their capacity as such for all loss, liability, damages and costs related to the fees and expenses incurred in defending any claim arising from the negotiation, execution or support of this agreement, except with respect to bad faith, willful misconduct or ultra vires acts as determined by final order of the Bankruptcy Court, in an amount not to exceed \$500,000.

7. This Stipulation may be signed in counterparts, any of which may be transmitted by facsimile, and each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

8. The signatories to this Stipulation represent that they have been represented by experienced counsel and are duly authorized by their clients to execute this Stipulation.

9. This Stipulation shall not be effective until the date the Bankruptcy Court enters an order, acceptable in form to the Debtors, the Committee and DP3, approving the Stipulation.

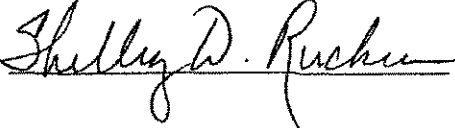
Dated: November 27, 2006  
New York, New York

By:   
Marshall S. Huebner (MH 7800)

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

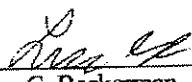
Dated: November 27, 2006  
Atlanta, Georgia

By:   
Shelley D. Ruckel

MILLER & MARTIN PLLC  
1170 Peachtree Street, NE, Suite 800  
Atlanta, Georgia 30309  
Telephone: (404) 962-6100  
Facsimile: (404) 962-6300

Attorneys for DP3, Inc. d/b/a Delta Pilots'  
Pension Preservation Organization

Dated: November 21, 2006  
New York, New York

By:   
\_\_\_\_\_  
Lisa G. Beckerman

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Facsimile: (212) 872-1002

Attorneys for Official Committee of  
Unsecured Creditors

## **EXHIBIT B**



November 27, 2006

We are pleased to inform you that Delta has worked successfully with DP3, Inc., a group representing a large number of retired Delta pilots, and our Creditors' Committee, to allow an additional estimated \$719 million in unsecured, pre-petition claims for non-qualified pension benefits for retired Delta pilots. Together with the more than approximately \$80 million in claims approved earlier this year, eligible retired Delta pilots, as well as their alternate payees, survivors and contingent beneficiaries (for convenience, all are referenced to in this letter as "Retired Pilots"), now will have a total of approximately \$800 million in allowed claims for their lost non-qualified pension benefits. As a result, you likely will be able to recover through the claims process a significant portion of your non-qualified benefits, something we worked very hard to help make possible.

This notice provides important information about the Agreement, which must be approved by the U.S. Bankruptcy Court before it becomes effective. Because this is a complex matter that involves issues of bankruptcy law and procedure that may not be easily understood by anyone not familiar with such matters, you may wish to review this matter with your legal and/or financial advisor. Copies of the Agreement and the approval motion (the "Motion") are enclosed with this letter. Please take the time to review them in their entirety and, if you have any questions, please call (866) 271-8942. This is a number operated by Bankruptcy Services, LLC ("BSI"), Delta's claims agent in the bankruptcy court cases.

As you may know, non-qualified pension benefits are the benefits that were payable through the Delta Pilots Bridge Plan and the Delta Pilots Supplemental Annuity Plan because of the limits set by law on amounts payable through the Delta Pilots Retirement Plan. Please note that the Motion and the Agreement are not about the termination of any pilot pension plans, which were addressed in prior court orders. Rather, the Motion and Agreement address the approximately \$719 million in claims to be allowed for the "post-termination" period.

Instead of objecting to these claims completely, or seeking to reduce them to a lower amount, this Agreement both: (i) provides for general unsecured claims estimated to aggregate \$719 million in total and allows them in the Delta bankruptcy cases and (ii) calculates their present value using an interest rate of 7.2 percent and mortality factors favorable to Retired Pilots. The assumptions and other important information are set out in detail in the attached Motion.

As you review the two-point summary provided below, please be aware that:

- The Motion and Agreement do *not* affect benefits under the Delta Pilots Retirement Plan, which is a separate, qualified plan that is insured by the Pension Benefit Guaranty Corporation ("PBGC").

- The Motion and Agreement apply to all those retired Delta pilots and their beneficiaries who will permanently lose non-qualified pension benefits when the non-qualified plans are terminated, which is expected to occur “as of” September 2, 2006.
- The claims provided under this Motion and Agreement are in addition to the approximately \$80 million of claims and benefits provided under the previous court-approved stipulation, dated June 2, 2006, which related to the period between September 14, 2005 and September 2, 2006. (The current Agreement provides claims for the period on and after September 2, 2006.)
- Retired Pilots who are receiving disability benefits that have been increased due to the non-payment of nonqualified pension benefits will receive the benefits of the Agreement only to the extent they will actually experience, after the termination of the non-qualified plans, a net reduction in the combined level of benefits provided from the non-qualified and disability plans as a result of such termination.
- No fees or expenses of any party, including DP3 or its professionals, will be deducted or paid out of the benefits provided to retired Delta pilots under the Motion and Agreement. Rather, as set forth in the previous Court-approved stipulation, DP3 has reserved the right to move for reasonable professional fees payable only out of the approximately \$80 million of claims provided for in that stipulation. Parties in interest will have the ability to object to any such request when filed.
- Retired Pilots can object to the Agreement by filing an objection with the Bankruptcy Court and serving it by **December 13, 2006** in accordance with the Bankruptcy Court’s procedures, which are set forth in detail in the accompanying Motion.
- If you do not follow the procedures in the Motion and properly object by December 13, 2006, you will receive the benefits of, but also be governed by, the terms of the Agreement.
- Objecting to, or failing to object to, the Motion will have no bearing on and be without prejudice to the pending appeal of the court order granting Delta’s motion seeking a determination that it satisfied the financial requirements for a distress termination of the Delta Pilots Retirement Plan.

