

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

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In re:

Chapter 11

SPIRIT AVIATION HOLDINGS, INC. et al.,

Case No. 25-11897 (SHL)

Debtors.

(Jointly Administered)
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**SUPPLEMENTAL LIMITED OBJECTION OF THE ASSOCIATION OF FLIGHT
ATTENDANTS-CWA, AFL-CIO TO THE PROPOSED SALE OF THE
DEIDENTIFIED DATA**

The Association of Flight Attendants-CWA, AFL-CIO (“AFA”), the certified collective bargaining representative of the flight attendants employed by Spirit Airlines, LLC, submits this supplemental limited objection (the “Supplemental Objection”) to approval of the sale of the Deidentified Data described in the Notice of Auction Results and Scheduled Hearing for the Deidentified Data [ECF No. 1463]. This filing supplements and does not supersede AFA’s Limited Objection filed August 18, 2026 [ECF No. 1489] (the “Limited Objection”), which AFA incorporates by reference and does not repeat, and addresses only developments since that date.

PRELIMINARY STATEMENT

1. The parties have made progress since August 18, 2026. Following the Limited Objection and the parties’ subsequent conferrals, the Debtors circulated a revised proposal on August 31, 2026, and subsequently identified, in discussions with counsel, each category the AFA had raised as either excluded from the Assets or subject to deidentification. The Debtors have agreed to outright exclude several of the most sensitive categories the AFA raised, including medical and disability data, accommodations, leave, drug and alcohol testing records, and union and collective-bargaining records.

2. Exclusion operates on systems rather than on content. It is the AFA's understanding that the Debtors' data systems are largely organized by datatype and the Debtors have agreed to exclude certain categories of data and the specific system where that data is normally stored. However, the Debtors have asserted that if such data was located or discussed elsewhere on a different system where it normally is not stored (i.e. medical records in an email), that system would not be excluded simply because the data was located there. Furthermore, the data categories that are subject only to deidentification are those in which sensitive content is most likely to appear in narrative form (also called free-form data); and the Deidentification Agent that must perform that essential task is still undefined, unretained, and answerable only to the proposed purchaser, Google.

3. The Consumer Privacy Ombudsman's Report [ECF No. 1581] (the "CPO Report"), addresses consumers under section 332, yet identifies the same enterprise systems as holding employee data. *Id.* at 6 n.7. No comparable officer examines this transaction for the employees whose records it principally conveys.

4. There is a threshold problem with the Debtors' request. The Debtors seek approval of a sale outside the ordinary course and bear the burden of establishing that the requirements for that relief are satisfied. On the present record, they have not adequately satisfied this burden as to the transfer and use of flight attendant information specifically. The Friesner Declaration [ECF No. 1470], the only declaration supporting the sale, addresses the marketing process, the Auction, and the comparative value of the bids. However, it does not address how flight attendant information will be identified, excluded, or deidentified, and it is not presently offered subject to cross-examination, nor is any other witness pursuant to Rule 30(b)(6). Debtors' counsel has advised AFA that the Debtors do not intend to offer further evidence or to supplement the record

in reply. AFA does not contend that the Debtors could not carry their burden, only that they have not yet done so. Approval of the sale cannot rest on unsupported assertions or on the mere representations of Debtors' counsel. AFA has consulted with experts to evaluate the proposed sale and help develop constructive revisions to the Sale Order. If the Debtors resolve AFA's objection through agreed revisions, no contested hearing on the matter is necessary. If they do not, the contested aspects should not be approved on the present record.

SUPPLEMENTAL BACKGROUND

5. On August 31, 2026, the Debtors circulated a revised proposal responding to the Limited Objection and in subsequent discussions with counsel, identified for each category a designation and the associated system. At least ten categories are identified as excluded, in each case by reference to a particular system: medical and disability data as UKG Document Manager, drug and alcohol testing records as HireRight, leave as Sedgwick, accommodations as Concur and TA Connections, union records as the OneDrive legal drives, and so on. Time card information is also excluded. The Debtors have advised that this category was previously understood to refer to airport and maintenance records kept in Kronos, and that flight attendant time records maintained in Crew Pay are excluded as well.

