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THE STATE OF HAWAII

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF HAWAII

In re ) CASE NO. 08-00337  
ALOHA AIRLINES, INC., ET AL., ) (Chapter 11)  
Debtors. ) (Jointly Administered)  
)  
) DATE: March 31, 2008  
) TIME: 2:00 p.m.  
) JUDGE: The Honorable Lloyd King  
)

**STATE OF HAWAII'S STATEMENT OF POSITION OPPOSING  
EMERGENCY MOTION OF THE DEBTORS FOR AN ORDER  
AUTHORIZING DEBTORS TO DISCONTINUE THEIR SCHEDULED  
FLIGHT OPERATIONS AND TAKE CERTAIN ACTIONS IN  
CONNECTION THEREWITH FILED HEREIN ON MARCH 30, 2008**

The Emergency Motion of the Debtors for an Order Authorizing Debtors to Discontinue Their Scheduled Flight Operations and Take Certain Actions in Connection Therewith, filed herein on March 30, 2008 ("Motion"), requests that

the Court allow Debtor Aloha Airlines, Inc. to discontinue all of its passenger flight operations beginning on March 31, 2008.

The State of Hawaii ("State"), by and through its attorneys, Ashford & Wriston A Limited Liability Law Partnership LLP, urges that the Court not authorize or approve any shut down of Debtor Aloha Airlines, Inc.'s inter-island or transpacific flight operations:

1. Unless Debtor Aloha Airlines, Inc. ("Aloha") has established that it has exhausted all possibilities of finding a buyer for its flight operations or financing to reorganize the airline.

Aloha filed a motion to re-retain Imperial Capital LLC ("Imperial") -- a full service securities brokerage and investment banking firm -- as its financial advisor on March 26, 2008. See Debtor's Application for Order Approving Retention of Imperial Capital LLC as Financial Advisors to the Debtors *Nunc Pro Tunc* to the Petition Date ("Imperial Motion"). In In re Aloha Airlines, Inc., Case No. 04-03063 ("Aloha I"), Imperial's current principals -- then doing business as Giuliani Capital Advisors -- were successful in obtaining \$65 million of Debtor-in-Possession financing and approximately \$100 million of exit financing as part of Aloha's plan of reorganization. See Declaration of Marc A. Bilbao attached to the Imperial Motion at p.11. Imperial obviously is in touch on a nationwide basis with most or all of the universe of potential purchasers for Aloha's flight operations. It

is unlikely that Aloha would now seek authority to retain Imperial if Aloha believed that Imperial had already exhausted all possibility of locating a buyer or appropriate financing.

2. Unless Aloha has clearly established that it lacks the cash and other resources to continue its operations for at least an additional month, i.e., through the end of April, 2008.

According to the Declaration of Jeffrey R. Kessler in Support of Various First Day Applications and Motions (“Kessler Declaration”), filed herein on March 20, 2008, Aloha had \$285 million in pre-petition liabilities. Chapter 11 and its automatic stay (under Section 362(a) of the Code) provide Aloha relief from the obligation to continue paying interest on its pre-petition debt. Under Section 365(d)(3) of the Code, Aloha also has sixty (60) days to bring its post-petition obligations under at least some of its leases and contracts current, i.e., the Code gives Aloha a 60-day window of relief from some of its post-petition rent and contract payments.

Aloha should be required to submit a cash flow budget through the end of April which shows the minimum additional cash needed by Aloha to maintain operations through the end of April. Aloha should also be required to identify all cash and other resources available to meet the April budget. Aloha’s Motion states that as of the filing of the Motion, Aloha had \$900,000 in unrestricted and

unencumbered cash, and \$31.2 million in restricted cash. Motion at 6-7. Aloha should not be permitted to close down before it meets its statutory obligation to file its bankruptcy schedules fully disclosing its assets, liabilities and other financial affairs. Because of the Hawaii public's interest in maintaining the continuity of Aloha's flights and services, transparency at this critical juncture is vital.

3. Unless the views of the Committee of Unsecured Creditors have been received and considered.

By Appointment filed in this case on March 28, 2008, the United States Trustee appointed a Committee of Unsecured Creditors. The members of the Committee appear to include representatives of Aloha's employees, e.g. the Air Line Pilots Association and the International Association of Machinists. The Committee will undoubtedly organize and secure counsel within the next few days. Before the course of this chapter 11 reorganization effort is irrevocably set by a shut down of flight operations, some reasonable period of time must be afforded to the Committee to analyze Aloha's finances and options and make a recommendation to the Court as to which option(s) will best serve the interest of the Aloha's employees and other creditors.

