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JS-6

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION**

DAVID L. DEFREES, et al.,
Plaintiffs,
v.
JOHN C. KIRKLAND, et al.,
Defendants,
and
U.S. AEROSPACE, INC.
Nominal Defendant.

Case No. CV 11-04272 JLS (SPx)
consolidated with Case No. CV 11-04574
JLS (SPx)
(Derivative Action)

FINAL JUDGMENT

1 WHEREAS, a hearing was held before this Court on July 20, 2018 (the
2 “Hearing”) pursuant to this Court’s Preliminary Approval Order dated April 10,
3 2018 (the “Preliminary Approval Order,” Doc. 580) to consider a Stipulation of
4 Settlement dated December 15, 2017 (the “Stipulation”), which sets forth the terms
5 of a settlement (the “Settlement”) of the above-captioned litigation (the “Litigation”)
6 and is incorporated herein by reference; and

7 WHEREAS, the Court concluded that due notice of the Hearing was given to
8 stakeholders of Nominal Defendant U.S. Aerospace, Inc. (“USAE” or the
9 “Company”) in accordance with the Preliminary Approval Order; the respective
10 Parties having appeared by their attorneys of record; the Court having heard and
11 considered all papers filed and evidence in support of the proposed Settlement; the
12 attorneys for the respective Parties having been heard; and an opportunity to be heard
13 having been given to all other persons requesting to be heard in accordance with the
14 Preliminary Approval Order;

15 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED:**

16 1. Unless otherwise defined herein, all defined terms shall have the
17 meaning set forth in the Stipulation and the Preliminary Approval Order.

18 2. This Court has jurisdiction to enter this Judgment. The Court has
19 jurisdiction over the subject matter of the Litigation and over all Parties to the
20 Litigation.

21 3. The notice of pendency and proposed settlement (the “Notice”) has
22 been given to non-party USAE Shareholders and creditors, pursuant to and in the
23 manner directed by the Preliminary Approval Order; proof of mailing of the Notice
24 was filed with the Court; the Summary Notice has been published in *Investor’s*
25 *Business Daily*, pursuant to and in the manner directed by the Preliminary Approval
26 Order; and a full opportunity to be heard has been offered to all Parties and
27 stockholders.
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1 4. The form and manner of the Notice and Summary Notice are hereby
2 determined to have been the best notice practicable under the circumstances and to
3 have been given in full compliance with each of the requirements of the Federal
4 Rules of Civil Procedure, Rule 23.1 and due process.

5 5. The Court finds, for settlement purposes and, no other purpose, that this
6 Litigation was properly brought as a derivative action pursuant to Federal Rules of
7 Civil Procedure, Rule 23.1.

8 6. A full and fair opportunity to object to the Settlement and to participate
9 in the hearing thereon, and, as such, all current USAE Shareholders and creditors are
10 bound by the Settlement, and will be bound by the Judgment contemplated thereby.

11 7. The Settlement is fair, reasonable, adequate, and in the best interests of
12 USAE Shareholders and creditors.

13 8. This Court hereby approves the Settlement in all respects, and the
14 Settling Parties are directed to consummate the Settlement in accordance with the
15 terms of the Stipulation.

16 9. The Litigation is hereby dismissed *with prejudice* as to all Settling
17 Parties and Released Defendants.

18 10. Pursuant to the terms of the Stipulation, Settling Defendants are hereby
19 ordered to pay the Settlement Amount, as set forth in paragraph 2.1 of the
20 Stipulation. Plaintiffs' Counsel shall distribute the Settlement Amount to the CAM
21 Funds and USAE's Shareholders in accordance with paragraph 2.2 of the
22 Stipulation; and ADI and TUSA shall not receive any distribution from the Net
23 Settlement in accordance with paragraph 2.3 of the Stipulation.

24 11. Upon the Effective Date as defined in the Stipulation, Plaintiffs, on their
25 own behalf individually and derivatively on behalf of USAE, shall have, and shall
26 be deemed to have, fully, finally, and forever released, relinquished and discharged:
27 (a) all Released Claims, including Unknown Claims, against the Released
28

1 Defendants; and (b) any and all claims, whether known or unknown, against the
2 Released Defendants arising out of, relating to, or in connection with USAE, the
3 Litigation, or the defense, Settlement, or resolution of the Litigation; provided,
4 however, that the Released Claims shall not include any award of sanctions ordered
5 by the Court or judgments reflecting liability for such orders against Kirkland, ADI
6 or their counsel, Mark Vega.

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8 12. Upon the Effective Date as defined in the Stipulation, each of the
9 Settling Defendants shall be deemed to have, and shall have, fully, finally, and
10 forever released, relinquished and discharged Plaintiffs, Plaintiffs' Counsel, David
11 DeFrees and his estate, Simon Gershon, Centrecourt Asset Management, Richard
12 Smithline, Dan Ly and Michael Loew from all claims (including Unknown Claims)
13 arising out of, or relating to, USAE or arising out of, relating to, or in connection
14 with the institution, prosecution, assertion, Settlement or resolution of the Litigation
15 or the Released Claims. Settling Defendants further agree that they will not
16 commence any further litigation on behalf of, or in the name of, USAE, its
17 predecessors or successors.

18 13. Except for any payments of attorneys' fees and costs from the
19 Settlement Amount as are expressly provided for in the Stipulation and the
20 Preliminary Approved Order, each Party shall bear its own attorneys' fees and costs.

21 14. The application of Wolf Haldenstein Adler Freeman & Herz LLP for
22 an award of attorneys' fees in the amount of \$1,000,000, plus expenses incurred of
23 \$300,000, payable from the Settlement Amount, is granted and shall be paid from
24 the Settlement Amount in accordance with paragraph 4.1 of the Stipulation.

25 15. Plaintiffs' application for an incentive award in the amount of \$10,000
26 is granted. The incentive award is to be paid to Plaintiff Rich from the Settlement
27 Amount.
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16. Neither the Stipulation, the Settlement, this Judgment, nor any of their respective terms and provisions, nor any of the negotiations or proceedings connected with the Settlement, nor any of the documents or statements referred to therein, shall be offered or received against any of the Parties as evidence of or construed as or deemed to be evidence of: (a) any liability, negligence, fault, or wrongdoing of any of the Parties; (b) a presumption, concession, or admission with respect to any liability, negligence, fault, or wrongdoing, or in any way referred to for any other reason as against any of the Parties, in any other civil, criminal, or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of the Stipulation; (c) a presumption, concession, or admission by any of the Parties with respect to the truth of any fact alleged in this Litigation or the validity of any of the claims or counterclaims, or the deficiency of any defense that was or could have been asserted in this Litigation; or (d) a presumption, concession or admission by any of the Parties that the consideration to be given hereunder represents the consideration which could be or would have been recovered at trial. Released Defendants may file the Stipulation and/or this Judgment in any action that may be brought against them in order to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release, good faith settlement, judgment bar, or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

17. The Court reserves jurisdiction over all matters and disputes relating to the Stipulation, the Settlement, and this Judgment, and may enter additional orders as may from time to time be necessary to implement and enforce the Stipulation, the Settlement, and this Judgment.

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18. Without further Order of the Court, the Parties may agree to reasonable extensions of time to carry out any of the provisions of the Stipulation.

IT IS SO ORDERED.

DATED: July 26, 2018

JOSEPHINE L. STATON

THE HONORABLE JOSEPHINE L. STATON

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