6. Debtors' counsel has explained that, where a category is excluded, any system whose primary or sole purpose relates to the referenced record will be excluded, and to the extent excluded data is found in another system, for example, in free-form fields in an email, it will also be excluded to the extent possible.

7. Debtors' counsel has further explained that the exclusion process is done in at least two stages: (1) Spirit first runs its own search process, incorporating certain search terms¹ to

¹ To clarify, AFA never provided the Debtors with search terms they wished to have included in the search. AFA had sent correspondences to the Debtors outlining what types of data they would like to have excluded.

identify and remove excluded-category material, and (2) then the Deidentification Agent performs an additional exclusion pass and applies its undisclosed deidentification methodology to what remains after Spirit's exclusion process.

8. Subsequent discussions with Debtors' counsel confirmed that the exclusions are tied to systems and are aware of further categories the AFA has asked them to exclude: audio and video recordings; Record of Arrest and Prosecution Back ("RAP Back") files; FAA flight attendant certificate numbers; biometric data, as to which Illinois and Texas, both States in which Spirit maintained crew bases, have enacted biometric privacy statutes; and confidential safety programs, including the Aviation Safety Action Program and the Fatigue Risk Management Program. It also left open questions about data held by vendors administering employee assistance, leave, disability, and background screening.

9. AFA further understands that referential integrity is to be preserved only to the extent consistent with the CCPA deidentification definition; that no reidentification key will be transferred to the Buyer; and that the Debtors has solicited proposals concerning the deidentification of free-form data such as email and Microsoft Teams.

10. Debtors' counsel further clarified that actual employee numbers will not be transferred; that randomized identifiers will be used in the structured pairing data; and that the same randomized identifier will not necessarily operate as a universal key across separate structured and unstructured datasets. On the other hand, Debtors' counsel has notified the AFA that Google has not agreed to exclude flight attendant tax forms, which remain subject only to deidentification.

Of the data they agreed to exclude, the Debtors, on their own volition and without any approval or consent from AFA, chose search terms they deemed to be sufficient for the search. As of the date of this Supplemental Objection, the Debtors have yet to provide a list of what search terms were actually used, so it is unclear how expansive the search actually was.

11. The Ombudsman report provides that the data will be used to train artificial intelligence models, CPO Report at 3, 7, and that reidentification triggers no reporting duty and leaves affected individuals with “little legal recourse.” *Id.* at 22. The CPO Report recommends conditions addressing verification and certification, restrictions on reidentification, and security in the AI training environment. *Id.* at 4. It further notes that the vendor had not been selected and that Google has offered to narrow the data items included in the sale, *Id.* at 21, 5. However, the AFA is unaware of any corresponding narrowing for employees.

12. On September 3, 2026, micro1 Inc. (“micro1”), a data and AI-training company, filed a Notice of Intent to Submit a Competing and Superior Bid for the Deidentified Data [ECF. No. 1556]. The Ombudsman has requested an opportunity to review that proposal before it is considered further. CPO Report at 3 n.4. Based on this, the AFA asserts that all concerns raised in this Supplemental Objection regarding the scope, exclusion, and deidentification of flight attendant information apply with equal force regardless of which bidder’s proposal is ultimately presented for approval.

13. On September 9, 2026, counsel for the AFA and the Debtors conferred by telephone. Debtors’ counsel advised that the Debtors do not presently intend to put on evidence at the hearing, do not plan to supplement the evidentiary record in reply, and will not make a Rule 30(b)(6) witness available for a deposition in advance. Debtors’ counsel also advised that the Deidentification Agent was being engaged and offered to make that vendor available once retained.

