

IN THE SUPREME COURT OF THE STATE OF NEVADA

ALEX PENLY,

Appellant,

vs.

MILTON J. WOODS AND CIRRUS
AVIATION SERVICES, INC., A
WASHINGTON CORPORATION,

Respondents.

Supreme Court Case No.: 84710

Electronically Filed
Jan 26 2023 09:25 AM
[District Court Case No.: 07-A-546250]
Elizabeth A. Brown
Clerk of Supreme Court

RESPONDENTS' APPENDIX

VOLUME 1

(R0001 - R0221)

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Woods and Cirrus Aviation Services, Inc.

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CERTIFICATE OF SERVICE

Pursuant to NRAP 25(c)(1), on this the 26th day of January 2023, a true and complete copy of the foregoing document entitled **RESPONDENTS' APPENDIX** was served on the following interested parties by United States Postal Service, postage prepaid, to the address set forth below, and by electronic means, as a courtesy, to the email address set forth below:

Alex Penly
8529 Fox Brook Street
Las Vegas, Nevada 89139
Alexpenly@msn.com
Appellant

DATED this 26th day of January 2023.

/s/ Mark J. Connot
Mark J. Connot

REGISTER OF ACTIONS

CASE No. 07A546250

Milton Woods, Cirrus Aviation Services Inc vs Eagle Jet Aviation §
Inc, Alex Penley, et al §
§
§
§
§
§
§

Case Type: **Business Court**
Date Filed: **08/10/2007**
Location: **Department 27**
Cross-Reference Case **A546250**
Number:
Supreme Court No.: **69873**

PARTY INFORMATION

	Lead Attorneys
Counter Claimant Penley, Alex Penly, Alex	Robert C. Reade <i>Retained</i> 702-794-4411(W)
Counter Defendant Woods, Milton J	Mark J Connot <i>Retained</i> 702-262-6899(W)
Defendant Eagle Jet Aviation Inc	Robert C. Reade <i>Retained</i> 702-794-4411(W)
Defendant Milt's Eagle LLC	Alan D. Freer <i>Retained</i> 702-863-6483(W)
Defendant Penley, Alex Penly, Alex	Robert C. Reade <i>Retained</i> 702-794-4411(W)
Defendant Private Jet Services Inc	Robert C. Reade <i>Retained</i> 702-794-4411(W)
Defendant Warren, Stuart M	Pro Se
Plaintiff Cirrus Aviation Services Inc	Mark J Connot <i>Retained</i> 702-262-6899(W)
Plaintiff Woods, Milton J	Mark J Connot <i>Retained</i> 702-262-6899(W)

EVENTS & ORDERS OF THE COURT

04/29/2015 Motion to Confirm Arbitration Award (9:30 AM) (Judicial Officer Allf, Nancy)
Plaintiff's Motion to Confirm Arbitration Award

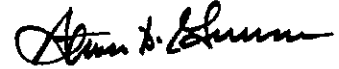
Minutes
03/26/2015 9:30 AM

04/29/2015 9:30 AM

- Mark c. Field, Esq. present telephonically. Arguments by Mr. Flangas regarding confirmation of the arbitration award and his request that the Court sanction Mr. Fields. Mr. Flangas stated he received a notice of motion to set aside arbitration award. Further arguments by Mr. Fields and Mr. Flangas. Court stated its findings and ORDERED, Plaintiff's Motion to Confirm Arbitration Award, GRANTED, request for additional attorney fees deferred until after the pending hearings. Colloquy regarding resetting of Defendants' And Counterclaimants' Motion To Modify Or Correct Arbitration Award and Defendants' And Counterclaimants' Motion To Vacate Arbitration Award to mutually agreed date. COURT ORDERED, motions CONTINUED from June 10, 2015 to June 15, 2015 10:00 am. Court directed parties to include the rescheduled dates in its order. Mr. Shafer stated that granting of the motion to confirm arbitration award may be premature given the pending motion. COURT ORDERED, matter SET for status check to preserve issues addressed by Mr. Shafer. Mr. Flangas requested Court order that Mr. Fields be present at the next hearing. COURT ORDERED, request DENIED, Court allows everyone to make a telephonic appearance. 6/15/2015 10:00 AM STATUS CHECK: ADDITIONAL ATTORNEY FEES...STATUS CHECK: PLAINTIFF'S MOTION TO CONFIRM ARBITRATION AWARD...DEFENDANTS' AND COUNTERCLAIMANTS' MOTION TO MODIFY OR CORRECT ARBITRATION AWARD...DEFENDANTS' AND COUNTERCLAIMANTS' MOTIN TO VACATE ARBITRATION AWARD

Parties Present

Return to Register of Actions



CLERK OF THE COURT

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

MILTON WOODS, et al,)	
)	
Plaintiffs,)	CASE NO. A-546250
)	
vs.)	DEPT NO. XXVII
)	
EAGLE JET AVIATION, INC.,)	
et al,)	
)	
Defendants.)	Transcript of
)	Proceedings

BEFORE THE HONORABLE NANCY ALLF, DISTRICT COURT JUDGE

PLAINTIFFS' MOTION TO CONFIRM ARBITRATION AWARD

WEDNESDAY, APRIL 29, 2015

APPEARANCES:

FOR THE PLAINTIFFS: GUS W. FLANGAS, ESQ.

FOR THE DEFENDANTS: JAY A. SHAFER, ESQ.
MARK C. FIELDS, ESQ.

RECORDED BY: TRACI RAWLINSON, COURT RECORDER
TRANSCRIBED BY: JULIE POTTER, TRANSCRIBER

1 LAS VEGAS, NEVADA, WEDNESDAY, APRIL 29, 2015, 9:46 A.M.

2 (Court was called to order)

3 THE COURT: There's a Court Call for this case.

4 MR. FLANGAS: I guess.

5 THE COURT: Appearances, please in the courtroom
6 first.

7 MR. FLANGAS: Good morning, Your Honor. Gus Flangas
8 for the plaintiffs.

9 THE COURT: All right. And, sir, on the phone.

10 MR. FIELDS: Yeah, this is Mark Fields for the
11 defendants and counterclaimants.

12 THE COURT: And this is in woods versus Eagle Jet?

13 MR. FIELDS: Yes, Your Honor.

14 THE COURT: Okay. And we had another appearance.

15 MR. SLIKER: This is Josh Sliker. I'm sorry. I'm
16 also on the phone for Repurpose America. I'll hang back here.

17 THE COURT: Mr. Sliker, hang back while we take this
18 other case.

19 So I've just called Woods versus Eagle Jet. We have
20 two appearances. And for the defense, please?

21 MR. SHAFER: Jay Shafer also for --

22 THE COURT: Thank you, Mr. Shafer.

23 This is the plaintiffs' motion to confirm arbitration
24 award and for attorney fees and costs. Mr. Flangas.

25 MR. FLANGAS: Thank you, Your Honor. I'm just -- I'm

1 moving pursuant to NRS 38.239 to confirm the judgment on my
2 clients' behalf, which would be Mr. Woods in this case against
3 Eagle Jet Aviation for the amount of \$111,750. And to confirm
4 the arbitration award for Cirrus Aviation Services, Inc. against
5 Mr. Penley, the defendant Penley personally in the amount of
6 \$1,500,000.

7 Now, Your Honor, for purposes -- last night about 5:00
8 I got notice of a motion that was filed by Mr. Fields who is on
9 the line right now. And this is a motion where he's trying to
10 set aside the arbitration award claiming that Mr. John Bailey
11 was biased, prejudiced, and a bunch of other things. Your
12 Honor, I'm -- I'm at my wits end with the procedural stuff
13 that's happening in this case with Mr. Fields.

14 Mr. Fields was originally on this case a long time
15 ago, got off of it in about mid-2012, had nothing to do with the
16 case, and then after we went through 20 days of arbitration here
17 and he comes in on the last day. And then he starts trying to
18 throw stuff on the wall about what occurred and what didn't
19 occur. After -- after the arbitration award comes out he files
20 a specious motion based on the arbitration rules trying to say
21 there was a recalculation issue and a few other things.

22 THE COURT: Is that the motion to modify --

23 MR. FLANGAS: The motion to modify.

24 THE COURT: -- on February 17th?

25 MR. FLANGAS: That's correct. And that motion to

1 modify, Your Honor, was nothing more than further closing
2 argument which Mr. Bailey rejected and made specific findings on
3 it. So that's gone now. We're here to do it. Now I find out
4 last night at 5:00 he's filed a motion to just have the
5 arbitrator thrown off and, you know, start this whole process
6 over.

7 Again, he comes in here and he's basing it on stuff
8 about discovery issues and things like that that were resolved
9 over and over and over again in this arbitration. I will point
10 out, Your Honor, that he had filed a previous motion to remove
11 Mr. Bailey, and this was back in 2012. And if you could
12 probably find a minute order, I think it's dated August 24,
13 2012. And this is where Judge Gonzalez, who was the judge on
14 the case and had heard a lot of testimony in this case at that
15 point in time, denied that motion in its entirety.

16 And now in his motion, and I don't mean to argue his
17 motion right now because we don't have anything on it, but in
18 his motion he's writing that there should have been disclosures
19 about Mr. Price who used to work in my office, used to work at
20 Lionel Sawyer a long time ago while Mr. Bailey was working
21 there. But what he fails to point out is Mr. Penley's original
22 counsel who selected Mr. Bailey for this arbitration was Mr.
23 Bailey's partner over at Lionel Sawyer. It was the Morris
24 Pickering Law Group.

25 And it's just a ridiculous thing that he's coming

1 forward with this motion. And if he wants to pursue this
2 motion, Your Honor -- this isn't about Mr. Shafer. This is Mr.
3 Fields. If he wants to pursue this motion, and I'm going to be
4 asking that the Court sanction Mr. Fields for bringing these
5 motions because they're superfluous, they're -- they're without
6 basis in fact and the like.

7 Furthermore, I don't even want to get into the merits.
8 His client perjured himself. I mean, abject perjury at least
9 15, 20 times that I can prove with documents and testimony. And
10 Mr. Bailey saw that he perjured himself. He also had control of
11 documents solely by himself for several entities that were named
12 in this, and those documents were never produced.

13 In fact, we filed a motion to compel, and you might
14 remember this. I know you've had thousands of cases since then,
15 but it's in the record. We filed a motion to compel these
16 documents. We went to a hearing in front of Mr. Bailey. Mr.
17 Bailey finds out that this Mr. Penley has got seven more boxes
18 of documents that he hasn't even turned over after five years of
19 litigation. So they got sanctioned \$80,000 for what we had to
20 do.

21 But the bottom line, Your Honor, is I'm just here to
22 get this -- this award confirmed. If the Court is likely to ask
23 for a hearing on their motion on Mr. Bailey, I would ask that we
24 move it forward to a couple weeks from now. I'll get a brief in
25 against it. Because I don't want to drag this thing out.

1 Because really what I think is going on is just more stall, more
2 stall, and more stall. Mr. Penley, the defendant in this
3 action, is a citizen of England, and I don't know what he's
4 going to be doing with his assets in the interim here. And I do
5 believe that this is just another stall tactic without any basis
6 in fact, law, or otherwise.

7 THE COURT: Thank you.

8 And the response, please.

9 MR. SHAFER: I believe Mr. Fields.

10 MR. FIELDS: Mark Fields on Court Call. We filed
11 within 90 days motions under NRS 38.241 and 242. A hearing has
12 been set for those two motions for June 10. I think I heard Mr.
13 Flangas suggesting we move up that hearing. I would certainly
14 be amenable to that. The June 10 date I do have a calendar
15 conflict with, so I would ask that that be moved either up at
16 Mr. Flangas's suggestion, or move back, you know, just for a few
17 days. That is a calendar conflict on June 10.

18 With respect to the substance of Mr. Flangas's
19 statement, we because both motions are well founded. We have
20 presented the arguments that we think are based upon fact, as
21 well, and we're optimistic that the Court will be inclined to
22 grant those motions. I think -- I think it would make sense to
23 continue this motion to the same date as the hearing on the
24 motions under NRS 38.241 and 38.242.

25 As far as misleading the Court, the only misleading

1 that has been done in connection with this hearing is when Mr.
2 Flangas submitted papers saying that there was no motion made
3 before the arbitrator when there was. Now, that motion was
4 denied, but there was a motion pending before the arbitrator
5 when Mr. Flangas's papers flatly said there wasn't. But there
6 was. So there's only one point here that's misleading the
7 Court.

8 As far as the substance of the reasons for granting
9 the -- the motion to modify or correct the award that is
10 summarized in the opposition which also incorporates the motion
11 made before the arbitrator which was denied.

12 THE COURT: Is there anything else, Mr. Fields?

13 MR. FIELDS: No, Your Honor.

14 THE COURT: Thank you. And the reply, please?

15 MR. FLANGAS: Just real quick, Your Honor. That 90
16 days ended at midnight last night and he files at 3 or -- I
17 think it was specifically --

18 THE COURT: 4:07.

19 MR. FLANGAS: -- filed at 3:08 yesterday.

20 THE COURT: I see 4:07, but --

21 MR. FLANGAS: Well --

22 MR. SHAFER: Your Honor, there were two motions that
23 were filed.

24 THE COURT: Two motions.

25 MR. FLANGAS: Well, I just got the one that I saw at

1 3:08. It's just --

2 THE COURT: I see a motion to vacate, you're right,
3 and a motion to modify.

4 MR. FLANGAS: And quite frankly, if he's going to do
5 this, he should have done this as an opposition to this motion.
6 Doing this nonsense at the end is ridiculous. And -- and I'm --
7 and here's one of the problems we ran into. He filed that
8 specious motion with Mr. Bailey, and cost my client another
9 \$2,200 in arbitration costs to have Mr. Bailey review paperwork
10 that was nothing more than continued argument on the merits of
11 the case as opposed to one of those things that are specified in
12 the statute that you can try to modify the arbitration award
13 with.

14 And now my clients are going to have to spend more
15 money to come in here and deal with an issue that was dealt with
16 back on August 24, 2012, by Judge Gonzalez concerning Mr.
17 Bailey. And so, you know, if you're inclined to have us come in
18 and argue that motion, I'll file the papers, and I want it done
19 in probably the next couple weeks.

20 And, Your Honor, I am going to ask that you
21 specifically sanction Mr. Fields. Again, he comes in after 20
22 days of arbitration hearing on the very last day and after
23 having had nothing to do with that case for two and a half
24 years. And he's coming in here and throwing stuff on the wall
25 to see what will stick. And quite frankly, the fees that are

1 getting run up, you know, continuously on these dilatory tactics
2 needs to stop.

3 THE COURT: Thank you both. This is the plaintiffs'
4 motion to confirm arbitration award and for attorneys' fees and
5 costs. The motion will be granted as follows. I find that
6 under NRS 38.239 this motion is appropriate and that the
7 arbitration award can be confirmed. When I had granted the fees
8 previously it was related in my mind at that time only to the
9 \$80,000 of sanctions, which I intended to enforce which were
10 granted by the arbitrator if the plaintiff, in fact, prevailed.
11 I find that the plaintiff did, in fact, prevail in a decision of
12 January 27, 2015. The defendant filed a motion to modify on
13 February 17th, which was denied by the arbitrator on April 2,
14 2015, leaving it open for confirmation today of the arbitration
15 award.

16 With regard to the request for additional attorneys'
17 fees, I'm going to defer that matter until after hearing on the
18 two motions that are now pending. The motion to vacate and the
19 motion to modify or correct, both filed late yesterday, but
20 apparently within the time frame. We'll set those -- I'll grant
21 a sua sponte order shortening time based upon the
22 representations of counsel to June 3 at 9:30 a.m. My calendar
23 doesn't permit it to be heard sooner.

24 Mr. Shafer, did you --

25 MR. SHAFER: Yeah, the only thing --

1 THE COURT: -- have something to add?
2 MR. SHAFER: -- I think that I need to add, and I'd be
3 remiss if I did not do so --
4 THE CLERK: June 3 is not a good day.
5 THE COURT: June 3 is not -- go ahead and set it at
6 9:30. I know I'm going to be in town. Thank you.
7 MR. SHAFER: And I respect your decision, but I think
8 under --
9 THE COURT: Hang on.
10 MR. SHAFER: -- Casey versus --
11 THE COURT: Wait. Hang on. June 3 is not a good day.
12 I'm sorry. I'm sorry. It looks like June 10th is the first
13 time I can hear it, counsel. So it will be June 10th at 9:30.
14 MR. FIELDS: Your Honor, I do have a calendar
15 conflict. Can we switch the day other than June 10th?
16 THE CLERK: June 11th.
17 MR. FLANGAS: Your Honor, I can't -- sorry, I can't do
18 June 11th myself because I'm hosting a large military convention
19 beginning on June 11th.
20 THE COURT: How about the 9th?
21 MR. FLANGAS: June 9th would be great.
22 MR. FIELDS: The 8th and 9th I will be taking
23 depositions out of state. That was the issue. I will be
24 returning on the 10th.
25 THE COURT: All right. So Monday the 15th.

1 MR. FIELDS: That works for me.

2 THE COURT: June 15th. Does that work for everyone?

3 MR. SHAFER: Mr. Flangas?

4 MR. FLANGAS: Yes, Your Honor.

5 THE COURT: All right. Let's do it at 10:00 a.m. on

6 June 15th. Make sure that you include in the order the

7 rescheduling because it's hard for us to pick up those dates

8 sometimes.

9 Mr. Shafer, you and Mr. Fields both had something to

10 add.

11 MR. SHAFER: I don't know if Mr. Fields did. The only

12 thing I'd add is that I think under -- I'm only concerned, and

13 it may be too late to make this argument, but under Casey versus

14 Wells Fargo Bank the Supreme Court held that a granting of

15 motion to confirm when the party had not filed or a decision had

16 not been made on the motion to vacate or motion to correct was

17 inappropriate, that there should be additional findings. The

18 Court would need to conduct a review of both the award and the

19 underlying materials in the case before granting the motion to

20 confirm. And I'm just concerned the granting of the motion to

21 confirm at this point might be a little bit premature given the

22 pending motions.

23 THE COURT: Thank you, Mr. Shafer, for the record.

24 And, Mr. Fields, you had something to add?

25 MR. FIELDS: No.

1 THE COURT: All right.

2 MR. FIELDS: I was just talking about the calendaring
3 issue.

4 THE COURT: All right. So I'm going to grant the
5 motion, but I'm going to set it over for a status hearing on
6 this motion for the 15th, as well, so that Mr. Shafer's issue is
7 preserved.

8 MR. FLANGAS: And, Your Honor, I would ask that Mr.
9 Fields appear personally for that hearing and not do it
10 telephonically.

11 THE COURT: I allow everyone to appear by phone, even
12 those who are local. Anything that reduces the expense of
13 litigation to the parties is reasonable to me. It's their
14 choice. That request is denied.

15 MR. FLANGAS: Thank you, Your Honor.

16 THE COURT: All right. Thank you all.

17 (Proceedings concluded at 10:00 a.m.)

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CERTIFICATION

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

AFFIRMATION

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

Julie Potter
Kingman, AZ 86402
(702) 635-0301



JULIE POTTER
TRANSCRIBER



CLERK OF THE COURT

ORDR
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Attorney for Plaintiffs

DISTRICT COURT
CLARK COUNTY, NEVADA

MILTON J. WOODS, and CIRRUS
AVIATION SERVICES, INC., a Washington
Corporation,

Plaintiffs,

vs.

EAGLE JET AVIATION, INC., a Nevada
Corporation; ALEX PENLY, and STUART
M. WARREN; PRIVATE JET SERVICES, INC.,
a Nevada Corporation; MILT'S EAGLE, LLC, a
Nevada Limited Liability Company; and
DOES I-X, inclusive,

Defendants.

