BEFORE THE
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Application of	)	
	)	
KITTY HAWK INTERNATIONAL, INC.	)	Docket OST-00-7588
	)	
for authority to transfer Certificates	)	
pursuant to 49 U.S.C. § 41105	)	
	)	

MOTION TO AMEND APPLICATION
AND JOINT SUBMISSION OF
KITTY HAWK INTERNATIONAL, INC.,
CONRAD A. KALITTA AND KALITTA AIR, L.L.C.

By the following joint submission, the Applicant Kitty Hawk International, Inc. ("Kitty Hawk"), Conrad A. Kalitta ("Mr. Kalitta") and Kalitta Air, L.L.C. are providing further information on the purchase by Mr. Kalitta of the stock of a newly formed subsidiary of Kitty Hawk, to be known as Eden Air, Inc. ("Eden Air"), and on the citizenship and fitness of the new certificate-holding entity under Mr. Kalitta's ownership.[1] Kitty Hawk also requests that its application, filed June 17, 2000 in this docket, be amended to include as parties Mr. Kalitta and Kalitta Air, and also to request approval of transfer of the certificate from Eden Air to Kalitta Air. The transactions planned are described below.

It is Mr. Kalitta's intention, as the new owner, to resume operations under the transferred Kitty Hawk certificate as quickly as possible. Though the airline

[1] Eden Air, Inc. will be formed as a Delaware corporation prior to the closing on the sale and certificate transfer. Kitty Hawk will file to amend the pending application to include KHA as a party as soon as it has been formally incorporated.

will have a different corporate identity, Mr. Kalitta plans for it to operate as did Kitty Hawk prior to its suspension on April 30, using largely the same management, employees, offices, assets and aircraft, subject to the conditions of the Sale Agreement. The information provided herein will demonstrate that the airline, under its new corporate identity and ownership, will be a citizen of the United States and will be fit, willing and able to provide the air transportation services authorized in the transferred certificate.

I. THE SALE OF KITTY HAWK AIR STOCK

A. Description of the Transaction

On July 11, 2000, Kitty Hawk, Inc. ("KHI"), parent corporation of Kitty Hawk, as seller, and Kalitta, as purchaser, signed an Agreement for Sale and Purchase of Certain Stock and Air Carrier Assets. As a result of further negotiations, the parties have agreed to amend the Agreement ("Amended Agreement"). The substance of this transaction is substantially as described in the June 27 Application of Kitty Hawk, with a few modifications. The specific facts are as follows:

- Kitty Hawk will, at the time of closing, sell all the issued and outstanding stock of its new subsidiary, Eden Air, to Kalitta, for a purchase price of $200,000.
- Kitty Hawk will transfer to Eden Air its Certificate of Public Convenience and Necessity, its FAA Part 121 Air Carrier Operating Certificate and Operations Specifications, and all other regulatory authority necessary for the operation of interstate air transportation of

persons, property and mail, and of foreign charter air transportation of persons, property and mail.

- As part of the sale of the certificate, Kitty Hawk will also provide to Kalitta its complete set of FAA-approved manuals for operation of B-747, DC-8 and L-1011 aircraft.
- Kitty Hawk will permit Kalitta Air to occupy, for a period of six months, the hangar building at Willow Run Airport, Ypsilanti, Michigan, which is used for Kitty Hawk's offices and aircraft hangar space. Kitty Hawk has the option, until December 1, 2000, of requiring Mr. Kalitta to purchase the leasehold interest for $450,000 if the leasehold has not been sold for a higher amount to a competing bidder.
- In the event of the sale of the hangar lease, Mr. Kalitta will purchase, for $22,542.00, the office furniture and equipment now used by Kitty Hawk.

A copy of the original agreement was filed with the Department on July 12. A copy of the Amended Agreement will be submitted to the Department as soon as an executed copy is received by counsel.

The transaction is conditioned upon:

- Approval by the U.S. Bankruptcy Court for the Northern District of Texas, which must occur by August 15, 2000;
- Modification of the Collective Bargaining Agreement by the International Brotherhood of Teamsters to the satisfaction of Kalitta; and

- The consent of the Department and the Federal Aviation Administration to the transfer of the necessary certificate authority and operations specifications.

The new subsidiary will take all of these assets free and clear of any encumbrances. Further, it should be noted, none of the debts or other obligations of Kitty Hawk are being transferred to the new subsidiary.

The Sale Agreement also requires the modification of the non-competition covenant in the "Separation Agreement" between Kalitta and Kitty Hawk, Inc., which was entered into at the time of Kalitta's sale of American International Airways and other companies to KHI (described below). The modification will broaden the scope of operations that Kalitta may conduct, while still preventing direct competition in certain markets, primarily KHI's scheduled domestic freight operation, Postal Service agreements and wet-lease operations for BAX Global. The non-competition covenant ceases to be in effect on April 18, 2001.

