

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,
Plaintiff,

v.

SIGNATURE FLIGHT SUPPORT
CORPORATION,

RANGER AEROSPACE
CORPORATION, *and*

AIRCRAFT SERVICE
INTERNATIONAL GROUP, INC.
Defendants.

Civil Action No.: 01 CV 1365 (CKK)

Filed:

FILED

OCT 12 2001

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

Entered: October 11, 2001

FINAL JUDGMENT

WHEREAS, plaintiff, the United States of America ("United States"), filed its complaint in this action on June 20, 2001, and plaintiff and defendants, Signature Flight Support Corporation ("Signature") and Ranger Aerospace Corporation ("Ranger"), by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or admission by any party regarding any issue of law or fact;

AND WHEREAS, defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

AND WHEREAS, the essence of this Final Judgment is prompt and certain divestiture of certain rights or assets by the defendants to assure that competition is not substantially lessened;

AND WHEREAS, plaintiff requires defendants to make certain divestitures for the purpose of remedying the loss of competition alleged in the Complaint;

AND WHEREAS, defendants have represented to the United States that the divestitures required below can and will be made, and that defendants will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

NOW, THEREFORE, before the taking of any testimony, and without trial or adjudication of any issue of fact or law, and upon consent of the parties, it is hereby ORDERED, ADJUDGED, AND DECREED:

I.

JURISDICTION

This Court has jurisdiction over the subject matter of this action and over each of the parties in this action. The Complaint states a claim upon which relief may be granted against the defendants, as defined below, under Section 7 of the Clayton Act, as amended (15 U.S.C. § 18).

II.

DEFINITIONS

As used in this Final Judgment:

- A. "Acquirer" means the entity to whom defendants divest the Assets to be Divested.
- B. "Signature" means defendant Signature Flight Support Corporation, a Delaware corporation with a principal place of business in Orlando, Florida, its successors and assigns, and its parents, subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.
- C. "Ranger" means Ranger Aerospace Corporation, a Delaware corporation headquartered in Greenville, South Carolina, its successors and assigns, and its parents, subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees. One of Ranger's wholly owned subsidiaries, Aircraft Service International Group, Inc. ("ASIG"), a Delaware corporation headquartered in Dania, Florida, operates the Assets to be Divested, as defined in Section II(G).
- D. "MCO Airport" means Orlando International Airport, located in the Orlando, Florida metropolitan area.
- E. "FBO Services" means any or all services related to providing fixed base operator services to general aviation customers at MCO Airport, including, but not limited to, selling fuel,

leasing hangar, ramp, and office space, providing flight support services, performing maintenance, providing access to terminal facilities, or arranging for ancillary services such as rental cars or hotels, but does not include assets related to the commercial jet fueling business at MCO Airport of any of the defendants.

F. "FBO Facility" means any and all tangible and intangible assets that comprise the business of providing FBO Services, including, but not limited to, all personal property, inventory, office furniture, materials, supplies, terminal space, hangars, ramps, general aviation fuel tank farms for jet aviation fuel and aviation gas, and related fueling and maintenance equipment, and other tangible property and all assets used exclusively in connection with the business of providing FBO Services; all licenses, permits, and authorizations issued by any governmental organization relating to the business of providing FBO Services subject to licensor's approval or consent; all contracts, teaming arrangements, agreements, leases, commitments, certifications, and understandings relating to the business of providing FBO Services, including supply agreements; all customer lists, contracts, accounts, and credit records; all repair and performance records and all other records relating to the business of providing FBO Services; all intangible assets used in the development, production, servicing, and sale of FBO Services, including, but not limited to, all licenses and sublicenses, technical information, computer software and related documentation, know-how, drawings, blueprints, designs, design protocols, specifications for materials, specifications for parts and devices, and safety procedures for the handling of materials and substances.

G. The "Assets to be Divested" means all rights, titles and interests, including all fee, leasehold and real property rights, in the existing FBO Facility that Signature will acquire from ASIG at MCO Airport.

III.