Case No.: A546250
Dept No.: XXVII

ORDER CONFIRMING
ARBITRATION AWARD

THIS MATTER came for Hearing before this Court on April 29, 2015 at 9:00 a.m. on the
Plaintiffs' "Motion to Confirm Arbitration Award." The Plaintiffs were represented by GUS W.
FLANGAS, ESQ. of the FLANGAS DALACAS LAW GROUP. The Defendants, ALEX PENLY
(hereinafter "Mr. Penly) and EAGLE JET SERVICES, INC. (hereinafter "Eagle Jet"), were
represented by their attorneys, JAY W. SHAFER, ESQ. of the PREMIER LEGAL GROUP who
appeared in person, and MARK C. FIELDS, ESQ. of the Law Offices of Mark C. Fields, APC, who
appeared telephonically.

Having reviewed the Pleadings and Papers on file in this matter, heard arguments by counsel,

....

1 and good cause appearing;

2 **THE COURT HEREBY FINDS** that the Plaintiffs brought a complaint against the
3 Defendants to recover monies owed the Plaintiffs for loss of shareholder interest and bonus
4 payments, among other relief sought.

5 **THE COURT FURTHER FINDS** that the Parties mentioned herein, voluntarily agreed to
6 submit the entire matter into Binding Arbitration. NLA

7 **THE COURT FURTHER FINDS** that the Parties agreed to have JOHN H. BAILEY, ESQ. WAS
8 (Hereinafter "Mr. Bailey") appointed as the Arbitrator in this case.

9 **THE COURT FURTHER FINDS** that the Parties arbitrated this case before Mr. Bailey on
10 August 14, 15, 20, 21, 22, 28; September 3, 12, 15, 18; October 3, 15, 28, 29; November 3, 4, 24;
11 and December 8, 9, 10, of 2014, at the law offices of BAILEY KENNEDY located in Clark County,
12 Las Vegas, Nevada.

13 **THE COURT FURTHER FINDS** that after the completion of the Binding Arbitration, Mr.
14 Bailey rendered a written Arbitration Award (hereinafter "the Award"), dated January 27, 2015. A
15 copy of the Award is attached hereto as Exhibit "1" and is incorporated in its entirety into this Order
16 and is binding as though fully set forth herein.

17 **THE COURT FURTHER FINDS** that pursuant to the Award, Mr. Bailey awarded the
18 Plaintiff, MILTON J. WOODS (hereinafter "Mr. Woods"), the amount of One Hundred Eleven
19 Thousand Seven Hundred and Fifty dollars (\$111,750.00) against Eagle Jet.

20 **THE COURT FURTHER FINDS** that pursuant to the Award Mr. Bailey awarded the
21 Plaintiff, CIRRUS AVIATION SERVICES, INC. (hereinafter "Cirrus") the amount of One Million
22 Five Hundred Thousand Dollars (\$1,500,000.000) against Mr. Penly.

23 **THE COURT FURTHER FINDS** that on October 16, 2013, the Court **GRANTED** the
24 Plaintiffs' previous "Motion to Confirm Arbitration Award" wherein Mr. Bailey awarded the
25 Plaintiffs the amount of Eighty Thousand Dollars (\$80,000) against Mr. Penly for Attorneys Fees
26 as sanctions but delayed the enforceability of the award until the Arbitration was complete
27 (hereinafter the "Previous Award"). A copy of the Previous Award is attached hereto as Exhibit "1"
28 and is incorporated in its entirety into this Order and binding as though fully set forth herein.

1 **THE COURT FURTHER FINDS** that pursuant to NRS 38.239, the Plaintiffs are entitled
2 to an Order confirming the Award and the Previous Award.

3 **THEREFORE, THE COURT HEREBY ORDERS** that the Plaintiffs' "Motion to Confirm
4 Arbitration Award" is **Granted**.

5 **THE COURT FURTHER ORDERS** that the Award to Mr. Woods in the amount of One
6 Hundred Eleven Thousand Seven Hundred and Fifty dollars (\$111,750.00) against Eagle Jet is
7 **Confirmed** and Mr. Woods is therefore entitled to Judgement against Eagle Jet in the amount of One
8 Hundred Eleven Thousand Seven Hundred and Fifty dollars (\$111,750.00), plus interest in an
9 amount allowed by law.

10 **THE COURT FURTHER ORDERS** that the Award to the Cirrus in the amount of One
11 Million Five Hundred Thousand Dollars (\$1,500,000.000) against Mr. Penly is **Confirmed** and
12 Cirrus is therefore entitled to Judgement against Mr. Penly in the amount of One Million Five
13 Hundred Thousand Dollars (\$1,500,000.000), plus interest in an amount allowed by law.

14 **THE COURT FURTHER ORDERS** that the Previous Award to the Plaintiffs which was
15 previously confirmed by the Court in the amount of \$80,000 against Mr. Penly is again **Confirmed**
16 and the Plaintiffs are therefore entitled to Judgement against Mr. Penly in the amount of Eighty
17 Thousand Dollars (\$80,000), plus interest in an amount allowed by law.

18 **THE COURT FURTHER ORDERS** that because the Defendants filed on the day before
19 the Hearing, "Defendants and Counterclaimants' Motion to Modify or Correct Arbitration Award,"
20 and "Defendants and Counterclaimants' Motion to Vacate Arbitration Award." a Hearing on the
21 Motions shall be heard on June 15, 2015 at 10:00 a.m.

22 **THE COURT FURTHER ORDERS** that the Plaintiffs' request for additional attorney's

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1 fees is deferred until after the Hearing on June 15, 2015.

2 **THE COURT FURTHER ORDERS** that the amounts set forth in this Order be reduced
3 to Judgment.

4 **IT IS SO ORDERED** this 20 day of August, 2015.

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NANCY ALIC
DISTRICT JUDGE

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8 Respectfully submitted by:

Approved as to form by:

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5 Arbitrator

6
7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 MILTON J. WOODS and CIRRUS
10 AVIATION SERVICES, INC., a Washington
corporation,

11 Plaintiffs,

12 vs.

13 EAGLE JET AVIATION, INC., a Nevada
14 corporation; ALEX PENLY; STUART M.
WARREN; PRIVATE JET SERVICES, INC.,
15 a Nevada corporation; MILT'S EAGLE, LLC,
Nevada limited liability company; and
16 DOES I-X, inclusive,

17 Defendants.
18

Case No. A546250
Dept. No. XI

19
20 ARBITRATION AWARD

21 This matter came before the undersigned arbitrator for hearing on the following days in
22 accordance with the parties' agreement and the Court's Order:

- 23 • August 14, 15, 20, 21, 22, and 28, 2014;
- 24 • September 3, 12, 15, and 18, 2014;
- 25 • October 3, 15, 28, and 29, 2014;
- 26 • November 3, 4, and 24, 2014; and
- 27 • December 8, 9, and 10, 2014.
- 28

1 Plaintiffs/Counterdefendants Milton Woods and Cirrus Aviation Services, Inc. (individually
2 "MWoods" and "Cirrus," respectively, and collectively, "Plaintiffs") were represented by their
3 counsel, Gus W. Flangas, Esq. Defendants/Counterclaimants Eagle Jet Aviation Inc. and Alex
4 Penly (individually "EJA" and "Penly," respectively, and collectively, "Defendants") were
5 represented by their counsel, Mark C. Fields, Esq. and Jay A. Shafer, Esq.¹ Defendants
6 submitted their Post-Closing Arbitration Brief on December 29, 2014, at which time the
7 arbitration was closed.

8
9 Upon considering the parties' arbitration briefs, the Stipulation As To Undisputed
10 Facts, the testimony of the parties and witnesses, the substantial evidentiary submissions, the
11 closing arguments of counsel, Defendants' post-closing brief, and all other matters properly
12 submitted at arbitration, the arbitrator makes the following determinations and award.²

13 I. PRELIMINARY FINDINGS

14
15 A. Stipulation As To Undisputed Facts. At the request of the arbitrator, the parties
16 submitted, and the arbitrator accepted and hereby incorporates, a Stipulation As To Undisputed
17 Facts, which is attached to this Arbitration Award as Exhibit "A."

18
19 B. Quantity and Quality of the Evidence. This matter, and specifically the parties' ability to
20 present admissible evidence in support or defense of their respective claims and counterclaims
21 was materially plagued by the undisputed fact that a substantial portion of EJA's business and
22 financial records disappeared immediately after the time that MWoods departed from EJA in
23 April 2007. While the parties were unable to provide any clear indication as to what happened
24

25
26 ¹ The other parties identified in the Complaint (or Amended Complaint) and listed in the caption were either
27 dismissed under N.R.C.P. 41(e) or had sought and obtained bankruptcy protection.

28 ² Initially, the parties were unable to agree on the form of this Arbitration Award (i.e., a simple award vs. a
reasoned award). Ultimately, they stipulated to a simple award with summary reasoning.

1 to those records, it is undisputed that Penly, under oath and in his own declarations, asserted that
2 he is familiar with the creation of, maintenance of, and has line responsibility for the business
3 records (including the accounting records) of each of the two companies (EJA and Private Jet
4 Services, Inc.) for all relevant times. There was no credible evidence presented that M Woods
5 (or anyone under his control) took or was otherwise responsible for the disappearance of EJA's
6 business and financial records.³ Therefore, in the absence of any plausible explanation for their
7 disappearance, the responsibility to account for EJA's business and financial records falls upon
8 Penly.
9

10
11 C. Credibility of Key Witnesses.

12 a. **Alex Penly.** It is disconcerting and material to the findings that give rise to this
13 Arbitration Award that Penly admittedly: (i) was less than honest with the Court (Judge
14 Gonzalez) during a hearing in this matter on July 21, 2009, when he failed to disclose that EJA's
15 MSP payments due on its Lear 35 aircraft were current only because the finance company for
16 the aircraft made the payments by increasing the debt on the aircraft; and (ii) intentionally
17 misled and deceived the Court (Judge Gonzalez) during a hearing in this matter on January 21,
18 2010, and the shareholders of EJA during a shareholders' meeting on March 11, 2010, when he
19 failed to disclose that EJA had gone out of business; that EJA's Part 135 Certificate—issued by
20 the Federal Aviation Administration (the "FAA")—had been surrendered in favor of a new
21 company (*i.e.*, The Berkeley Group, LLC dba NV Jets) owned by Penly's relatives and others;
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27 ³ During discovery, Plaintiffs were awarded \$80,000.00 for attorneys' fees and costs against Penly in
28 connection with the disappearance of EJA's business and financial records, and received a presumption at the
arbitration hearing that Penly engaged in spoliation of EJA's (and other companies') business and financial records.
See, Arbitration Orders dated April 9, 2013, and May 21, 2013. It should be noted that Penly was awarded
\$2,590.75 as deposition sanctions against Plaintiffs. See, Arbitration Order dated February 26, 2014.

1 and that NV Jets was operating a business substantially similar to that which EJA had operated
2 (i.e., a private jet charter service) by using EJA's location, phone number, and other assets.⁴

3 b. **Milton Woods.** Although he clearly and undeniably dislikes Penly, MWoods
4 was generally credible. While he certainly acted in his own best interest after his departure from
5 EJA in April 2007, it was uncontradicted that he was not under any restrictive covenants that
6 would have prohibited him from competing directly against EJA, despite having an ownership
7 interest in EJA (through Cirrus).
8

9 c. **Stuart Warren.** It was uncontradicted that Mr. Warren, like MWoods (through
10 Cirrus), lost the value of his ownership interest in EJA when EJA went out of business in 2009.
11 While Mr. Warren's personal knowledge about all of the events that transpired among Penly,
12 MWoods, and EJA was limited by his lack of a physical presence in Las Vegas, Nevada, his
13 testimony about matters in which he was directly involved was very credible.
14

15 D. MWoods' Bonus. It is undisputed that EJA (through its Board of Directors)
16 unanimously granted bonuses to MWoods (in the amount of \$200,000.00), Penly (in the amount
17 of \$100,000.00), and Stuart Warren (in the amount of \$100,000.00) on December 29, 2006.⁵
18 There were no plausible explanations from any of the parties as to why these bonuses were not
19 paid either immediately or sometime in January 2007, when EJA's bank account records
20 indicated that such funds were available. Nonetheless, upon his separation from EJA in late
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25 ⁴ The Lear 35 aircraft was owned by Milt's Eagle, LLC, which was a wholly-owned subsidiary of EJA.
26 There was no evidence showing that NV Jets ever paid EJA any consideration for the acquisition of EJA's assets.
27 The transfer of such assets directly inured to the benefit of Penly and his relatives at the expense of the EJA's other
28 shareholders; namely, Cirrus and Stuart Warren.

⁵ While Mr. Warren's bonus was characterized as a payment of legal fees; the parties testified that each of
the principals was essentially being awarded a bonus.

1 April 2007, MWoods took his bonus.⁶ Then, on May 1, 2007, after MWoods' departure from
2 EJA, the EJA Shareholders (excluding Cirrus) took action to "disapprove payment of such
3 bonuses and/or the making of such payments to the extent not heretofore made due to the
4 Corporation's lack of adequate funds to support its operations" At the time that MWoods
5 took his bonus, EJA had sufficient funds to pay the bonus and such bonus had not been
6 "disapproved." While not an ideal situation, MWoods was nonetheless entitled to his bonus
7 from EJA at the time he took it. Accordingly, he is entitled to the \$111,750.00 of his bonus
8 from EJA that he did not receive.⁷

10 E. MWoods' Reimbursement of Company Expenses. Defendants assert that the
11 reimbursement monies MWoods received from EJA greatly exceeded the actual amount he was
12 entitled to for legitimate company expenses—an assertion MWoods adamantly disputes. Due to
13 the lack of business and financial records of EJA and missing credit card statements for
14 MWoods during the relevant time period, neither party was able to present evidence sufficient to
15 either prove or defend its position on this issue. Consequently, Defendants have failed to meet
16 their burden of proof on this counterclaim.

18 F. Penly's Breach of Fiduciary Duties. The parties (primarily, MWoods and Penly) spent a
19 significant amount of time pointing fingers at each other and accusing one another of
20 mismanagement.⁸ While individual actions taken years ago, through the benefit of 20/20
21

23
24 ⁶ MWoods' bonus (of \$200,000.00) was subsequently the subject of an interpleader action initiated by Bank
25 of Nevada. From all of the evidence presented, which is conflicting, it appears as though EJA received \$111,750
from the interpleader action and MW (through Cirrus) received \$86,750 from the interpleader action in October
2007.

26 ⁷ From the evidence, it appears as though Bank of Nevada received \$1,500.00 for attorneys' fees in
27 connection with the interpleader action. Under the circumstances, neither side should be entitled to keep or recover
the \$1,500.00.

28 ⁸ Much of the evidence (testimony and documents) presented, as well as arguments of counsel, were
irrelevant to the claims/counterclaims asserted.

1 hindsight, may appear to be less than prudent, it does not appear that MWoods, during the time
2 that he was in charge of the daily operations of EJA, intentionally took any actions designed to
3 harm the company or any of its shareholders. On the other hand, while Penly inherited EJA at a
4 difficult time (e.g., employees loyal to MWoods left the company, and starting a year or so later
5 the national and local economy lapsed into a recession), he was untruthful to the Court and
6 shareholders about material matters involving EJA. Moreover, he ultimately breached his
7 fiduciary duties to EJA's shareholders when he failed to disclose that EJA's Part 135 Certificate
8 had been surrendered in favor of a new company—i.e., The Berkeley Group, LLC dba NV Jets—
9 —owned by his relatives and others, and that NV Jets was operating a business substantially
10 similar to that which EJA had operated by using EJA's location, phone number, and other
11 assets.⁹

14 G. Damages. Based on all the evidence, it is clear that Cirrus lost its investment in EJA (a
15 30% interest) due to Penly's breaches of the fiduciary duties he owed to the company. It is
16 difficult to determine the exact value of the Cirrus' interest in EJA because Penly's breaches
17 occurred over a period of time (i.e., between April 2007 and early 2010) and the value of such
18 interest decreased after April 2007 due to the onset of the national and local economic recession
19 (which cannot be attributed to Penly). Instructive in determining the value of Cirrus' interest in
20 EJA (and damages) is the valuation given to such interest by Stuart Warren in his e-mail
21 communication to Penly, Greg Woods, and MWoods dated April 29, 2007, wherein he valued
22
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26 ⁹ See, Section I(C)(a) and footnote 4, above. Documents from the FAA indicate that Penly was the Chief
27 Executive Officer of The Berkeley Group, LLC. See, Plaintiffs' Exhibit 116. Further, these same documents from
28 the FAA state: "THE BERKELEY GROUP LLC IS A NEW LLC AND CERTIFICATE, THE SAME BASIC
GROUP OF PERSONS HOLDING EAGLE JET AVIATION, INC (EWJA 136K) HAVE APPLIED FOR THE
NEW CERTIFICATION UNDER THE BERKELEY GROUP LLC (DBA NV JETS). CERTIFICATE ISSUED
ON JANUARY 21, 2010." Id.

1 such interest at approximately \$2,000,000.00.¹⁰ Though difficult to determine, Cirrus' damages
2 due to Penly's breaches of his fiduciary duties can be calculated by looking at all of the
3 admissible evidence—for example, evidence that EJA's Part 135 Certificate in and of itself had
4 a separate market value—and applying the undersigned's knowledge, training and experience.
5 Based on such, Cirrus suffered damages of \$1,500,000.00 in the loss of its shareholder interest
6 in EJA due to Penly's conduct.
7

8 II. AWARD

9 After considering the pleadings, the testimony and evidence presented at the hearing, the
10 arbitrator has decided, in full and final resolution of the claims and counterclaims submitted for
11 determination, as follows:
12

13 1. Defendant Eagle Jet Aviation, Inc. is liable for and shall pay Plaintiff Milton J. Woods
14 compensatory damages in the amount of \$111,750.00.
15

16 2. Defendant Alex Penly is liable for and shall pay Plaintiff Cirrus Aviation Services, Inc.
17 compensatory damages in the amount of \$1,500,000.00.
18

19 3. Any and all relief not specifically addressed herein, including punitive damages, is
20 expressly denied.
21

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26 ¹⁰ See, Plaintiffs' Exhibit 66. The \$2,000,000.00 offer from Mr. Warren was for MWoods' interest in EJA
27 and "other companies," and was contingent upon other specified conditions. It is noted that MWoods never agreed
28 to accept Mr. Warren's offer. Additionally, there was testimony presented by Plaintiffs about offers that were made
to purchase EJA in the range of \$3,000,000.00 to \$6,000,000.00; however, there was no written evidence of any
bona fide offers.

Each party shall bear its own fees and costs, including attorneys' fees, relating to this Arbitration.

DATED this 27th day of January, 2015.

BAILEY ♦ KENNEDY

By:

John R. Bailey
JOHN R. BAILEY
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Las Vegas, Nevada 89148

Arbitrator

1
2
3 **CERTIFICATE OF SERVICE**

4 I hereby certify that on the 28th day of January, 2015, a copy of the foregoing
5 ARBITRATION AWARD was served by sending a copy via electronic mail and by depositing a
6 true and correct copy in the U.S. Mail, first class postage prepaid, and addressed to the following
7 at their last known addresses:

8 Gus W. Flangas, Esq.
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Exhibit A

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10 Attorneys for Defendant ALEX PENLY
11 and EAGLE JET AVIATION, INC.

7 **PRIVATE BINDING ARBITRATION**

8 MILTON WOODS; CIRRUS AVIATION
9 SERVICES INC., a Washington Corporation,

10 Plaintiffs,

11 v.

