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September 20, 2004

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DEPARTMENT OF
TRANSPORTATION

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UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF HEARINGS
WASHINGTON, DC

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DEPT OF TRANSPORTATION
DOCKETS

Ascend Aviation Group, LLC,
Ascend Aviation Marketing and Sales, LLC,
KCP Leasing and Services, LLC,
Scot Spencer, and
George Warde

Respondents.

Violations of 49 U.S.C. §§ 41101 and 41712
Enforcement Proceeding

Docket OST 2004-17486 - 21

**RESPONDENTS' RESPONSES AND OBJECTIONS TO THE
GOVERNMENT'S REQUEST FOR PRODUCTION OF DOCUMENTS**

Pursuant to Federal Rule of Civil Procedure 33, Respondents Ascend Aviation Group, LLC, Ascend Aviation Marketing and Sales, LLC, KCP Leasing and Services, LLC, Scot Spencer, and George Warde (collectively, "Respondents"), by and through their undersigned counsel of record, hereby respond and object to the Department of

Transportation's ("Government") Request for Production of Documents ("Request") as follows:

GENERAL OBJECTIONS

The following General Objections apply to each individually numbered request set forth in the Request and shall have the same force and effect as if set forth in full in response to each request.

1. Respondents object to the Request to the extent it purports to impose upon the Respondents obligations beyond those imposed by the Federal Rules of Civil Procedure ("FRCP"), which guide this Court, the Rules of this Court, or otherwise at law.
2. Respondents object to the Request to the extent that it is overbroad, unduly burdensome, and seeks information that is neither relevant to the claims or defenses of any party to this action nor reasonably calculated to lead to discovery of admissible evidence.
3. No objection, ultimate response or limitation, or lack thereof, made in these objections or any ultimate responses shall be deemed an admission by the Respondents as to the existence or nonexistence of documents.
4. Respondents object to the Request to the extent that it seeks documents protected from disclosure by the attorney-client privilege, the work product doctrine or any other applicable privilege, protection, immunity, law or rule. Any disclosure of documents protected from discovery by the attorney-client privilege, the work product doctrine or any

other applicable privilege, protection, immunity, law or rule is inadvertent and should not be construed to constitute a waiver.

5. Respondents object to the Request to the extent it seeks confidential and/or proprietary documents.

6. Respondents object to the Request to the extent the information it seeks would be more appropriately and practically obtained through depositions or other methods of discovery.

7. Respondents object to the Request and the Definitions to the extent that they purport to define any corporation, partnership, limited partnership, joint venture or other fictitious person in any way that is broader than specified in the FRCP or the Rules of this Court, including without limitation, imposing a discovery obligation on any person or entity who is not a party to this action.

8. Respondents object to the Request to the extent it purports to seek documents not in the Respondents' custody or possession.

9. Respondents object to the Request on the grounds that the Government is requesting documents that are in the public domain or are already in the Government's custody, possession, or control. Respondents are not obligated to produce documents that are in the public domain or are already within the Government's custody, possession, or control.

10. Respondents object to the Request to the extent it assumes or alleges facts that will be contested, disputed or denied. Ultimate responses to the Request that assume or allege such facts do not constitute an admission by Respondents as to such assumed or alleged facts.

11. Respondents respond to the Request subject to the accompanying objections, without waiving and expressly preserving all such objections including, but not limited to: (a) the right to object to the relevancy, competency, privilege and admissibility of any document in this action or any other related action; (b) the right to object to the use of any documents produced in any subsequent proceeding or hearing of this or any other action on any grounds; (c) the right to object on any ground at any time to a demand for further response to any request for the production of documents; (d) the right to further supplement and/or amend these responses based upon discovery of additional information or documents; and (e) the attorney-client privilege and work product doctrine. Any inadvertent production of any privileged information or documents shall not constitute a waiver of said privilege.

12. Statements herein to the effect that Respondents shall produce responsive documents do not constitute a representation that any responsive documents in fact exist or are in Respondent's possession, custody, or control, and responsive documents shall only be produced to the extent that they in fact do exist and are in Respondents' possession, custody, or control.

13. Respondents object to the Request on the ground that some requests call for the production of documents that are not confined to a relevant time period.

14. Respondents object to the Request on the ground that some requests call for the production of documents dated or generated after the commencement date of this action.

15. Respondents have not completed investigation of the facts related to this case, have not completed discovery, and have not completed preparation for the final hearing so that additional evidence may be discovered that will affect Respondents' responses. Respondents have endeavored to give responses on the basis of the best information available at the time and without prejudice to the introduction of subsequently discovered evidence or of information omitted through good faith oversight. Accordingly, Respondents specifically reserve the right to supplement, correct, amend or modify their responses and objections at or before the final hearing, and to rely on such supplemented, corrected, amended or modified responses and objections in any trial or other proceeding in this matter.

