

1 Nicholas Granath, Esq. (*pro hac vice*)
ngranath@ssmplaw.com
2 SEHAM, SEHAM, MELTZ & PETERSEN, LLP
445 Hamilton Avenue, Suite 1204
3 White Plains, NY 10601
Tel: 914 997-1346; Fax: 914 997-7125

4 Stan Lubin Esq., State Bar No. 003076
nick@lubinandenoch.com
5 LUBIN & ENOCH, PC
349 North 4th Avenue
6 Phoenix, AZ 85003-1505
7 Tel: 602 234-0008; Fax: 602 626 3586

8
9 **IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

10
11 US Airways, Inc., a Delaware Corporation,

12 Plaintiff,

13 vs.

14 Don Addington, an individual, *et al*

15 and

16 US Airline Pilots Association,

17 Defendants.

Case No. 2:10-CV-01570-PHX-ROS

**DECLARATION OF
NICHOLAS PAUL GRANATH IN
SUPPORT OF
DEFENDANT USAPA'S
RESPONSE TO
PLAINTIFF U.S. AIRWAYS'
MOTION FOR
CLASS CERTIFICATION**

18
19 I, Nicholas Paul Granath, Esq., declare as follows:

20
21 1. I make this Declaration of my own free will and based on my personal,
22 first-hand knowledge, unless otherwise specifically indicated.

23 2. I am counsel of record for the US Airline Pilots Association ("USAPA") in
the above cited matter, and in all related litigation.

1 3. This Declaration is in support of “Defendant USAPA’S Response To
2 Plaintiff U.S. Airways’ Motion For Class Certification.”

3 4. Attached, marked, and labeled Exhibit A is a true and correct copy of an
4 extract of Doc. No. 614-1 filed in the Addington DFR matter before Judge Wake showing
5 that (at the arrow) the Polsinelli law firm billing Leonidas, LLC directly.

6 5. Attached, marked, and labeled Exhibit B is a true and correct copy of
7 correspondence to all US Airways pilots dated March 24, 2011, from US Airways
8 Executive Vice President Johnson, which shows (at the arrow) the company placing
9 “three US Airways pilots ... on administrative leave.”
10

11 6. Attached, marked, and labeled Exhibit C is i) a true and correct copy of an
12 April 19, 2011, email from Leonidas founder Eric Ferguson to John Scherff, one of the
13 three pilots placed on administrative leave, indicating (at the red arrow) that Leonidas is
14 currently funding representation; ii) as well as an extract of a deposition of Mr. Ferguson
15 showing testimony that Leonidas LLC is paying for Mr. Scherff’s legal representation
16 (Tr. 104:23) as well as Mr. Holmes’ (Tr. 106:7), the two other gentlemen besides Mr.
17 Ferguson placed on administrative leave.

18 7. Attached, marked, and labeled Exhibit D is a true and correct copy of
19 Leonidas LLC articles of amendment that shows (at red arrows) that all proposed class
20 representatives are listed members of Leonidas LLC.
21
22
23

1 Pursuant to 29 U.S.C. § 1746, I declare under penalty of perjury that the foregoing
2 is true and correct.

3 Executed on: September 1, 2011

4 */s/ Nicholas Paul Granath*

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Exhibit A

1 Marty Harper (#003416)
mharper@polsinelli.com
 2 Kelly J. Flood (#019772)
kflood@polsinelli.com
 3 Andrew S. Jacob (#022516)
ajacob@polsinelli.com
 4 **POLSINELLI SHUGHART PC**
 3636 N. Central Ave., Suite 1200
 5 Phoenix, AZ 85012
 Phone: (602) 650-2000
 6 Fax: (602) 264-7033


7 **IN THE UNITED STATES DISTRICT COURT**
 8 **FOR THE DISTRICT OF ARIZONA**

9 Don ADDINGTON, *et al.*,
 Plaintiffs,
 10
 11 vs.
 12 US AIRLINE PILOTS ASSN., *et al.*,
 Defendants.
 13
 14 Don ADDINGTON, *et al.*,
 Plaintiffs,
 15
 16 vs.
 17 Steven H. BRADFORD, *et al.*,
 Defendants.