12 EAGLE JET AVIATION INC., a Nevada
13 Corporation; ALEX PENLY; STUART M.
14 WARREN; PRIVATE JET SERVICES INC., a
15 Nevada Corporation; MILT'S EAGLE LLC, a
16 Nevada Limited Liability Company; DOES I
17 through x, Inclusive,

18 Defendants.

19 EAGLE JET AVIATION INC., a Nevada
20 Company; ALEX PENLY, an Individual,

21 Counterclaimants,

22 v.

23 MILTON WOODS, an Individual; CIRRUS
24 AVIATION SERVICES INC., a Washington
25 Corporation; DOES I through X, Inclusive,

26 Counterdefendants.

Case No.: A-07-546250-B
Dept. No.: XXVII

**STIPULATION AS TO UNDISPUTED
FACTS**

27 IT IS HEREBY STIPULATED AND AGREED by and between Defendants ALEX
28 PENLY and EAGLE JET AVIATION, INC., being represented by Jay A. Shafer, Esq. of the law
firm of Premier Legal Group, and Plaintiffs MILTON WOODS and CIRRUS AVIATION

SERVICES, INC., being represented by their counsel Gus D. Flangas, Esq., and the law offices of Flangas McMillan Law Group, that the following facts are stipulated to as undisputed:

1. The Plaintiff, MILTON J. WOODS (hereinafter referred to as "Mr. Woods"), is a United States citizen residing and working in Las Vegas, Nevada. He is an aircraft pilot with an Airline Transport Pilot ("ATP") rating and he has 48 years of experience as a pilot. He has lived in Las Vegas for over ten years. Mr. Woods became a United States Citizen in 2009.
2. The Plaintiff, CIRRUS AVIATION SERVICES (hereinafter referred to as "Cirrus"), is a Washington corporation with its principal place of business in Clark County, Nevada. Mr. Woods, along with his two sons, are the shareholders of Cirrus. Mr. Woods presently owns Ten Percent (10%) of the shares in Cirrus and his sons Mark Woods and Greg Woods each own Forty Five Percent (45%) of the shares.
3. The Defendant, EAGLE JET AVIATION, INC. (hereinafter referred to as "Eagle Jet"), was a Nevada corporation with its principal place of business in Clark County, Nevada.
4. Eagle Jet was an aviation company that offered the general public the ability to charter private aircraft. Eagle Jet had a FAR Part 135 Certificate (hereinafter referred to as the "Operating Certificate") from the Federal Aviation Administration (hereinafter referred to as the "FAA") to operate jet aircraft capable of carrying nine passengers or less anywhere in the United States, Canada, Mexico and the Caribbean.
5. Eagle Jet was formed on or about January 5, 1999.
6. Cirrus's shares represented a minimum Twenty Five Percent (25%) interest in Eagle Jet.
7. The Defendant, ALEXANDER PENLY (hereinafter referred to as "Mr. Penly"), is a citizen of the United Kingdom, and a resident of Las Vegas, Nevada.
8. Mr. Penly was an officer and director in Eagle Jet, and shareholder in Eagle Jet.
9. PRIVATE JET SERVICES, INC., (hereinafter referred to as "Private Jet") was and is a Nevada corporation organized under the laws of the State of Nevada with its principal place of business in Clark County, Nevada.

10. MILT'S EAGLE, LLC, (hereinafter referred to as "Milt's Eagle") was a Nevada Limited Liability Company organized under the laws of the State of Nevada, currently in revoked status, with its principal place of business in Clark County, Nevada.
11. Milt's Eagle was the owner of a Lear 35A Jet aircraft which is used in the operations of Eagle Jet.
12. Milt's Eagle was owned by Eagle Jet.
13. Milt's Eagle filed bankruptcy in 2009.
14. Eagle Jet was originally formed and owned by Walter M. Frehe (hereinafter referred to as "Mr. Frehe") and Roderick Thomson (hereinafter referred to as "Mr. Thomson").
15. Mr. Frehe and Mr. Thomson each owned a fifty percent (50%) interest in Eagle Jet.
16. After Mr. Frehe departed the company, shares in Eagle Jet were owned by his two sons, Justin Thomson and Roland Thomson, with 49% each, and 2% being owned by Stuart Warren. Later shares were 25% to each of Woods, Penly and Warren with the sons splitting 25%.
17. At the time Eagle Jet was formed, Mr. Thomson was the owner of a Sabreliner Jet Model NA265-75A (hereinafter referred to as the "Sabreliner").
18. Mr. Thomson owned the Sabreliner through a company called Lear 25, Inc. (hereinafter referred to as "Lear 25").
19. In forming Eagle Jet, Eagle Jet entered into an agreement with Lear 25 for Eagle Jet to manage leasing and chartering operations using the Sabreliner. Mr. Frehe was put in charge of running Eagle Jet and the Sabreliner operations.
20. When Eagle Jet was formed, it did not have an Operating Certificate to operate the Sabreliner so the aircraft was operated under the Operating Certificate of Scenic Airlines (hereinafter referred to as "Scenic") and managed by a company known as Eagle Jet Charter, Inc. (hereinafter referred to as "Eagle Charter").
21. Eagle Charter was wholly owned by Scenic.

1 22. Shortly after Eagle Jet was formed, Mr. Thomson created an entity known as "The Flying
2 Hospital, Inc." (hereinafter referred to as the "The Flying Hospital"), a nonprofit
3 corporation funded by Mr. Thomson.
4 23. Mr. Frehe became the president of The Flying Hospital and was responsible for its
5 management. Around February of 2000, Mr. Woods became employed by Eagle Charter
6 as a Captain for the Sabreliner. He was hired by the then Chief Pilot for Eagle Charter,
7 Douglas Wright.
8 24. Mr. Woods and the other employees related to the Sabreliner were considered employees
9 of Scenic.
10 25. Subsequent to Mr. Woods starting with Eagle Charter, Mr. Penly arrived in Las Vegas
11 from England as a representative of Mr. Thomson, brought in to check the outflow of
12 money from Eagle Jet to The Flying Hospital.
13 26. Besides checking into the Flying Hospital, Mr. Penly became involved with the
14 operations of the Sabreliner.
15 27. Scenic terminated the agreement it had with Mr. Thomson that had allowed the
16 Sabreliner to operate under Scenic's Operating Certificate. Because Scenic terminated its
17 relationship with Eagle Jet, Eagle Jet was faced with either terminating its Sabreliner
18 operations or acquiring its own Operating Certificate. It was decided that Eagle Jet would
19 obtain its own Operating Certificate, and it assumed full responsibility for the Sabreliner.
20 28. To obtain an Operating Certificate, the FAA, as one its requirements, commands that a
21 company conduct 25 hours of proving runs with FAA personnel present in the aircraft for
22 each type of aircraft the company intends to operate under the Operating Certificate.
23 29. Because jet aircraft can cost several thousand dollars per hour to operate, conducting
24 proving runs can be very expensive. Eagle Jet conducted the Sabreliner proving runs
25 during July, 2002 and was issued an Operating Certificate on July 16, 2002.
26 30. In or about November 2001, during the time Eagle Jet was working to obtain its
27 Operating Certificate, Mr. Frehe and Mr. Thomson had a falling-out. Mr. Thomson had
28

1 apparently been losing a great deal of money through Eagle Jet and believed Mr. Frehe
2 was improperly siphoning money.

3 31. Mr. Frehe agreed to leave the company and tender his shares in the Sabreliner operation
4 and in Eagle Jet to Mr. Thomson for a purchase price of \$36,000, payable at \$3,000 per
5 month for 12 months.

6 32. This surrender of shares by Mr. Frehe left Mr. Thomson as the sole shareholder in Eagle
7 Jet. Mr. Thomson's ownership was held by Justin Thomson (500 shares) and Roland
8 Thomson (500 shares), while Stuart Warren (hereinafter "Mr. Warren") was issued 20
9 shares. Upon Mr. Frehe's departure from Eagle Jet Mr. Penly acted as a representative of
10 Mr. Thomson.

11 33. On December 21, 2001, Mr. Warren was elected as President and Mr. Penly was elected
12 as Secretary/Treasurer of Eagle Jet.

13 34. Mr. Frehe subsequently initiated a lawsuit against Mr. Thomson because Mr. Thomson
14 had quit paying the \$3,000 per month. Mr. Thomson countersued, alleging malfeasance
15 on the part of Mr. Frehe and mismanagement of funds through Eagle Jet. Prior to
16 adjudication of this action, Mr. Frehe passed away.

17 35. Around December of 2002 or January of 2003, Mr. Wright, the Chief Pilot for Eagle Jet
18 gave his notice to Eagle Jet and resigned. Mr. Penly, as a representative of Mr. Thomson,
19 approached Mr. Woods about Mr. Woods assuming the position of the Chief Pilot.

20 36. Mr. Penly essentially told Mr. Woods that without a Chief Pilot the company would have
21 to be shut down. Mr. Woods accepted the position of Chief Pilot under the conditions that
22 Mr. Penly stay away from the operation of Eagle Jet.

23 37. Mr. Penly agreed to accept those conditions under which Mr. Woods would assume the
24 Chief Pilot position.

25 38. Upon becoming Chief Pilot, Mr. Woods managed the operations of Eagle Jet.

26 39. When Mr. Woods took over as Chief Pilot, Eagle Jet was operating at a loss and Mr.
27 Thomson was infusing money into the company to keep it operating.

28

1 40. As Chief Pilot, Mr. Woods controlled and scheduled the pilots employed by Eagle Jet and
2 he ended up running the entire Eagle Jet operation, including the chartering operations.
3 41. At the time Mr. Woods took over as Chief Pilot, Lear 25 was in arrears on the Sabreliner
4 payments and it became apparent that it was going to lose the Sabreliner to the finance
5 company holding the mortgage.
6 42. By law, without an aircraft, Eagle Jet could not retain its Operating Certificate.
7 43. Mr. Woods facilitated an agreement with the owner of D&D Aviation (hereinafter
8 referred to as "D&D") out of Salt Lake City, Utah wherein D&D agreed to lease Eagle
9 Jet a Lear 35 Jet Aircraft so that Eagle Jet could continue its operations and maintain its
10 Operating Certificate.
11 44. Mr. Woods took delivery of the Lear 35 (hereinafter referred to as the "D&D Lear 35")
12 from D&D on February 11, 2003.
13 45. Eagle Jet returned the Sabreliner to the finance company by delivery to Scottsdale,
14 Arizona on February 16, 2003.
15 46. Mr. Woods used his personal credit cards to purchase fuel, parts and supplies for Eagle
16 Jet.
17 47. Mr. Woods used more than one credit card account for the payment of expenses for Eagle
18 Jet and aircraft managed or operated by Eagle Jet prior to April 26, 2007.
19 48. Mr. Woods directed reimbursement of the charges on his personal credit cards, and
20 received payments from Eagle Jet for charges on his personal credit cards.
21 49. During the latter part of 2003, Mr. Woods asked for an ownership interest in Eagle Jet.
22 50. The owners of Eagle Jet approved distribution of 1,000 shares in Eagle Jet to Mr. Woods.
23 51. Mr. Woods directed that the 1,000 shares be issued to Cirrus.
24 52. At the time Woods executed the "Shareholder Buy-Sell Agreement", all other
25 shareholders, save Justin Thomson and Roland Thomson, signed this agreement.
26 53. Except for his interest in Cirrus Aviation, LLC, Milton Woods has no direct ownership of
27 Eagle Jet.
28

1 54. On or about November 3, 2003, Cirrus received 250 shares in Eagle Jet via Stock
2 Certificate Number 9. Stock Certificate Number 9 was signed by Mr. Penly as Secretary
3 and by Mr. Warren as President of Eagle Jet.
4 55. Approximately one month later, on or about December 1, 2003, Cirrus received the
5 remaining 750 shares in Eagle Jet via Stock Certificate Number 14. Stock Certificate
6 Number 14 was similarly signed by Mr. Penly as Secretary and by Mr. Warren as
7 President.
8 56. Sometime in November 2003, Eagle Jet obtained another Lear 35 Jet Aircraft, under a
9 more favorable lease from Robert Buck of Monterey, California.
10 57. Accordingly, the borrowed D&D Lear 35 was returned to D&D in Salt Lake.
11 58. Throughout 2003 and 2004, Eagle Jet's business continued to increase and eventually it
12 reached a point where it became necessary to obtain a second Lear Jet.
13 59. Mr. Penly obtained a lease on a Lear 35 from CIT Bank (hereinafter referred to as the
14 "CIT Lear 35").
15 60. The FAA requires that each company holding an Operating Certificate have both a Chief
16 Pilot and a Director of Operations/General Manager. Sometime in 2003, the FAA
17 required that Mr. Woods become either Chief Pilot or Director of Operations/General
18 Manager. Mr. Woods became the Director of Operations/General Manager and a new
19 Chief Pilot was hired.
20 61. In or around November of 2004, Mr. Woods found and negotiated the sale of a late serial
21 number Lear 35 Jet Aircraft through Rolf Smith. On November 29, 2004, the Board of
22 Directors of Eagle Jet, by unanimous written consent, authorized Eagle Jet to purchase
23 the 1987 Gates Lear 35A Aircraft for \$2,300,000, pursuant to an Aircraft Purchase
24 Agreement dated Sept 30, 2004 between M/G Transport Services, Inc. and Jeff Wyler
25 Dealer Group, Inc. The Board of Directors further dictated that Eagle Jet take title to the
26 Lear 35A in a previously formed company known as "Milt's Eagle, LLC."
27
28

62. Pursuant to the resolution, Eagle Jet's Board agreed that Eagle Jet would guarantee the obligations of Milt's Eagle with respect to the loan. The written consent document shows Mr. Penly, Mr. Woods and Mr. Warren as the Board of Directors of Eagle Jet.

63. Mr. Penly was personally handling all the financing arrangements for the purchase of the Lear 35A, and was told that a \$250,000 down payment was necessary for the purchase. Upon completion, the down payment requirement was \$350,000, with \$100,000 to come from the assets of Eagle Jet.

64. Woods arranged to pick up the Lear 35A in Oregon because there is no applicable sales tax. When Mr. Woods arrived in Oregon to take possession of the Lear 35A, the financing to purchase the Lear 35A was not immediately available. Mr. Penly worked to obtain replacement financing, which was obtained at a higher premium. To complete the purchase of the Lear 35A, the finance company JODA required a personal commitment from the Eagle Jet owners. Mr. Woods put up \$100,000, Mr. Warren agreed to put up \$60,000, Mr. Penly put up \$90,000 and Mr. Thomson elected not to participate in this transaction. Mr. Warren required that his \$60,000 contribution be considered a loan. While Mr. Woods and Mr. Penly agreed to personally guaranty the loan for the Lear 35A, Mr. Warren did not.

65. Eagle Jet, through Milt's Eagle LLC, received the Lear 35A in December of 2004 (hereinafter referred to as the "Purchased Lear 35A") and discontinued leasing the Lear 35 from CIT. Milt's Eagle LLC was to lease the Purchased Lear 35A to Eagle Jet. Eagle Jet made the mortgage payments directly to the finance company.

66. Mr. Penly was reimbursed for his \$90,000 contribution.

67. Mr. Warren received his \$60,000 back within approximately two years thereafter, comprised of two payments of \$30,000.

68. As of April 2007, Mr. Woods had not been reimbursed for his \$100,000 contribution.

69. About six to eight months later after obtaining the Purchased Lear 35A, Eagle Jet obtained new financing for the Purchased Lear 35A through Center Capital Corporation

1 under much more favorable terms, with the monthly mortgage payments being reduced
2 from approximately \$30,000 per month to \$20,900 per month.

3 70. Again, both Mr. Woods and Mr. Penly had to personally guarantee the loan. Mr. Warren
4 did not commit to the guaranty.

5 71. On July 22, 2005, the Board of Directors of Eagle Jet resolved to issue 2,000 Eagle Jet
6 shares to Messrs. Penly, Warren and Woods.

7 72. On January 6, 2006, Mr. Woods was elected as President of Eagle Jet.

8 73. Sometime in 2006, Mr. Penly obtained a hanger at the McCarran Airport from which
9 Eagle Jet could operate.

10 74. In June of 2006, Mr. Woods found an aircraft and assisted a group of local Las Vegas
11 businessmen in the purchase of a Lear 55 Jet Aircraft, that was added to Eagle Jet's
12 Operating Certificate as a managed aircraft pursuant to an agreement with those
13 businessmen (hereinafter referred to as the "Managed Lear 55 One").

14 75. This aircraft was owned by 4 Romeo Whiskey LLC, who in turn was owned by Randy
15 Kidd, Steven Aizenburg and Mr. Ostergaard.

16 76. Mr. Woods did not charge 4 Romeo Whiskey a finder's fee for the work in acquiring a
17 Lear 55.

18 77. Eagle Jet did not receive a finder's fee from 4 Romeo Whiskey.

19 78. Pursuant to the agreement, Eagle Jet was to receive 15% of the revenue derived from
20 charter operations for the Managed Lear 55 One, as well as a hanger and maintenance
21 contract for \$9,000 per month.

22 79. On December 29, 2006 the Board of Directors by Unanimous Written Consent voted to
23 give bonuses to Mr. Woods in the amount of \$200,000 and to Mr. Penly in the amount of
24 \$100,000 (hereinafter referred to as the "December Resolution"). In addition, the Board
25 voted to pay \$100,000 to Warren.

26 80. The December 29, 2006 resolution was rescinded by a resolution dated May 1, 2007.
27
28

1 81. In February of 2007, Eagle Jet began managing another Lear 55 owned by Jim Monaghan
2 in Scottsdale, Arizona (hereinafter referred to as the "Managed Lear 55 Two"). The
3 Managed Lear 55 Two was also added to Eagle Jet's Certificate as a managed aircraft
4 pursuant to an agreement with Mr. Monaghan.

5 82. Mr. Woods located for Randy Kidd, Steve Aizenberg and associates a Challenger 601-
6 3AER (hereinafter referred to as the "Challenger") which the businessmen purchased in
7 February of 2007.

8 83. At a called meeting of the Eagle Jet Board, in February of 2007 the Company elected to
9 not participate in the purchase of this aircraft.

10 84. Because the Challenger had more than nine seats, Eagle Jet would have had to expand its
11 Operating Certificate and conduct proving runs with the Challenger.

12 85. Eagle agreed that Advanced Air Management, Inc., a California corporation located in
13 Van Nuys, California (hereinafter referred to as "Advanced Air") should operate the
14 Challenger. Mr. Woods did not agree to have the Challenger operated by Advanced Air.

15 86. Advanced Air Management, Inc., a California corporation located in Van Nuys,
16 California was purchased in September 2006 by Eagle Jet and Private Jet Services and
17 shares were given to Mr. Woods (1,000 shares), Mr. Penly (1,000 shares), Mr. Warren
18 (1,000 shares), John Kaylor (500 shares) and Scott Chikar (500 shares).

19 87. Advanced Air Management was purchased for \$171,500, and Eagle Jet made the
20 purchase with an expenditure of company funds.

21 88. After the pre-buy inspection for the Challenger was completed in Tucson, Arizona, Eagle
22 Jet flew the owners of the Challenger down to take possession of the Challenger. Mr.
23 Woods was not type-rated in the Challenger.

24 89. Woods took pilot Bob McKenna (hereinafter referred to as "Mr. McKenna"), with him to
25 fly the aircraft back to Las Vegas with the owners on board.

26 90. Mr. Woods and Mr. McKenna violated an FAA regulation which requires that prior to
27 carrying passengers, the crew must have, within the past 90 days, completed three take-
28

1 offs and three landings to a full stop. Although it was a private trip with only the owners
2 onboard the aircraft; nevertheless the FAA viewed this as an infraction. Mr. Woods
3 claims this was inadvertent.

