



**Acquisition of seven B737-400 aircraft in late December 2010 owned by Olympic
Airlines S.A. placed under special liquidation**

This is a brief summary of the transaction relating to acquisition of seven “sisterships” B737-400 aircraft, registered in the Greek Registry, between:

-Olympic Airlines SA (“Olympic”), acting as the seller (placed under special liquidation in September 2009 by judgment nr 5714/2009 of the Athens Court of Appeal) and represented by Ethniki Kefaleou S.A Administrator of Assets and Liabilities (acting on behalf of the Hellenic Republic / the sole shareholder of the seller); and

-our client incorporated in Miami, Florida, USA, acting as the purchaser.

Key issues or why was this deal important?

The Aircraft: seven B737-400 acquired by the seller in 1991 and being laid-up since September 2009 (at the time Olympic’s AOC was cancelled due to its privatization) thus not meeting “airworthiness” conditions and requiring extensive maintenance works in order to be exported out of Greece after deregistration from the Greek Registry.

Public tenders: Six (6) public tenders published locally and internationally have been unsuccessful since October 2009.

Conditions of sale to be conducted by way of a public auction following the latest public tender:

- ⇒ on an “as is where is” basis at the place of delivery being the Athens International Airport (“AIA”);
- ⇒ sale to be made as a single group of assets and the deed transferring ownership to be in the form of an extensive notarial deed.
- ⇒ first preferred mortgages for high amounts exist over six out of seven aircraft in favor of the AIA. However, according to specific provisions of the Greek law relating to Olympic Group of Companies, the purchaser shall be entitled to unilaterally apply for discharge of all registered encumbrances; concerns exist on whether this provision is subject to objections.
- ⇒ creditors’ claims towards Olympic exist; it has to be noted that, pursuant to specific protection by law, no claims can be enforced as long as the aircraft are registered in the ownership of the seller; it is self evident that at the time of transferring ownership to the purchaser, the latter shall bear high risk on the part of creditors seeking to seize the aircraft to secure their claims.

⇒ Significant maintenance costs prior to acquisition of the aircraft by the purchaser.

Significant amounts required to be paid by the purchaser to the Technical Base of the new Olympic Engineering SA for the aircraft to be repaired and maintained in order to be airworthy for a ferry flight and exportation outside Greece prior to transferring ownership to the purchaser. It was **our major concern** that the aircraft are repaired and maintained ready to fly outside Greece on **a date close to their acquisition by the purchaser**, thus minimizing risk of creditors' arresting the aircraft in protecting their claims. According to specific provisions of Greek law, the aircraft should be exported within 90 days commencing from their acquisition, otherwise VAT should be paid.

⇒ public auction taking place on the 1st of July, 2010.

Our client participated in the public auction, submitted its final binding offer for Euro 10,300,000 payable in cash and was the highest successful bidder.

Our client was declared by the Ministry of Finance as the highest successful bidder on July 23, 2010 and negotiations commenced for the drafting of the relevant deeds for transferring ownership of the aircraft to the purchaser.

VAT issue

Olympic, as represented, strongly insisted that this transaction is subject to VAT at 23% i.e an amount of Euro 2,369,000 calculated at the offered purchase price of Euro 10,300,000 should be paid by the purchaser.

We strongly maintained the view, as per specific provisions of the tax laws, that this transaction qualifies as an export and is exempt as such from VAT although the agreed place of delivery is in Greece, i.e the AIA.

In this respect, we filed our applications to the competent VAT and Customs divisions of the Ministry of Finance asking for a ruling, which was given to our client's favour. Two Rulings were issued on November 26 and on December 16, 2010 accepting our position.

⇒ Bill of Sale issue

Ethniki Kefaleou SA, representing the seller, insisted that it could not sign the relevant bill of sale per aircraft required by the FAA for registration in the U.S. on the grounds that there is no such provision in the Greek law governing this particular transaction not being an SPA but an auction sale. Following extensive negotiations and after contacting our sources in Oklahoma, we presented a legal opinion from the FAA and managed to achieve issuance of the required bills of sale to meet the FAA requirements for registration in USA.

Note: EU Decisions The privatization of Olympic made in September 2009 was approved by the Commission on March 10, 2009 (IP/09/374) by amending its previous decision of September 17, 2008 (IP/08/336). It was a pre-requisite of said EU Decisions that Olympic, after completion of its privatization, shall proceed to liquidation of all its assets including aircraft, spare engines, helicopters, movable and immovable assets.

Conclusion

On December 29, 2010 the relevant notarial deeds transferring ownership to our client were signed. It has to be noted that six month time required since the auction date of July 1, 2010 for drafting, negotiating and finalizing this extremely complicated transaction.

The required documents were filed with the Hellenic Civil Aviation Authority on January 4, 2011 for proper recordation of the transfer of ownership.

The relevant “export customs clearance” certificates (representing a pre-requisite for deregistration) were properly issued on December 31, 2010 following appointment of a local customs broker by the purchaser.

No claims by any creditors were filed and no objections by the AIA as the first preferred mortgagee were raised; immediately thereafter and following “readiness” of the aircraft, same were exported outside Greece using “N” registration.

The deregistration of the seven aircraft from the Greek Registry was made on January 5, 2011 and exportation out of Greece was completed after ten (10) days.

Finally, it was a successful transaction for our client taking into account, among others, our client’s savings of € 2,369,000 due to our efforts that no VAT is owed on this transaction.

Calliope Metaxotou

Attorney-at-law/Partner

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