

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

RAVN AIR GROUP, INC. *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 20-10755 (BLS)

(Jointly Administered)

**Requested Hearing Date: August 19, 2020 at  
10:30 a.m. (ET)**

**Requested Objection Deadline: August 17, 2020  
at 4:00 p.m. (ET)**

**MOTION OF THE DEBTORS FOR AN ORDER AUTHORIZING  
PAYMENT OF BONUSES AND GRANTING RELATED RELIEF**

The above-captioned debtors and debtors in possession (collectively, the “Debtors”) move this Court pursuant to sections 105 and 363 of title 11 of the United States Code (the “Bankruptcy Code”) for entry of an order, in substantially the form attached hereto as Exhibit A, (i) authorizing the Debtors to pay certain bonuses in the aggregate amount of \$250,000, subject to the conditions and as more fully described herein (collectively, the “Bonuses”); and (ii) granting certain related relief. In support of this Motion, the Debtors submit the declaration of John T. Young, Jr. (the “Young Declaration”), filed contemporaneously herewith, and respectfully represent as follows:

**JURISDICTION AND VENUE**

1. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. sections 157 and 1334 and the *Amended Standing Order of Reference* of the United States District Court

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<sup>1</sup> The Debtors in these chapter 11 cases and the last four digits of each Debtor’s U.S. tax identification number are as follows: Ravn Air Group, Inc. (3047), Ravn Air Group Holdings, LLC (5356), JJM, Inc. (4858), HoTH, Inc. (9957), Peninsula Aviation Services, Inc. (6859), Corvus Airlines, Inc. (7666), Frontier Flying Service, Inc. (8091), and Hageland Aviation Services, Inc. (2754). The notice address for all of the Debtors is 4700 Old International Airport Road, Anchorage, AK 99502.

for the District of Delaware, dated February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. section 157(b). The Debtors confirm their consent pursuant to Local Rule 9013-1(f) to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

2. Venue for this matter is proper in this district pursuant to 28 U.S.C. sections 1408 and 1409.

3. The bases for the relief requested herein are sections 105(a) and 363 of the Bankruptcy Code.

## **BACKGROUND**

### ***General Background***

4. On April 5, 2020 (the "Petition Date"), the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code.

5. The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in the Debtors' cases.

6. On April 20, 2020, the office of the United States Trustee for the District of Delaware (the "U.S. Trustee") appointed an official committee of unsecured creditors (the "Committee") in these Cases.

7. Additional information regarding the Debtors' businesses and the circumstances leading to the commencement of these chapter 11 cases (the "Chapter 11 Cases") is set forth in the *Declaration of John Mannion in Support of First Day Motions* filed on the Petition Date

[Docket No. 5] and the *Supplemental Declaration of John Mannion in Support of First Day Motions* filed on April 7, 2020 [Docket No. 36].

***The Plan Process and the Confirmation Order***

8. Pursuant to the *Interim Order Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364 and 507 (I) Authorizing the Debtors to Obtain Postpetition Senior Secured Superpriority Financing, (II) Authorizing the Debtors' Limited Use of Cash Collateral, (III) Granting Adequate Protection to the Prepetition Secured Parties, (IV) Scheduling a Final Hearing, and (V) Granting Related Relief* [Docket No. 49] and the *Final Order Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364 and 507 (I) Authorizing the Debtors to Obtain Postpetition Senior Secured Superpriority Financing, (II) Authorizing the Debtors' Limited Use of Cash Collateral, (III) Granting Adequate Protection to the Prepetition Secured Parties, (IV) Scheduling a Final Hearing, and (V) Granting Related Relief* [Docket No. 148] (together, the "DIP Orders"), the Debtors obtained financing from certain prepetition lenders (the "Lenders"), which financing included covenants that required the Debtors to undertake an accelerated timetable for resolution of these Chapter 11 Cases.

9. On April 27, 2020, the Debtors filed the *Chapter 11 Plan of Liquidation of Ravn Air Group and Its Affiliated Debtors* [Docket No. 112] (as amended on June 9 [Docket No. 323], June 24 [Docket No. 381], and June 26 [Docket No. 398], the "Plan"). The Plan was confirmed pursuant to order entered on June 26, 2020 [Docket No. 400] (the "Confirmation Order") but, as of the date of this Motion, has not yet gone effective. Among other things, the Confirmation Order provides that unsecured creditors will receive twenty percent (20%) of asset sale proceeds "after \$55 million is actually received by the Liquidation Trust (before any Liquidation Trust Expenses)" (Confirmation Order at ¶43.a.), the "Asset Realization Threshold."