ARGUMENT

A. The Debtors' Post-Objection Proposals Narrow the Dispute but Do Not Yet Resolve AFA's Objection.

14. Debtors have not sufficiently addressed the concerns articulated in AFA's Limited Objection for three reasons. First, exclusion is defined by system rather than by content. As Debtors' counsel has explained, each excluded category is excluded as a named system, and the same subject matter discussed in an email, a Teams exchange, or a disciplinary file stays in the database. Confidentiality should attach to what a record says, not to where it is filed. For example, an accommodation request is no less confidential because it was discussed by email rather than recorded in the appropriate system or database.

15. Second, what remains is where the sensitivity concentrates. Grievance and disciplinary processes routinely discuss medical conditions, accommodation requests, leave, and testing events — the very subjects the Debtors have agreed to exclude elsewhere. The framework removes those subjects from the systems of record while retaining them in the files where they are most likely to be recounted. While the Debtors have explained that they performed specific word searches in accordance with the AFA's request to further eliminate the possibility of certain confidential information, AFA has requested additional information to verify the methodology used to search and exclude these files.

16. Third, the methodology to deidentify does not yet exist and according to the Sale Order, no one outside Google can test, audit, or certify the deidentification process. The Deidentification Agent must be "acceptable to or designated by Buyer," Sale Agreement § 1(a)(ii); certification runs "to Buyer's reasonable satisfaction," *Id.* § 3(c); and the Buyer alone may review and comment on the process, *Id.* § 4(c). The Ombudsman's observation that "[t]here is no external way to verify if a private entity has privately deidentified 'anonymized' data," CPO Report at 22,

describes this structure exactly. The end result is that the agreement supplies no standard against which adequacy would be measured, and no party but Google and the Deidentification Agent, to measure it. The relief AFA seeks is consistent with the business judgment the Debtors have already exercised. They advised bidders that non-economic factors, including “whether the sale would provide for a documented and acceptable deidentification process,” might be “outcome-determinative.” Friesner Decl. ¶ 10 [ECF No. 1470]. They then designated a \$7.5 million bid as the “Alternate Bid” over a \$10 million bid from the same bidder because the higher offer was conditioned on in-house deidentification rather than third-party deidentification. *Id.* ¶ 15. The Debtors thus valued the integrity of that process at \$2.5 million. Conditions making it verifiable are consistent with that judgment and reduce no recovery since Google bears the cost without reducing the Purchase Price.

B. Any Consensual Resolution Must Include Defined Data Exclusions and a Meaningful Deidentification Protocol.

17. AFA’s proposed resolution has two components: (1) a defined set of categories excluded from the Assets with a corresponding database-wide search that would flag these categories in unstructured data, and (2) a defined, recognized protocol that properly certifies the deidentification undertaken by the Deidentification Agent.

18. The categories that should be removed, rather than deidentified, are, in substance, those the Debtors have largely agreed to exclude already, defined by content rather than by system: medical, disability, and accommodation information, including information obtained by or as a result of a Company medical examination; leave information; drug and alcohol testing records, including any written statement of the basis for a reasonable-suspicion test; grievance, disciplinary, and mediation records; union and collective-bargaining records; performance evaluations; AQP and other safety-sensitive training records; Aviation Safety Action Program and Fatigue Risk

Management Program materials; bank and direct deposit information; tax records; flight attendant litigation and investigation files; FAA certificate numbers; biometric data; RAP Back records; and audio and video recordings of flight attendants.

