

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ALASKA**

In re:

SECURITY AVIATION, INC.,

Debtor.

Case No. A06-00559-DMD

Chapter 11

**Filed On
9/14/07**

**MEMORANDUM REGARDING TRUSTEE'S EMPLOYMENT
AND COMPENSATION AND PAYMENT OF
OPERATING EXPENSES AND THE INTERNAL REVENUE SERVICE**

William Barstow, trustee of the Mark Avery chapter 7 case, has moved for *nunc pro tunc* employment as trustee in this chapter 11 case. Barstow also seeks interim compensation of \$246,543.04 from the Security Aviation estate. He has operated Security Aviation since November 1, 2006, successfully liquidating most of this corporate debtor's assets. His requested compensation is calculated under the formula for trustee compensation found in 11 U.S.C. § 326(a), based on \$7.443 million in disbursements from Security Aviation's checking account from October 23, 2006, to July 11, 2007.

Chapter 11 trustees are appointed under 11 U.S.C. § 1104; they are not employed as professional persons under 11 U.S.C. § 327. The trustee's motion fails because it doesn't comply with the requirements of § 1104. Further, as Mr. Barstow is not the trustee of Security Aviation and Security Aviation hasn't been substantively consolidated with the Mark Avery estate, there is no statutory basis at this time for paying Mr. Barstow's requested

fees from Security Aviation's assets. Mr. Barstow's motion for employment as trustee, *nunc pro tunc*, and his application for interim compensation must therefore be denied.

Security Aviation has also moved for payment of "operating" expenses and a pre-petition priority claim of \$401,011.50 to the Internal Revenue Service. There has been no objection to payment of these claims and this case will remain in chapter 11 for the immediate future. Payment of these claims is warranted. This portion of the trustee's motion will be granted.

An appropriate order will be entered.

DATED: September 14, 2007.

BY THE COURT

/s/ Donald MacDonald IV
DONALD MacDONALD IV
United States Bankruptcy Judge

Serve: G. Spraker, Esq.
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K. Battley (courtesy copy)
U. S. Trustee

09/14/07