16. Respondents shall make responsive documents available at a date, time, and place to be mutually agreed upon by counsel.

SPECIFIC OBJECTIONS AND RESPONSES

Request No. 1

Produce any and all documents relied upon by each individual identified in response to Interrogatory number 1, 2, and 3.

Response to Request No. 1

Subject to and without waiving the foregoing General Objections, Respondents will produce non-privileged, responsive documents, if any, in their possession custody, or control.

Request No. 2

Produce any and all contracts, agreements, memoranda [sic] of understanding, notes, articles of incorporation, bylaws, corporate minutes, and any other documents that describe and relate to the formation of each Ascend entity. Include in the production any and all documents relied upon to answer Interrogatory 5.

Response to Request No. 2

Respondents object to Request No. 2 on the grounds it is overly broad, unduly burdensome, vague, ambiguous, not reasonably limited to an appropriate time period, and seeks information that is neither relevant to the claims or defenses of any party to this

action nor reasonably calculated to lead to discovery of admissible evidence. Subject to and without waiving the foregoing objections and General Objections, Respondents will produce non-privileged, responsive documents, if any, in their possession custody, or control.

Request No. 3

Produce any and all business plans described in answering Interrogatory number 5 and any other documents that describe the business function, purpose or goal of each and every Ascend entity.

Response to Request No. 3

Subject to and without waiving the foregoing General Objections, Respondents will produce non-privileged, responsive documents, if any, in their possession custody, or control.

Request No. 4

Produce any and all employment contracts, contracts with independent contractors, broker agreements, partnership [sic] agreements, and agency-principal contracts involving each Ascend entity.

Response to Request No. 4

Respondents object to Request No. 4 on the grounds it is overly broad, unduly burdensome, vague, ambiguous, not reasonably limited to an appropriate time period, and seeks information that is neither relevant to the claims or defenses of any party to this action nor reasonably calculated to lead to discovery of admissible evidence.

Request No. 5

Produce any and all corporate minutes for each Ascend entity.

Response to Request No. 5

Respondents object to Request No. 5 on the grounds it is overly broad, unduly burdensome, vague, ambiguous, not reasonably limited to an appropriate time period, and seeks information that is neither relevant to the claims or defenses of any party to this action nor reasonably calculated to lead to discovery of admissible evidence.

Respondents further object to Request No. 5 to the extent it seeks documents protected from disclosure by the attorney-client privilege, work product doctrine, or any other applicable privilege, protection, immunity, law or rule.

Request No. 6

Produce any and all documents related to or evidencing the authority of any person regarding the payment of the day-to-day business expenses of each Ascend entity

including but not limited to checks for rent, office supplies, receipts for rent, and reimbursements for travel, food, and personal expenses, and employment related contracts identified in response to Interrogatory number 6. Include in the production any documents relied on in responding to Interrogatory 6.

Response to Request No. 6

Respondents object to Request No. 6 on the grounds it is overly broad, unduly burdensome, vague, ambiguous, not reasonably limited to an appropriate time period, and seeks information that is neither relevant to the claims or defenses of any party to this action nor reasonably calculated to lead to discovery of admissible evidence. Subject to and without waiving the foregoing objections and General Objections, Respondents will produce non-privileged, responsive documents, if any, relied on in responding to Interrogatory No. 6 in their possession custody, or control.

Request No. 7

Produce any and all documents received from the U.S. Department of Transportation, Federal Aviation Administration, or other aviation licensing authorities issued to each Ascend entity. Include in the production those documents relied upon to answer Interrogatory number 8.

Response to Request No. 7

Respondents object to Request No. 7 to the extent it seeks documents already in the custody, possession, or control of the U.S. Department of Transportation. Subject to and without waiving the foregoing objections and General Objections, Respondents will produce non-privileged, responsive documents, if any, received from the Federal Aviation Administration or aviation licensing authorities other than the U.S. Department of Transportation in their possession custody, or control.

Request No. 8

Produce any and all documents, correspondence, written communications, and/or documents referring to oral communications regarding the solicitation, sale, or provision of air transportation by each Ascend entity, Scot Spencer, and/or George Warde. Include in the production any and all documents relied upon in responding to Interrogatory number 9.

Response to Request No. 8

Respondents object to Request No. 8 on the grounds it is overly broad, unduly burdensome, vague, ambiguous, not reasonably limited to an appropriate time period, and seeks information that is neither relevant to the claims or defenses of any party to this action nor reasonably calculated to lead to discovery of admissible evidence.