*The Sale Process*

10. The terms upon which the Debtors were able to obtain financing and the DIP Orders precluded the commencement and prosecution of a traditional sale process. The first draft of the Plan was to be filed soon after the Petition Date and the budget included in the DIP Orders included no funding for third-party sale agents to be employed by the Debtor. Although the Debtors thus had few resources, the Plan did not prohibit the Debtors from exploring sales of all, substantially all, or a substantial portion of their assets in connection with the consummation of the Plan.

11. Prior to the Petition Date, the Debtors established a Special Restructuring Committee comprised of two independent directors, Richard Nevins and James Decker (the “Independent Directors”), and the Debtors’ Chief Executive Officer, David H. Pflieger, Jr. The Special Restructuring Committee was empowered by the Debtors to take all actions material to these Chapter 11 Cases, including the negotiation and filing of the Plan and decisions relating to whether, and how, to explore asset sales. Among other things, the Special Restructuring Committee directed the Debtors to seek authority to sell all, substantially all, or a substantial portion of their assets in order to test the markets.

12. On June 3, 2020, the Court entered the *Order (I)(A) Authorizing and Approving the Bidding Procedures, (B) Approving Procedures Related to the Assumption of Certain Executory Contracts and Unexpired Leases, (C) Approving the Notice Procedures, (D) Authorizing Entry Into One or More Stalking Horse Agreements, and (E) Setting a Date for the Sale Hearing; and (II) Authorizing and Approving (A) the Sale of Certain Assets Free and Clear of All Liens, Claims, Encumbrances and Interests, (B) the Assumption and Assignment of Certain Contracts, and (C) Payment of Bid Protections, If Applicable* [Docket No. 295] (the “Bidding

Procedures Order”), which approved bidding procedures by which the Debtors would entertain offers to purchase all, substantially all, or a substantial portion of the Debtors’ assets.

13. Prior to and after entry of the Bidding Procedures Order, the Debtors undertook various efforts intended to maximize the value of their assets. These included the ongoing pursuit of federal funding under the CARES Act and other support programs, led by Mr. Pflieger and a number of professionals, which efforts attracted a number of potential going concern bidders. Senior managers created and, through the diligence process, revised and adapted *pro forma* financial models to help interested parties understand the Debtors’ businesses and refine their own investment views. The Debtors and their professionals established a robust virtual data room and populated it with detailed information on their assets and their businesses and updated the data room as new information was sought or became available.

14. As a result of the foregoing efforts, the Debtors held numerous negotiations and auctions that, in the aggregate, are expected to yield substantially in excess of \$50 million in proceeds. Additional assets with anticipated aggregate value in excess of \$5 million will be transferred for future sale by the Liquidation Trust (as defined in the Plan). The recovery thus expected to be realized is highly likely to exceed the Asset Realization Threshold and exceeds, by a wide margin, the aggregate proceeds that the Debtors anticipated recovering for the estate and its creditors.

***The Proposed Bonus and Consent of the Major Parties***

15. The Independent Directors, who comprise the majority of the members of the Special Restructuring Committee, in consultation with John Young, the Debtors’ financial advisor, determined that the efforts of the Debtors’ officers and employees on behalf of the estate warranted bonus compensation. Mr. Pflieger was consulted with respect to officers and

employees other than himself but was not consulted with respect to his participation and did not participate otherwise in the discussion of the Bonuses. The Independent Directors and Mr. Young thereafter commenced negotiations with the Committee and the Lenders.

16. The Committee sought and received confirmation that any bonuses paid hereunder constituted Liquidation Trust Expenses (as defined in the Plan) and, therefore, will not be counted against unsecured creditors' recoveries once the Asset Realization Threshold is met. Based on that understanding, the Committee has confirmed that it does not oppose the relief requested in the Motion.

17. The Lenders agreed to the Bonuses based on the following conditions: (a) the Bonuses would be payable to certain of the Debtors' existing and former employees, including Mr. Pflieger, as identified to and in amounts agreed by the Lenders, which amounts aggregate \$250,000; and (b) the Bonuses are subject to collection of \$50 million in gross asset sale proceeds prior to the effective date of the Plan.

18. The Debtors do not anticipate that any party will object to the Bonuses or the relief requested herein.

### **RELIEF REQUESTED**

19. By this Motion, the Debtors request entry of an order, in substantially the form attached hereto as Exhibit A, (i) authorizing the Debtors to pay the Bonuses; and (ii) granting certain related relief.

