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Hearing Date: November 5, 2008 at 10:00 a.m.

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Aviation Authority

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

Chapter 11

FRONTIER AIRLINES HOLDINGS, INC., et al.,

Case No. 08-11298 (RDD)

Debtors.

(Jointly Administered)

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**RESERVATION OF RIGHTS AND LIMITED OBJECTION OF THE GREATER
ORLANDO AVIATION AUTHORITY TO THE DEBTORS' MOTION FOR
AUTHORIZATION TO (i) ASSUME, (ii) REJECT OR (iii) EXTEND THE TIME
WITHIN WHICH TO ASSUME OR REJECT UNEXPIRED LEASES OF
NONRESIDENTIAL REAL PROPERTY**

TO THE HONORABLE ROBERT D. DRAIN,
UNITED STATES BANKRUPTCY JUDGE:

The Greater Orlando Aviation Authority (the "Authority"), a public body existing under the laws of the State of Florida charged with operating the Orlando International Airport (the "Orlando Airport"), hereby files this reservation of rights and limited objection (the "Objection") to the *Motion for Authorization to (i) Assume, (ii) Reject or (iii) Extend the Time*

within which to Assume or Reject Unexpired Leases of Nonresidential Real Property (the “Assumption Motion”) of Frontier Airlines Holdings, Inc. and its two subsidiaries that are debtors and debtors in possession in these proceedings (collectively, the “Debtors “), and in support states as follows:

I.

PRELIMINARY STATEMENT

While the Authority has no objection to the assumption of all of its contracts with the Debtors, the Authority has not been able to confirm prior to the filing of this Objection that that will be the case. Accordingly, the Authority reserves any and all of its rights to the extent the Debtors do not assume all of the Authority’s contracts listed below in their entirety.

In addition, the Debtors assert that the cure amount for the Authority’s contract(s) is \$3,415. The Authority objects to the proposed cure amount on the grounds that the Debtors have incorrectly calculated the cure amount necessary to cure all defaults, compensate the Authority for any actual pecuniary loss resulting from such defaults, and have failed to provide the Authority with assurance of future performance under any contract.

II.

BACKGROUND

1. On April 10, 2008 (the “Petition Date”), the Debtors each filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”). Since the commencement of these chapter 11 cases, the Debtors have continued to operate their businesses and manage their assets as debtors-in-possession pursuant to §§ 1107 and 1108 of the Bankruptcy Code.

2. The Authority is the owner and operator of an airport system including the facilities at the Orlando Airport.

3. Prior to the Petition Date, the Authority entered into a Space and Use Agreement (the "Lease") and an accompanying Operating Agreement with the Debtors.

4. On October 20, 2008, the Debtors filed the Assumption Motion, seeking, among other things, to assume the Lease.

III.

RESERVATION OF RIGHTS

5. The Debtors propose to assume the Lease but fail to list on Schedule 1 (the list of assumed contracts) the Authority's Operating Agreement with the Debtors. The Lease and the Operating Agreement are inextricably intertwined and one cannot be assumed without the other. As of the filing of this Objection, the Debtors have not confirmed that they will assume both Authority contracts in their entirety. To the extent the Debtors intend not to do so, the Authority hereby reserves any and all of its rights to object to the proposed assumption.

IV.

THE CURE AMOUNT LISTED FOR THE AUTHORITY IS INCORRECT

6. Pursuant to § 365(a) of the Bankruptcy Code, a debtor, subject to the court's approval, may assume any executory contract or unexpired lease of the debtor. 11 U.S.C. § 365(a). However, pursuant to § 365(b)(1) of the Bankruptcy Code, to assume an executory contract, a debtor must cure or provide adequate assurance that it will promptly cure such default, including compensation for any pecuniary loss resulting from such default. 11 U.S.C. § 365(b)(1).

7. In the Assumption Motion, the Debtors state that the cure amount is \$3,415. The Authority's records show that the Debtors have failed to pay (i) \$174,913.80 for prepetition rent

and related charges and (i) \$126,951.24 for postpetition rent and related charges, for a total cure amount of **\$301,865.04**. Since the Authority's billing is in arrears, additional cure charges for the month of October, including an estimate for charges through the hearing date, will be provided prior to the scheduled hearing on the Assumption Motion.

8. As set forth above, the Debtors may not assume an unexpired lease or executory contract unless, at the time of assumption, the Debtors cure or provide adequate assurance that they will promptly cure such defaults. As an accommodation to the Debtors, the Authority would permit the Debtors to assume the leases at the scheduled hearing so long as (i) the Debtors pay the undisputed cure at the time of assumption and (ii) set aside the disputed cure amount in escrow pending agreement of the parties or a court order.¹

WHEREFORE, the Authority respectfully requests that this Court enter an order (i) sustaining the Objection; (ii) finding that the cure amount due the Authority is not less than \$301,865.04, plus all charges incurred as of the hearing date; (iii) requiring the Debtors to assume the Lease's accompanying Operating Agreement; and (iv) for such other and further relief as this Court deems just and equitable.

Dated: New York, NY
October 27, 2008

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By: /s/ Richard S. Kanowitz
Richard S. Kanowitz (RK 0677)
Brent Weisenberg (BW 7107)

¹ The Debtors state in the Assumption Motion that the monthly rent to be assumed is \$6,760.00. That amount is incorrect.

Attorneys for the Greater Orlando
Aviation Authority

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CERTIFICATE OF SERVICE

I, Brent Weisenberg, hereby certify that on October 27, 2008, I caused a true copy of the *Reservation of Rights and Limited Objection of the Greater Orlando Aviation Authority to the Debtors' Motion for Authorization to (I) Assume, (II) Reject or (III) Extend the Time Within Which to Assume or Reject Unexpired Leases of Nonresidential Real Property* to be served via regular mail upon:

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Denver, Colorado 80249

DAVIS POLK & WARDWELL
Attn: Timothy E. Graulich
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THE OFFICE OF THE U.S. TRUSTEE
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