4 91. The Challenger was never part of Eagle Jet's Certificate.

5 92. A letter signed by Mr. McKenna reports this violation to the FAA. Mr. Woods then
6 received a letter of investigation from the FAA.

7 93. Messrs. Penly and Warren wrote a letter to Mr. Woods, dated April 23, 2007, discussing
8 Mr. Wood's position with the company and setting forth several terms for his separation.

9 94. The proposal was conditioned on Mr. Woods not working for any Eagle Jet competitor,
10 being supportive of Eagle Jet, and not making derogatory statements about Eagle Jet.

11 95. Mr. Woods was presented with the letter by Mr. Warren and Mr. Penly.

12

13 96. On or about April 27, 2007, Mr. Woods issued checks to pay for the charges on Mr.
14 Woods's personal credit cards for expenses alleged to have been incurred by Eagle Jet
15 including \$34,000 for a Lear 55 windshield, \$23,000 for installation of the windshield,
16 \$14,000 for training at Simuflite, miscellaneous fuel charges, ramp charges and aircraft
17 parts.

18 97. Mr. Woods also issued a check to himself for reimbursement of the \$100,000 he loaned
19 Eagle Jet for purchase of the Purchased Lear 35, plus \$15,000 interest.

20 98. Lastly, Mr. Woods cut check number 3304 to Cirrus for \$200,000. Mr. Woods cut the
21 checks to Cirrus instead of himself

22 99. Shortly thereafter, Mr. Penly and Mr. Warren, owning a majority interest of Eagle Jet,
23 told Mr. Woods they were voting him out.

24 100. At about this time Mr. Penly had the locks changed at Eagle Jet, and called to
25 cancel Mr. Woods's security badge for airport access.

26

27

28

- 1 101. On or about April 30, 2007, Mr. Penly sent a letter to Bank of Nevada, telling the
2 bank there was a dispute and to put a hold on all funds regarding check number 3304.
3 Bank of Nevada subsequently interpled the funds suing both Mr. Woods and Eagle Jet.
4 102. The owner of the Managed Lear 55 One took back its aircraft from Eagle Jet..
5 103. During all times he was the President, Chief Pilot and Director of Operations for
6 Eagle Jet, Milton J. Woods was a Canadian citizen.
7 104. Milton J. Woods obtained US Citizenship in 2009.
8 105. Mr. Woods directed the payment of expenses for Eagle Jet prior to April 26,
9 2007.
10 106. Milt Woods opened a bank account called 'Eagle Jet Maintenance' at Bank West
11 of Nevada.
12 107. Mr. Woods had access to the customer lists of Eagle Jet. Mr. Woods has had
13 contact with Randy Kidd since April 26, 2007.
14 108. Milt Woods and Greg Woods appeared at the offices of Eagle Jet on or about July
15 24, 2009 with more than one police officer to obtain or inspect financial records of Eagle
16 Jet.

17 DATED this 14th day of June, 2014.

DATED this 14th day of June, 2014.

18 PREMIER LEGAL GROUP

FLANGAS MCMILLAN LAW GROUP

19
20
21 By: 

By: 

22 Jay A. Shafer, Esq.
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26 EAGLE JET AVIATION, INC.
and ALEX PENLY

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Las Vegas, Nevada 89146
Attorneys for Plaintiffs
MILTON WOODS and
CIRRUS AVIATION SERVICES

DISTRICT COURT
CLARK COUNTY, NEVADA

Business Court

COURT MINUTES

May 05, 2014

07A546250 Milton Woods, Cirrus Aviation Services Inc
vs
Eagle Jet Aviation Inc, Alex Penley, et al

May 05, 2014 2:53 PM Minute Order

HEARD BY: Alf, Nancy

COURTROOM: Dist Court XXVII -
Chambers

COURT CLERK: Sharon Chun

JOURNAL ENTRIES

- MINUTE ORDER - NO HEARING

COURT FINDS after review a Status Check on Arbitration was set for MOTION CALENDAR on May 7, 2014 at 9.00 a.m. COURT FURTHER FINDS after review the Court Granted a motion to Confirm Arbitration Award for Attorney Fees on October 16, 2013 however the Award would not be enforceable until arbitration was complete. At a status check on arbitration on March 5, 2014 the Court found that the parties had not yet set an arbitration date and ordered the status check continued 60 days. If the case did not move forward in the next 60 days the Court would set a Show Cause Hearing for dismissal.

COURT FURTHER FINDS after review Defendant filed a Motion to Dismiss Claims against Milt s Eagle, Private Jet Services and Stuart Warren pursuant to NRCP 41(e) on April 18, 2014 and the Motion is set for Hearing on MOTION CALENDAR on May 21, 2014 at 10.00 a.m.

COURT ORDERS for good cause appearing Status Check on arbitration VACATED.

CLERK'S NOTE: A copy of this minute order has been distributed to the following:

Gus W. Flangas (Flangas & McMiilan) FAX: 702-382-9452

Jay A. Shafer or Robert C. Reade (Premier Legal Group)

Email: jshafer@premierlegalgroup.com

PRINT DATE: 05/05/2014

Page 1 of 1

Minutes Date: May 05, 2014

07A546250

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Business Court

COURT MINUTES

October 16, 2013

07A546250	Milton Woods, Cirrus Aviation Services Inc vs Eagle Jet Aviation Inc, Alex Penley, et al
-----------	------------------------------------------------------------------------------------------------

October 16, 2013	9:30 AM	Motion to Confirm Arbitration Award
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HEARD BY: Alf, Nancy

COURTROOM: RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Traci Rawlinson

REPORTER:

PARTIES

PRESENT:	Flangas, Gus W	Attorney for Plaintiff
	Shafer, Jay A.	Attorney for Defendant

JOURNAL ENTRIES

- Arguments by counsel regarding the arbitration award for attorney's fees and costs, whether or not award was in lieu of striking the pleadings, NRS 38.239, arguments in supplement filed by defense counsel, and further arguments. Mr. Flangas moved to strike the supplement as a fugitive document. Court stated its findings and ORDERED, Motion to Confirm Arbitration Award for Attorney Fees and Costs GRANTED IN PART as to confirmation of the award and DENIED IN PART as Court FINDS it is interlocutory and not enforceable at this time, STATUS CHECK set 3/5/2014 9:00 am. Court stated that if the arbitration is not complete in February and it hears complaints regarding dilatory tactics on behalf of the Defendant it will enforce the order.

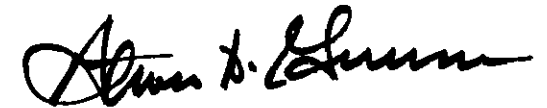
3/5/2014 9:00 AM STATUS CHECK: ARBITRATION PROCEEDINGS

PRINT DATE: 10/22/2013

Page 1 of 1

Minutes Date: October 16, 2013

R0044



CLERK OF THE COURT

JUDG
GUS W. FLANGAS, ESQ.
Nevada Bar No. 004989
gwf@fdlawlv.com
FLANGAS MCMILLAN LAW GROUP
3275 South Jones Blvd., Suite 105
Las Vegas, Nevada 89146
Telephone: (702) 307-9500
Facsimile: (702) 382-9452
Attorney for Plaintiffs

DISTRICT COURT
CLARK COUNTY, NEVADA

MILTON J. WOODS, and CIRRUS
AVIATION SERVICES, INC., a Washington
Corporation,

Plaintiffs,

vs.

EAGLE JET AVIATION, INC., a Nevada
Corporation; ALEX PENLY, and STUART
M. WARREN; PRIVATE JET SERVICES, INC.,
a Nevada Corporation; MILT'S EAGLE, LLC, a
Nevada Limited Liability Company; and
DOES I-X, inclusive,

Defendants.

Case No.: A546250
Dept No.: XXVII

JUDGMENT

THIS MATTER came on for Binding Arbitration on August 14, 15, 20, 21, 22, 28;
September 3, 12, 15, 18; October 3, 15, 28, 29; November 3, 4, 24; and December 8, 9, 10, of 2014.
A written Arbitration Award in this matter was rendered on January 27, 2015. The Arbitration
Award was confirmed in a Hearing held on April 29, 2015 at 9:30 a.m., and an Order Confirming
Arbitration Award was entered on September 18, 2015.

Thereafter, there was a Hearing before this Court on June 15, 2015, on
Defendants/Counterclaimants' Motion to Modify or Correct Arbitration Award and Motion to
Vacate Arbitration Award, wherein the Court denied said Motions in an Order entered on September
18, 2015.

///

<input type="checkbox"/> Voluntary Dismissal	<input type="checkbox"/> Summary Judgment
<input type="checkbox"/> Involuntary Dismissal	<input type="checkbox"/> Stipulated Judgment
<input type="checkbox"/> Stipulated Dismissal	<input type="checkbox"/> Default Judgment
<input type="checkbox"/> Motion to Dismiss by Deft(s)	<input checked="" type="checkbox"/> Judgment of Arbitration

1 Therefore, this matter having been fully litigated and confirmed, and the Court being fully advised
2 in the premises,

3 **IT IS ORDERED, ADJUDGED and DECREED** that the Arbitration Award and Order
4 Confirming Arbitration Award attached hereto as Exhibit "1", is reduced to Judgment; and

5 **IT IS FURTHER ORDERED** that the Plaintiff, MILTON J. WOODS (hereinafter "Mr.
6 Woods"), shall have and recover from Defendant, EAGLE JET AVIATION, INC., a Judgment in
7 the sum of One Hundred Eleven Thousand Seven Hundred and Fifty dollars (\$111,750.00) with
8 interest thereon at the legal rate of interest as provided by law from the date of the service of the
9 Complaint herein through the date that the Judgment is paid in full; and

10 **IT IS FURTHER ORDERED, ADJUDGED and DECREED** that the Plaintiff, CIRRUS
11 AVIATION SERVICES, INC. (hereinafter "Cirrus") shall have and recover from Defendant, ALEX
12 PENLY, a Judgment in the sum of One Million Five Hundred Thousand Dollars (\$1,500,000.00)
13 with interest thereon at the legal rate of interest as provided by law from the date of the service of
14 the Complaint herein through the date that the Judgment is paid in full; and

15 **IT IS FURTHER ORDERED, ADJUDGED and DECREED** that the Plaintiffs shall have
16 and recover from Defendant, ALEX PENLY, a Judgment in the sum of Eighty Thousand Dollars
17 (\$80,000.00) with interest thereon at the legal rate of interest as provided by law from the date of
18 the service of the Complaint herein through the date that the Judgement is paid in full.


19 **DATED** this 14 day of January, 2016.

20
21 Nancy L. Alf
22 **DISTRICT JUDGE** EA

23 Respectfully submitted by:

24
25 GUS W. FLANGAS, ESQ.
26 Nevada Bar No. 004989
27 FLANGAS DALACAS LAW GROUIP
28 gwf@fdlawlv.com
3275 South Jones Blvd., Suite 105
Las Vegas, Nevada 89146

EXHIBIT 1



CLERK OF THE COURT

1 **ORDR**
2 GUS W. FLANGAS, ESQ.
3 Nevada Bar No. 004989
4 gwf@fdlawlv.com
5 **FLANGAS MCMILLAN LAW GROUP**
6 3275 South Jones Blvd., Suite 105
7 Las Vegas, Nevada 89146
8 Telephone: (702) 307-9500
9 Facsimile: (702) 382-9452
10 *Attorney for Plaintiffs*

11 **DISTRICT COURT**
12 **CLARK COUNTY, NEVADA**

11 MILTON J. WOODS, and CIRRUS
12 AVIATION SERVICES, INC., a Washington
13 Corporation,

13 Plaintiffs,

14 vs.

15 EAGLE JET AVIATION, INC., a Nevada
16 Corporation; ALEX PENLY, and STUART
17 M. WARREN; PRIVATE JET SERVICES, INC.,
18 a Nevada Corporation; MILT'S EAGLE, LLC, a
19 Nevada Limited Liability Company; and
20 DOES I-X, inclusive,

20 Defendants.

Case No.: A546250
Dept No.: XXVII

ORDER CONFIRMING
ARBITRATION AWARD

21 THIS MATTER came for Hearing before this Court on April 29, 2015 at 9:00 a.m. on the
22 Plaintiffs' "Motion to Confirm Arbitration Award." The Plaintiffs were represented by GUS W.
23 FLANGAS, ESQ. of the FLANGAS DALACAS LAW GROUP. The Defendants, ALEX PENLY
24 (hereinafter "Mr. Penly) and EAGLE JET SERVICES, INC. (hereinafter "Eagle Jet"), were
25 represented by their attorneys, JAY W. SHAFER, ESQ. of the PREMIER LEGAL GROUP who
26 appeared in person, and MARK C. FIELDS, ESQ. of the Law Offices of Mark C. Fields, APC, who
27 appeared telephonically.

28 Having reviewed the Pleadings and Papers on file in this matter, heard arguments by counsel,

....

1 and good cause appearing;

2 **THE COURT HEREBY FINDS** that the Plaintiffs brought a complaint against the
3 Defendants to recover monies owed the Plaintiffs for loss of shareholder interest and bonus
4 payments, among other relief sought.

5 **THE COURT FURTHER FINDS** that the Parties mentioned herein, voluntarily agreed to
6 submit the entire matter into Binding Arbitration. NLA

7 **THE COURT FURTHER FINDS** that the Parties agreed to have JOHN H. BAILEY, ESQ. WAS
8 (Hereinafter "Mr. Bailey") appointed as the Arbitrator in this case.

9 **THE COURT FURTHER FINDS** that the Parties arbitrated this case before Mr. Bailey on
10 August 14, 15, 20, 21, 22, 28; September 3, 12, 15, 18; October 3, 15, 28, 29; November 3, 4, 24;
11 and December 8, 9, 10, of 2014, at the law offices of BAILEY KENNEDY located in Clark County,
12 Las Vegas, Nevada.

13 **THE COURT FURTHER FINDS** that after the completion of the Binding Arbitration, Mr.
14 Bailey rendered a written Arbitration Award (hereinafter "the Award"), dated January 27, 2015. A
15 copy of the Award is attached hereto as Exhibit "1" and is incorporated in its entirety into this Order
16 and is binding as though fully set forth herein.

17 **THE COURT FURTHER FINDS** that pursuant to the Award, Mr. Bailey awarded the
18 Plaintiff, MILTON J. WOODS (hereinafter "Mr. Woods"), the amount of One Hundred Eleven
19 Thousand Seven Hundred and Fifty dollars (\$111,750.00) against Eagle Jet.

20 **THE COURT FURTHER FINDS** that pursuant to the Award Mr. Bailey awarded the
21 Plaintiff, CIRRUS AVIATION SERVICES, INC. (hereinafter "Cirrus") the amount of One Million
22 Five Hundred Thousand Dollars (\$1,500,000.000) against Mr. Penly.

23 **THE COURT FURTHER FINDS** that on October 16, 2013, the Court **GRANTED** the
24 Plaintiffs' previous "Motion to Confirm Arbitration Award" wherein Mr. Bailey awarded the
25 Plaintiffs the amount of Eighty Thousand Dollars (\$80,000) against Mr. Penly for Attorneys Fees
26 as sanctions but delayed the enforceability of the award until the Arbitration was complete
27 (hereinafter the "Previous Award"). A copy of the Previous Award is attached hereto as Exhibit "1"
28 and is incorporated in its entirety into this Order and binding as though fully set forth herein.

1 **THE COURT FURTHER FINDS** that pursuant to NRS 38.239, the Plaintiffs are entitled
2 to an Order confirming the Award and the Previous Award.

3 **THEREFORE, THE COURT HEREBY ORDERS** that the Plaintiffs' "Motion to Confirm
4 Arbitration Award" is **Granted**.

5 **THE COURT FURTHER ORDERS** that the Award to Mr. Woods in the amount of One
6 Hundred Eleven Thousand Seven Hundred and Fifty dollars (\$111,750.00) against Eagle Jet is
7 **Confirmed** and Mr. Woods is therefore entitled to Judgement against Eagle Jet in the amount of One
8 Hundred Eleven Thousand Seven Hundred and Fifty dollars (\$111,750.00), plus interest in an
9 amount allowed by law.

10 **THE COURT FURTHER ORDERS** that the Award to the Cirrus in the amount of One
11 Million Five Hundred Thousand Dollars (\$1,500,000.000) against Mr. Penly is **Confirmed** and
12 Cirrus is therefore entitled to Judgement against Mr. Penly in the amount of One Million Five
13 Hundred Thousand Dollars (\$1,500,000.000), plus interest in an amount allowed by law.

14 **THE COURT FURTHER ORDERS** that the Previous Award to the Plaintiffs which was
15 previously confirmed by the Court in the amount of \$80,000 against Mr. Penly is again **Confirmed**
16 and the Plaintiffs are therefore entitled to Judgement against Mr. Penly in the amount of Eighty
17 Thousand Dollars (\$80,000), plus interest in an amount allowed by law.

18 **THE COURT FURTHER ORDERS** that because the Defendants filed on the day before
19 the Hearing, "Defendants and Counterclaimants' Motion to Modify or Correct Arbitration Award,"
20 and "Defendants and Counterclaimants' Motion to Vacate Arbitration Award." a Hearing on the
21 Motions shall be heard on June 15, 2015 at 10:00 a.m.

22 **THE COURT FURTHER ORDERS** that the Plaintiffs' request for additional attorney's

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1 fees is deferred until after the Hearing on June 15, 2015.


2 **THE COURT FURTHER ORDERS** that the amounts set forth in this Order be reduced
3 to Judgment.

4 **IT IS SO ORDERED** this 20 day of August, 2015.

5
6 Nancy Allen
7 **DISTRICT JUDGE**

8 Respectfully submitted by:

Approved as to form by:

9
10 
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14 **FLANGAS DALACAS LAW GROUP**
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Refused signature
20
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Refused signature
29
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38 *Attorney for Defendants*

EXHIBIT 1

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2 BAILEY ♦ KENNEDY
8984 Spanish Ridge Avenue
3 Las Vegas, Nevada 89148
Telephone: (702) 562-8820
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jbailey@baileykennedy.com
5

6 Arbitrator

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 MILTON J. WOODS and CIRBUS
10 AVIATION SERVICES, INC., a Washington
corporation,

11 Plaintiffs,

12 vs.

13 EAGLE JET AVIATION, INC., a Nevada
14 corporation; ALEX PENLY; STUART M.
WARREN; PRIVATE JET SERVICES, INC.,
15 a Nevada corporation; MILT'S EAGLE, LLC,
Nevada limited liability company; and
16 DOES I-X, inclusive,

17 Defendants.
18

Case No. A546250
Dept. No. XI

19 ARBITRATION AWARD

20 This matter came before the undersigned arbitrator for hearing on the following days in
21 accordance with the parties' agreement and the Court's Order:

- 22 • August 14, 15, 20, 21, 22, and 28, 2014;
23 • September 3, 12, 15, and 18, 2014;
24 • October 3, 15, 28, and 29, 2014;
25 • November 3, 4, and 24, 2014; and
26 • December 8, 9, and 10, 2014.
27
28

1 Plaintiffs/Counterdefendants Milton Woods and Cirrus Aviation Services, Inc. (individually
2 "MWoods" and "Cirrus," respectively, and collectively, "Plaintiffs") were represented by their
3 counsel, Gus W. Flangas, Esq. Defendants/Counterclaimants Eagle Jet Aviation Inc. and Alex
4 Penly (individually "EJA" and "Penly," respectively, and collectively, "Defendants") were
5 represented by their counsel, Mark C. Fields, Esq. and Jay A. Shafer, Esq.¹ Defendants
6 submitted their Post-Closing Arbitration Brief on December 29, 2014, at which time the
7 arbitration was closed.

