

SUPERIOR COURT

Commercial Division

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

No: 500-11-058645-207

DATE: May 8, 2020

PRESIDING: THE HONOURABLE MICHEL A. PINSONNAULT, J.S.C.

IN THE MATTER OF THE PLAN OF ARRANGEMENT AND COMPROMISE OF:

FLIGHTHUB GROUP INC.

- and -

FLIGHTHUB SERVICE INC.

- and -

SSFP CORP.

- and -

JUSTFLY INC.

- and -

JUSTFLY CORP.

- and -

11644670 CANADA INC.

Debtors/Applicants

-and-

MNP LTD

Proposed Monitor

INITIAL ORDER

ON READING the Applicants' *Application for the Issuance of an Initial Order* pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, C-36 (as amended; the "**CCAA**") and the exhibits, the affidavit of Christopher Cave filed in support thereof (the "**Application**"), the consent of MNP LTD to act as monitor (the "**Monitor**"), relying upon the submissions of counsel and being advised that the interested parties, including secured creditors, were given prior notice of the presentation of the Application;

GIVEN the provisions of the CCAA;

WHEREFORE, THE COURT:

[1] **GRANTS** the Application.

[2] **ISSUES** an order pursuant to the CCAA (the "**Initial Order**"), divided under the following headings:

- Service
- Continuation of BIA Proceedings under the CCAA
- Application of the CCAA and Procedural Consolidation
- Effective Time
- Plan of Arrangement
- Stay of Proceedings against the Debtors and the Property
- Stay of Proceedings against the Directors and Officers
- Possession of Property and Operations
- No Exercise of Rights or Remedies;
- No Interference with Rights
- Continuation of Services
- Non-Derogation of Rights
- Powers of the Monitor
- Center of Main Interest
- General

Service

[3] **DECLARES** that sufficient prior notice of the presentation of this Application has been given by the Applicants to interested parties, including the secured creditors.

Continuation of BIA Proceedings under the CCAA

[4] **ORDERS** the continuation under the CCAA of the proceedings instituted by JustFly Inc. on April 30, 2020 (estate no. 51-2642826, Prince Edward Island) by the filing of

a notice of intention pursuant to Section 50.4 of the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**").

Application of the CCAA and Procedural Consolidation

- [5] **DECLARES** that the Applicants are debtor companies to which the CCAA applies.
- [6] **ORDERS** the consolidation of these CCAA proceedings in respect of the Applicants and **ORDERS** that such consolidation shall be for administrative purposes only and shall not effect a consolidation of the assets and property of each of the Applicants including, without limitation, for the purposes of any Plan (as defined below) that may be thereafter proposed.

Effective time

- [7] **DECLARES** that this Initial Order and all of its provisions are effective as of 12:01 a.m. Montréal time, province of Québec, on the date of this Initial Order (the "**Effective Time**").

Plan of Arrangement

- [8] **DECLARES** that the Applicants shall have the authority to file with this Court and to submit to their creditors one or more plans of compromise or arrangement (collectively, the "**Plan**") in accordance with the CCAA.

Stay of Proceedings against the Debtors and the Property

- [9] **ORDERS** that, until and including May 18, 2020 (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Debtors, or affecting the Debtors' business operations and activities (the "**Business**") or the Property (as defined herein below), including as provided in paragraph [15] hereinbelow except with leave of this Court. Any and all Proceedings currently under way against or in respect of the Debtors or affecting the Business or the Property are hereby stayed and suspended pending further order of this Court, the whole subject to subsection 11.1 CCAA.
- [10] The rights of Her Majesty in right of Canada and Her Majesty in a right of a Province are suspended in accordance with the terms and conditions of Subsection 11.09 CCAA.

Stay of Proceedings against the Directors and Officers

- [11] **ORDERS** that during the Stay Period and except as permitted under subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any former, present or future director or officer of the Debtors nor against any person deemed to be a director or an officer of the Debtors under subsection 11.03(3) CCAA (each, a "**Director**", and collectively the "**Directors**") in respect of any claim against such Director which arose prior to the Effective Time and which relates to any obligation of the Debtors where it is alleged that any of the Directors is under any law liable in such capacity for the payment of such obligation.