The Agreement and Motion have two principal components:

- 1) **They provide a general unsecured non-priority claim for the non-qualified pension benefits lost when the non-qualified pension plans are terminated.**

Retired Pilots will receive an allowed general non-priority claim in Delta’s bankruptcy for all non-qualified pension benefits lost on and after the date on which the non-qualified plans are terminated, which is expected to occur “as of” September 2, 2006. Based on the assumptions described in point two below, this claim will produce a lump sum amount and will be calculated to be the present value of all the non-qualified payments that would have been made over the rest

of your lifetime. This claim will receive a distribution under Delta's plan of reorganization that is worth some number of "cents-on-the-dollar," likely paid in the form of equity or other securities of reorganized Delta. In total, Delta estimates that these claims will have an aggregate face value of approximately \$719 million. While it cannot be predicted now what number of "cents-on-the-dollar" these claims ultimately will be worth, Delta believes these claims will allow you to recover a significant portion of your lost non-qualified benefits.

**2) They provide for a valuation methodology for these claims favorable to retirees.**

The claims described above will be calculated by Delta on an individual basis based on assumptions that we and DP3 believe, taking all considerations into account, are favorable to retirees. The claims will be discounted to present value (a calculation that is required by law) using a 7.2 percent interest rate. Also, a mortality table described in more detail in the Agreement and the Motion will be used to calculate average life expectancy. This mortality table, which represents an average life expectancy of approximately 82.75 years, is recent and is therefore favorable to Retired Pilots.

An illustrative example of the method of calculation of the claims an actual (but unnamed) retired pilot would receive on account of his lost non-qualified pension benefits – both under the Agreement and the previous court-approved stipulation – is attached to this letter. Each Retired Pilot's claims, of course, will be determined based upon his or her individual circumstances.

Again, we are very pleased we were able to secure the approval of the Creditors' Committee for this important agreement reached with DP3 to provide Retired Pilots with the significant claims and payments described above. And, thank you in advance for taking the time to review the attached Agreement and Motion and fully consider this important matter and what it means for you.

Cordially,

Robert L. Kight

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**Illustrative Example:  
Claims an Actual Pilot Would Receive on Account of  
Non-Qualified Pension Benefits  
(Assuming Non-Qualified Plans are Terminated as of September 2, 2006)**

Pilot A retired in 2002 at age 60 with a monthly non-qualified benefit of \$2,167. As of September 14, 2005, Pilot A was age 63, and his monthly non-qualified benefit was unchanged.

As with all retired pilots, Pilot A's monthly non-qualified benefits were paid in full until Delta's Chapter 11 filing.

Pilot A's total general unsecured non-priority claim for the post-termination period that will be allowed under the attached documents will be \$235,696.<sup>1</sup>

The claim is determined by taking the present value, as of September 14, 2005, of his monthly non-qualified benefit payable on or after October 1, 2006<sup>2</sup> (\$2,167) based on a discount rate of 7.2% and the RP2000 mortality table projected to 2006 (which represents a life expectancy for Pilot A of approximately age 82.75). (Calculating a present value is required by law.)

In addition, the Original Stipulation provided for allowed claims for the period prior to the expected September 2, 2006 non-qualified plan termination date. Pilot A's total pre-termination claim is \$26,004 (equal to 12 months of his monthly non-qualified benefit).<sup>3</sup> On account of this claim, Pilot A will receive:

- \$2,834 in cash as his share of the \$9 million administrative claim<sup>4</sup> and
- \$23,160 as his share of the pre-termination general unsecured non-priority claim.<sup>5</sup>

Thus, in total, Pilot A, on account of his \$2,167 monthly non-qualified benefit, will, under Delta's plan of reorganization, receive an administrative claim of \$2,834 and a pre-petition general unsecured non-priority claim of \$258,856.

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<sup>1</sup> This is defined as the "Post-Termination Claim" under the Motion.

<sup>2</sup> This is the first date during the post-termination period on which Non-Qualified Benefits were scheduled to have been paid.

<sup>3</sup> The illustrative figures for the pre-termination claims do not factor in professional fees that may be awarded to DP3 after notice and a hearing. As set forth in the Original Stipulation, DP3 has reserved the right to move for professional fees which would (at most) be a reasonable percentage of, and will be paid entirely out of, the actual distribution value of the pre-termination claims.

<sup>4</sup> This is defined as the "NQ Admin Claim" under the Original Stipulation.

<sup>5</sup> This is defined as the "Balance Claim" under the Original Stipulation.