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

In re

ALOHA AIRLINES, INC., a  
Delaware corporation, et al.,  
  
Debtors.

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This Document relates to:

ALL CASES

Case No. 08-00337

(Chapter 7 Cases)  
(Jointly Administered)

(Honorable Lloyd King)

HEARING

Date: July 29, 2008

Time: 10:30 a.m. (HST)

Judge: Honorable Lloyd King

**OBJECTION OF GMAC COMMERCIAL FINANCE, LLC  
TO FIRST AND FINAL APPLICATION OF COMPENSATION  
AND REIMBURSEMENT OF EXPENSES TO  
SONNENSCHN NATH & ROSENTHAL LLP AS COUNSEL  
TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS**

GMAC Commercial Finance, LLC (“GMAC”), by its undersigned counsel,  
respectfully files this Objection (the “Objection”) to the First and Final

Applications for Allowance and Payment of Compensation and Reimbursement of Expenses to Sonnenschein Nath & Rosenthal as Counsel to the Official Committee of Unsecured Creditors (“Sonnenschein”) (the “Sonnenschein Fee Application”). Notwithstanding that Sonnenschein seeks payment of nearly a quarter million dollars for less than a month’s involvement in these cases, the Sonnenschein Fee Application fails to conform to Federal Rule of Bankruptcy Procedure 2016 (“Rule 2016”) and the United States Bankruptcy Court for the District of Hawaii’s Guidelines for Compensation and Expense Reimbursement of Professionals and Trustees (the “Compensation Guidelines”). In further support of the Objection, GMAC states as follows:

**Standard of Review**

1. Under Section 330 of the Bankruptcy Code, attorneys applying for allowance of their fees must demonstrate that their services were (1) actual, (2) necessary and (3) reasonable. *In re Channel Master Holdings, Inc.*, 309 B.R. 855, 861 (Bankr. D. Del. 2004). The attorney-applicant bears the burden of proof to show entitlement to the fees requested. *Id.*, citing *Zolfo, Cooper & Co. v. Sunbeam Oster Co., Inc.*, 50 F.3d 253, 260 (3<sup>rd</sup> Cir. 1995). The Court “should not allow compensation for (i) unnecessary duplication of services; or (ii) services that were not (I) reasonably likely to benefit the debtor’s estate; or (II) necessary to the administration of the case.” *Id.*

2. Moreover, an attorney must exercise “billing judgment” by making a good faith effort “to exclude from a fee request hours that are excessive, redundant or otherwise unnecessary.” *Hensley v. Eckerhart*, 461 U.S. 424, 434 (1983). “Reasonable time spent does not necessarily include all time actually expended.” *See In re Chas. A. Stevens & Co.*, 105 B.R. 866, 870-71 (Bankr. N.D. Ill. 1989).

### **Objection to the Sonnenschein Fee Application**

3. GMAC objects to the fees sought in the Sonnenschein Fee Application including, without limitation, for the following reasons (a) the hourly billing rates, and the amount of fees sought, are excessive; (b) many of Sonnenschein’s time entries are inadequately described and/or are improperly “clumped;” (c) multiple professionals from Sonnenschein performing the same task simultaneously; and (d) an inordinate amount of time spent on non-substantive retention matters.

### **Excessive Amount of Fees and Hourly Billing Rates**

4. Over the course of their brief 29 day involvement in these cases, Sonnenschein engaged, at minimum, eight different partners each with an hourly billing rate in excess of \$500, with two principal partners billing well in excess of \$700 per hour. Indeed, two of the three partners principally involved in these cases, C. Neville and F. Jacobson, have hourly billing rates of \$750 and \$745, respectively. In and of themselves, these rates are excessive and unwarranted in

these cases. It becomes more evident when compared to the hourly billing rates of the Chapter 7 trustee's counsel of \$450, and the Debtors' principal attorney, Paul Singerman, of \$510.

5. Moreover, it appears that the partners of Sonnenschein engaged in non-substantive work that could have been more efficiently performed by associates or paraprofessionals. By way of specific example, and without limitation, C. Neville billed 2.20 hours to "lien review" and investigation (*see* pg. 22 of 51 of the Sonnenschein Fee Application) and F. Jacobson billed numerous hours to "retention matters" (*see* pgs. 34, 35 of 51 of the Sonnenschein Fee Application). Further, of the 387.80 hours asserted by Sonnenschein, only 60.9 hours (approximately 15%) was spent by associates or paraprofessionals, with 24.1 of those hours expended by associates with hourly billing rates of \$485 and \$455. The Sonnenschein Fee Application does not state that these are the billing rates generally accepted by its clients for such tasks. Regardless, such rates, and such rates for such non-substantive tasks, are inappropriate here.