APPLICABILITY

A. This Final Judgment applies to Signature, Ranger and ASIG, as defined above, and all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

B. Defendants shall require, as a condition of the sale or other disposition of all or substantially all of their assets or of lesser business units that include the Assets to be Divested, that the purchaser agrees to be bound by the provisions of this Final Judgment, provided, however, that defendants need not obtain such an agreement from the Acquirer.

IV.

DIVESTITURE OF THE ASSETS

A. Defendants are ordered and directed, within one hundred twenty (120) calendar days after the filing of the Complaint in this matter, or five (5) days after notice of entry of this Final Judgment by the Court, whichever is later, to divest the Assets to be Divested in a manner consistent with this Final Judgment to an Acquirer acceptable to the United States in its sole

discretion. The United States, in its sole discretion, may agree to an extension of this time period of up to two thirty (30) day periods, not to exceed sixty (60) calendar days in total, and shall notify the Court in such circumstances. If pending state or local regulatory approval is the only remaining matter precluding a divestiture after the 120-day period, the United States will not withhold its agreement to an extension of the period. Defendants agree to use their best efforts to divest the Assets to be Divested as expeditiously as possible.

B. In accomplishing the divestiture ordered by this Final Judgment, defendants promptly shall make known, by usual and customary means, the availability of the Assets to be Divested. Defendants shall inform any person making inquiry regarding a possible purchase of the Assets to be Divested that they are being divested pursuant to this Final Judgment and provide such person with a copy of this Final Judgment. Defendants shall offer to furnish to all prospective Acquirers, subject to customary confidentiality assurances, all information and documents regarding the Assets to be Divested customarily provided in a due diligence process, except such information or documents subject to the attorney-client or attorney work-product privileges. Defendants shall make available such information to the United States at the same time that such information is made available to any other person.

C. Defendants shall provide the Acquirer and the United States information relating to the personnel involved in the operation, management, and sale of the Assets to be Divested to enable the Acquirer to make offers of employment. Defendants will not interfere with any

negotiations by the Acquirer to employ any defendant employee whose primary responsibility is the operation, management, and sale of the Assets to be Divested.

D. Defendants shall permit prospective Acquirers of the Assets to be Divested to have reasonable access to personnel and to make such inspection of the physical facilities of the Assets to be Divested; access to any and all environmental, zoning, and other permit documents and information; and access to any and all financial, operational, or other documents and information customarily provided as part of a due diligence process.

E. Defendants shall warrant to the Acquirer of the Assets to be Divested that each asset will be operational on the date of sale.

F. Defendants shall not take any action that will impede in any way the permitting, operation, or divestiture of the Assets to be Divested.

G. Defendants shall warrant to the Acquirer of the Assets to be Divested that there are no material defects in the environmental, zoning, or other permits pertaining to the operation of each asset, and that following the sale of the Assets to be Divested, defendants will not undertake, directly or indirectly, any challenges to the environmental, zoning, or other permits relating to the operation of the Assets to be Divested.

H. Unless the United States otherwise consents in writing, the divestiture pursuant to Section IV, or by a trustee appointed pursuant to Section V, of this Final Judgment, shall include the entire Assets to be Divested and shall be accomplished in such a way as to satisfy the United

States, in its sole discretion, that the Assets to be Divested can and will be used by the Acquirer as part of a viable, on going business engaged in providing FBO Services at MCO Airport. The divestiture, whether pursuant to Section IV or Section V of this Final Judgment: (1) shall be made to an Acquirer that in the United States's sole judgment has the capability and intent (including the necessary managerial, operational, technical, and financial capability) of competing effectively in the provision of FBO Services at MCO Airport; and (2) shall be accomplished so as to satisfy the United States, in its sole discretion, that none of the terms of any agreement between an Acquirer and defendants gives defendants the ability unreasonably to raise the Acquirer's costs, to lower the Acquirer's efficiency, or otherwise to interfere in the ability of the Acquirer to compete effectively.

V.