B. The Purchase of Kitty Hawk Air by Kalitta Air

It is Mr. Kalitta's intention that, immediately upon closing of the sale transaction, he will sell the stock of Eden Air, and Eden Air will transfer its certificate authority and other assets, to Kalitta Air, L.L.C., an existing Michigan Limited Liability Company owned entirely by Mr. Kalitta. Kalitta Air, L.L.C., therefore, will become the certificate-holding and operating entity. The parties therefore request that this submission serve as registration of the name "Kalitta Air," and that the certificate, as transferred, be issued in the name of "Kalitta Air, L.L.C.".

II. STATUS OF KITTY HAWK AND THE SALE TRANSACTION

A. The Carrier

Kitty Hawk flight operations have been suspended since April 30, 2000. In order to preserve the value of the carrier as an ongoing business, however, the carrier's key management team has been kept largely intact,[2] and is working cooperatively with the FAA to maintain the effectiveness of its Part 121 Air Carrier Operator Certificate and Operations Specifications. The carrier's aircraft (consisting of DC-8s, L-1011s and B-747s) have been taken by the carrier's bondholders as security for their bond interests, and are currently in storage at Mojave, California.

B. Bankruptcy Court Approval

On July 12, KHI filed a motion requesting the Bankruptcy Court's approval of the sale of the certificate and other assets to Mr. Kalitta (Exhibit 1), and a separate motion for approval of the modification and assignment of the IBT's collective bargaining agreement to Kitty Hawk Air (Exhibit 2). KHI has requested expedited consideration of the motion, and a hearing has been scheduled for August 2. The transaction, as revised, has the support of the secured and unsecured creditors' committees, and the IBT does not object; thus, the parties fully expect Court approval. Closing on the transaction will take place shortly after Court approval.

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[2] Of the five key officials required by the FAA of all certificate holders, three – the Director of Operations, Chief Inspector and Director of Safety -- remain with the company and await resumption of operations. The two other required positions – Director of Maintenance and Chief Pilot – will be filled by individuals who held these positions previously with Kitty Hawk. The FAA has indicated its acceptance of all five of these individuals for the positions to which they have been appointed.

C. The Teamsters Agreement

One of the conditions of the sales agreement is the modification of the IBT's Collective Bargaining Agreement with KHI as it pertains to Kitty Hawk, to the satisfaction of Kalitta. Subsequent to negotiations with KHI earlier this month, the IBT agreed to make modifications to the contract which are acceptable to Mr. Kalitta. Under the agreement, the carrier will continue to operate under the existing collective bargaining agreement, with the agreed modifications. These modifications are now before the general membership for ratification, which is expected to be given by the time the parties are ready for closing. The IBT has expressed its support for the transaction, as the proceeds thereof will be used, in part, to satisfy certain claims by the IBT.

II. THE FITNESS OF KALITTA AIR

When the transactions are consummated and the certificate transfer approved, the authority and operations of Kitty Hawk will be assumed by Kalitta Air. As shown below, under its new ownership structure the carrier will remain a U.S. citizen and fit to provide the transportation authorized in its certificate.

A. Background and Prior Operations of the Carrier

The transaction will, to some extent, restore the *status quo ante* that existed prior to the September 1997 sale to KHI of American International Airways, Inc. ("AIA") and other companies owned by Mr. Kalitta. It was AIA that subsequently became Kitty Hawk. The background, which is relevant in showing the experience of Mr. Kalitta in the airline industry, is as follows.

Mr. Kalitta established the air carrier which later became AIA in 1967 as Connie Kalitta Services, Inc. Beginning as a Part 298 air taxi with a small fleet of Beech-18 aircraft and Learjets, the carrier expanded in the 1980s into large jet aircraft, including DC-9s, B-727s and DC-8s. It received its first CAB certificate authority in 1984 (Orders 84-4-35 and 84-11-45). Connie Kalitta Services acquired the certificate authority of American International Airways in 1989[3] (Order 89-5-40), and assumed that carrier's name, reflecting the international scope of its operations. In the following two years, AIA operated the second-highest number of missions for the Defense Department in support of the Desert Shield/Desert Storm operations.

AIA acquired the first of its B-747 aircraft in 1993, eventually operating nine of these airplanes. It also added eight L-1011 aircraft to its fleet, and in addition operated 25 DC-8s and 13 B-727s. By 1997, AIA was operating a total of 55 large jet aircraft, four of them (two B-747s and two L-1011s) in passenger configuration, making it the largest "non-integrated" cargo air carrier in the United States,[4] as well as a significant presence in the passenger charter sector. Throughout this history, Mr. Kalitta was the sole owner, Chairman and CEO of the carrier. In addition to AIA, Mr. Kalitta also owned and operated Kalitta Flying Service, Inc., a Part 135 small aircraft cargo, passenger and medevac operator with a fleet of 30 aircraft, as well as several other aeronautical companies involved in maintenance and repair.