CASE NOS.
 2:08-CV-1633-PHX-NVW
 2:08-CV-1728-PHX-NVW
 (Consolidated)
AFFIDAVIT OF MARTY HARPER

18
 19
 20 **EXHIBIT 1**
 21
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This invoice reflects services performed and expenses incurred on your behalf. Your prompt attention is appreciated. Please contact us immediately to discuss any questions you may have. Thank you for this opportunity to serve you.

 Leonidas LLC
Attn: Jeffrey Koontz
2650 FM 407, Ste. 145-147
Bartonville, TX 76226

September 3, 2009
Invoice No: *****
File No: LEO020-324277

Re: Leonidas LLC vs. Airline Pilots, et al.

Invoice Summary

Current Professional Services	\$1,678,300.50
Current Disbursements	<u>142,929.37</u>
Total Current Invoice	\$1,821,229.87

Questions regarding payments or accounts, please call (816) 572-4664 or 1-877-577-7455 or AccountingBilling@polsinelli.com.
For other inquiries, please contact Marty Harper at (602)650-2000 or mharper@polsinelli.com.

Please make checks payable to
Polsinelli Shughart PC
P.O. Box 878681
Kansas City, MO 64187-8681
Wire Instructions:
US Bank
Acct: Polsinelli Shughart, PC
Acct #: 4343953230
ABA #: 101000187
Please reference Invoice No.



U-S AIRWAYS

Exhibit B

111 W. Rio Salado Pkwy.
Tempe, AZ 85281
480.693.5785
Fax: 480.693.5155

Stephen L. Johnson
Executive Vice President
Corporate

March 24, 2011

Dear US Airways Pilot:

Yesterday, USAPA President Mike Cleary wrote to the US Airways pilot group regarding the recent Leonidas mailings. Captain Cleary's note correctly stated that a US Airways pilot provided to Leonidas a list of East pilot names and addresses and that the Company was conducting an investigation of the matter. The purpose of this note is to confirm that and to advise you that the excel spreadsheet provided to Leonidas also included East pilots' social security numbers. Although the Company's investigation of this matter has been underway for some time, the social security numbers were discovered yesterday for the first time because that information was embedded and hidden in the spreadsheet in a way that was truncated, not labeled and required an unusual excel command for access. Although this is disturbing, the responsible persons at Leonidas have assured us that they did not know this information existed and our preliminary investigation suggests that no one at Leonidas discovered or accessed that information. In yesterday's note, Captain Cleary expressed concern that confidential passport information was also included in the Leonidas list. We have confirmed that no passport information was included.

Ensuring your personal information is secure is critical. To address your concerns about identity theft, we have arranged to provide Identity Theft Protection Services through LifeLock for 12 months at no cost to East pilots. This service is available immediately and will include monitoring your identity, scanning for any potential identity theft, and responding to any potential identity theft issues. LifeLock has established a unique toll-free number for US Airways' East pilots. To access this protection any time before May 31, 2011, follow these simple instructions:

- Call 1-877-509-5357 or visit www.lifelock.com to enroll.
- Use your original five-digit US Airway employee number (located on the back of your current employee ID badge) and the promotion code: **USA2011** when prompted.

In addition, we have taken the following actions:

- Reiterated our orders to the Leonidas representatives to not access, use or share the information. We have instructed the Leonidas representatives to wait to destroy the information pending advice from law enforcement authorities, which may wish the information to be preserved for investigation.
- Notified the appropriate government agencies.
- Engaged an outside law firm to supplement the Company's already extensive investigation.
- Placed three US Airways pilots (the former management pilot who provided the seniority list to Leonidas and two other pilots we know to be involved) on administrative leave pending the completion of the investigation.

We are very sorry your personal information was released and share your disappointment and concern. Although we are continuing our investigation, as noted, our preliminary work indicates that the social security numbers were not accessed or misused. We will provide additional information shortly and keep you advised of the progress of the investigation, to the extent allowed by law.

