

UNITED STATE BANKRUPTCY COURT
MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION

IN RE: :
: CASE NO. 00-11881
AYERS AVIATION HOLDINGS, INC. :
: CHAPTER 11
Debtor. :
: :
FIRST NATIONAL BANK OF : ADVERSARY PROCEEDING
SOUTH GEORGIA, :
: NO. 01-1003
Plaintiff, :
: :
vs. :
: :
AYERS AVIATION HOLDINGS, INC., :
GATX CAPITAL CORPORATION, :
ZLATAVA DAVIDOVA, TRUSTEE OF :
LET, a.s. AND GENERAL ELECTRIC :
COMPANY, :
: :
Defendants. :

ORDER REGARDING THE CONTROLLING LAW AS TO CERTAIN ISSUES

On May 17, 2002, the court held a Final pre-Trial Conference in the above captioned adversary proceeding. At the hearing, the parties raised the issue of which law should govern the validity, priority, and extent of the liens in the property central to this adversary proceeding. The court agreed with the parties that it should rule on this issue before the trial is conducted. Therefore, in the court's May 17, 2002 order approving the Final Pre-Trial Order which also set the trial date for August 7-8,

2002, the court directed the parties to submit briefs on this issue within 15 days. The order also allowed 10 days for responsive briefs.

Plaintiff First National Bank of South Georgia ("Plaintiff") and Debtor/Defendant Ayers Aviation Holdings, Inc. ("Debtor") contend that the Georgia Uniform Commercial Code governs the validity and priority of the interests in the subject property.

Initially, Defendant GATX Capital Corporation ("GATX") maintained the same position as Plaintiff and Debtor. In its initial brief, GATX acknowledged the possible application of three international conventions. However, GATX pointed out that the Convention on International Civil Aviation, December 7, 1944, 61 Stat. 1180 and the Convention of International Recognition of Rights, June 19, 1948, 4 U.S.T. 1830 did not apply because the Czech Republic were not signatories to these conventions. GATX further noted that although the Czech Republic is a signatory state to the United Nations Convention on Contracts for the International Sale of Goods, 15 U.S.C. App., Article 2 of that convention excludes aircraft.

Zlatava Davidova, Trustee of LET, a.s. ("LET Trustee") contends that the law of the Czech Republic is the governing law. Contrary to the assertion of GATX, LET Trustee points out that as of August 24, 1998, the Czech Republic became a signatory state to the Convention on the International Recognition of Rights in

Aircraft. (See Exh. "A", LET Trustee's Supp. Br.). In pertinent part, that Convention provides that property rights in aircraft, including a security interest, "shall be determined in accordance with the law of the State where the aircraft was registered...." Convention on the International Recognition of Rights in Aircraft, Art. I, para. 1. Because no dispute exists that the subject aircraft was registered in the Czech Republic, LET Trustee contends that the law of the Czech Republic is the controlling law.

General Electric Company ("General Electric") agrees with LET Trustee that the Convention on the International Recognition of Rights in Aircraft is applicable. Therefore, General Electric maintains that the law of the Czech Republic should govern this case.

In response to LET Trustee's brief, GATX agrees with LET Trustee and now admits that the Convention on the International Recognition of Rights in Aircraft is applicable. Further, GATX admits that it did not record its interest in the subject property in the Czech Republic. Accordingly, GATX concedes that it has an unperfected interest in the subject property and maintains that it should be dismissed from this adversary proceeding.

The court has considered all the briefs and exhibits submitted by the parties. The court finds that the law of the

Czech Republic is the controlling law regarding the validity, priority, and extent of the liens in the subject property.

SO ORDERED this 25th day of July, 2002.

JOHN T. LANEY, III
UNITED STATES BANKRUPTCY JUDGE