### **BASIS FOR RELIEF**

20. The Court has authority to approve the Debtors request to pay the Bonuses pursuant to section 363(b) of the Bankruptcy Code. Section 363(b)(1) of the Bankruptcy Code provides, in relevant part, that "[t]he trustee, after notice and a hearing, may use, sell, or lease,

other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b)(1).

When determining whether to authorize the use of property outside the ordinary course of business, courts require that a debtor “show that a sound business purpose justifies such actions.”

*Dai-Ichi Kangyo Bank, Ltd. v. Montgomery Ward Holding Corp. (In re Montgomery Ward Holding Corp.)*, 242 B.R. 147, 253 (D. Del. 1999); *see also In re Del. & Hudson Ry. Co.*, 124 B.R. 169, 178 (D. Del. 1991) (affirming decision permitting debtor to sell assets where sound business reasons supported the sale). When a sound business purpose exists, the Debtors’ use of property pursuant to section 363(b)(1) of the Bankruptcy Code should be approved.

21. “Compensation issues are normally governed by the business judgment standard, *i.e.*, proof that there is a broad business purpose for an action.” *In re Global Home Prods., LLC*, 369 B.R. 778, 783-84 (Bankr. D. Del. 2007) (*citing Nyers v. Martin (In re Martin)*, 91 F.3<sup>d</sup> 489, 395 (3<sup>d</sup> Cir. 1996)). “The reasonable use of incentives and performance bonuses are considered the proper exercise of a debtor’s business judgment.” *Id.* at 78; *see also In re Velo Holdings, Inc.*, 472 B.R. 201, 212 (Bankr. S.D.N.Y. 2012).

22. Furthermore, the Court has authority to approve the Bonuses pursuant to section 105 of the Bankruptcy Code, which provides, in relevant part, that “[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a).

23. Here, a sound business purpose exists for the Debtors pay the Bonuses. The affected current and former employees worked long hours to achieve the results obtained here without the support of a traditional sale infrastructure or funding therefor. The challenge was even more notable because the COVID-19 pandemic significantly limited the ability of potential purchasers to visit the Debtors’ premises or conduct on-site diligence, thus putting even greater

burdens on the incumbent team to provide support for remote diligence exercises. Moreover, in light of the initial approach required by the Lenders and reflected in the DIP Orders and the Plan, the employees were offered no incentive compensation at the outset, such that those who remained to support the sale effort and help close the sales did so without any assurance of extra remuneration or a job that would survive the sale process.

24. At \$250,000, the aggregate compensation to be awarded as Bonuses represents less than half of a percent (0.5%) of the gross proceeds of the asset sales expected to be closed prior to the effective date of the Plan. Compared to fees payable to traditional sales agents, the Debtors believe that this sum is favorable to the Lenders and the estates.

25. Finally, the Motion enjoys the support of the two major constituencies in these cases – the Committee and the Lenders. The Debtors believe that this fact alone conclusively establishes the reasonableness of their judgment and the relief sought herein.

### **NOTICE**

26. Notice of this Motion shall be given to (a) the office of the U.S. Trustee; (b) Counsel for the Committee; (c) the DIP Agent; (d) the agent for the Lenders; and (e) all parties having requested notice under Bankruptcy Rule 2002-1. The Debtors submit that no other or further notice need be provided.



WHEREFORE, the Debtors respectfully request the Court enter an order, substantially in the form attached hereto as Exhibit A, and grant such other and further relief as the Court deems necessary.

Dated: August 11, 2020  
Wilmington, Delaware

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and Debtors-in-Possession*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

RAVN AIR GROUP, INC. *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 20-10755 (BLS)

(Jointly Administered)

**Requested Hearing: August 19, 2020 at 10:30 a.m. (ET)**

**Requested Obj. Deadline: August 17, 2020 at 4:00 p.m. (ET)**

**NOTICE OF MOTION OF THE DEBTORS FOR AN ORDER AUTHORIZING  
PAYMENT OF BONUSES AND GRANTING RELATED RELIEF**

**PLEASE TAKE NOTICE** that, on August 11, 2020, the above-captioned debtors and debtors in possession (collectively, the “Debtors”) filed the *Motion of the Debtors for an Order Authorizing Payment of Bonuses and Granting Related Relief* (the “Motion”) with the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”).

**PLEASE TAKE FURTHER NOTICE** that, contemporaneously with the filing of the Motion, the Debtors have also filed a motion to shorten notice (the “Motion to Shorten”) requesting that objection or responses to the relief requested in the Motion must be filed on or before **August 17, 2020 at 4:00 p.m. (ET)** (the “Objection Deadline”) with the United States Bankruptcy Court for the District of Delaware, 824 N. Market Street, 3rd Floor, Wilmington, Delaware 19801. At the same time, copies of any responses or objections to the Motion must be served upon the undersigned counsel to the Debtors so as to be received on or before the Objection Deadline.

