

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

In re:)	Chapter 11
)	
ARCAPITA BANK B.S.C.(c), et al.,)	Case No. 12-11076 (SHL)
)	
Debtors,)	(Jointly Administered)
)	
_____)	
)	
FALCON GAS STORAGE CO., INC.)	
)	
Plaintiff,)	Adv. Pro. No. _____
)	
v.)	
)	
ENTERPRISE JET CENTER, INC.,)	
)	
Defendant.)	
_____)	

ORIGINAL ADVERSARY COMPLAINT FOR RECOVERY OF DAMAGES

Falcon Gas Storage Company, Inc. (“Falcon” or “Plaintiff”), one of the above-captioned debtors and debtors in possession (collectively, the “Debtors”), in its Adversary Complaint for Recovery of Damages, alleges as follows:

The Parties

1. Each of the Debtors has filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Southern District of New York. The Debtors’ chapter 11 cases are being jointly administered under case number 12-11076 (SHL).

2. Falcon is a Delaware corporation with its principal place of business at 75 14th Street, 24th Floor, Atlanta, Georgia 30309.

3. Upon information and belief, Enterprise Jet Center, Inc. (“Enterprise” or “Defendant”) is a corporation organized under the laws of Texas with its principal place of business

at 8620 West Monroe, Houston, Texas 77061. At all relevant times, Enterprise provided services to Falcon.

Jurisdiction and Venue

4. The Court has jurisdiction over this matter under the Bankruptcy Code and pursuant to 28 U.S.C. §§ 157 & 1334.

5. Venue in this district is proper pursuant to 28 U.S.C. § 1409(a) as the Debtors' cases under chapter 11 of the Bankruptcy Code are pending in this district as lead Case No. 12-11076 (SHC).

6. The claims alleged herein arise in and are related to a case pending under title 11 and as such are core claims as to which this Court may enter final judgments.

General Allegations

7. Through February 2012, Enterprise was "fixed base operator" certified by the Federal Aviation Association located at Houston Hobby Airport, and provides fuel, catering, aircraft cleaning and maintenance, repair, and overhaul services for private aircraft generally and, in particular, specializes in the servicing and maintenance of Beechcraft King Air aircraft, among other high performance turbine powered aircraft.

8. Falcon is informed and believes and thereupon alleges that on or about February 29, 2012, Jet Aviation Group acquired Enterprise and that Jet Aviation now operates Enterprise under the name "Jet Aviation Houston" as one of 14 fixed based operators in its global network providing premium aviation services and support, six of which are operated in the United States.

9. On or about October 20, 2006, Falcon leased a Beechcraft B300 King Air 350, tail no. N86GA, (the "Plane") from CFS Air, LLC.

10. Thereafter, Falcon contracted with Enterprise for Enterprise to provide various services and support related to the Plane, including the care and safe keeping of the Plane in Enterprise's hangars or at Enterprise's facilities at Hobby Airport.

11. On or about November 27, 2010, while the Plane was under the care and control of Enterprise and specifically while agents or employees of Enterprise were towing the Plane using a motorized tug, the tow bar became disconnected and the Plane's uncontrolled momentum caused it to impact the tug in two places.

12. The accident caused significant damage to the Plane's right fuselage and right engine nacelle rendering the Plane unsafe for flight and no longer airworthy as required by Title 14 of the Code of Federal Regulations.

13. As a result of Enterprise's negligence and breach of contract in transporting and caring for the Plane, Falcon has suffered significant damages, including damage to the Plane and the costs of repair, lost value, lost use, rental fees, expenses related to hangaring and servicing the Plane, insurance costs, consulting fees necessary to ensure proper repair, and attorney's fees in seeking reimbursement from Enterprise's insurer.

First Claim for Relief
Breach of Contract – Bailment

14. Falcon incorporates the preceding paragraphs as if set forth fully herein.

15. Falcon and Enterprise entered into a valid and enforceable agreement whereby Enterprise provided goods and services to Falcon in the care and keeping of the Plane.

16. Enterprise accepted delivery of the Plane and agreed to fulfill the agreement to, in part, safely keep and care for the Plane.

17. Enterprise and Falcon further understood that the Plane would be returned to Falcon without damage and in an airworthy condition.

18. Falcon fully performed under that agreement, paying Enterprise for the goods and services provided.

19. Enterprise breached the agreement by failing to adequately care for the Plane and instead in causing damage to the Plane resulting in significant actual and consequential damages to Falcon.

20. Despite Falcon's demand, Enterprise and or its insurer has refused and continues to refuse to compensate Falcon for the damages suffered by Falcon as a result of the damage to the Plane caused by Enterprise.

21. Falcon seeks recovery of all of its actual and consequential damages, as well as attorney's fees for bringing this action as permitted by Texas Civil Practice & Remedies Code Chapter 38.

Second Claim for Relief
Breach of Contract – General

22. Falcon incorporates the preceding paragraphs as if set forth fully herein.

23. Falcon and Enterprise entered into a valid and enforceable agreement whereby Enterprise provided goods and services to Falcon in the care and keeping of the Plane.

24. Falcon fully performed under that agreement, paying Enterprise for the goods and services provided.

25. Enterprise breached the agreement by failing to adequately care for the Plane. Indeed, Enterprise's actions caused Falcon significant actual and consequential damages.

26. Despite Falcon's demand, Enterprise and or its insurer has refused and continues to refuse to compensate Falcon for the damages and losses suffered by Falcon as a result of the damage to the Plane caused by Enterprise.

27. Falcon seeks recovery of all of its actual and consequential damages, as well as attorney's fees for bringing this action as permitted by Texas Civil Practice & Remedies Code Chapter 38.

Third Claim for Relief
Negligence

28. Falcon incorporates the preceding paragraphs as if set forth fully herein.

29. Enterprise, as bailee of the Plane, owed Falcon a legal duty to use proper care to protect the Plane and to ensure it was not damaged so as to be no longer airworthy, unsafe for flight, or otherwise damaged in any manner.

30. Enterprise breached that duty by causing significant damage to the Plane's right fuselage and right engine nacelle.

31. Enterprise's breach of duty proximately caused Falcon injury, resulting in significant actual and consequential damages, including damage to the Plane and the costs of repair, lost value, lost use, rental fees, expenses related to hangaring and servicing the Plane, insurance costs, consulting fees necessary to ensure proper repair, and attorney's fees in seeking reimbursement from Enterprise's insurer.

32. Falcon seeks actual and consequential damages.

Prayer for Relief

WHEREFORE, Plaintiff prays for judgment as follows:

A. That judgment be entered in favor of Falcon for all of its actual and consequential damages;

B. That Enterprise be ordered to pay Falcon for the reasonable and necessary attorney's fees incurred in this suit; and

C. That the Plaintiff be granted such other and further relief as is just and proper.

Dated: New York, New York

June 8, 2012

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