APPOINTMENT OF TRUSTEE

A. If defendants have not divested the Assets to be Divested within the time period specified in Section IV(A) of this Final Judgment, defendants shall notify the United States of that fact in writing. Upon application of the United States, the Court shall appoint a trustee selected by the United States and approved by the Court to effect the divestiture of the Assets to be Divested.

B. After the appointment of a trustee becomes effective, only that trustee shall have the right to sell the Assets to be Divested. The trustee shall have the power and authority to

accomplish the divestiture to an Acquirer acceptable to the United States at such price and on such terms as are then obtainable upon reasonable effort by the trustee, subject to the provisions of Sections IV, V, and VI of this Final Judgment, and shall have such other powers as this Court deems appropriate. Subject to Section V(D) of this Final Judgment, the trustee may hire at the cost and expense of defendants any investment bankers, attorneys, or other agents, who shall be solely accountable to the trustee, reasonably necessary in the judgment of the trustee to assist in the divestiture.

C. Defendants shall not object to a sale by the trustee on any ground other than the trustee's malfeasance. Any such objections by defendants must be conveyed in writing to the United States and the trustee within ten (10) days after the trustee has provided the notice required under Section VI of this Final Judgment.

D. A trustee shall serve at the cost and expense of defendants, on such terms and conditions as the plaintiff approves, and shall account for all monies derived from the sale of the assets sold by the trustee and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services and those of any professionals and agents retained by the trustee, all remaining money shall be paid to defendants and the trust shall then be terminated. The compensation of the trustee and any professionals and agents retained by the trustee shall be reasonable in light of the value of the Assets to be Divested and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished, but timeliness is paramount.

E. Defendants shall use their best efforts to assist the trustee in accomplishing the required divestiture. The trustee and any consultants, accountants, attorneys, and other persons retained by the trustee shall have full and complete access to the personnel, books, records, and facilities of the Assets to be Divested, and defendants shall develop financial or other information relevant to the Assets to be Divested as the trustee may reasonably request, subject to reasonable protection for trade secrets or other confidential research, development, or commercial information. Defendants shall take no action to interfere with or to impede the trustee's accomplishment of the divestiture.

F. After its appointment, the trustee shall file monthly reports with the United States and the Court setting forth that trustee's efforts to accomplish the divestiture ordered under this Final Judgment. To the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Assets to be Divested, and shall describe in detail each contact with any such person. The trustee shall maintain full records of all efforts made to divest the Assets to be Divested.

G. If the trustee has not accomplished the divestiture within six (6) months after its appointment, the trustee shall file promptly with the Court a report setting forth: (1) the trustee's efforts to accomplish the required divestiture, (2) the reasons, in the trustee's judgment, why the

required divestiture has not been accomplished, and (3) the trustee's recommendations. To the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. The trustee shall at the same time furnish such report to the United States, who shall have the right to make additional recommendations consistent with the purpose of the trust. The Court shall thereafter enter such orders as it shall deem appropriate to carry out the purpose of the Final Judgment, which may, if necessary, include extending the trust and the term of the trustee's appointment for a period requested by the United States.

VI.

NOTICE OF PROPOSED DIVESTITURE

A. Within two (2) business days following execution of a definitive divestiture agreement, defendants or a trustee, whichever is then responsible for effecting the divestiture required herein, shall notify the United States of any proposed divestiture required by Section IV or V of this Final Judgment. If a trustee is responsible, the trustee shall similarly notify defendants. The notice shall set forth the details of the proposed divestiture and list the name, address, and telephone number of each person not previously identified who offered, or expressed an interest in or a desire to acquire any ownership interest in the Assets to be Divested together with full details of same.

B. Within fifteen (15) calendar days of receipt by the United States of such notice, the United States may request from defendants, the proposed Acquirer, any other third party, or the trustee if applicable, additional information concerning the proposed divestiture, the proposed Acquirer, and any other potential Acquirer. Defendants and the trustee shall furnish any additional information requested within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree.