19. Several of these categories are subject to independent contractual protection. The parties' collective bargaining agreement (the "CBA") provides that information obtained by or as a result of a company medical examination "shall be confidential between and/or among the doctor, the employee, and those supervisory and administrative personnel concerned with the employee's medical condition," CBA, Section 14 § B; that medical information supporting FMLA leave "shall be kept confidential," CBA, Section 13 § B(3); that the written statement of the basis for a reasonable-suspicion test "shall remain confidential," CBA, Section 23 § T(7); and that "[t]he record of the mediation shall be confidential," CBA, Section 22 § E(4). The exceptions stated in Section 14 § B are limited to medical diagnosis, the grievance process, and investigations required in legal processes; a sale to a commercial purchaser is clearly not included in these exceptions. Two related instruments are to the same effect: the parties' Fatigue Risk Management Plan (the "FRMP") provides that information revealing the identity of a Team Member who files a Fatigue Report "will not be disclosed to an outside party, unless agreed to by the employee, or required by law." FRMP, § 1.1.7. Neither exception applies to the sale of that information to Google. While Google has maintained the stance that the identity of employees will be excluded in some aspects and deidentified in others, the possibility of their data being reidentified remains and there has been no express waiver made by the AFA which would allow the sale to go through. The Memorandum of Understanding governing the Aviation Safety Action Program provides that "[a]ll documents and records regarding this program are kept by the Spirit Airlines, Inc ASAP manager and made available to the other parties of this agreement at their request," and that records

submitted to the FAA “are protected to the extent allowed by law.” § 13. Those records are held for the parties to the program and for the FAA; transfer to a commercial purchaser falls outside that structure. Transferring material within that group to a third party to train AI models cannot be reconciled with these provisions.

20. Perhaps most importantly, exclusion must follow content across systems. Where excluded-category material appears within an otherwise included mixed-purpose system, the item should be removed rather than deidentified, and the Sale Order should confirm that section 3(e) does not preclude that removal.

21. For the data that remains, “deidentified” must mean more than the removal of names or other similar information like social security numbers and bank account numbers. The standard the parties adopted, Cal. Civ. Code § 1798.140(m), states a desired outcome, but supplies no threshold, method, treatment of linkage, or verification requirement. Published frameworks, including ISO/IEC 27559, and the de-identification guidelines of the Information and Privacy Commissioner of Ontario, supply what the definition does not. A sufficient protocol should address at least:

- (a) a field-level inventory and classification of every included source, distinguishing direct identifiers, indirect or quasi-identifiers, and sensitive content, and treating employee, seniority, and FAA certificate numbers as direct identifiers and hire, leave, training, and incident dates and base, station, trip, and pairing information as indirect identifiers;
- (b) replacement of linking values with tokens generated at random or with a secret destroyed after delivery, rather than plain hashing of values that can be enumerated, and distinct tokens across datasets except where a stated purpose requires the link;
- (c) an express statement of what referential integrity will be preserved and why, with risk measured on the data as they will be delivered, after linking, against a stated quantitative threshold drawn from a published standard;
- (d) separate treatment of hybrid and free-form sources, including Microsoft 365, under which metadata is treated as data, attachments are removed by default, any item

substantially concerning an excluded category is removed rather than redacted in place, and a stated rule governs unprocessable files;

- (e) validation and certification by a party independent of the Buyer before transfer; and
- (f) a defined procedure for the return or destruction of excluded material inadvertently transferred, parallel to the privilege clawback at section 1(b)(i).

22. The Sale Order should also prohibit reidentification and any attempt to link the Assets with other data about individuals; prohibit use of the Assets to profile, score, or evaluate any individual flight attendant or identifiable subgroup; and require that any onward transfer carry the same restrictions in writing. These correspond to conditions the Ombudsman recommended on the consumer side, CPO Report at 4.

C. The Court Should Not Approve the Sale Over AFA's Unresolved Objection Without a Contested Evidentiary Hearing and Appropriate Pre-Hearing Discovery.

23. If the Debtors resolve AFA's concerns through agreed revisions to the Sale Order and the corresponding transaction documents, nothing further is required and the Limited Objection and Supplemental Objection are moot. The AFA will advise the Court promptly if such resolution occurs.