Steve Johnson

ATTY/Client- Rob Shull Contact Information


Exhibit C

Subject: ATTY/Client- Rob Shull Contact Information
From: "Eric Ferguson" <flyeref@yahoo.com>
Date: 4/19/2011 8:44 AM
To: "john" <4johns@flica.net>
CC: rob.shull@mwmf.com

John,

Below you will find the contact information for Rob Shull, esq. You may contact him directly as necessary. Katie Brown (one of our Leonidas, LLC attorneys) may have forwarded to me additional contact information via email last night, but for whatever reason, I was unable to open that message. I have therefore attached only the information available on his firm's website.

I have copied Mr. Shull to this email, but you do not need (and probably shouldn't) copy me to any correspondence you may have with him.

 As we discussed, payment for Mr. Shull's services have been arranged by Leonidas, LLC and will be paid through Marty Harper's office.

Eric

Mr. Rob Shull, esq.
2901 North Central Avenue
Suite 200
Phoenix, Arizona 85012

Phone: (602) 285-5010
Fax: (602) 285-5100
Email: rob.shull@mwmf.com

SCH 038

CAUSE NO. 2011-50314-367

MICHAEL J. CLEARY, AND) IN THE DISTRICT COURT
THE US AIRLINE PILOTS)
ASSOCIATION,)
)
Petitioners,)
)
vs.) DENTON COUNTY, TEXAS
)
ERIC FERGUSON,)
)
Respondent.) 367TH JUDICIAL DISTRICT

ORAL DEPOSITION
ERIC FERGUSON
June 9, 2011

ORAL DEPOSITION OF ERIC FERGUSON, produced as a witness at the instance of the Petitioner and duly sworn, was taken in the above-styled and numbered cause on June 9, 2011, from 9:27 a.m. to 3:47 p.m., before, by Stacy J. Masten, Certified Shorthand Reporter in and for the State of Texas, reported by computerized stenotype machine at the law offices of 218 North Elm, Denton, Texas 76201, pursuant to the Texas Rules of Civil Procedure and the provisions stated on the record or attached hereto.

1 A P P E A R A N C E S

2

3 FOR THE PETITIONERS:

4 MR. NICHOLAS PAUL GRANATH
5 SEHAM, SEHAM, MELTZ & PETERSEN, LLP
6 2915 WAYZATA BLVD.
7 MINNEAPOLIS, MN 55405
8 PHONE: (612) 341-9080
9 FAX: (612) 341-9079
10 EMAIL: ngranath@ssmplaw.com

11 MR. LUCAS K. MIDDLEBROOK
12 SEHAM, SEHAM, MELTZ & PETERSEN, LLP
13 445 HAMILTON AVENUE, 12TH FLOOR
14 WHITE PLAINS, NEW YORK 10601
15 PHONE: (914) 997-1346
16 FAX: (914) 997-7125
17 EMAIL: LMiddlebrook@ssmplaw.com

18 FOR THE RESPONDENT:

19 MR. ANDREW S. JACOB
20 POLSINELLI SHUGHART PC
21 ONE EAST WASHINGTON STREET, SUITE 1200
22 PHOENIX, ARIZONA 85004
23 PHONE: (602) 650-2096
24 EMAIL: ajacob@polsinelli.com

25 ALSO PRESENT:

MR. TODD FIESER, USAPA

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1 the cactuspilot.com has been hacked repeatedly. The Hangar
2 with the web board has been hacked repeatedly. There's been
3 numerous malicious attacks on those entities, but not to my
4 knowledge on any individual pilot which might have this data.

5 Q. And, for example, on those attempted hacks that you
6 mentioned on your website, is there a documentation that takes
7 place of that, a recording of that?

8 A. It is recorded generally in notes and correspondence
9 from Ken Holmes. He manages those, so he has documentation
10 when it occurred; furthermore, he has sought some assistance,
11 law enforcement, whatnot.

12 Q. Okay. Would you mind running down real briefly -- if
13 I've covered this before, then I apologize. But the history
14 of your positions in Leonidas since '09. I think you said in
15 '09 your status changed. Give me a recap of that.