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[3] American International Airways, a previously operating airline, had filed for bankruptcy and ceased operations. Mr. Kalitta bought the rights to the name and certificate authority out of the bankruptcy proceeding.

[4] This category excludes the "integrated" carrier/delivery services, such as Federal Express, UPS and Emery.

Mr. Kalitta sold AIA and its affiliated companies to Kitty Hawk, Inc. in September 1997, and the Department approved the *de facto* transfer of its certificate authority under common control with Kitty Hawk Aircargo, Inc. in June 1998 (Order 98-8-16). The AIA certificate was subsequently reissued under the name "Kitty Hawk International" in March 1998 (Order 98-3-8).

Mr. Kalitta remained Chief Executive Officer of AIA under the combined company until his resignation in April 1998. He was a member of the Board of Directors of KHI from the time of the merger until his resignation on April 28, 2000, immediately preceding Kitty Hawk's suspension of operations and the May 2 bankruptcy filing by KHI and its affiliated companies, including Kitty Hawk. Mr. Kalitta at that time began actively negotiating with KHI management for acquisition of the Kitty Hawk authority, with the intent of returning the carrier to service as rapidly as possible.

B. The Operating Plan of Kalitta Air

The bankruptcy of KHI and the service suspension of Kitty Hawk has sent shock waves through the air cargo industry. Kitty Hawk, and AIA before it, catered largely to the freight forwarder community (as do the domestic operations of KHI), who sees them as an alternative to the very large integrated carriers. The suspension has aggravated a lack of capacity among non-integrated carriers that serve the needs of freight forwarders.

Accordingly, Eden Air intends to resume operation using two B-747-100 and one B-747-200 freighter aircraft previously operated by Kitty Hawk (and previously by AIA). These aircraft have been in storage at Mojave for the past two months. Mr. Kalitta is currently negotiating the lease of these aircraft from

KHI's bondholders, who have taken title to the aircraft. Forty-five crew members will be recalled from furlough to operate the aircraft.

These aircraft will be used in domestic and international cargo charter operations primarily on an ACMI (Aircraft, Crew, Maintenance and Insurance) basis. Mr. Kalitta is currently negotiating with two leading U.S. forwarders/brokers for contracts for full-time utilization of these aircraft. These parties would guarantee a minimum monthly level of flying for these aircraft that would ensure an operating profit for the company from the start.

The company's aircraft would also be available, to the extent of their availability, for charters for other brokers or forwarders. Given Mr. Kalitta's reputation in, and familiarity with, the air cargo industry, and the great demand for capacity among the freight forwarder community, carrier management is confident of more than sufficient business to ensure the level of utilization needed to show operating profits.

Kalitta Air's fleet will be expanded to a total of seven aircraft -- all B-747s-- by the end of the first 12 months of operation. A fourth aircraft will be added in October, and the fifth, sixth and seventh in May, June and July 2001.

C. Information Required by 14 CFR § 204.3

1. *Name, address and telephone number*:

Upon resumption of operations, the carrier will do business under the name Kalitta Air and will be headquartered at 842 Willow Run Airport, Ypsilanti, Michigan 48198; telephone number (734) 484-0088.

2. *Form and state of organization*:

The carrier is organized as a Limited Liability Company under the laws of the State of Michigan.

3. *Citizenship*:

The attached affidavit of Conrad A. Kalitta states that the carrier will be a citizen of the United States within the meaning of the Statute.

4. *Key personnel*:

The key personnel of the carrier will be largely the same as they were prior to Kitty Hawk's suspension. Detailed biographical information is contained in the individual resumes shown at Exhibit 3. The key offices will be held as follows:

Name	Position
Conrad A. Kalitta	President and CEO
D.C. Sanderlin	General Manager and Director of Operations
Barbara Schreck	Chief Financial Officer
Alex J. Cameron	Director of Maintenance
Mark J. Guyon	Director of Quality Control/Chief Inspector
Don Joffrion	Chief Pilot
Richard Mills	Director of Safety

All of the above persons are citizens of the United States. Only one of them, Mr. Kalitta, will hold stock in the company. None of these persons currently hold any officership, directorship or 10 percent or more of the voting stock of any person or entity described in § 204.3(f)(5), except that Mr. Kalitta is also the owner of Kalitta Equipment, L.L.C., an aircraft leasing company based in Ypsilanti, Michigan.

Three of the above – Messrs. Sanderlin, Guyon and Mills – were in the same positions with Kitty Hawk at the time of its suspension; Messrs. Joffrion and

Cameron also held these same positions at Kitty Hawk, though they were not employed in those positions at the time of the suspension.