**PLEASE TAKE FURTHER NOTICE** that, pursuant to the Motion to Shorten, the Debtors have requested that a hearing to consider the bidding procedures portion of the Motion (the “Hearing”), which may be conducted telephonically and/or by video conference, be held on **August 19, 2020 at 10:30 a.m. (ET)** before the Honorable Brendan L. Shannon, United States Bankruptcy Judge, in the Bankruptcy Court, 824 N. Market Street, 6th Floor, Courtroom #1, Wilmington, Delaware 19801.

**PLEASE TAKE FURTHER NOTICE** that, upon entry of an order regarding the Motion to Shorten, the Debtors will serve the same on parties receiving this Notice to provide them with further notice of the Hearing and Objection Deadline for the Motion.

**PLEASE TAKE FURTHER NOTICE THAT IF NO OBJECTIONS OR RESPONSES TO THE MOTION ARE TIMELY FILED AND RECEIVED IN**

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<sup>1</sup> The Debtors in these chapter 11 cases and the last four digits of each Debtor’s U.S. tax identification number are as follows: Ravn Air Group, Inc. (3047), Ravn Air Group Holdings, LLC (5356), JJM, Inc. (4858), HoTH, Inc. (9957), Peninsula Aviation Services, Inc. (6859), Corvus Airlines, Inc. (7666), Frontier Flying Service, Inc. (8091), and Hageland Aviation Services, Inc. (2754). The notice address for all of the Debtors is 4700 Old International Airport Road, Anchorage, AK 99502.

**ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED THEREIN WITHOUT FURTHER NOTICE OR HEARING.**

Dated: August 11, 2020  
Wilmington, Delaware

**BLANK ROME LLP**

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*Attorneys for Debtors  
and Debtors-in-Possession*

**Exhibit A**

**(Proposed Order)**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:  RAVN AIR GROUP, INC. <i>et al.</i> , <sup>1</sup>  Debtors.	Chapter 11  Case No. 20-10755 (BLS)  (Jointly Administered)  <b>Re: Docket No.</b> _____
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**ORDER GRANTING MOTION OF THE DEBTORS FOR AN ORDER  
AUTHORIZING PAYMENT OF BONUSES AND GRANTING RELATED RELIEF**

The Court has considered the Motion of the Debtors for an Order Authorizing Payment of Bonuses and Granting Related Relief (the “Motion”).<sup>2</sup> The Court has reviewed the Motion and the Young Declaration and considered the statements of counsel and the evidence adduced with respect to the Motion at any hearing before the Court (the “Hearing”). The Court has found that (i) the Court has jurisdiction over this matter pursuant to 28 U.S.C. sections 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012, and that this Court may enter a final order consistent with Article III of the United States Constitution; (ii) venue is proper in this district pursuant to 28 U.S.C. sections 1408 and 1409; (iii) this is a core proceeding pursuant to 28 U.S.C. section 157(b); and (iv) notice of the Motion and the Hearing was sufficient under the circumstances. After due deliberation, the Court has determined that the relief requested in the Motion is in the

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<sup>1</sup> The Debtors in these chapter 11 cases and the last four digits of each Debtor’s U.S. tax identification number are as follows: Ravn Air Group, Inc. (3047), Ravn Air Group Holdings, LLC (5356), JJM, Inc. (4858), HoTH, Inc. (9957), Peninsula Aviation Services, Inc. (6859), Corvus Airlines, Inc. (7666), Frontier Flying Service, Inc. (8091), and Hageland Aviation Services, Inc. (2754). The notice address for all of the Debtors is 4700 Old International Airport Road, Anchorage, AK 99502.

<sup>2</sup> Capitalized terms not otherwise defined herein shall have the meanings given to them in the Motion.

best interests of the Debtors, their estates, and their creditors; and good and sufficient cause having been shown;

**ACCORDINGLY, IT IS HEREBY ORDERED THAT:**

1. The Motion is GRANTED.
2. If and upon collection of \$50 million in gross asset sale proceeds prior to the effective date of the Plan, the Debtors are authorized to pay the Bonuses on the terms set forth in the Motion.
3. The Debtors are further authorized to take such further actions and do such further things as are necessary or appropriate to afford the relief requested in the Motion.
4. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation and/or interpretation of this Order.