Request No. 9

Produce any and all contracts, agreements, documents, or writings reflecting understandings or agreements identified in response to Interrogatory number 10.

Response to Request No. 9

Respondents object on the grounds it is overly broad, unduly burdensome, vague, ambiguous, not reasonably limited to an appropriate time period, and seeks information that is neither relevant to the claims or defenses of any party to this action nor reasonably calculated to lead to discovery of admissible evidence.

Request No. 10

Produce any and all documents concerning each single entity charter contract [sic] identified in response to Interrogatory number 11, and each air transportation operation identified in response to Interrogatory number 12.

Response to Request No. 10

Subject to and without waiving the foregoing General Objections, Respondents will produce non-privileged, responsive documents, if any, in their possession custody, or control.

Request No. 11

Produce any and all documents that describe corporate and job responsibilities of Scot Spencer. Include in the production any document relied on or referred to in answering Interrogatory number 13 and 15.

Response to Request No. 11

Subject to and without waiving the foregoing General Objections, Respondents will produce non-privileged, responsive documents, if any, in their possession custody, or control.

Request No. 12

Produce any and all documents that describe corporate and job responsibilities of George Warde. Include in the production any document relied on or referred to in answering Interrogatory number 13 and 15.

Response to Request No. 12

Subject to and without waiving the foregoing General Objections, Respondents will produce non-privileged, responsive documents, if any, in their possession custody, or control.

Request No. 13

Produce the contracts identified in Interrogatories numbered 10, 12, 23, 24, 26, 30, 31, and 32, subparagraphs (a) through (j).

Response to Request No. 13

Respondents object to Request No. 13 to the extent it repeats Request No. 9 as overly broad, unduly burdensome, vague, ambiguous, not reasonably limited to an appropriate time period, and seeking information that is neither relevant to the claims or defenses of any party to this action nor reasonably calculated to lead to discovery of admissible evidence. Subject to and without waiving the foregoing objections and General Objections, Respondents will produce non-privileged, responsive documents, if any, in their possession custody, or control.

Request No. 14

Produce any and all contracts, written agreements, written communications, documents that refer to oral communications, correspondence, and other documents that relate or refer to the use of the aircraft leased to Ryan under the Aircraft Lease Agreement.

Response to Request No. 14

Subject to and without waiving the foregoing General Objections, Respondents will produce non-privileged, responsive documents, if any, in their possession custody, or control.

Request No. 15

Produce any and all written communications, documents that refer to oral communications, correspondence, and other documents that relate or refer to persons or parties who had authority to determine usage of the aircraft leased to Ryan under the Aircraft Lease Agreement.

Response to Request No. 15

Subject to and without waiving the foregoing General Objections, Respondents will produce non-privileged, responsive documents, if any, in their possession custody, or control.

Request No. 16

Produce any and all written communications, documents that refer to oral communications, correspondence, and [sic] other documents that relate or refer to the confirmation of any flights flown as a result of the Air Services Agreement between Ryan and any Ascend entity or any flights flown as a result of the contracts listed in

Interrogatories numbered 10, 12, 23, 24, 26, 30, 31, and 32, subparagraphs (a) through (j).

Response to Request No. 16

Respondents object to Request No. 16 to the extent it seeks documents relating to Interrogatory No. 10 as overly broad, unduly burdensome, vague, ambiguous, not reasonably limited to an appropriate time period, and seeking information that is neither relevant to the claims or defenses of any party to this action nor reasonably calculated to lead to discovery of admissible evidence. Subject to and without waiving the foregoing objections and General Objections, Respondents will produce non-privileged, responsive documents, if any, in their possession custody, or control.

Request No. 17

Produce any and all written communications, documents that refer to oral communication, correspondence, and other documents that relate or refer to communications and/or negotiations between any Ascend entity and Ryan regarding DOT and/or FAA regulations.

Response to Request No. 17

Subject to and without waiving the foregoing General Objections, Respondents will produce non-privileged, responsive documents, if any, in their possession custody, or control.

Request No. 18

Produce any and all documents, notes, drafts, correspondence, written communications, and/or documents that refer to oral communications that relate to negotiation of contracts identified in Interrogatories numbered 10, 12, 23, 24, 26, 30, 31, and 32, subparagraphs (a) through (j).

