

COURT FILE NUMBER 2401-02664

COURT COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY



IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, as amended

AND IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF LYNX AIR HOLDINGS CORPORATION and 1263343 ALBERTA INC. dba LYNX AIR

DOCUMENT **ORDER**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

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File Number: 1246361

DATE ON WHICH ORDER WAS PRONOUNCED: April 15, 2024

LOCATION WHERE ORDER WAS PRONOUNCED: Calgary, Alberta

JUSTICE WHO MADE THIS ORDER: The Honourable Justice Sidnell

UPON the application of Lynx Air Holdings Corporation and 1263343 Alberta Inc. dba Lynx (collectively, the “**Applicants**”); **AND UPON** reading the Affidavit of Michael Woodward sworn April 9, 2024; **AND UPON** reading the Third Report of FTI Consulting Canada Inc. (the “**Monitor**”); **AND UPON** noting the Affidavit of Service of Elena Pratt to be filed; **AND UPON** hearing from counsel for the Applicants, counsel for Indigo Northern Ventures LP (the “**Interim Lender**” or “**Indigo**”), counsel for the Monitor, and any other interested party; **AND UPON** being satisfied that the Applicants have acted and continue to act in good faith and with due diligence and that circumstances exist that make this Order appropriate;

IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE

1. The time for service of this application is hereby abridged and deemed good and sufficient and this application is properly returnable today, and no other person other than those persons served is entitled to service of this application.

EXTENSION OF THE STAY PERIOD

2. The Stay Period, as defined in paragraph 15 of the Amended and Restated Initial Order granted in these proceedings by the Honourable Justice Whitling on March 1, 2024 (“**ARIO**”) is hereby extended up to and including June 28, 2024.
3. Notwithstanding any provision in the ARIO, (i) each lessor or financier of any aircraft or engine leased to any of the Applicants pursuant to a lease agreement (each, an “**Aircraft Object Lease Agreement**”), and (ii) each party to any commitment agreement and/or lease agreement with any of the Applicants to procure and lease any aircraft to any of the Applicants (each, an “**Aircraft Object Commitment Agreement**”), shall be authorized to (a) terminate the leasing of an aircraft and/or engine under such Aircraft Object Lease Agreement or terminate such Aircraft Object Commitment Agreement, as applicable, and (b) take possession of such aircraft or engines and other related assets governed by such Aircraft Object Lease Agreement and/or Aircraft Object Commitment Agreement, as applicable, and exercise such rights as may be afforded to such party pursuant to such Aircraft Object Lease Agreement or Aircraft Object Commitment Agreement, or otherwise at law, and any such termination of Aircraft Object Lease Agreements or Aircraft Object Commitment Agreements which may occur prior to April 22 will be understood to be effected with the consent of the Applicants and the Monitor, which consent has herewith been provided.
4. Early termination under paragraph 3 shall not impair or prejudice any valid lien rights, or any defences thereto, to the extent there are any lien rights.

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DISTRIBUTION

5. The Applicants, with the approval of the Monitor, are hereby authorized, directed and empowered to make a distribution to the Interim Lender in an amount equal to the amounts owing to the Interim Lender under the interim financing term sheet dated February 21, 2024, between the Applicants and the Interim Lender (the “**Interim Financing Distribution**”).
6. The Applicants, with the approval of the Monitor, are authorized to make further distributions to Indigo, up to an amount equal to the secured obligations owing to Indigo, and such distributions shall be credited against the secured obligations and amounts owing by the Applicants to Indigo under the terms of the note purchase agreement dated December 20, 2018 and the five bridge note purchase agreements dated February 24, 2023, October 26, 2023, January 12, 2024, February 2, 2024, and February 7, 2024, as amended, amongst the Applicants and Indigo (the “**Lender’s Distribution**”), subject to the Applicants retaining a reserve in an amount deemed appropriate by the Monitor (the “**Reserve**”).
7. The existence, validity, priority or quantum of the right or claim (if any) of any of:
 - (a) the Greater Toronto Airport Authority,
 - (b) the Vancouver Airport Authority,
 - (c) the Calgary Airport Authority,
 - (d) the Edmonton Regional Airport Authority,
 - (e) the Winnipeg Airport Authority Inc. or
 - (f) the Halifax international Airport Authority(collectively, the “**Airport Authorities**”) against the Applicants and the Property (as defined in the ARIO), including the Reserve, shall be unaffected and unimpaired by the making of the Interim Financing Distribution and the Lenders’ Distribution and the establishment of the Reserve, and the Reserve shall include an amount set aside specifically


to satisfy the AIF Claims (as defined in the Third Report of the Monitor), if any, in an amount no less than \$6.879 million (the “**AIF Reserve**”),

8. Notwithstanding anything else in this Order:
 - (a) None of the Airport Authorities shall have any claim whatsoever against any portion of the Interim Financing Distribution or the Lender’s Distribution, and all AIF Claims (if any) may be asserted exclusively against the AIF Reserve; and
 - (b) AIF Claims against the AIF Reserve shall be paid out of the AIF Reserve only after the existence of any such AIF Claims have been proven, and only upon Order of this Court determining that the Airport Authorities are entitled to receive payment out of the AIF Reserve, or with the consent of the Applicants, the Monitor, Indigo, and any other party which may have a claim against the AIF Reserve.

9. The Applicants are hereby authorized, directed and empowered to take any further steps deemed necessary or desirable, with the approval of the Monitor, to complete the Interim Financing Distribution and the Lender’s Distribution described in paragraph 5 and 6, above.

MISCELLANEOUS

10. Service of this Order may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.



Justice of the Court of King’s Bench of Alberta