24. If the objections are not resolved, the contested aspects of the sale should not be approved on the present record. This is a contested matter pursuant to Fed. R. Bankr. P. 9014. Thus, the Federal Rules of Evidence apply, as well as the discovery provisions therein. The Debtors bear the burden of articulating a sound business justification for the sale, and the Court considers "all salient factors pertaining to the proceeding" and the interests of affected parties. *Comm. of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1071 (2d Cir. 1983). Genuinely disputed material facts should not be resolved merely on declarations and argument of counsel. While the Debtors are permitted to rely on their papers, doing so carries both substantive and procedural risks. If an objecting party raises a material, factual dispute that

cannot be resolved solely on the pleadings, the court should hold an evidentiary hearing in accordance with the Federal Rules of Bankruptcy Procedure.² The AFA asserts that, barring any additional evidence provided by the Debtors, the Sale Order cannot and should not be granted unless an evidentiary hearing is held.

25. The disputed facts are narrow: which systems contain which categories of flight attendant information; how excluded-category content in mixed-purpose systems will be treated; what the Deidentification Agent will be engaged to do and against what standard; how free-form Microsoft 365 content will be handled; and what referential integrity will remain after delivery. As set out above, the Debtors have offered no evidence addressing them other than confidential discussions had amongst the parties.

26. AFA does not contend the Debtors cannot or will not carry their burden and does not ask the Court to deny the motion outright in light of ongoing discussions. It asks that, absent consensual resolution, the Court defer approval of the contested aspects until an appropriate evidentiary hearing can be conducted; nothing in that request prevents approval of the uncontested aspects. Any discovery should be proportionate to the narrow scope of what remains in dispute, and the AFA is mindful of the Debtors' wind-down posture. The AFA anticipates limited Rule 30(b)(6) testimony on the questions identified above, targeted document discovery concerning the Deidentification Agent's engagement and protocol, and cross-examination of any witness offered.

27. AFA also questions whether notice of the sale has been adequate as to the individuals whose information the Assets include. Property sold under section 363 is sold after

² *Tyner v. Nicholson (In re Nicholson)*, 435 B.R. 622, 636 (9th Cir. B.A.P. 2010) ("An evidentiary hearing is generally appropriate when there are disputed and material factual issues that the bankruptcy court cannot readily determine from the record. Thus, if a contested matter in a bankruptcy case 'cannot be decided without resolving a disputed material issue of fact, an evidentiary hearing must be held at which testimony of witnesses is taken in the same manner as testimony is taken in an adversary proceeding or at trial in a district court civil case.' Fed. R. Bankr. P. 9014, Advisory Committee Note to 2002 Amendment.").

notice to parties in interest; to the extent flight attendants and other individuals retain an interest in their own information cognizable for that purpose, the absence of a definitive showing that all such information has been excluded from the sale leaves open whether individualized notice, rather than notice limited to case parties, was required.

RESERVATION OF RIGHTS

28. AFA expressly preserves its Limited Objection [ECF No. 1489] and every argument raised therein; the right to take appropriate pre-hearing discovery, including Rule 30(b)(6) discovery and fact-witness depositions, if the matter remains contested; the right to cross-examine any witness offered by the Debtors, the Buyer, or any Deidentification Agent; the right to designate and present expert testimony; the right to supplement or amend this Supplemental Objection based on subsequent disclosures, including the Ombudsman's final recommended conditions and the identity and protocol of the Deidentification Agent; the right to object to any revised Sale Order or transaction document and to any sale to an alternate purchaser; and all rights under the parties' collective bargaining agreement, the Railway Labor Act, the Bankruptcy Code, and applicable law.

CONCLUSION

AFA respectfully requests that the Court (i) decline to approve the sale over AFA's unresolved objection; (ii) permit the parties a short additional period to complete their efforts toward a consensual resolution; (iii) if the objection is not fully resolved, set the contested aspects for an evidentiary hearing with reasonable pre-hearing discovery and appropriate procedural protections; (iv) in the alternative, approve the sale only upon conditions that fully resolve AFA's

objection concerning the exclusion of confidential flight attendant information and the deidentification of what remains; and (v) grant such other relief as is just.

Dated: September 24, 2026
New York, New York

Respectfully submitted,

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