4. Unless it has been determined whether Aloha has complied with the State's Dislocated Workers law.

This law was amended in 2007 to require Hawaii employers to give their employees sixty (60) days prior notice of any partial or complete shutting down of operations in any "bankruptcy." See HRS §§ 394B-2 and 394B-9(a) (Supp. 2007). Under HRS § 394B-12 (Supp. 2007), any employer who fails to provide the required notice is liable to each of the affected employees in an amount equal to the value of the employee's wages, benefits, and other compensation for the three months preceding the closure. Aloha's affected employees may also be entitled to notice of plant closing and back pay under the federal Worker Adjustment and Retraining Notification Act ("WARN Act"), 29 U.S.C. §§ 2101-2109.

According to the Kessler Declaration, Aloha has 3,500 employees, 3,400 of which are based in Hawaii. Aloha Airlines is the 10th largest employer in the State of Hawai'i. As far as the State can determine, no notice of shut down was given to Aloha's flight operations employees. Flight operations likely constitute a clear majority of Aloha's 3,500 employees. The failure to provide notice will likely cause thousands of claims to be filed against Aloha's estate.

5. Unless the Court has determined that Aloha and its Secured Lenders filed Chapter 11 in good faith.

If the Chapter 11 was filed only to preserve the assets (i.e. the cargo and contract services divisions) for the Secured Lenders' benefit, then a portion or all of the money paid for the cargo division asset should be surcharged against the Secured Lenders to allow Aloha to secure additional financing or to operate its operations for at least another month.

At the time Aloha filed, it is not clear that Aloha was actually engaged in bona fide negotiations for the sale of the entire airline, including the flight operations. Chapter 11 may have been filed only to enable Aloha's Secured Lenders to utilize the extraordinary powers of the Bankruptcy Court to facilitate the sale of Aloha's cargo and contract services divisions for the Secured Lenders' sole benefit. Chapter 11 enables the sale of such divisions as going concerns with all contracts and leases and free and clear of all liens and encumbrances, pursuant to Sections 363(f) and 365(a) of the Bankruptcy Code.

Aloha has before the Court a motion to approve the sale of its cargo division to Saltchuk Resources, Inc. ("Saltchuk") for \$13 million. The Court needs to be apprised (1) as to whether all or substantially all of the \$13 million will be paid over to GMAC Commercial Finance or will a portion of the \$13 million instead be made available to continue Aloha's operations, and (2) as to whether the \$13

million receivable (and any successor receivable if Saltchuk is overbid at the auction to be held, subject to Court approval, on April 14, 2008) can be pledged by Aloha now to secure additional financing for the airline.

Under Section 506(c) of the Code, a secured creditor's collateral may be surcharged to the extent the estate incurred costs in preserving the collateral -- at least to the extent the secured creditor benefitted from the preservation. The Court needs to determine whether Aloha has been operated up to this point in time in the Chapter 11 case for the sole benefit of its Secured Lenders, i.e., to preserve the going concern value of its cargo and contract services division collateral for purposes of sale by the Lenders -- and after Aloha had abandoned any effort to find a buyer for the flight operations.

Imperial's managing director, Marc A. Bilbao, in a Declaration filed March 26, 2008 in support of Aloha's application to retain Imperial, reports, at paragraph 23 of his Declaration, that Imperial was retained by Aloha in June 2006 as its exclusive financial advisor to assist the Debtors in exploring potential merger and acquisition opportunities and that Imperial's engagement was modified in March 2007 and terminated in early March 2008. That chronology suggests that Aloha ceased its efforts to find a buyer for the airline as a whole (as opposed to its cargo or contract services divisions) in early March 2008.

According to the Kessler Declaration, Secured Lender GMAC Commercial Finance was owed \$44,074,073 as of March 19, 2008. Kessler Declaration at p. 14. At the same time, according to Mr. Kessler, "Aloha reported \$215,850,000 in assets." Kessler Declaration at p. 11. GMAC would appear to already have the "adequate protection" which Aloha is required to provide to GMAC under section 364 of the Code to support GMAC's advancing the additional funds required to finance the operation of Aloha at least through the end of April.

In conclusion, this Court should deny Debtor's Motion and require that: 1) Debtor establish that it exhausted all possibilities of a buyer for its flight operations or financing to reorganize the airline, 2) Debtor establish that it lacks cash and other resources to continue operations through the end of April 2008, 3) the Committee of Unsecured Creditors has had an opportunity to review and analyze Aloha's operations and provide its recommendation and input, 4) Debtor establish that it has given the requisite statutory notice to its employees of the shut down, and 5) Debtor establish that the collateral of the Secured Creditors should not be surcharged to generate cash to sustain Aloha's operations and efforts to find a buyer and/or financing for at least an additional month.

DATED: Honolulu, Hawaii; March 30, 2008.

*/s/ Cuyler Shaw*

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THE STATE OF HAWAII