Response to Request No. 18

Respondents object to Request No. 16 to the extent it seeks documents relating to Interrogatory No. 10 as overly broad, unduly burdensome, vague, ambiguous, not reasonably limited to an appropriate time period, and seeking information that is neither relevant to the claims or defenses of any party to this action nor reasonably calculated to lead to discovery of admissible evidence. Subject to and without waiving the foregoing objections and General Objections, Respondents will produce non-privileged, responsive documents, if any, in their possession custody, or control.

Request No. 19

Produce a copy of all monthly, quarterly, and/or yearly bank, and/or financial account statements, checks, deposit slips, and all documents relating to or evidence wire transfers or other monetary transactions from each and every bank account and/or financial account that is identified in response to Interrogatory number 25 since January 1, 2002.

Response to Request No. 19

Respondents object to Request No. 19 on the grounds it is overly broad, unduly burdensome, vague, ambiguous, and seeks information that is neither relevant to the claims or defenses of any party to this action nor reasonably calculated to lead to discovery of admissible evidence.

Request No. 20

Produce a copy of all monthly, quarterly, and/or yearly bank and/or financial account statements, checks, deposit slips, and all documents relating to or evidencing wire transfers or other monetary transactions from each and every bank account and/or financial account that is identified in response to Interrogatory number 25, subparagraphs (a) through (j) since January 1, 2002.

Response to Request No. 20

Respondents object to Request No. 20 on the grounds it is overly broad, unduly burdensome, vague, ambiguous, and seeks information that is neither relevant to the claims or defenses of any party to this action nor reasonably calculated to lead to discovery of admissible evidence.

Request No. 21

Produce a copy of each and every monthly, quarterly, and/or yearly financial statement of each Ascend entity, including but not limited to assets and liabilities statements, balance sheets, profit and loss statements, accounts receivable, accounts payable, and corporate tax returns for each Ascend entity for 2002, 2003, and 2004.

Response to Request No. 21

Respondents object to Request No. 21 on the grounds it is overly broad, unduly burdensome, vague, ambiguous, and seeks information that is neither relevant to the claims or defenses of any party to this action nor reasonably calculated to lead to discovery of admissible evidence.

Request No. 22

Produce a copy of each and every W-2 statement, Form 1099, and federal, state, and local tax return for Scot Spencer, George Spencer, and George Warde since 2001.

Response to Request No. 22

Respondents object to Request No. 22 on the grounds it is overly broad, unduly burdensome, vague, ambiguous, and seeks information that is neither relevant to the claims or defenses of any party to this action nor reasonably calculated to lead to discovery of admissible evidence.

Request No. 23

Produce a copy of any document(s) relied upon in responding to Interrogatory number 28.

Response to Request No. 23

Respondents object to Request No. 23 on the grounds it is overly broad, unduly burdensome, vague, ambiguous, and seeks information that is neither relevant to the claims or defenses of any party to this action nor reasonably calculated to lead to discovery of admissible evidence.

Request No. 24

Produce a copy of any documents relied upon in responding to Interrogatory number 29.

Response to Request No. 24

Subject to and without waiving the foregoing General Objections, Respondents will produce non-privileged, responsive documents, if any, in their possession custody, or control.

Request No. 25

Provide a copy of each and every receipt for services paid and/or documentation relating to the payment of the items described [sic] in subparagraph (a) through (n) for each and [sic] every charter flight in which Ascend entity was involved in 2002, 2003, and 2004 with respect to:

- a. Provision of power carts;
- b. Air start ups;
- c. Aircraft towing and pushback and payment of the accompanying fees;
- d. Aircraft parking and payment of the accompanying ramp charges and fees;
- e. Payment of landing fees;
- f. Fuel, fuel additives, and engine oil;

- g. Baggage and ground handling services;
- h. Payment of local taxes, customs or inspections fees or penalties;
- i. Departure or entrance fees;
- j. Catering and payment of the accompanying fees;
- k. Deicing and payment of the accompanying fees;
- l. Payment of passenger facility charges;
- m. Security, servicing, and airport passenger fees;
- n. Airport slots.

Response to Request No. 25

Respondents object to Request No. 25 on the grounds it is overly broad, unduly burdensome, vague, ambiguous, and seeks information that is neither relevant to the claims or defenses of any party to this action nor reasonably calculated to lead to discovery of admissible evidence. Subject to and without waiving the foregoing objections and General Objections, Respondents will produce non-privileged, responsive documents reflecting designation of responsibility for payment of the items described in subparagraphs (a) through (n), if any, in their possession custody, or control.

Request No. 26

Produce a copy of any and all aircraft maintenance records for aircraft leased to Ryan under the Air Service Agreement.