Possession of Property and Operations

- [12] **ORDERS** that the Debtors shall remain in possession and control of their present and future assets, rights, undertakings and properties of every nature and kind whatsoever, and wherever situated, including all proceeds thereof (collectively the "Property"), the whole in accordance with the terms and conditions of this Initial Order.
- [13] **ORDERS** that the Debtors shall be entitled but not required to pay the fees and disbursements of any agents or legal or other counsel retained or employed by the Debtors in respect of these proceedings, at their standard rates and charges, whether incurred prior to or after this Order.
- [14] **ORDERS** that, except as otherwise provided to the contrary herein, the Debtors shall be entitled but not required to pay all reasonable expenses incurred by the Debtors during these proceedings and in carrying out the provisions of this Order, which expenses shall include, without limitation:
- a) all expenses reasonably necessary for the preservation of the Property or the Business;
 - b) payment for goods or services actually supplied to the Debtors following the date of this Order; and
 - c) amounts owing for goods or services actually supplied to the Debtors prior to the date of this Order by third party suppliers up to a maximum aggregate amount of \$500,000, if, in the opinion of the Monitor, the supplier is critical to the business and ongoing operations of the Debtors.

No Exercise of Rights or Remedies

- [15] **ORDERS** that during the Stay Period, and subject to, *inter alia*, subsection 11.1 CCAA, all rights and remedies of any individual, natural person, firm, corporation, partnership, limited liability company, trust, joint venture, association, organization,

governmental body or agency, or any other entity (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the Debtors, or affecting the Business, the Property or any part thereof, are hereby stayed and suspended except with leave of this Court.

- [16] **DECLARES** that, to the extent any rights, obligations, or prescription, time or limitation periods, including, without limitation, to file grievances, relating to the Debtors or any of the Property or the Business may expire (other than pursuant to the terms of any contracts, agreements or arrangements of any nature whatsoever), the term of such rights, obligations, or prescription, time or limitation periods shall hereby be deemed to be extended by a period equal to the Stay Period. Without limitation to the foregoing, in the event that the Debtors become bankrupt or a receiver as defined in subsection 243(2) of the BIA is appointed in respect of the Debtors, the period between the date of the Initial Order and the day on which the Stay Period ends shall not be calculated in respect of the Debtors in determining the 30 day periods referred to in Sections 81.1 and 81.2 of the BIA.

No Interference with Rights

- [17] **ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, resiliate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtors, except with the written consent of the Debtors and the Monitor, or with leave of this Court.

Continuation of Services

- [18] **ORDERS** that during the Stay Period and subject to paragraph [20] hereof and subsection 11.01 CCAA, all Persons having verbal or written agreements with the Debtors or statutory or regulatory mandates for the supply of goods or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation, utility or other goods or services made available to the Debtors, are hereby restrained until further order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Debtors, and that the Debtors shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses, domain names or other services, provided in each case that the normal prices or charges for all such goods or services received after the date of the Initial Order are paid by the Debtors, without having to provide any security deposit or any other security, in accordance with normal payment practices of the Debtors or such other practices as may be agreed upon by the supplier or service provider and the Debtors, with the consent of the Monitor, or as may be ordered by this Court.

- [19] **ORDERS** that, notwithstanding anything else contained herein and subject to subsection 11.01 CCAA, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided to the Debtors on or after the date of this Initial Order, nor shall any Person be under any obligation on or after the date of the Initial Order to make further advance of money or otherwise extend any credit to the Debtors.
- [20] **ORDERS** that, without limiting the generality of the foregoing and subject to Section 21 of the CCAA, if applicable, cash or cash equivalents placed on deposit by the Debtors with any Person during the Stay Period, whether in an operating account or otherwise for itself or for another entity, shall not be applied by such Person in reduction or repayment of amounts owing to such Person as of the date of the Initial Order or due on or before the expiry of the Stay Period or in satisfaction of any interest or charges accruing in respect thereof; however, this provision shall not prevent any financial institution from: (i) reimbursing itself for the amount of any cheques drawn by Debtors and properly honoured by such institution, or (ii) holding the amount of any cheques or other instruments deposited into the Debtors' account until those cheques or other instruments have been honoured by the financial institution on which they have been drawn.

Non-Derogation of Rights

- [21] **ORDERS** that, notwithstanding the foregoing, any Person who provided any kind of letter of credit, guarantee or bond (the "**Issuing Party**") at the request of the Debtors shall be required to continue honouring any and all such letters, guarantees and bonds, issued on or before the date of this Initial Order, provided that all conditions under such letters, guarantees and bonds are met save and except for defaults resulting from this Initial Order; however, the Issuing Party shall be entitled, where applicable, to retain the bills of lading or shipping or other documents relating thereto until paid.