5. *Persons holding a substantial interest in the carrier*:

Mr. Kalitta is the owner of 100 percent of the carrier's stock.

6. *Subsidiaries and related businesses*:

The carrier has no subsidiaries, nor does it own any interest in any other entity.

7. *Financial statements of relevant corporations:*

Since Kitty Hawk is the predecessor corporation of Kalitta Air, it could be considered a "relevant corporation" within the meaning of § 204.2(k). However, since Kalitta Air will take the assets free and clear of all of Kitty Hawk's debts and obligations (as well as assets other than those specifically included in the Amended Agreement), Kitty Hawk and Eden Air submit that Kitty Hawk's financial statements are not germane to a determination of its fitness under new ownership. If the Department finds otherwise, Kitty Hawk will, of course, submit the requested financial information.[5]

Mr. Kalitta is submitting his own financial statements (Exhibit 4), which include financial information on Kalitta Equipment, a "relevant corporation."

8. *Pending actions and outstanding judgments:*

Mr. Kalitta has been named as a defendant in two substantially similar securities class action lawsuits filed by shareholders in April and June, 2000 in

[5] Since the relevant fitness inquiry concerns Mr. Kalitta, Kalitta Air, and persons connected therewith, it is the position of the Parties that KHI, Kitty Hawk, affiliated companies and their management (except to the extent they are connected with Kalitta Air) are not relevant corporations or relevant persons for purposes of the disclosures required by §204.3

the U.S. District Court, Northern District of Texas, Dallas Division (cases number 3-00CV-867-P and 3-00CV-1102-T). Mr. Kalitta is named in his capacity as a director and former Vice Chairman of Kitty Hawk, Inc., along with the company's former Chairman and former CFO. The allegations arise from the precipitous decline in the value of the company's publicly traded stock in April, and assert that the company's financial reports and public statements did not accurately disclose the company's financial condition and results of operations.

The defendants, including Mr. Kalitta, deny the allegations, and are vigorously defending the suits. Further information will be provided if the Department so requests.

9. Pending investigations, enforcement actions and complaints.

There are no pending investigations, enforcement actions or formal complaints by the Department against any of the persons or entities described in §204.3(o).

10. Charges of unfair, deceptive, fraudulent or anticompetitive practices:

Except for charges contained in the two shareholders securities suits described above, there have been no charges of unfair or deceptive or anticompetitve business practices, or of fraud, felony or antitrust violation brought against any person described in §204.3(p).

11. *Aircraft accidents or incidents:*

An incident occurred in one of Kitty Hawk's DC-8-63 aircraft in February of this year when the crew failed to note that the cowl doors were unlocked. Upon takeoff, the cowl doors came open and damaged the fuselage and horizontal

stabilizer. The FAA investigation into the incident was closed without finding of violation.

An accident occurred in July 1999 when one of Kitty Hawk's B-747-200s experienced an uncontained engine failure which caused damage to one of the ailerons on takeoff from Anchorage. The FAA investigation into the accident was closed without finding of violation.

12. *Forecast financial statements:*

A forecast balance sheet and income statement for Kalitta Air's first year of operation is contained at Exhibits 5 and 6. They show a projected first-year operating profit of $10.9 million, and net profit of $9.2 million, based on projected revenues of $61.8 million.

13. *Financial fitness test:*

A calculation of the three-month financial fitness test is contained at Exhibit 7. It shows that the carrier's first-year operating expenses plus pre-operating expenses are $50,902,503, one quarter of that amount is $13,163,317, and that the financing paid into or available to the carrier (as shown at Exhibit 7) is $14 million. This yields a margin of $836,683. With or without this extra margin, Kalitta Air easily exceeds any meaningful application of the financial fitness standards. Over 40 percent of the carrier's maintenance expense -- which is its largest operating cost item -- is directly tied to the hours flown by the aircraft. Thus, if business falls short of predictions, the carrier's operating cost will be reduced in proportion to the shortfall in revenue.

14. Agreement 18900 counterpart:

A signed counterpart of OST Form 4523, signed by Mr. Kalitta on behalf of Kalitta Air, L.L.C. is attached hereto as Exhibit 8.

* * *

As the foregoing and the attached information demonstrates, Kitty Hawk under its new ownership and corporate identity as Kalitta Air will remain a citizen of the United States and remain fit, willing and able to perform the transportation authorized in the certificate, the transfer of which is being requested in this proceeding. Time, however, is of the essence; the FAA has agreed to maintain the carrier's Part 121 certificate in effect only for a limited time. Thus, it is essential that the Department act expeditiously to review the carrier's fitness and to give its consent to the transfer of Kitty Hawk's certificate authority.

Respectfully submitted,

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