Response to Request No. 26

Respondents object to Request No. 26 on the grounds it is overly broad, vague, ambiguous, not reasonably limited to an appropriate time period, and unduly burdensome. The aircraft maintenance records for aircraft leased to Ryan under the Air Service Agreement number in the hundreds of thousands. Respondents further object to Request No. 26 on the grounds it seeks documents that are not relevant to the claims or defenses of any party to this action, not reasonably calculated to lead to discovery of admissible evidence, and are outside of Respondents' possession, custody, or control.

Request No. 27

Produce a copy of any written communication, documents that refer to oral communications, and correspondence relating to the cancellation or failure to fly the charter flights agreed to be flown under the terms of contracts described in Interrogatories numbered 10, 12, 23, 24, 26, 30, 31, and 32, subparagraphs [sic] (a) through (j). Include in the production any documents relied on in responding to Interrogatory 23.

Response to Request No. 27

Respondents object to Request No. 27 to the extent it seeks documents relating to Interrogatory No. 10 as overly broad, unduly burdensome, vague, ambiguous, not reasonably limited to an appropriate time period, and seeking information that is neither relevant to the claims or defenses of any party to this action nor reasonably

calculated to lead to discovery of admissible evidence. Subject to and without waiving the foregoing objections and General Objections, Respondents will produce non-privileged, responsive documents, if any, in their possession custody, or control.

Request No. 28

Produce a copy of any amendments, changes, or attempted changes, correspondence, written communications, or documents that refer to oral communication regarding any amendments, changes or attempted changes to the contracts described in Interrogatory 30, subparagraphs (a) through (j). Include in the production any documents relied on in responding to Interrogatory 30.

Response to Request No. 28

Subject to and without waiving the foregoing General Objections, Respondents will produce non-privileged, responsive documents, if any, in their possession custody, or control.

Request No. 29

Produce a copy of any and all notices of material breach and and/or termination, correspondence, written communications, or documents that refer to oral communication regarding notices of material breach and/or termination of the contracts

described in Interrogatory number 32, subparagraphs (a) through (j). Include in the production any documents relied on in responding to Interrogatory 32.

Response to Request No. 29

Subject to and without waiving the foregoing General Objections, Respondents will produce non-privileged, responsive documents, if any, in their possession custody, or control.

Request No. 30

Produce a copy of all documents relied on in responding to Interrogatory 33, including without limitation Scot Spencer's federal, state, and local tax returns. Provide all records related to Scot Spencer's bank accounts, checking accounts, money market accounts, certificates of deposit, or other monetary accounts or funds since January 1, 2002.

Response to Request No. 30

Respondents object to Request No. 30 on the grounds it is overly broad, unduly burdensome, vague, ambiguous, and seeks information that is neither relevant to the claims or defenses of any party to this action nor reasonably calculated to lead to discovery of admissible evidence.

Request No. 31

Produce a copy of all documents relied on in responding to Interrogatory 34, including without limitation George Warde's federal, state, and local tax returns. Provide all records related to George Warde's bank accounts, checking accounts, money market accounts, certificates of deposit, or other monetary accounts or funds since January 1, 2002.

Response to Request No. 31

Respondents object to Request No. 31 on the grounds it is overly broad, unduly burdensome, vague, ambiguous, and seeks information that is neither relevant to the claims or defenses of any party to this action nor reasonably calculated to lead to discovery of admissible evidence.

Dated: September 20, 2004

CHADBOURNE & PARKE LLP

By: 

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Suzannah L. Hicks
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Counsel for Respondents

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of September, 2004, a true and correct copy of the foregoing Respondents' Responses and Objections to the Government's Request for Production of Documents was sent via first class mail to the following:

Mr. George Spencer
Owner, Ascend Aviation Group, LLC
575 Madison Avenue, 10th Floor
New York, NY 10022

Mr. George Warde
Chrm., Ascend Aviation Group, LLC
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Vineta, OK 74301

Ascend Aviation Funding Corp.
Owner, KCP Leasing & Sales, LLC
575 Madison Avenue, 10th Floor
New York, NY 10022

Mr. Scot Spencer
President, KCP Leasing & Services, LLC
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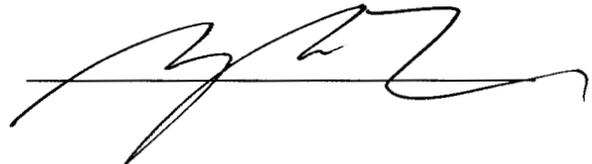
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Via Facsimile and Hand Delivery

The Honorable Richard C. Goodwin
Administrative Law Judge
Office of Hearings, M-20, Room 5411
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cc:

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A handwritten signature in black ink, appearing to be "R. Goodwin", written over a horizontal line.