Powers of the Monitor

- [22] **ORDERS** that MNP LTD is hereby appointed to monitor the business and financial affairs of the Debtors as an officer of this Court (the "**Monitor**") and that the Monitor, in addition to the prescribed powers and obligations, referred to in Section 23 of the CCAA:
- (a) shall (i) without delay, publish once a week for two (2) consecutive weeks or as otherwise directed by the Court, in LaPresse+ and the Globe and Mail National Edition, (ii) within (5) business days after the date of this Initial Order post on the Monitor's website at <https://www.mnpdebt.ca> (the "**Website**") a notice containing the information prescribed under the CCAA, (iii) make this Initial Order publicly available in the manner prescribed under the CCAA within five (5) business days after the date of this Initial Order, (iv) send, within

ten (10) business days after the date of this Initial Order, in the prescribed manner, including by electronic transmission, a notice to all known creditors having a claim against the Debtors of more than \$1,000, advising them that this Initial Order is publicly available, and (v) within five (5) business days after the date of this Initial Order, prepare a list showing the names and addresses of such creditors and the estimated amounts of their respective claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder;

- (b) shall monitor the Debtors' receipts and disbursements;
- (c) shall assist the Debtors, to the extent required, in dealing with their creditors and other interested Persons during the Stay Period;
- (d) shall assist the Debtors, to the extent required, with the preparation of their cash flow projections and any other projections or reports and the development, negotiation and implementation of the Plan;
- (e) shall advise and assist the Debtors, to the extent required, to review the Debtors' business and assess opportunities for cost reduction, revenue enhancement and operating efficiencies;
- (f) shall assist the Debtors, to the extent required, with their restructuring efforts and in their negotiations with their creditors and other interested Persons and with the holding and administering of any meetings held to consider the Plan;
- (g) shall report to the Court on the state of the business and financial affairs of the Debtors or developments in these proceedings or any related proceedings within the time limits set forth in the CCAA and at such time as considered appropriate by the Monitor or as the Court may order;
- (h) may retain and employ such agents, advisers and other assistants as are reasonably necessary for the purpose of carrying out the terms of this Initial Order, including, without limitation, one or more entities related to or affiliated with the Monitor;
- (i) may engage legal counsel to the extent the Monitor considers necessary in connection with the exercise of its powers or the discharge of its obligations in these proceedings and any related proceeding, under this Initial Order or under the CCAA;

- (j) may give any consent or approval as may be contemplated by this Initial Order or the CCAA;
- (k) may perform such other duties as are required by this Initial Order or the CCAA or by this Court from time to time; and

Unless expressly authorized to do so by this Court, the Monitor shall not otherwise interfere with the business and financial affairs carried on by the Debtors, and the Monitor is not empowered to take possession of the Property nor to manage any of the business and financial affairs of the Debtors nor shall the Monitor be deemed to have done so.

- [23] **ORDERS** that the Debtors and their Directors, officers, employees and agents, accountants, auditors and all other Persons having notice of the Initial Order shall forthwith provide the Monitor with unrestricted access to all of the Business and Property, including, without limitation, the premises, books, records, data, including data in electronic form, and all other documents of the Debtors in connection with the Monitor's duties and responsibilities hereunder.
- [24] **DECLARES** that the Monitor may provide creditors and other relevant stakeholders of the Debtors with information in response to requests made by them in writing addressed to the Monitor and copied to the Debtors' counsel. The Monitor shall not be responsible or liable for any such information provided in accordance with this Initial Order or with the CCAA, unless expressly provided in paragraph [26] hereof. In the case of information that the Monitor has been advised by the Debtors is confidential, proprietary or competitive, the Monitor shall not provide such information to any Person without the consent of the Debtors unless otherwise directed by this Court.
- [25] **DECLARES** that if the Monitor, in its capacity as Monitor, carries on the business of the Debtors or continues the employment of the Debtors' employees, the Monitor shall benefit from the provisions of section 11.8 of the CCAA.
- [26] **DECLARES** that no action or other proceedings shall be commenced against the Monitor relating to its appointment, its conduct as Monitor or the carrying out the provisions of any order of this Court, except with prior leave of this Court, on at least seven (7) days notice to the Monitor and its counsel. The entities related to or affiliated with the Monitor referred to in subparagraph [22](h) hereof and the legal counsels referred to in subparagraph [22](i) shall also be entitled to the protection, benefits and privileges afforded to the Monitor pursuant to this paragraph.
- [27] **ORDERS** that, subject to the powers granted to the Monitor pursuant to the terms of this Initial Order, nothing contained herein shall require the Monitor to occupy or to take control, or to otherwise manage all or any part of the Property. The Monitor shall

not, as a result of this Initial Order, be deemed to be in possession of any of the Property within the meaning of environmental legislation, the whole pursuant to the terms of the CCAA.

- [28] **ORDERS** that the Debtors shall pay the reasonable fees and disbursements of the Monitor, the Monitor's legal counsel, the Debtors' legal counsel and other advisers, directly related to these proceedings, the proceedings under Chapter 15 of the *U.S. Bankruptcy Code*, and the Plan and the Debtors' restructuring, whether incurred before or after the Initial Order, and shall provide each with a reasonable retainer in advance on account of such fees and disbursements, if so requested.