8
9 Upon considering the parties' arbitration briefs, the Stipulation As To Undisputed
10 Facts, the testimony of the parties and witnesses, the substantial evidentiary submissions, the
11 closing arguments of counsel, Defendants' post-closing brief, and all other matters properly
12 submitted at arbitration, the arbitrator makes the following determinations and award.²

13 I. PRELIMINARY FINDINGS

14
15 A. Stipulation As To Undisputed Facts. At the request of the arbitrator, the parties
16 submitted, and the arbitrator accepted and hereby incorporates, a Stipulation As To Undisputed
17 Facts, which is attached to this Arbitration Award as Exhibit "A."

18
19 B. Quantity and Quality of the Evidence. This matter, and specifically the parties' ability to
20 present admissible evidence in support or defense of their respective claims and counterclaims
21 was materially plagued by the undisputed fact that a substantial portion of EJA's business and
22 financial records disappeared immediately after the time that MWoods departed from EJA in
23 April 2007. While the parties were unable to provide any clear indication as to what happened
24

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26
27 ¹ The other parties identified in the Complaint (or Amended Complaint) and listed in the caption were either
dismissed under N.R.C.P. 41(e) or had sought and obtained bankruptcy protection.

28 ² Initially, the parties were unable to agree on the form of this Arbitration Award (i.e., a simple award vs. a
reasoned award). Ultimately, they stipulated to a simple award with summary reasoning.

1 to those records, it is undisputed that Penly, under oath and in his own declarations, asserted that
2 he is familiar with the creation of, maintenance of, and has line responsibility for the business
3 records (including the accounting records) of each of the two companies (EJA and Private Jet
4 Services, Inc.) for all relevant times. There was no credible evidence presented that MWoods
5 (or anyone under his control) took or was otherwise responsible for the disappearance of EJA's
6 business and financial records.³ Therefore, in the absence of any plausible explanation for their
7 disappearance, the responsibility to account for EJA's business and financial records falls upon
8 Penly.
9

10
11 C. Credibility of Key Witnesses.

12 a. **Alex Penly.** It is disconcerting and material to the findings that give rise to this
13 Arbitration Award that Penly admittedly: (i) was less than honest with the Court (Judge
14 Gonzalez) during a hearing in this matter on July 21, 2009, when he failed to disclose that EJA's
15 MSP payments due on its Lear 35 aircraft were current only because the finance company for
16 the aircraft made the payments by increasing the debt on the aircraft; and (ii) intentionally
17 misled and deceived the Court (Judge Gonzalez) during a hearing in this matter on January 21,
18 2010, and the shareholders of EJA during a shareholders' meeting on March 11, 2010, when he
19 failed to disclose that EJA had gone out of business; that EJA's Part 135 Certificate—issued by
20 the Federal Aviation Administration (the "FAA")—had been surrendered in favor of a new
21 company (*i.e.*, The Berkeley Group, LLC dba NV Jets) owned by Penly's relatives and others;
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27 ³ During discovery, Plaintiffs were awarded \$80,000.00 for attorneys' fees and costs against Penly in
28 connection with the disappearance of EJA's business and financial records, and received a presumption at the
arbitration hearing that Penly engaged in spoliation of EJA's (and other companies') business and financial records.
See, Arbitration Orders dated April 9, 2013, and May 21, 2013. It should be noted that Penly was awarded
\$2,590.75 as deposition sanctions against Plaintiffs. See, Arbitration Order dated February 26, 2014.

1 and that NV Jets was operating a business substantially similar to that which EJA had operated
2 (i.e., a private jet charter service) by using EJA's location, phone number, and other assets.⁴

3 **b. Milton Woods.** Although he clearly and undeniably dislikes Penly, MWoods
4 was generally credible. While he certainly acted in his own best interest after his departure from
5 EJA in April 2007, it was uncontradicted that he was not under any restrictive covenants that
6 would have prohibited him from competing directly against EJA, despite having an ownership
7 interest in EJA (through Cirrus).
8

9 **c. Stuart Warren.** It was uncontradicted that Mr. Warren, like MWoods (through
10 Cirrus), lost the value of his ownership interest in EJA when EJA went out of business in 2009.
11 While Mr. Warren's personal knowledge about all of the events that transpired among Penly,
12 MWoods, and EJA was limited by his lack of a physical presence in Las Vegas, Nevada, his
13 testimony about matters in which he was directly involved was very credible.
14

15 **D. MWoods' Bonus.** It is undisputed that EJA (through its Board of Directors)
16 unanimously granted bonuses to MWoods (in the amount of \$200,000.00), Penly (in the amount
17 of \$100,000.00), and Stuart Warren (in the amount of \$100,000.00) on December 29, 2006.⁵
18 There were no plausible explanations from any of the parties as to why these bonuses were not
19 paid either immediately or sometime in January 2007, when EJA's bank account records
20 indicated that such funds were available. Nonetheless, upon his separation from EJA in late
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25 ⁴ The Lear 35 aircraft was owned by Milt's Eagle, LLC, which was a wholly-owned subsidiary of EJA.
26 There was no evidence showing that NV Jets ever paid EJA any consideration for the acquisition of EJA's assets.
27 The transfer of such assets directly inured to the benefit of Penly and his relatives at the expense of the EJA's other
28 shareholders; namely, Cirrus and Stuart Warren.

⁵ While Mr. Warren's bonus was characterized as a payment of legal fees; the parties testified that each of
the principals was essentially being awarded a bonus.

1 April 2007, MWoods took his bonus.⁶ Then, on May 1, 2007, after MWoods' departure from
2 EJA, the EJA Shareholders (excluding Cirrus) took action to "disapprove payment of such
3 bonuses and/or the making of such payments to the extent not heretofore made due to the
4 Corporation's lack of adequate funds to support its operations" At the time that MWoods
5 took his bonus, EJA had sufficient funds to pay the bonus and such bonus had not been
6 "disapproved." While not an ideal situation, MWoods was nonetheless entitled to his bonus
7 from EJA at the time he took it. Accordingly, he is entitled to the \$111,750.00 of his bonus
8 from EJA that he did not receive.⁷

10
11 E. MWoods' Reimbursement of Company Expenses. Defendants assert that the
12 reimbursement monies MWoods received from EJA greatly exceeded the actual amount he was
13 entitled to for legitimate company expenses—an assertion MWoods adamantly disputes. Due to
14 the lack of business and financial records of EJA and missing credit card statements for
15 MWoods during the relevant time period, neither party was able to present evidence sufficient to
16 either prove or defend its position on this issue. Consequently, Defendants have failed to meet
17 their burden of proof on this counterclaim.

19 F. Penly's Breach of Fiduciary Duties. The parties (primarily, MWoods and Penly) spent a
20 significant amount of time pointing fingers at each other and accusing one another of
21 mismanagement.⁸ While individual actions taken years ago, through the benefit of 20/20
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24 ⁶ MWoods' bonus (of \$200,000.00) was subsequently the subject of an interpleader action initiated by Bank
25 of Nevada. From all of the evidence presented, which is conflicting, it appears as though EJA received \$111,750
from the interpleader action and MW (through Cirrus) received \$86,750 from the interpleader action in October
2007.

26 ⁷ From the evidence, it appears as though Bank of Nevada received \$1,500.00 for attorneys' fees in
27 connection with the interpleader action. Under the circumstances, neither side should be entitled to keep or recover
the \$1,500.00.

28 ⁸ Much of the evidence (testimony and documents) presented, as well as arguments of counsel, were
irrelevant to the claims/counterclaims asserted.

1 hindsight, may appear to be less than prudent, it does not appear that MWoods, during the time
2 that he was in charge of the daily operations of EJA, intentionally took any actions designed to
3 harm the company or any of its shareholders. On the other hand, while Penly inherited EJA at a
4 difficult time (e.g., employees loyal to MWoods left the company, and starting a year or so later
5 the national and local economy lapsed into a recession), he was untruthful to the Court and
6 shareholders about material matters involving EJA. Moreover, he ultimately breached his
7 fiduciary duties to EJA's shareholders when he failed to disclose that EJA's Part 135 Certificate
8 had been surrendered in favor of a new company—i.e., The Berkeley Group, LLC dba NV Jets—
9 —owned by his relatives and others, and that NV Jets was operating a business substantially
10 similar to that which EJA had operated by using EJA's location, phone number, and other
11 assets.⁹

14 G. Damages. Based on all the evidence, it is clear that Cirrus lost its investment in EJA (a
15 30% interest) due to Penly's breaches of the fiduciary duties he owed to the company. It is
16 difficult to determine the exact value of the Cirrus' interest in EJA because Penly's breaches
17 occurred over a period of time (i.e., between April 2007 and early 2010) and the value of such
18 interest decreased after April 2007 due to the onset of the national and local economic recession
19 (which cannot be attributed to Penly). Instructive in determining the value of Cirrus' interest in
20 EJA (and damages) is the valuation given to such interest by Stuart Warren in his e-mail
21 communication to Penly, Greg Woods, and MWoods dated April 29, 2007, wherein he valued
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26 ⁹ See, Section I(C)(a) and footnote 4, above. Documents from the FAA indicate that Penly was the Chief
27 Executive Officer of The Berkeley Group, LLC. See, Plaintiffs' Exhibit 116. Further, these same documents from
28 the FAA state: "THE BERKELEY GROUP LLC IS A NEW LLC AND CERTIFICATE, THE SAME BASIC
GROUP OF PERSONS HOLDING EAGLE JET AVIATION, INC (EWJA 136K) HAVE APPLIED FOR THE
NEW CERTIFICATION UNDER THE BERKELEY GROUP LLC (DBA NV JETS). CERTIFICATE ISSUED
ON JANUARY 21, 2010." Id.

1 such interest at approximately \$2,000,000.00.¹⁰ Though difficult to determine, Cirrus' damages
2 due to Penly's breaches of his fiduciary duties can be calculated by looking at all of the
3 admissible evidence—for example, evidence that EJA's Part 135 Certificate in and of itself had
4 a separate market value—and applying the undersigned's knowledge, training and experience.
5 Based on such, Cirrus suffered damages of \$1,500,000.00 in the loss of its shareholder interest
6 in EJA due to Penly's conduct.
7

8 II. AWARD

9 After considering the pleadings, the testimony and evidence presented at the hearing, the
10 arbitrator has decided, in full and final resolution of the claims and counterclaims submitted for
11 determination, as follows:
12

- 13 1. Defendant Eagle Jet Aviation, Inc. is liable for and shall pay Plaintiff Milton J. Woods
14 compensatory damages in the amount of \$111,750.00.
- 15 2. Defendant Alex Penly is liable for and shall pay Plaintiff Cirrus Aviation Services, Inc.
16 compensatory damages in the amount of \$1,500,000.00.
- 17 3. Any and all relief not specifically addressed herein, including punitive damages, is
18 expressly denied.
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20 ////

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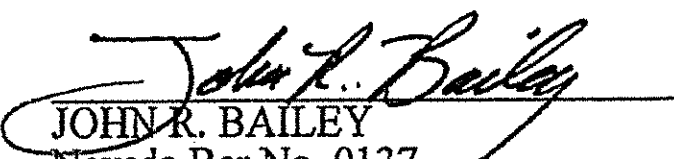
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27 ¹⁰ See, Plaintiffs' Exhibit 66. The \$2,000,000.00 offer from Mr. Warren was for MWoods' interest in EJA
28 and "other companies," and was contingent upon other specified conditions. It is noted that MWoods never agreed
to accept Mr. Warren's offer. Additionally, there was testimony presented by Plaintiffs about offers that were made
to purchase EJA in the range of \$3,000,000.00 to \$6,000,000.00; however, there was no written evidence of any
bona fide offers.

1 Each party shall bear its own fees and costs, including attorneys' fees, relating to this
2 Arbitration.

3 DATED this 27th day of January, 2015.
4

5 BAILEY ♦ KENNEDY

6
7 By:


JOHN R. BAILEY
Nevada Bar No. 0137
8984 Spanish Ridge Avenue
Las Vegas, Nevada 89148

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9 Arbitrator
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CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of January, 2015, a copy of the foregoing
ARBITRATION AWARD was served by sending a copy via electronic mail and by depositing a
true and correct copy in the U.S. Mail, first class postage prepaid, and addressed to the following
at their last known addresses:

Gus W. Flangas, Esq.
(E-mail: GWF@fdlawlv.com)
Michelle Di Silvestro Alanis, Esq.
(E-mail: mda@fdlawlv.com)
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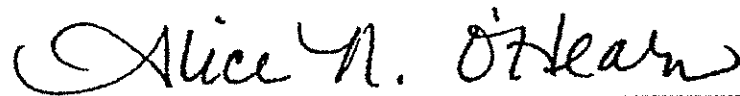
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Attorneys for Defendants/Counterclaimants
Eagle Jet Aviation Inc. and Alex Penly



Alice N. O'Hearn, an Employee of
BAILEY ♦ KENNEDY

Exhibit A

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9 E-Mail: jshafer@premierlegalgroup.com
10 Attorneys for Defendant ALEX PENLY
11 and EAGLE JET AVIATION, INC.

7 **PRIVATE BINDING ARBITRATION**

8 MILTON WOODS; CIRRUS AVIATION)
9 SERVICES INC., a Washington Corporation,)

Case No.: A-07-546250-B
Dept. No.: XXVII

10 Plaintiffs,

11 v.

STIPULATION AS TO UNDISPUTED
FACTS

12 EAGLE JET AVIATION INC., a Nevada)
13 Corporation; ALEX PENLY; STUART M.)
14 WARREN; PRIVATE JET SERVICES INC., a)
15 Nevada Corporation; MILT'S EAGLE LLC, a)
16 Nevada Limited Liability Company; DOES I)
17 through x, Inclusive,)

18 Defendants.

19 EAGLE JET AVIATION INC., a Nevada)
20 Company; ALEX PENLY, an Individual,)

21 Counterclaimants,

22 v.

23 MILTON WOODS, an Individual; CIRRUS)
24 AVIATION SERVICES INC., a Washington)
25 Corporation; DOES I through X, Inclusive,)

26 Counterdefendants.)

27 IT IS HEREBY STIPULATED AND AGREED by and between Defendants ALEX
28 PENLY and EAGLE JET AVIATION, INC., being represented by Jay A. Shafer, Esq. of the law
firm of Premier Legal Group, and Plaintiffs MILTON WOODS and CIRRUS AVIATION

SERVICES, INC., being represented by their counsel Gus D. Flangas, Esq., and the law offices of Flangas McMillan Law Group, that the following facts are stipulated to as undisputed:

1. The Plaintiff, MILTON J. WOODS (hereinafter referred to as "Mr. Woods"), is a United States citizen residing and working in Las Vegas, Nevada. He is an aircraft pilot with an Airline Transport Pilot ("ATP") rating and he has 48 years of experience as a pilot. He has lived in Las Vegas for over ten years. Mr. Woods became a United States Citizen in 2009.
2. The Plaintiff, CIRRUS AVIATION SERVICES (hereinafter referred to as "Cirrus"), is a Washington corporation with its principal place of business in Clark County, Nevada. Mr. Woods, along with his two sons, are the shareholders of Cirrus. Mr. Woods presently owns Ten Percent (10%) of the shares in Cirrus and his sons Mark Woods and Greg Woods each own Forty Five Percent (45%) of the shares.
3. The Defendant, EAGLE JET AVIATION, INC. (hereinafter referred to as "Eagle Jet"), was a Nevada corporation with its principal place of business in Clark County, Nevada.
4. Eagle Jet was an aviation company that offered the general public the ability to charter private aircraft. Eagle Jet had a FAR Part 135 Certificate (hereinafter referred to as the "Operating Certificate") from the Federal Aviation Administration (hereinafter referred to as the "FAA") to operate jet aircraft capable of carrying nine passengers or less anywhere in the United States, Canada, Mexico and the Caribbean.
5. Eagle Jet was formed on or about January 5, 1999.
6. Cirrus's shares represented a minimum Twenty Five Percent (25%) interest in Eagle Jet.
7. The Defendant, ALEXANDER PENLY (hereinafter referred to as "Mr. Penly"), is a citizen of the United Kingdom, and a resident of Las Vegas, Nevada.
8. Mr. Penly was an officer and director in Eagle Jet, and shareholder in Eagle Jet.
9. PRIVATE JET SERVICES, INC., (hereinafter referred to as "Private Jet") was and is a Nevada corporation organized under the laws of the State of Nevada with its principal place of business in Clark County, Nevada.

- 1 10. MILT'S EAGLE, LLC, (hereinafter referred to as "Milt's Eagle") was a Nevada Limited
- 2 Liability Company organized under the laws of the State of Nevada, currently in revoked
- 3 status, with its principal place of business in Clark County, Nevada.
- 4 11. Milt's Eagle was the owner of a Lear 35A Jet aircraft which is used in the operations of
- 5 Eagle Jet.
- 6 12. Milt's Eagle was owned by Eagle Jet.
- 7 13. Milt's Eagle filed bankruptcy in 2009.
- 8 14. Eagle Jet was originally formed and owned by Walter M. Frehe (hereinafter referred to as
- 9 "Mr. Frehe") and Roderick Thomson (hereinafter referred to as "Mr. Thomson").
- 10 15. Mr. Frehe and Mr. Thomson each owned a fifty percent (50%) interest in Eagle Jet.
- 11 16. After Mr. Frehe departed the company, shares in Eagle Jet were owned by his two sons,
- 12 Justin Thomson and Roland Thomson, with 49% each, and 2% being owned by Stuart
- 13 Warren. Later shares were 25% to each of Woods, Penly and Warren with the sons
- 14 splitting 25%.
- 15 17. At the time Eagle Jet was formed, Mr. Thomson was the owner of a Sabreliner Jet Model
- 16 NA265-75A (hereinafter referred to as the "Sabreliner").
- 17 18. Mr. Thomson owned the Sabreliner through a company called Lear 25, Inc. (hereinafter
- 18 referred to as "Lear 25").
- 19 19. In forming Eagle Jet, Eagle Jet entered into an agreement with Lear 25 for Eagle Jet to
- 20 manage leasing and chartering operations using the Sabreliner. Mr. Frehe was put in
- 21 charge of running Eagle Jet and the Sabreliner operations.
- 22 20. When Eagle Jet was formed, it did not have an Operating Certificate to operate the
- 23 Sabreliner so the aircraft was operated under the Operating Certificate of Scenic Airlines
- 24 (hereinafter referred to as "Scenic") and managed by a company known as Eagle Jet
- 25 Charter, Inc. (hereinafter referred to as "Eagle Charter").
- 26 21. Eagle Charter was wholly owned by Scenic.
- 27
- 28

- 1 22. Shortly after Eagle Jet was formed, Mr. Thomson created an entity known as "The Flying
2 Hospital, Inc." (hereinafter referred to as the "The Flying Hospital"), a nonprofit
3 corporation funded by Mr. Thomson.
- 4 23. Mr. Frehe became the president of The Flying Hospital and was responsible for its
5 management. Around February of 2000, Mr. Woods became employed by Eagle Charter
6 as a Captain for the Sabreliner. He was hired by the then Chief Pilot for Eagle Charter,
7 Douglas Wright.
- 8 24. Mr. Woods and the other employees related to the Sabreliner were considered employees
9 of Scenic.
- 10 25. Subsequent to Mr. Woods starting with Eagle Charter, Mr. Penly arrived in Las Vegas
11 from England as a representative of Mr. Thomson, brought in to check the outflow of
12 money from Eagle Jet to The Flying Hospital.
- 13 26. Besides checking into the Flying Hospital, Mr. Penly became involved with the
14 operations of the Sabreliner.
- 15 27. Scenic terminated the agreement it had with Mr. Thomson that had allowed the
16 Sabreliner to operate under Scenic's Operating Certificate. Because Scenic terminated its
17 relationship with Eagle Jet, Eagle Jet was faced with either terminating its Sabreliner
18 operations or acquiring its own Operating Certificate. It was decided that Eagle Jet would
19 obtain its own Operating Certificate, and it assumed full responsibility for the Sabreliner.
- 20 28. To obtain an Operating Certificate, the FAA, as one its requirements, commands that a
21 company conduct 25 hours of proving runs with FAA personnel present in the aircraft for
22 each type of aircraft the company intends to operate under the Operating Certificate.
- 23 29. Because jet aircraft can cost several thousand dollars per hour to operate, conducting
24 proving runs can be very expensive. Eagle Jet conducted the Sabreliner proving runs
25 during July, 2002 and was issued an Operating Certificate on July 16, 2002.
- 26 30. In or about November 2001, during the time Eagle Jet was working to obtain its
27 Operating Certificate, Mr. Frehe and Mr. Thomson had a falling-out. Mr. Thomson had
28

1 apparently been losing a great deal of money through Eagle Jet and believed Mr. Frehe
2 was improperly siphoning money.