16 A. To be clear Leonidas is a funding mechanism to
17 support the litigation to enforce the arbitration. It is an
18 LLC -- Arizona-based LLC, which was a quick means to get a
19 business entity up and running which would, again, collect
20 funds from the America West pilot group and others that might
21 care to contribute to our legal defense. So I am the, again,
22 cofounder on this. To give you the whole story --

23 Q. Well, I'm sorry to interrupt you, but it's not
24 actually necessary. I was just really wondering about your
25 role in it.

1 A. My role was a cofounder. I'm on the original
2 paperwork as a member-manager. It was incorporated in August
3 of 2007, and I remained a member-manager until around this
4 time frame, September, October '09. Though, I think
5 officially that change took place at the beginning of '10
6 where I went from a member-manager to just a member.

7 Q. And that's your status today?

8 A. That's my status today.

9 Q. Is Leonidas funding your representation in this
10 matter?

11 A. It is.

12 Q. Since your correspondence in September of '09 with
13 Mr. Scherff, what's the extent of his involvement in Leonidas?

14 A. Mr. Scherff is not involved in Leonidas.

15 Q. Okay. Would that include contributions or donations
16 to the organization?

17 A. Mr. Scherff has not contributed to Leonidas.

18 Q. And then I probably know the answer to this question.
19 I'll ask it. Is Leonidas funding his legal expense in this
20 matter?

21 THE WITNESS: Is that privileged?

22 MR. JACOB: No, it's not.

23  A. Yes, we are.

24 Q. (By Mr. Granath) And has there been some
25 correspondence between Leonidas -- and, of course, by that I

1 mean also the team -- and Mr. Scherff or his attorney on this
2 matter?

3 A. There has been no direct correspondence between
4 Leonidas team members and his attorney.

5 Q. All right. Has there been any interaction between
6 the counsel for yourself and/or Leonidas and Mr. Scherff?

7 THE WITNESS: Is that okay to answer?

8 MR. JACOB: Yes.

9 A. Yes.

10 Q. (By Mr. Granath) Okay. And since September of 2009,
11 what's been the extent of Mr. Holmes' involvement in Leonidas?
12 I know you've already given me some information on that, so if
13 you want to summarize that, I'd appreciate it.

14 A. Just to summarize, in a lot of ways Ken Holmes is
15 probably the workhorse West pilot that does a lot of nuts and
16 bolts things that allow us to continue to raise funds to
17 protect ourselves.

18 So Ken is involved with the webmaster -- I guess
19 that's what you'd call it. He manages the website. He posts
20 the various cactuspilot.com. He posts the various articles
21 that might be written by me or any number of folks on the team
22 or by Jeff Koontz. So he publishes that, and then he oversees
23 The Hangar, again, which is a web board that I don't go to,
24 but --

25 Q. Did you say Mr. Holmes was the webmaster?

1 A. I believe he's the principal webmaster.

2 Q. All right. And I take it he's somebody who's made
3 some contributions other than his time?

4 A. Correct.

5 Q. And is -- I can take it then Leonidas is funding his
6 representation in this matter as well?

7  A. Yes, sir.

8 Q. And as I understand it -- correct me if I'm wrong --
9 you and Mr. Holmes have the same counsel in this matter?

10 A. Yes.

11 Q. Okay. But Mr. Scherff is separately represented?

12 A. That's correct.

13 Q. And does Mr. Holmes have a new website that he's
14 launched or authored?

15 A. There is another effort called reformusapa.com that
16 he has of his own accord launched.

17 Q. That's on his own deal, huh?

18 A. It is.

19 Q. It's not funded by --

20 A. It is not funded by Leonidas.

21 Q. Okay. All right. What's Leonidas' current address
22 right now?

23 A. I don't recall. It's technical -- I do not know. I
24 don't know what it is off the top of my head. It's somewhere
25 in Phoenix, Greater Phoenix.

1 Q. It's got an office in Tempe?

2 A. It has what is actually a crash pad for our pilots
3 where we receive physical mail directed towards any one of the
4 members or member-managers.

5 Q. And does Leonidas right now have counsel?

6 A. Well, the West pilots have counsel that are hired by
7 or paid for or funded by Leonidas. So Leonidas as an entity
8 would be, I guess, technically represented by Polsinelli
9 Shughart.