Center of Main Interest

- [29] **DECLARES** that the Applicants' centre of main interest is located in Montréal, Québec, Canada.

General

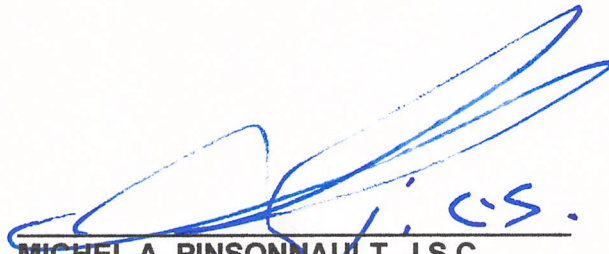
- [30] **ORDERS** that no Person shall commence, proceed with or enforce any Proceedings against any of the Directors, employees, legal counsel or financial advisers of the Debtors or of the Monitor in relation to the Business or Property of the Debtors, without first obtaining leave of this Court, upon five (5) days written notice to the Debtors' counsel and to all those referred to in this paragraph whom it is proposed be named in such Proceedings.
- [31] **DECLARES** that the Initial Order and any proceeding or affidavit leading to the Initial Order, shall not, in and of themselves, constitute a default or failure to comply by the Debtors under any statute, regulation, licence, permit, contract, permission, covenant, agreement, undertaking or other written document or requirement.
- [32] **DECLARES** that, except as otherwise specified herein, the Debtors and the Monitor are at liberty to serve any notice, proof of claim form, proxy, circular or other document in connection with these proceedings by forwarding copies by prepaid ordinary mail, courier, personal delivery or electronic transmission to Persons or other appropriate parties at their respective given addresses as last shown on the records of the Debtors and that any such service shall be deemed to be received on the date of delivery if by personal delivery or electronic transmission, on the following business day if delivered by courier, or three business days after mailing if by ordinary mail.
- [33] **DECLARES** that the Debtors and any party to these proceedings may serve any court materials in these proceedings on all represented parties electronically, by emailing a PDF or other electronic copy of such materials to counsels' email addresses,

provided that the Debtors shall deliver "hard copies" of such materials upon request to any party as soon as practicable thereafter.

- [34] **ORDERS** that Exhibits R-3, R-4 and R-5 filed in support of the Application, as well as Annex "B" to the Monitor's Report dated May 8, 2020, be kept confidential and under seal until further order of this Court.
- [35] **DECLARES** that, unless otherwise provided herein, under the CCAA, or ordered by this Court, no document, order or other material need be served on any Person in respect of these proceedings, unless such Person has served a Notice of Appearance on the solicitors for the Debtors and the Monitor and has filed such notice with this Court, or appears on the service list prepared by the monitor or its attorneys, save and except when an order is sought against a Person not previously involved in these proceedings.
- [36] **DECLARES** that the Applicants or the Monitor may, from time to time, apply to this Court for directions concerning the exercise of their respective powers, duties and rights hereunder or in respect of the proper execution of this Initial Order on notice only to each other.
- [37] **DECLARES** that any interested Person may apply to this Court to vary or rescind the Order or seek other relief upon five (5) days notice to the Debtors, the Monitor and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order, such application or motion shall be filed during the Stay Period ordered by this Initial Order, unless otherwise ordered by this Court.
- [38] **DECLARES** that the Initial Order and all other orders in these proceedings shall have full force and effect in all provinces and territories in Canada.
- [39] **DECLARES** that each of the Applicants shall be authorized to apply as they may consider necessary or desirable, with or without notice, to any other court or administrative body, whether in Canada, the United States of America or elsewhere, for orders which aid and complement this Initial Order and any subsequent orders of this Court and, without limitation to the foregoing, an order under Chapter 15 of the *U.S. Bankruptcy Code*, for which FlightHub Group Inc. shall be the foreign representative of the Debtors. All courts and administrative bodies of all such jurisdictions are hereby respectively requested to make such orders and to provide such assistance to each of the Applicants as may be deemed necessary or appropriate for that purpose.
- [40] **REQUESTS** the aid and recognition of any Court or administrative body in any Province of Canada and any Canadian federal court or administrative body and any federal or state court or administrative body in the United States of America and any

court or administrative body elsewhere, to act in aid of and to be complementary to this Court in carrying out the terms of the Initial Order.

- [41] **ORDERS** the provisional execution of the Initial Order notwithstanding any appeal.
- [42] **FIXES** the hearing date on the Application for the Amended and Restated Initial Order on May 19, 2020 at 9:30 am by videoconference.
- [43] **WITHOUT COSTS.**



MICHEL A. PINSONNAULT, J.S.C.

JP1736

Hearing date: May 8, 2020