3 31. Mr. Frehe agreed to leave the company and tender his shares in the Sabreliner operation
4 and in Eagle Jet to Mr. Thomson for a purchase price of \$36,000, payable at \$3,000 per
5 month for 12 months.

6 32. This surrender of shares by Mr. Frehe left Mr. Thomson as the sole shareholder in Eagle
7 Jet. Mr. Thomson's ownership was held by Justin Thomson (500 shares) and Roland
8 Thomson (500 shares), while Stuart Warren (hereinafter "Mr. Warren") was issued 20
9 shares. Upon Mr. Frehe's departure from Eagle Jet Mr. Penly acted as a representative of
10 Mr. Thomson.

11 33. On December 21, 2001, Mr. Warren was elected as President and Mr. Penly was elected
12 as Secretary/Treasurer of Eagle Jet.

13 34. Mr. Frehe subsequently initiated a lawsuit against Mr. Thomson because Mr. Thomson
14 had quit paying the \$3,000 per month. Mr. Thomson countersued, alleging malfeasance
15 on the part of Mr. Frehe and mismanagement of funds through Eagle Jet. Prior to
16 adjudication of this action, Mr. Frehe passed away.

17 35. Around December of 2002 or January of 2003, Mr. Wright, the Chief Pilot for Eagle Jet
18 gave his notice to Eagle Jet and resigned. Mr. Penly, as a representative of Mr. Thomson,
19 approached Mr. Woods about Mr. Woods assuming the position of the Chief Pilot.

20 36. Mr. Penly essentially told Mr. Woods that without a Chief Pilot the company would have
21 to be shut down. Mr. Woods accepted the position of Chief Pilot under the conditions that
22 Mr. Penly stay away from the operation of Eagle Jet.

23 37. Mr. Penly agreed to accept those conditions under which Mr. Woods would assume the
24 Chief Pilot position.

25 38. Upon becoming Chief Pilot, Mr. Woods managed the operations of Eagle Jet.

26 39. When Mr. Woods took over as Chief Pilot, Eagle Jet was operating at a loss and Mr.
27 Thomson was infusing money into the company to keep it operating.

28

1 40. As Chief Pilot, Mr. Woods controlled and scheduled the pilots employed by Eagle Jet and
2 he ended up running the entire Eagle Jet operation, including the chartering operations.
3 41. At the time Mr. Woods took over as Chief Pilot, Lear 25 was in arrears on the Sabreliner
4 payments and it became apparent that it was going to lose the Sabreliner to the finance
5 company holding the mortgage.
6 42. By law, without an aircraft, Eagle Jet could not retain its Operating Certificate.
7 43. Mr. Woods facilitated an agreement with the owner of D&D Aviation (hereinafter
8 referred to as "D&D") out of Salt Lake City, Utah wherein D&D agreed to lease Eagle
9 Jet a Lear 35 Jet Aircraft so that Eagle Jet could continue its operations and maintain its
10 Operating Certificate.
11 44. Mr. Woods took delivery of the Lear 35 (hereinafter referred to as the "D&D Lear 35")
12 from D&D on February 11, 2003.
13 45. Eagle Jet returned the Sabreliner to the finance company by delivery to Scottsdale,
14 Arizona on February 16, 2003.
15 46. Mr. Woods used his personal credit cards to purchase fuel, parts and supplies for Eagle
16 Jet.
17 47. Mr. Woods used more than one credit card account for the payment of expenses for Eagle
18 Jet and aircraft managed or operated by Eagle Jet prior to April 26, 2007.
19 48. Mr. Woods directed reimbursement of the charges on his personal credit cards, and
20 received payments from Eagle Jet for charges on his personal credit cards.
21 49. During the latter part of 2003, Mr. Woods asked for an ownership interest in Eagle Jet.
22 50. The owners of Eagle Jet approved distribution of 1,000 shares in Eagle Jet to Mr. Woods.
23 51. Mr. Woods directed that the 1,000 shares be issued to Cirrus.
24 52. At the time Woods executed the "Shareholder Buy-Sell Agreement", all other
25 shareholders, save Justin Thomson and Roland Thomson, signed this agreement.
26 53. Except for his interest in Cirrus Aviation, LLC, Milton Woods has no direct ownership of
27 Eagle Jet.
28

1 54. On or about November 3, 2003, Cirrus received 250 shares in Eagle Jet via Stock
2 Certificate Number 9. Stock Certificate Number 9 was signed by Mr. Penly as Secretary
3 and by Mr. Warren as President of Eagle Jet.
4 55. Approximately one month later, on or about December 1, 2003, Cirrus received the
5 remaining 750 shares in Eagle Jet via Stock Certificate Number 14. Stock Certificate
6 Number 14 was similarly signed by Mr. Penly as Secretary and by Mr. Warren as
7 President.
8 56. Sometime in November 2003, Eagle Jet obtained another Lear 35 Jet Aircraft, under a
9 more favorable lease from Robert Buck of Monterey, California.
10 57. Accordingly, the borrowed D&D Lear 35 was returned to D&D in Salt Lake.
11 58. Throughout 2003 and 2004, Eagle Jet's business continued to increase and eventually it
12 reached a point where it became necessary to obtain a second Lear Jet.
13 59. Mr. Penly obtained a lease on a Lear 35 from CIT Bank (hereinafter referred to as the
14 "CIT Lear 35").
15 60. The FAA requires that each company holding an Operating Certificate have both a Chief
16 Pilot and a Director of Operations/General Manager. Sometime in 2003, the FAA
17 required that Mr. Woods become either Chief Pilot or Director of Operations/General
18 Manager. Mr. Woods became the Director of Operations/General Manager and a new
19 Chief Pilot was hired.
20 61. In or around November of 2004, Mr. Woods found and negotiated the sale of a late serial
21 number Lear 35 Jet Aircraft through Rolf Smith. On November 29, 2004, the Board of
22 Directors of Eagle Jet, by unanimous written consent, authorized Eagle Jet to purchase
23 the 1987 Gates Lear 35A Aircraft for \$2,300,000, pursuant to an Aircraft Purchase
24 Agreement dated Sept 30, 2004 between M/G Transport Services, Inc. and Jeff Wyler
25 Dealer Group, Inc. The Board of Directors further dictated that Eagle Jet take title to the
26 Lear 35A in a previously formed company known as "Milt's Eagle, LLC."
27
28

- 1 62. Pursuant to the resolution, Eagle Jet's Board agreed that Eagle Jet would guarantee the
2 obligations of Milt's Eagle with respect to the loan. The written consent document shows
3 Mr. Penly, Mr. Woods and Mr. Warren as the Board of Directors of Eagle Jet.
- 4 63. Mr. Penly was personally handling all the financing arrangements for the purchase of the
5 Lear 35A, and was told that a \$250,000 down payment was necessary for the purchase.
6 Upon completion, the down payment requirement was \$350,000, with \$100,000 to come
7 from the assets of Eagle Jet.
- 8 64. Woods arranged to pick up the Lear 35A in Oregon because there is no applicable sales
9 tax. When Mr. Woods arrived in Oregon to take possession of the Lear 35A, the
10 financing to purchase the Lear 35A was not immediately available. Mr. Penly worked to
11 obtain replacement financing, which was obtained at a higher premium. To complete the
12 purchase of the Lear 35A, the finance company JODA required a personal commitment
13 from the Eagle Jet owners. Mr. Woods put up \$100,000, Mr. Warren agreed to put up
14 \$60,000, Mr. Penly put up \$90,000 and Mr. Thomson elected not to participate in this
15 transaction. Mr. Warren required that his \$60,000 contribution be considered a loan.
16 While Mr. Woods and Mr. Penly agreed to personally guaranty the loan for the Lear 35A,
17 Mr. Warren did not.
- 18 65. Eagle Jet, through Milt's Eagle LLC, received the Lear 35A in December of 2004
19 (hereinafter referred to as the "Purchased Lear 35A") and discontinued leasing the Lear
20 35 from CIT. Milt's Eagle LLC was to lease the Purchased Lear 35A to Eagle Jet. Eagle
21 Jet made the mortgage payments directly to the finance company.
- 22 66. Mr. Penly was reimbursed for his \$90,000 contribution.
- 23 67. Mr. Warren received his \$60,000 back within approximately two years thereafter,
24 comprised of two payments of \$30,000.
- 25 68. As of April 2007, Mr. Woods had not been reimbursed for his \$100,000 contribution.
- 26 69. About six to eight months later after obtaining the Purchased Lear 35A, Eagle Jet
27 obtained new financing for the Purchased Lear 35A through Center Capital Corporation
28

1 under much more favorable terms, with the monthly mortgage payments being reduced
2 from approximately \$30,000 per month to \$20,900 per month.

3 70. Again, both Mr. Woods and Mr. Penly had to personally guarantee the loan. Mr. Warren
4 did not commit to the guaranty.

5 71. On July 22, 2005, the Board of Directors of Eagle Jet resolved to issue 2,000 Eagle Jet
6 shares to Messrs. Penly, Warren and Woods.

7 72. On January 6, 2006, Mr. Woods was elected as President of Eagle Jet.

8 73. Sometime in 2006, Mr. Penly obtained a hanger at the McCarran Airport from which
9 Eagle Jet could operate.

10 74. In June of 2006, Mr. Woods found an aircraft and assisted a group of local Las Vegas
11 businessmen in the purchase of a Lear 55 Jet Aircraft, that was added to Eagle Jet's
12 Operating Certificate as a managed aircraft pursuant to an agreement with those
13 businessmen (hereinafter referred to as the "Managed Lear 55 One").

14 75. This aircraft was owned by 4 Romeo Whiskey LLC, who in turn was owned by Randy
15 Kidd, Steven Aizenburg and Mr. Ostergaard.

16 76. Mr. Woods did not charge 4 Romeo Whiskey a finder's fee for the work in acquiring a
17 Lear 55.

18 77. Eagle Jet did not receive a finder's fee from 4 Romeo Whiskey.

19 78. Pursuant to the agreement, Eagle Jet was to receive 15% of the revenue derived from
20 charter operations for the Managed Lear 55 One, as well as a hanger and maintenance
21 contract for \$9,000 per month.

22 79. On December 29, 2006 the Board of Directors by Unanimous Written Consent voted to
23 give bonuses to Mr. Woods in the amount of \$200,000 and to Mr. Penly in the amount of
24 \$100,000 (hereinafter referred to as the "December Resolution"). In addition, the Board
25 voted to pay \$100,000 to Warren.

26 80. The December 29, 2006 resolution was rescinded by a resolution dated May 1, 2007.

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- 1 81. In February of 2007, Eagle Jet began managing another Lear 55 owned by Jim Monaghan
2 in Scottsdale, Arizona (hereinafter referred to as the "Managed Lear 55 Two"). The
3 Managed Lear 55 Two was also added to Eagle Jet's Certificate as a managed aircraft
4 pursuant to an agreement with Mr. Monaghan.
- 5 82. Mr. Woods located for Randy Kidd, Steve Aizenberg and associates a Challenger 601-
6 3AER (hereinafter referred to as the "Challenger") which the businessmen purchased in
7 February of 2007.
- 8 83. At a called meeting of the Eagle Jet Board, in February of 2007 the Company elected to
9 not participate in the purchase of this aircraft.
- 10 84. Because the Challenger had more than nine seats, Eagle Jet would have had to expand its
11 Operating Certificate and conduct proving runs with the Challenger.
- 12 85. Eagle agreed that Advanced Air Management, Inc., a California corporation located in
13 Van Nuys, California (hereinafter referred to as "Advanced Air") should operate the
14 Challenger. Mr. Woods did not agree to have the Challenger operated by Advanced Air.
- 15 86. Advanced Air Management, Inc., a California corporation located in Van Nuys,
16 California was purchased in September 2006 by Eagle Jet and Private Jet Services and
17 shares were given to Mr. Woods (1,000 shares), Mr. Penly (1,000 shares), Mr. Warren
18 (1,000 shares), John Kaylor (500 shares) and Scott Chikar (500 shares).
- 19 87. Advanced Air Management was purchased for \$171,500, and Eagle Jet made the
20 purchase with an expenditure of company funds.
- 21 88. After the pre-buy inspection for the Challenger was completed in Tucson, Arizona, Eagle
22 Jet flew the owners of the Challenger down to take possession of the Challenger. Mr.
23 Woods was not type-rated in the Challenger.
- 24 89. Woods took pilot Bob McKenna (hereinafter referred to as "Mr. McKenna"), with him to
25 fly the aircraft back to Las Vegas with the owners on board.
- 26 90. Mr. Woods and Mr. McKenna violated an FAA regulation which requires that prior to
27 carrying passengers, the crew must have, within the past 90 days, completed three take-
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1 offs and three landings to a full stop. Although it was a private trip with only the owners
2 onboard the aircraft; nevertheless the FAA viewed this as an infraction. Mr. Woods
3 claims this was inadvertent.

4 91. The Challenger was never part of Eagle Jet's Certificate.

5 92. A letter signed by Mr. McKenna reports this violation to the FAA. Mr. Woods then
6 received a letter of investigation from the FAA.

7 93. Messrs. Penly and Warren wrote a letter to Mr. Woods, dated April 23, 2007, discussing
8 Mr. Wood's position with the company and setting forth several terms for his separation.

9 94. The proposal was conditioned on Mr. Woods not working for any Eagle Jet competitor,
10 being supportive of Eagle Jet, and not making derogatory statements about Eagle Jet.

11 95. Mr. Woods was presented with the letter by Mr. Warren and Mr. Penly.

12

13 96. On or about April 27, 2007, Mr. Woods issued checks to pay for the charges on Mr.
14 Woods's personal credit cards for expenses alleged to have been incurred by Eagle Jet
15 including \$34,000 for a Lear 55 windshield, \$23,000 for installation of the windshield,
16 \$14,000 for training at Simuflite, miscellaneous fuel charges, ramp charges and aircraft
17 parts.

18 97. Mr. Woods also issued a check to himself for reimbursement of the \$100,000 he loaned
19 Eagle Jet for purchase of the Purchased Lear 35, plus \$15,000 interest.

20 98. Lastly, Mr. Woods cut check number 3304 to Cirrus for \$200,000. Mr. Woods cut the
21 checks to Cirrus instead of himself

22 99. Shortly thereafter, Mr. Penly and Mr. Warren, owning a majority interest of Eagle Jet,
23 told Mr. Woods they were voting him out.

24 100. At about this time Mr. Penly had the locks changed at Eagle Jet, and called to
25 cancel Mr. Woods's security badge for airport access.

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1 101. On or about April 30, 2007, Mr. Penly sent a letter to Bank of Nevada, telling the
2 bank there was a dispute and to put a hold on all funds regarding check number 3304.

3 Bank of Nevada subsequently interpled the funds suing both Mr. Woods and Eagle Jet.

4 102. The owner of the Managed Lear 55 One took back its aircraft from Eagle Jet..

5 103. During all times he was the President, Chief Pilot and Director of Operations for
6 Eagle Jet, Milton J. Woods was a Canadian citizen.

7 104. Milton J. Woods obtained US Citizenship in 2009.

8 105. Mr. Woods directed the payment of expenses for Eagle Jet prior to April 26,
9 2007.

10 106. Milt Woods opened a bank account called 'Eagle Jet Maintenance' at Bank West
11 of Nevada.

12 107. Mr. Woods had access to the customer lists of Eagle Jet. Mr. Woods has had
13 contact with Randy Kidd since April 26, 2007.

14 108. Milt Woods and Greg Woods appeared at the offices of Eagle Jet on or about July
15 24, 2009 with more than one police officer to obtain or inspect financial records of Eagle
16 Jet.

17 DATED this 14th day of June, 2014.

DATED this 14th day of June, 2014.

18 PREMIER LEGAL GROUP

FLANGAS MCMILLAN LAW GROUP

19
20
21 By: 

By: 

22 Jay A. Shafer, Esq.
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Attorneys for Defendants
26 EAGLE JET AVIATION, INC.
and ALEX PENLY

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Attorneys for Plaintiffs
MILTON WOODS and
CIRRUS AVIATION SERVICES

07A546250

DISTRICT COURT
CLARK COUNTY, NEVADA

Business Court

COURT MINUTES

May 05, 2014

07A546250	Milton Woods, Cirrus Aviation Services Inc vs Eagle Jet Aviation Inc, Alex Penley, et al
-----------	------------------------------------------------------------------------------------------------

May 05, 2014 2:53 PM Minute Order

HEARD BY: Allf, Nancy

COURTROOM: Dist Court XXVII -
Chambers

COURT CLERK: Sharon Chun

JOURNAL ENTRIES

- MINUTE ORDER - NO HEARING

COURT FINDS after review a Status Check on Arbitration was set for MOTION CALENDAR on May 7, 2014 at 9.00 a.m. COURT FURTHER FINDS after review the Court Granted a motion to Confirm Arbitration Award for Attorney Fees on October 16, 2013 however the Award would not be enforceable until arbitration was complete. At a status check on arbitration on March 5, 2014 the Court found that the parties had not yet set an arbitration date and ordered the status check continued 60 days. If the case did not move forward in the next 60 days the Court would set a Show Cause Hearing for dismissal.

COURT FURTHER FINDS after review Defendant filed a Motion to Dismiss Claims against Milt s Eagle, Private Jet Services and Stuart Warren pursuant to NRCP 41(e) on April 18, 2014 and the Motion is set for Hearing on MOTION CALENDAR on May 21, 2014 at 10.00 a.m.

COURT ORDERS for good cause appearing Status Check on arbitration VACATED.

CLERK'S NOTE: A copy of this minute order has been distributed to the following:
Gus W. Flangas (Flangas & McMillan) FAX: 702-382-9452
Jay A. Shafer or Robert C. Reade (Premier Legal Group)
Email: jshafer@premierlegallgroup.com

PRINT DATE: 05/05/2014

Page 1 of 1

Minutes Date: May 05, 2014

R0075

07A546250

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Business Court

COURT MINUTES

October 16, 2013

07A546250

Milton Woods, Cirrus Aviation Services Inc

vs

Eagle Jet Aviation Inc, Alex Penley, et al

October 16, 2013

9:30 AM

Motion to Confirm
Arbitration Award

HEARD BY: Alf, Nancy

COURTROOM: RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Traci Rawlinson

REPORTER:

PARTIES

PRESENT:

Flangas, Gus W
Shafer, Jay A.