10 Q. And where does Leonidas bank?

11 A. Leonidas banks at two banks. Number one, here --
12 we're winding it down, but the -- what is it -- Wells Fargo,
13 formerly Wachovia, in Highland Village, Texas. And as of very
14 recently, it's been taken over by a bank in -- also Wells
15 Fargo in Tempe -- excuse me, in Chandler, Arizona.

16 Q. And who's the web host for Leonidas or the ISP?

17 A. The ISP for Leonidas, we use a couple of different
18 providers, but all of them are related to a neighbor of mine.
19 So we began with something called Public Internet Services,
20 and we've since sublet -- I believe we sublet space from him
21 more directly. I'm not exactly certain how all that works.

22 Q. Okay. You said earlier you mentioned that Leonidas
23 has articles of incorporation; is that right?

24 A. Correct.

25 Q. And that's what authorizes its powers?

DEPOSITION EXHIBIT NO. 2

STATE OF ARIZONA



Office of the CORPORATION COMMISSION

I, Ernest G. Johnson, Executive Director of the Arizona Corporation Commission, do hereby certify that the attached copy of the following document:

ARTICLES OF AMENDMENT, 12/03/2009

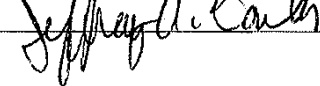
consisting of 2 pages, is a true and complete copy of the original of said document on file with this office for:

LEONIDAS, LLC
ACC file number: L-1390072-9

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Arizona Corporation Commission on this date: June 6, 2011.




Executive Director

By: 



02983400

AZ CORPORATION COMMISSION
FILED

DEC 03 2009

ARTICLES OF AMENDMENT
Pursuant to A.R.S. 29-633 (F)

FILE NO. L. 1390072.9

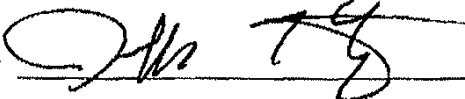
1. The name of the limited liability company is:

Leonidas LLC

(L-1390072-9)

2. Attached hereto as Exhibit A is the text of the amendment.

Dated this 25th day of November, 2009.

Signature: 

Print Name: JEFFREY T. KOONCE

Check One: Member Manager

DO NOT PUBLISH THIS SECTION
The amendment must be executed by a manager if management of the limited liability company is vested in a manager or by a member if management is reserved to the members.

AZ CORPORATION COMMISSION
FILED

OCT 05 2009

FILE NO. L. 1390072.9

(L-1390072-9)

EXHIBIT A

(Insert the text of the amendment)

Leonidas LLC has made the following changes to its members/managers:

Manager Changes:

Remove: Eric Ferguson, 8800 Kameryn Lane, Argyle, TX 76226

Add as Managers:

John Bostic, 14812 North 45th Place, Phoenix, AZ 85032

Roger Velez, P.O. Box 17342, Fountain Hills, AZ 85269

Member Changes:

Add the following as members:

- Don Addington, 10810 N. Tatum Blvd, Phoenix, AZ 85028
- John Bostic, 14812 North 45th Place, Phoenix, AZ 85032
- Mark Burman, 3145 E. Chandler Blvd. #110618, Phoenix, AZ. 85048
- David Button, 1869 E. Oakland St., Chandler, AZ 85225
- Kenneth Holmes, 16225 S 1st St., Phoenix. AZ 85048
- Kevin Horner, 14067 Highway E, Curryville, MO 63339
- Afshin Iranpour, 12618 W. Morning Vista Dr., Peoria, AZ 85383
- Patrick O'Neill, 4244 N 161st Ave., Goodyear, AZ 85395
- Terrence Qureshi, 3823 East Briarwood, Phoenix, AZ 85048
- Brian Stockdell, 8532 East Aster Dr., Scottsdale, AZ 85260
- Roger Velez, P.O. Box 17342, Fountain Hills, AZ 85269
- Steven Wargocki, 10438 S 27th Ave., Laveen, AZ 85339

Note: Jeffrey Koontz and Eric Ferguson remain as members. Jeffrey Koontz, John Bostic and Roger Velez are both members and managers.


Jeffrey Koontz 11-25-2009