C. Within thirty (30) calendar days after receipt of the notice or within twenty (20) calendar days after the United States has been provided the additional information requested from defendants, the proposed Acquirer, any third party, and the trustee, whichever is later, the United States shall provide written notice to defendants and the trustee, if there is one, stating whether or not it objects to the proposed divestiture. If the United States provides written notice that it does not object, the divestiture may be consummated, subject only to defendant's limited right to object to the sales under Section V(C) of this Final Judgment. Absent written notice that the United States does not object to the proposed Acquirer or upon objection by the United States, the divestiture proposed under Section IV or V shall not be consummated. Upon objection by defendants under Section V(C), a divestiture proposed under Section V shall not be consummated unless approved by the Court.

VII.

AFFIDAVITS

A. Within twenty (20) calendar days of the filing of the Complaint in this matter and every thirty (30) calendar days thereafter until the divestiture has been completed under Section IV or Section V, defendants shall deliver to the United States an affidavit as to the fact and manner of compliance with Section IV or Section V of this Final Judgment. Each such affidavit shall include the name, address, and telephone number of each person who, during the preceding thirty (30) days, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Assets to be Divested, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts defendants have taken to solicit buyers for the Assets to be Divested and to provide required information to prospective purchasers, including the limitations, if any, on such information. Assuming the information set forth in the affidavit is true and complete, any objection by the United States to information provided by the defendants, including limitation on information, shall be made within fourteen (14) days of receipt of such affidavit.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter, defendants shall deliver to the United States an affidavit that describes in reasonable detail all actions defendants have taken and all steps defendants have implemented on an on going basis to comply with Section VIII of this Final Judgment. Defendants shall deliver to the United States

an affidavit describing any changes to the efforts and actions outlined in defendants' earlier affidavits filed pursuant to this section within fifteen (15) calendar days after the change is implemented.

C. Defendants shall keep all records of all efforts made to preserve and divest the Assets to be Divested until one year after the divestiture has been completed.

VIII.

HOLD SEPARATE ORDER

Until the divestiture required by this Final Judgment has been accomplished, defendants shall take all steps necessary to comply with the Hold Separate Stipulation and Order entered by this Court. Defendants shall take no action that would jeopardize the divestiture order by this Court.

IX.

FINANCING

Defendants shall not finance all or any part of any purchase made pursuant to Section IV or V of this Final Judgment.

X.

COMPLIANCE INSPECTION

A. For the purpose of determining or securing compliance with this Final Judgment, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally recognized privilege, from time to time duly authorized representatives of the United States Department of Justice, including consultants and other persons retained by the United States, shall upon written request of a duly authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendants be permitted:

1. access during defendants' office hours to inspect and copy, or at defendants' option, to require defendants to provide copies of, all books, ledgers, accounts, records, and documents in the possession, custody, or control of defendants relating to any matters contained in this Final Judgment; and
2. to interview, either informally or on the record, defendants' officers, employees, or agents, who may have their individual counsel present, regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by defendants.

B. Upon the written request of a duly authorized representative of the Assistant Attorney General in charge of the Antitrust Division, defendants shall submit written reports, under oath if requested, relating to any of the matters contained in this Final Judgment.

C. No information nor any documents obtained by the means provided in this Section shall be divulged by the United States to any person other than a duly authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by defendants to the United States, defendants represent and identify in writing the material in any such information or documents for which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and defendants mark each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then the United States shall give defendants ten (10) calendar days prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

XI.

NO REACQUISITION

Defendants may not reacquire any part of the Assets to be Divested during the term of this Final Judgment.

XII.

RETENTION OF JURISDICTION

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

XIII.

EXPIRATION OF FINAL JUDGMENT

Unless this Court grants an extension, this Final Judgment shall expire ten years from the date of its entry.


XIV.

PUBLIC INTEREST DETERMINATION

Having reviewed the Competitive Impact Statement and there being no comments submitted and no objection filed in response to the 60 day period of public comments on the proposed Final Judgment, the Court finds entry of this Final Judgment to be in the public interest.

Dated: Oct. 11, 2001

Court approval subject to procedures of
Antitrust Procedures and Penalties Act, 15
U.S.C. § 16



COLLEEN KOLLAR-KOTELLY
United States District Judge