Attorney for Plaintiff

Attorney for Defendant

JOURNAL ENTRIES

- Arguments by counsel regarding the arbitration award for attorney's fees and costs, whether or not award was in lieu of striking the pleadings, NRS 38.239, arguments in supplement filed by defense counsel, and further arguments. Mr. Flangas moved to strike the supplement as a fugitive document. Court stated its findings and ORDERED, Motion to Confirm Arbitration Award for Attorney Fees and Costs GRANTED IN PART as to confirmation of the award and DENIED IN PART as Court FINDS it is interlocutory and not enforceable at this time, STATUS CHECK set 3/5/2014 9:00 am. Court stated that if the arbitration is not complete in February and it hears complaints regarding dilatory tactics on behalf of the Defendant it will enforce the order.

3/5/2014 9:00 AM STATUS CHECK: ARBITRATION PROCEEDINGS

PRINT DATE: 10/22/2013

Page 1 of 1

Minutes Date:

October 16, 2013

R0076

EVENTS & ORDERS OF THE COURT

12/02/2015 All Pending Motions (9:00 AM) (Judicial Officer Cory, Kenneth)
PLAINTIFFS MOTION TO DISMISS ALL OF DEFENDANT HKLM'S CAUSES OF ACTION CONTAINED IN THE COUNTERCLAIM AND MOTION TO DISMISS OR IN THE ALTERNATIVE MOTION FOR SUMMARY JUDGMENT AS TO DEFENDANTS THIRD AND FOURTH CAUSES OF ACTION CONTAINED IN THE COUNTERCLAIM FOR FRAUD AND VIOLATION OF THE NEVADA DECEPTIVE TRADE PRACTICES ACT' AND MOTION TO STRIKE IMMATERIAL, IMPERTINENT, IRRELEVANT AND SCANDALOUS ALLEGATIONS... DEFENDANTS' MOTION FOR SUMMARY JUDGMENT IN THEIR FAVOR AGAINST PLAINTIFFS MICHAEL D. RICHMAN AND LUZVIMINDA O. DAPAT

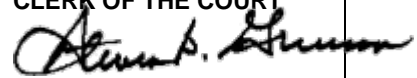
Minutes

12/02/2015 9:00 AM

- PLAINTIFFS MOTION TO DISMISS ALL OF DEFENDANT HKLM'S CAUSES OF ACTION CONTAINED IN THE COUNTERCLAIM AND MOTION TO DISMISS OR IN THE ALTERNATIVE MOTION FOR SUMMARY JUDGMENT AS TO DEFENDANTS THIRD AND FOURTH CAUSES OF ACTION CONTAINED IN THE COUNTERCLAIM FOR FRAUD AND VIOLATION OF THE NEVADA DECEPTIVE TRADE PRACTICES ACT' AND MOTION TO STRIKE IMMATERIAL, IMPERTINENT, IRRELEVANT AND SCANDALOUS ALLEGATIONS... DEFENDANTS' MOTION FOR SUMMARY JUDGMENT IN THEIR FAVOR AGAINST PLAINTIFFS MICHAEL D. RICHMAN AND LUZVIMINDA O. DAPAT Mr. Flangas argued the causes of action are barred by NRS 78.585 and does not think there is a stay of the statute of limitations in 2011. As to fraud, Mr. Flangas argued he does not think it was stayed. Mr. Flangas further argued the deceptive trade practice is to protect the consumer and they are not a consumer and it does not apply and there is no cause of action. Mr. Kennedy argued the motion for summary judgment should be denied as there has to be a statement of undisputed facts and what is in the counterclaim must be considered and not what is in the third amended complaint. As to the fraud, it is clear from the affidavit they discovered in 2014 and the counterclaim was filed within two years. Plaintiffs are arguing the wrong statute as to statute of limitations chapter 86 because it is a LLC and there was a stay for four nine months. Mr. Kennedy further argued as to their deceptive trade practice argument that you have to be a consumer is wrong, it is a wrongful action. Mr. Richmond used his own words and the things he claims he was awarded were bought. Defendants have had to spend a lot of money fixing his representations. Mr. Flangas argued as to the auditors findings and files not being updated. Further argued defendants were on inquiry notice. Mr. Kennedy argued the bankruptcy ruling stated this should have been disclosed in the bankruptcy, but because of the lapse in time the Bankruptcy Court was unable to re-open the estate. Mr. Kennedy further argued the two issues in the summary judgment motion have been affirmed by the Bankruptcy Court. The question now is after closure of bankruptcy are the plaintiffs going to be able to pursue the claims now for their own benefit. Mr. Kennedy argued 7th Circuit case Cannon-Stokes vs. Potter and because they did not disclose in bankruptcy they are estopped from pursuing. Mr. Flangas argued judicial estoppel and gave summary of the bankruptcy procedures. Mr. Flangas further argued Mr. Daniel Marks was representing plaintiffs in this action not the bankruptcy action and therefore it was defendants responsibility to disclose the dispute. Mr. Zach Larsen, Bankruptcy counsel, gave summary of the Chapter 13 procedures. Further arguments by counsel. Mr. Kennedy argued the Nolm case. COURT ORDERED, BOTH Motions GRANTED and each party to prepare their own Order

Parties Present

Return to Register of Actions



ARJ
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mconnot@foxrothschild.com
Attorneys for Plaintiffs

DISTRICT COURT
CLARK COUNTY, NEVADA

MILTON J. WOODS and CIRBUS
AVIATION SERVICES, INC., a
Washington corporation,

Plaintiffs,

vs.

EAGLE JET AVIATION, INC., A Nevada
corporation; ALEX PENLY; STUART M.
WARREN; PRIVATE JET SERVICES,
INC., a Nevada corporation; MILT'S
EAGLE, LLC, a Nevada limited liability
company and DOES I-X, inclusive.

Defendants.

Case No.: 07A546250
Dept. No.: XI

**AFFIDAVIT OF RENEWAL OF
JUDGMENT**

I, Greg Woods, hereby affirm the following:

1. I am the President of Cirrus Aviation Services, Inc., Plaintiff/Judgment Creditor ("Cirrus") in the above action.
2. On January 20, 2016, a Judgment was entered in the above-entitled Court in favor of Cirrus Aviation Services, Inc. and against Alex Penly, Defendant/Judgment Debtor ("Penly"), in amount of \$1,500,000.00 (the "Judgment"). See Judgment attached hereto as Exhibit 1 and incorporated herein. Post-judgment interest accrues on the Judgment per the terms of the Judgment itself.

3. The Judgment was recorded in the Clark County Recorder's Office on February 1, 2016, as Instrument No. 20160201-0002431. *See* recorded Judgment, attached hereto as Exhibit 2, and incorporated herein.

4. Penly has not made any payments on the Judgment.

5. To date, Cirrus has not collected any amounts from Penly in relation to the Judgment.

6. There are no set-offs or counterclaims in favor of Penly.

7. There is no outstanding writ of execution for enforcement of the Judgment.

8. The legal interest accrued on the Judgment commencing on August 15, 2007 through January 7, 2022, totals \$1,288,094.58, and is calculated as follows:

08/15/2007 - 12/31/2007 \$ 58,551.37(139 days @ \$421.23/daily @ 10.250%/year)

01/01/2008 - 06/30/2008 \$ 68,995.90(182 days @ \$379.10/daily @ 9.250%/year)

07/01/2008 - 12/31/2008 \$ 52,786.89(184 days @ \$286.89/daily @ 7.000%/year)

01/01/2009 - 06/30/2009 \$ 39,051.37(181 days @ \$215.75/daily @ 5.250%/year)

07/01/2009 - 12/31/2009 \$ 39,698.63(184 days @ \$215.75/daily @ 5.250%/year)

01/01/2010 - 06/30/2010 \$ 39,051.37(181 days @ \$215.75/daily @ 5.250%/year)

07/01/2010 - 12/31/2010 \$ 39,698.63(184 days @ \$215.75/daily @ 5.250%/year)

01/01/2011 - 06/30/2011 \$ 39,051.37(181 days @ \$215.75/daily @ 5.250%/year)

07/01/2011 - 12/31/2011 \$ 39,698.63(184 days @ \$215.75/daily @ 5.250%/year)

01/01/2012 - 06/30/2012 \$ 39,159.84(182 days @ \$215.16/daily @ 5.250%/year)

07/01/2012 - 12/31/2012 \$ 39,590.16(184 days @ \$215.16/daily @ 5.250%/year)

01/01/2013 - 06/30/2013 \$ 39,051.37(181 days @ \$215.75/daily @ 5.250%/year)

07/01/2013 - 12/31/2013 \$ 39,698.63(184 days @ \$215.75/daily @ 5.250%/year)

01/01/2014 - 06/30/2014 \$ 39,051.37(181 days @ \$215.75/daily @ 5.250%/year)

07/01/2014 - 12/31/2014 \$ 39,698.63(184 days @ \$215.75/daily @ 5.250%/year)

01/01/2015 - 06/30/2015 \$ 39,051.37(181 days @ \$215.75/daily @ 5.250%/year)

07/01/2015 - 12/31/2015 \$ 39,698.63(184 days @ \$215.75/daily @ 5.250%/year)
01/01/2016 - 06/30/2016 \$ 41,024.59(182 days @ \$225.41/daily @ 5.500%/year)
07/01/2016 - 12/31/2016 \$ 41,475.41(184 days @ \$225.41/daily @ 5.500%/year)
01/01/2017 - 06/30/2017 \$ 42,770.55(181 days @ \$236.30/daily @ 5.750%/year)
07/01/2017 - 12/31/2017 \$ 47,260.27(184 days @ \$256.85/daily @ 6.250%/year)
01/01/2018 - 06/30/2018 \$ 48,349.32(181 days @ \$267.12/daily @ 6.500%/year)
07/01/2018 - 12/31/2018 \$ 52,931.51(184 days @ \$287.67/daily @ 7.000%/year)
01/01/2019 - 06/30/2019 \$ 55,787.67(181 days @ \$308.22/daily @ 7.500%/year)
07/01/2019 - 12/31/2019 \$ 56,712.33(184 days @ \$308.22/daily @ 7.500%/year)
01/01/2020 - 06/30/2020 \$ 50,348.36(182 days @ \$276.64/daily @ 6.750%/year)
07/01/2020 - 12/31/2020 \$ 39,590.16(184 days @ \$215.16/daily @ 5.250%/year)
01/01/2021 - 06/30/2021 \$ 39,051.37(181 days @ \$215.75/daily @ 5.250%/year)
07/01/2021 - 12/31/2021 \$ 39,698.63(184 days @ \$215.75/daily @ 5.250%/year)
01/01/2022 – 01/07/2022 \$ 1,510.25(7 days @ \$215.75/daily @ 5.250%/year)

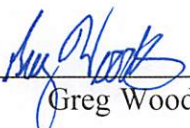
9. The sum total of the judgment currently due, inclusive of interest through January 7, 2022, is \$2,788,094.58.

10. Alex Penly's last known address is 1287 Rolling Sunset Street, Henderson, Nevada 89052.

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

Executed this 7th day of January, 2022.

CIRRUS AVIATION SERVICES

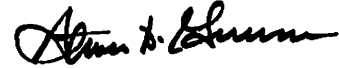
By: 
Greg Woods

Its: President

(No Notary Per NRS 53.045)

EXHIBIT 1

EXHIBIT 1



CLERK OF THE COURT

JUDG
GUS W. FLANGAS, ESQ.
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3275 South Jones Blvd., Suite 105
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Telephone: (702) 307-9500
Facsimile: (702) 382-9452
Attorney for Plaintiffs

DISTRICT COURT
CLARK COUNTY, NEVADA

MILTON J. WOODS, and CIRRUS
AVIATION SERVICES, INC., a Washington
Corporation,

Plaintiffs,

vs.

EAGLE JET AVIATION, INC., a Nevada
Corporation; ALEX PENLY, and STUART
M. WARREN; PRIVATE JET SERVICES, INC.,
a Nevada Corporation; MILT'S EAGLE, LLC, a
Nevada Limited Liability Company; and
DOES I-X, inclusive,

Defendants.

Case No.: A546250
Dept No.: XXVII

JUDGMENT

THIS MATTER came on for Binding Arbitration on August 14, 15, 20, 21, 22, 28;
September 3, 12, 15, 18; October 3, 15, 28, 29; November 3, 4, 24; and December 8, 9, 10, of 2014.
A written Arbitration Award in this matter was rendered on January 27, 2015. The Arbitration
Award was confirmed in a Hearing held on April 29, 2015 at 9:30 a.m., and an Order Confirming
Arbitration Award was entered on September 18, 2015.

Thereafter, there was a Hearing before this Court on June 15, 2015, on
Defendants/Counterclaimants' Motion to Modify or Correct Arbitration Award and Motion to
Vacate Arbitration Award, wherein the Court denied said Motions in an Order entered on September
18, 2015.

///

<input type="checkbox"/> Voluntary Dismissal	<input type="checkbox"/> Summary Judgment
<input type="checkbox"/> Involuntary Dismissal	<input type="checkbox"/> Stipulated Judgment
<input type="checkbox"/> Stipulated Dismissal	<input type="checkbox"/> Default Judgment
<input type="checkbox"/> Motion to Dismiss by Deft(s)	<input checked="" type="checkbox"/> Judgment of Arbitration

1 Therefore, this matter having been fully litigated and confirmed, and the Court being fully advised
2 in the premises,

3 **IT IS ORDERED, ADJUDGED and DECREED** that the Arbitration Award and Order
4 Confirming Arbitration Award attached hereto as Exhibit "1", is reduced to Judgment; and

5 **IT IS FURTHER ORDERED** that the Plaintiff, MILTON J. WOODS (hereinafter "Mr.
6 Woods"), shall have and recover from Defendant, EAGLE JET AVIATION, INC., a Judgment in
7 the sum of One Hundred Eleven Thousand Seven Hundred and Fifty dollars (\$111,750.00) with
8 interest thereon at the legal rate of interest as provided by law from the date of the service of the
9 Complaint herein through the date that the Judgment is paid in full; and

10 **IT IS FURTHER ORDERED, ADJUDGED and DECREED** that the Plaintiff, CIRRUS
11 AVIATION SERVICES, INC. (hereinafter "Cirrus") shall have and recover from Defendant, ALEX
12 PENLY, a Judgment in the sum of One Million Five Hundred Thousand Dollars (\$1,500,000.00)
13 with interest thereon at the legal rate of interest as provided by law from the date of the service of
14 the Complaint herein through the date that the Judgment is paid in full; and

15 **IT IS FURTHER ORDERED, ADJUDGED and DECREED** that the Plaintiffs shall have
16 and recover from Defendant, ALEX PENLY, a Judgment in the sum of Eighty Thousand Dollars
17 (\$80,000.00) with interest thereon at the legal rate of interest as provided by law from the date of
18 the service of the Complaint herein through the date that the Judgment is paid in full.

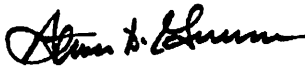
19 **DATED** this 14 day of January, 2016.

20
21 Nancy L. Allif
22 **DISTRICT JUDGE** EA

23 Respectfully submitted by:

24
25 GUS W. FLANGAS, ESQ.
26 Nevada Bar No. 004989
27 FLANGAS DALACAS LAW GROUP
28 gwf@fdlawlv.com
3275 South Jones Blvd., Suite 105
Las Vegas, Nevada 89146

EXHIBIT 1



CLERK OF THE COURT

1 **ORDR**
2 GUS W. FLANGAS, ESQ.
3 Nevada Bar No. 004989
4 gwf@fdlawlv.com
5 **FLANGAS MCMILLAN LAW GROUP**
6 3275 South Jones Blvd., Suite 105
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8 Telephone: (702) 307-9500
9 Facsimile: (702) 382-9452
10 *Attorney for Plaintiffs*

11 **DISTRICT COURT**
12 **CLARK COUNTY, NEVADA**

13 MILTON J. WOODS, and CIRRUS
14 AVIATION SERVICES, INC., a Washington
15 Corporation,

16 Plaintiffs,

17 vs.

18 EAGLE JET AVIATION, INC., a Nevada
19 Corporation; ALEX PENLY, and STUART
20 M. WARREN; PRIVATE JET SERVICES, INC.,
21 a Nevada Corporation; MILT'S EAGLE, LLC, a
22 Nevada Limited Liability Company; and
23 DOES I-X, inclusive,

24 Defendants.

Case No.: A546250
Dept No.: XXVII

ORDER CONFIRMING
ARBITRATION AWARD

25 THIS MATTER came for Hearing before this Court on April 29, 2015 at 9:00 a.m. on the
26 Plaintiffs' "Motion to Confirm Arbitration Award." The Plaintiffs were represented by GUS W.
27 FLANGAS, ESQ. of the FLANGAS DALACAS LAW GROUP. The Defendants, ALEX PENLY
28 (hereinafter "Mr. Penly) and EAGLE JET SERVICES, INC. (hereinafter "Eagle Jet"), were
represented by their attorneys, JAY W. SHAFER, ESQ. of the PREMIER LEGAL GROUP who
appeared in person, and MARK C. FIELDS, ESQ. of the Law Offices of Mark C. Fields, APC, who
appeared telephonically.

Having reviewed the Pleadings and Papers on file in this matter, heard arguments by counsel,

....

1 and good cause appearing;

2 **THE COURT HEREBY FINDS** that the Plaintiffs brought a complaint against the
3 Defendants to recover monies owed the Plaintiffs for loss of shareholder interest and bonus
4 payments, among other relief sought.

5 **THE COURT FURTHER FINDS** that the Parties mentioned herein, voluntarily agreed to
6 submit the entire matter into Binding Arbitration. NLA

7 **THE COURT FURTHER FINDS** that the Parties agreed to have JOHN H. BAILEY, ESQ. WAS
8 (Hereinafter "Mr. Bailey") appointed as the Arbitrator in this case.

9 **THE COURT FURTHER FINDS** that the Parties arbitrated this case before Mr. Bailey on
10 August 14, 15, 20, 21, 22, 28; September 3, 12, 15, 18; October 3, 15, 28, 29; November 3, 4, 24;
11 and December 8, 9, 10, of 2014, at the law offices of BAILEY KENNEDY located in Clark County,
12 Las Vegas, Nevada.

13 **THE COURT FURTHER FINDS** that after the completion of the Binding Arbitration, Mr.
14 Bailey rendered a written Arbitration Award (hereinafter "the Award"), dated January 27, 2015. A
15 copy of the Award is attached hereto as Exhibit "1" and is incorporated in its entirety into this Order
16 and is binding as though fully set forth herein.

17 **THE COURT FURTHER FINDS** that pursuant to the Award, Mr. Bailey awarded the
18 Plaintiff, MILTON J. WOODS (hereinafter "Mr. Woods"), the amount of One Hundred Eleven
19 Thousand Seven Hundred and Fifty dollars (\$111,750.00) against Eagle Jet.

20 **THE COURT FURTHER FINDS** that pursuant to the Award Mr. Bailey awarded the
21 Plaintiff, CIRRUS AVIATION SERVICES, INC. (hereinafter "Cirrus") the amount of One Million
22 Five Hundred Thousand Dollars (\$1,500,000.000) against Mr. Penly.

23 **THE COURT FURTHER FINDS** that on October 16, 2013, the Court GRANTED the
24 Plaintiffs' previous "Motion to Confirm Arbitration Award" wherein Mr. Bailey awarded the
25 Plaintiffs the amount of Eighty Thousand Dollars (\$80,000) against Mr. Penly for Attorneys Fees
26 as sanctions but delayed the enforceability of the award until the Arbitration was complete
27 (hereinafter the "Previous Award"). A copy of the Previous Award is attached hereto as Exhibit "1"
28 and is incorporated in its entirety into this Order and binding as though fully set forth herein.