6. As a result, the Court should find that the hourly billing rates of Sonnenschein and its request of \$235,135.50 for less than a month's involvement in these cases are excessive.

### **Multiple Professionals or Duplicate Billing**

7. The issue of excessive rates set forth above is amplified when, on multiple occasions, Sonnenschein has multiple partners performing the same task simultaneously. *See, e.g., In re Busy Beavers Building Centers, Inc.*, 19 F.3d 833, 856 (3<sup>rd</sup> Cir. 1994) (“the court should review a fee application to ensure the applicant exercises the same ‘billing judgment’ as do non-bankruptcy attorneys by, for example, writing off unproductive research time, duplicative services, redundant costs precipitated by overstaffing,...”). By way of specific example, there are multiple conference calls with the Committee where C. Neville, F. Jacobson and C. Prince are on the same call. The combined hourly billing rate for those three partners is \$2,000. Certain calls and conferences, not meant to be exhaustive or limit those instances uncovered through the Court’s own review, are identified and designated with the initials “DB” on the invoices submitted with the Sonnenschein Fee Application and attached hereto as Exhibit A.

8. It is also worth noting, that in every single instance where there is duplicate billing by C. Neville, F. Jacobson and/or C. Prince, their respective time entries for the same event never assert the same amount of time spent. In certain instances, the discrepancy between the time entries for the same specific task is more than an hour. *See, e.g.* pg. 43 of 51 of the Sonnenschein Fee Application,

Date: 3/31/08, C. Neville entry for 2.50 hours for “Attend committee meeting;” F. Jacobson entry for same “Meeting with Creditors Committee” was 1.10 hours.

### **Clumping**

9. The Compensation Guidelines, Section I(15), requires that separate tasks performed on the same day may not be “clumped.” However, the Sonnenschein Fee Application includes numerous clumped time entries. Without limitation, and for example, every time entry of M. Zolandz is clumped, and a time entry for C. Neville dated April 4, 2008 for 5.6 hours (\$4,200) is described as “Attend hearing regarding DIP bid procedures etc. and preparation therefor including discussion with counsel regarding orders, bid procedures, cash collateral.” From this description, it is impossible for the Court to determine precisely what amount of time was spent on which activity, and whether that amount of time was reasonable and in compliance with the Compensation Guidelines. Additional entries, not meant to be exhaustive or limit those instances uncovered through the Court’s own review, are identified and designated by circling the entry on the invoices submitted with the Sonnenschein Fee Application and attached hereto as Exhibit A.

### **Retention of Consultants**

10. Lastly, pursuant to the Sonnenschein Fee Application, Sonnenschein spent an alarming amount, approximately \$15,000, on the process of retaining one consultant, namely Bruce Nobles (although many of the entries lack sufficient detail to determine who is involved). What is concerning is that a majority, if not all, of the \$15,000 was spent, as evidenced by the time entries on pages 34 – 36 of 51 of the Sonnenschein Fee Application, not in substantive consultation with the consultant, but, instead, on what appears to be simple administrative issues related to the retention of such consultant. Notwithstanding that there is no description as to how these services benefited the Committee or contributed to these cases, spending \$15,000 on what amounts to a standard administrative task seems inefficient and excessive on its face.

### **Conclusion**

11. Given the excessive amount of fees sought for its brief involvement in these cases, and its failure to comply with Rule 2016 and the Compensation Guidelines, Sonnenschein's request for payment of fees in the sum of \$235,135.50 should be reduced as deemed appropriate by the Court.

WHEREFORE, for the reasons stated above, GMAC respectfully requests that the Court (a) reduce the fees sought in the Sonnenschein Fee Application as

the Court deems appropriate, and (b) grant such other and further relief as is just under the circumstances.

Dated: July 11, 2008

Respectfully submitted,

GMAC COMMERCIAL FINANCE, LLC

By: /s/ Ted N. Pettit  
*One of Its Attorneys*

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