1 **THE COURT FURTHER FINDS** that pursuant to NRS 38.239, the Plaintiffs are entitled
2 to an Order confirming the Award and the Previous Award.

3 **THEREFORE, THE COURT HEREBY ORDERS** that the Plaintiffs' "Motion to Confirm
4 Arbitration Award" is **Granted**.

5 **THE COURT FURTHER ORDERS** that the Award to Mr. Woods in the amount of One
6 Hundred Eleven Thousand Seven Hundred and Fifty dollars (\$111,750.00) against Eagle Jet is
7 **Confirmed** and Mr. Woods is therefore entitled to Judgement against Eagle Jet in the amount of One
8 Hundred Eleven Thousand Seven Hundred and Fifty dollars (\$111,750.00), plus interest in an
9 amount allowed by law.

10 **THE COURT FURTHER ORDERS** that the Award to the Cirrus in the amount of One
11 Million Five Hundred Thousand Dollars (\$1,500,000.000) against Mr. Penly is **Confirmed** and
12 Cirrus is therefore entitled to Judgement against Mr. Penly in the amount of One Million Five
13 Hundred Thousand Dollars (\$1,500,000.000), plus interest in an amount allowed by law.

14 **THE COURT FURTHER ORDERS** that the Previous Award to the Plaintiffs which was
15 previously confirmed by the Court in the amount of \$80,000 against Mr. Penly is again **Confirmed**
16 and the Plaintiffs are therefore entitled to Judgement against Mr. Penly in the amount of Eighty
17 Thousand Dollars (\$80,000), plus interest in an amount allowed by law.

18 **THE COURT FURTHER ORDERS** that because the Defendants filed on the day before
19 the Hearing, "Defendants and Counterclaimants' Motion to Modify or Correct Arbitration Award,"
20 and "Defendants and Counterclaimants' Motion to Vacate Arbitration Award." a Hearing on the
21 Motions shall be heard on June 15, 2015 at 10:00 a.m.

22 **THE COURT FURTHER ORDERS** that the Plaintiffs' request for additional attorney's

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1 fees is deferred until after the Hearing on June 15, 2015.


2 **THE COURT FURTHER ORDERS** that the amounts set forth in this Order be reduced
3 to Judgment.

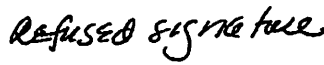
4 **IT IS SO ORDERED** this 20 day of August, 2015.

5
6 Nancy Allen
7 **DISTRICT JUDGE**

8 Respectfully submitted by:

Approved as to form by:

9
10 
11 **GUS W. FLANGAS, ESQ.**
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Attorney for Defendants

29 Refused Signature
30 **MARK C. FIELDS, ESQ.**
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38 Attorney for Defendants

EXHIBIT 1

R0089

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Telephone: (702) 562-8820
4 Facsimile: (702) 562-8821
jbailey@baileykennedy.com

5 Arbitrator

6 DISTRICT COURT
7
8 CLARK COUNTY, NEVADA

9 MILTON J. WOODS and CIRBUS
10 AVIATION SERVICES, INC., a Washington
corporation,

11 Plaintiffs,

12 vs.

13 EAGLE JET AVIATION, INC., a Nevada
14 corporation; ALEX PENLY; STUART M.
WARREN; PRIVATE JET SERVICES, INC.,
15 a Nevada corporation; MILT'S EAGLE, LLC,
Nevada limited liability company; and
16 DOES I-X, inclusive,

17 Defendants.
18

Case No. A546250
Dept. No. XI

ARBITRATION AWARD

19 This matter came before the undersigned arbitrator for hearing on the following days in
20 accordance with the parties' agreement and the Court's Order:
21

- 22 • August 14, 15, 20, 21, 22, and 28, 2014;
- 23 • September 3, 12, 15, and 18, 2014;
- 24 • October 3, 15, 28, and 29, 2014;
- 25 • November 3, 4, and 24, 2014; and
- 26 • December 8, 9, and 10, 2014.
- 27
- 28

1 Plaintiffs/Counterdefendants Milton Woods and Cirrus Aviation Services, Inc. (individually
2 "MWoods" and "Cirrus," respectively, and collectively, "Plaintiffs") were represented by their
3 counsel, Gus W. Flangas, Esq. Defendants/Counterclaimants Eagle Jet Aviation Inc. and Alex
4 Penly (individually "EJA" and "Penly," respectively, and collectively, "Defendants") were
5 represented by their counsel, Mark C. Fields, Esq. and Jay A. Shafer, Esq.¹ Defendants
6 submitted their Post-Closing Arbitration Brief on December 29, 2014, at which time the
7 arbitration was closed.

8
9 Upon considering the parties' arbitration briefs, the Stipulation As To Undisputed
10 Facts, the testimony of the parties and witnesses, the substantial evidentiary submissions, the
11 closing arguments of counsel, Defendants' post-closing brief, and all other matters properly
12 submitted at arbitration, the arbitrator makes the following determinations and award.²

13 I. PRELIMINARY FINDINGS

14
15 A. Stipulation As To Undisputed Facts. At the request of the arbitrator, the parties
16 submitted, and the arbitrator accepted and hereby incorporates, a Stipulation As To Undisputed
17 Facts, which is attached to this Arbitration Award as Exhibit "A."

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19 B. Quantity and Quality of the Evidence. This matter, and specifically the parties' ability to
20 present admissible evidence in support or defense of their respective claims and counterclaims
21 was materially plagued by the undisputed fact that a substantial portion of EJA's business and
22 financial records disappeared immediately after the time that MWoods departed from EJA in
23 April 2007. While the parties were unable to provide any clear indication as to what happened
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26 ¹ The other parties identified in the Complaint (or Amended Complaint) and listed in the caption were either
27 dismissed under N.R.C.P. 41(e) or had sought and obtained bankruptcy protection.

28 ² Initially, the parties were unable to agree on the form of this Arbitration Award (i.e., a simple award vs. a
reasoned award). Ultimately, they stipulated to a simple award with summary reasoning.

1 to those records, it is undisputed that Penly, under oath and in his own declarations, asserted that
2 he is familiar with the creation of, maintenance of, and has line responsibility for the business
3 records (including the accounting records) of each of the two companies (EJA and Private Jet
4 Services, Inc.) for all relevant times. There was no credible evidence presented that MWoods
5 (or anyone under his control) took or was otherwise responsible for the disappearance of EJA's
6 business and financial records.³ Therefore, in the absence of any plausible explanation for their
7 disappearance, the responsibility to account for EJA's business and financial records falls upon
8 Penly.
9

10
11 C. Credibility of Key Witnesses.

12 a. Alex Penly. It is disconcerting and material to the findings that give rise to this
13 Arbitration Award that Penly admittedly: (i) was less than honest with the Court (Judge
14 Gonzalez) during a hearing in this matter on July 21, 2009, when he failed to disclose that EJA's
15 MSP payments due on its Lear 35 aircraft were current only because the finance company for
16 the aircraft made the payments by increasing the debt on the aircraft; and (ii) intentionally
17 misled and deceived the Court (Judge Gonzalez) during a hearing in this matter on January 21,
18 2010, and the shareholders of EJA during a shareholders' meeting on March 11, 2010, when he
19 failed to disclose that EJA had gone out of business; that EJA's Part 135 Certificate—issued by
20 the Federal Aviation Administration (the "FAA")—had been surrendered in favor of a new
21 company (*i.e.*, The Berkeley Group, LLC dba NV Jets) owned by Penly's relatives and others;
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27 ³ During discovery, Plaintiffs were awarded \$80,000.00 for attorneys' fees and costs against Penly in
28 connection with the disappearance of EJA's business and financial records, and received a presumption at the
arbitration hearing that Penly engaged in spoliation of EJA's (and other companies') business and financial records.
See, Arbitration Orders dated April 9, 2013, and May 21, 2013. It should be noted that Penly was awarded
\$2,590.75 as deposition sanctions against Plaintiffs. See, Arbitration Order dated February 26, 2014.

1 and that NV Jets was operating a business substantially similar to that which EJA had operated
2 (i.e., a private jet charter service) by using EJA's location, phone number, and other assets.⁴

3 b. **Milton Woods.** Although he clearly and undeniably dislikes Penly, MWoods
4 was generally credible. While he certainly acted in his own best interest after his departure from
5 EJA in April 2007, it was uncontradicted that he was not under any restrictive covenants that
6 would have prohibited him from competing directly against EJA, despite having an ownership
7 interest in EJA (through Cirrus).

8
9 c. **Stuart Warren.** It was uncontradicted that Mr. Warren, like MWoods (through
10 Cirrus), lost the value of his ownership interest in EJA when EJA went out of business in 2009.
11 While Mr. Warren's personal knowledge about all of the events that transpired among Penly,
12 MWoods, and EJA was limited by his lack of a physical presence in Las Vegas, Nevada, his
13 testimony about matters in which he was directly involved was very credible.

14
15 D. **MWoods' Bonus.** It is undisputed that EJA (through its Board of Directors)
16 unanimously granted bonuses to MWoods (in the amount of \$200,000.00), Penly (in the amount
17 of \$100,000.00), and Stuart Warren (in the amount of \$100,000.00) on December 29, 2006.⁵
18 There were no plausible explanations from any of the parties as to why these bonuses were not
19 paid either immediately or sometime in January 2007, when EJA's bank account records
20 indicated that such funds were available. Nonetheless, upon his separation from EJA in late
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26 ⁴ The Lear 35 aircraft was owned by Milt's Eagle, LLC, which was a wholly-owned subsidiary of EJA.
27 There was no evidence showing that NV Jets ever paid EJA any consideration for the acquisition of EJA's assets.
The transfer of such assets directly inured to the benefit of Penly and his relatives at the expense of the EJA's other
shareholders; namely, Cirrus and Stuart Warren.

28 ⁵ While Mr. Warren's bonus was characterized as a payment of legal fees; the parties testified that each of
the principals was essentially being awarded a bonus.

1 April 2007, MWoods took his bonus.⁶ Then, on May 1, 2007, after MWoods' departure from
2 EJA, the EJA Shareholders (excluding Cirrus) took action to "disapprove payment of such
3 bonuses and/or the making of such payments to the extent not heretofore made due to the
4 Corporation's lack of adequate funds to support its operations" At the time that MWoods
5 took his bonus, EJA had sufficient funds to pay the bonus and such bonus had not been
6 "disapproved." While not an ideal situation, MWoods was nonetheless entitled to his bonus
7 from EJA at the time he took it. Accordingly, he is entitled to the \$111,750.00 of his bonus
8 from EJA that he did not receive.⁷

10
11 E. MWoods' Reimbursement of Company Expenses. Defendants assert that the
12 reimbursement monies MWoods received from EJA greatly exceeded the actual amount he was
13 entitled to for legitimate company expenses—an assertion MWoods adamantly disputes. Due to
14 the lack of business and financial records of EJA and missing credit card statements for
15 MWoods during the relevant time period, neither party was able to present evidence sufficient to
16 either prove or defend its position on this issue. Consequently, Defendants have failed to meet
17 their burden of proof on this counterclaim.

19 F. Penly's Breach of Fiduciary Duties. The parties (primarily, MWoods and Penly) spent a
20 significant amount of time pointing fingers at each other and accusing one another of
21 mismanagement.⁸ While individual actions taken years ago, through the benefit of 20/20
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24 ⁶ MWoods' bonus (of \$200,000.00) was subsequently the subject of an interpleader action initiated by Bank
25 of Nevada. From all of the evidence presented, which is conflicting, it appears as though EJA received \$111,750
26 from the interpleader action and MW (through Cirrus) received \$86,750 from the interpleader action in October
27 2007.

28 ⁷ From the evidence, it appears as though Bank of Nevada received \$1,500.00 for attorneys' fees in
connection with the interpleader action. Under the circumstances, neither side should be entitled to keep or recover
the \$1,500.00.

⁸ Much of the evidence (testimony and documents) presented, as well as arguments of counsel, were
irrelevant to the claims/counterclaims asserted.

1 hindsight, may appear to be less than prudent, it does not appear that MWoods, during the time
2 that he was in charge of the daily operations of EJA, intentionally took any actions designed to
3 harm the company or any of its shareholders. On the other hand, while Penly inherited EJA at a
4 difficult time (e.g., employees loyal to MWoods left the company, and starting a year or so later
5 the national and local economy lapsed into a recession), he was untruthful to the Court and
6 shareholders about material matters involving EJA. Moreover, he ultimately breached his
7 fiduciary duties to EJA's shareholders when he failed to disclose that EJA's Part 135 Certificate
8 had been surrendered in favor of a new company—i.e., The Berkeley Group, LLC dba NV Jets—
9 —owned by his relatives and others, and that NV Jets was operating a business substantially
10 similar to that which EJA had operated by using EJA's location, phone number, and other
11 assets.⁹

14 G. Damages. Based on all the evidence, it is clear that Cirrus lost its investment in EJA (a
15 30% interest) due to Penly's breaches of the fiduciary duties he owed to the company. It is
16 difficult to determine the exact value of the Cirrus' interest in EJA because Penly's breaches
17 occurred over a period of time (i.e., between April 2007 and early 2010) and the value of such
18 interest decreased after April 2007 due to the onset of the national and local economic recession
19 (which cannot be attributed to Penly). Instructive in determining the value of Cirrus' interest in
20 EJA (and damages) is the valuation given to such interest by Stuart Warren in his e-mail
21 communication to Penly, Greg Woods, and MWoods dated April 29, 2007, wherein he valued
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26 ⁹ See, Section I(C)(a) and footnote 4, above. Documents from the FAA indicate that Penly was the Chief
27 Executive Officer of The Berkeley Group, LLC. See, Plaintiffs' Exhibit 116. Further, these same documents from
28 the FAA state: "THE BERKELEY GROUP LLC IS A NEW LLC AND CERTIFICATE, THE SAME BASIC
GROUP OF PERSONS HOLDING EAGLE JET AVIATION, INC (EWJA 136K) HAVE APPLIED FOR THE
NEW CERTIFICATION UNDER THE BERKELEY GROUP LLC (DBA NV JETS). CERTIFICATE ISSUED
ON JANUARY 21, 2010." Id.

1 such interest at approximately \$2,000,000.00.¹⁰ Though difficult to determine, Cirrus' damages
2 due to Penly's breaches of his fiduciary duties can be calculated by looking at all of the
3 admissible evidence—for example, evidence that EJA's Part 135 Certificate in and of itself had
4 a separate market value—and applying the undersigned's knowledge, training and experience.
5 Based on such, Cirrus suffered damages of \$1,500,000.00 in the loss of its shareholder interest
6 in EJA due to Penly's conduct.

8 II. AWARD

9 After considering the pleadings, the testimony and evidence presented at the hearing, the
10 arbitrator has decided, in full and final resolution of the claims and counterclaims submitted for
11 determination, as follows:

12
13 1. Defendant Eagle Jet Aviation, Inc. is liable for and shall pay Plaintiff Milton J. Woods
14 compensatory damages in the amount of \$111,750.00.

15 2. Defendant Alex Penly is liable for and shall pay Plaintiff Cirrus Aviation Services, Inc.
16 compensatory damages in the amount of \$1,500,000.00.

17 3. Any and all relief not specifically addressed herein, including punitive damages, is
18 expressly denied.

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27 ¹⁰ See, Plaintiffs' Exhibit 66. The \$2,000,000.00 offer from Mr. Warren was for MWoods' interest in EJA
28 and "other companies," and was contingent upon other specified conditions. It is noted that MWoods never agreed
to accept Mr. Warren's offer. Additionally, there was testimony presented by Plaintiffs about offers that were made
to purchase EJA in the range of \$3,000,000.00 to \$6,000,000.00; however, there was no written evidence of any
bona fide offers.

1 Each party shall bear its own fees and costs, including attorneys' fees, relating to this
2 Arbitration.

3 DATED this 27th day of January, 2015.

4 BAILEY ♦ KENNEDY

5
6 By: 
7 JOHN R. BAILEY
8 Nevada Bar No. 0137
9 8984 Spanish Ridge Avenue
10 Las Vegas, Nevada 89148

11 *Arbitrator*
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CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of January, 2015, a copy of the foregoing
ARBITRATION AWARD was served by sending a copy via electronic mail and by depositing a
true and correct copy in the U.S. Mail, first class postage prepaid, and addressed to the following
at their last known addresses:

Gus W. Flangas, Esq.
(E-mail: GWF@fdlawlv.com)
Michelle Di Silvestro Alanis, Esq.
(E-mail: mda@fdlawlv.com)
FLANGAS DALACAS LAW GROUP
3275 South Jones Blvd., Suite 105
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Phone: (702) 307-9500
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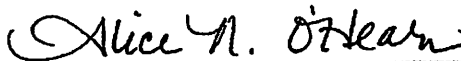
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Attorneys for Defendants/Counterclaimants
Eagle Jet Aviation Inc. and Alex Penly



Alice N. O'Hearn, an Employee of
BAILEY ♦ KENNEDY

Exhibit A

1 **STIP**

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3 Nevada Bar No. 9184

4 **PREMIER LEGAL GROUP**

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9 E-Mail: jshafer@premierlegalgroup.com

10 Attorneys for Defendant ALEX PENLY

11 and EAGLE JET AVIATION, INC.

12 **PRIVATE BINDING ARBITRATION**

13 **MILTON WOODS; CIRRUS AVIATION**
14 **SERVICES INC., a Washington Corporation,**

15 Plaintiffs,

16 v.

17 **EAGLE JET AVIATION INC., a Nevada**
18 **Corporation; ALEX PENLY; STUART M.**
19 **WARREN; PRIVATE JET SERVICES INC., a**
20 **Nevada Corporation; MILT'S EAGLE LLC, a**
21 **Nevada Limited Liability Company; DOES I**
22 **through x, Inclusive,**

23 Defendants.

24 **EAGLE JET AVIATION INC., a Nevada**
25 **Company; ALEX PENLY, an Individual,**

26 Counterclaimants,

27 v.

28 **MILTON WOODS, an Individual; CIRRUS**
29 **AVIATION SERVICES INC., a Washington**
30 **Corporation; DOES I through X, Inclusive,**

31 Counterdefendants.

Case No.: A-07-546250-B

Dept. No.: XXVII

STIPULATION AS TO UNDISPUTED
FACTS

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IT IS HEREBY STIPULATED AND AGREED by and between Defendants ALEX
PENLY and EAGLE JET AVIATION, INC., being represented by Jay A. Shafer, Esq. of the law
firm of Premier Legal Group, and Plaintiffs MILTON WOODS and CIRRUS AVIATION

1 SERVICES, INC., being represented by their counsel Gus D. Flangas, Esq., and the law offices
2 of Flangas McMillan Law Group, that the following facts are stipulated to as undisputed:

- 3 1. The Plaintiff, MILTON J. WOODS (hereinafter referred to as "Mr. Woods"), is a United
4 States citizen residing and working in Las Vegas, Nevada. He is an aircraft pilot with an
5 Airline Transport Pilot ("ATP") rating and he has 48 years of experience as a pilot. He
6 has lived in Las Vegas for over ten years. Mr. Woods became a United States Citizen in
7 2009.
- 8 2. The Plaintiff, CIRRUS AVIATION SERVICES (hereinafter referred to as "Cirrus"), is a
9 Washington corporation with its principal place of business in Clark County, Nevada.
10 Mr. Woods, along with his two sons, are the shareholders of Cirrus. Mr. Woods presently
11 owns Ten Percent (10%) of the shares in Cirrus and his sons Mark Woods and Greg
12 Woods each own Forty Five Percent (45%) of the shares.
- 13 3. The Defendant, EAGLE JET AVIATION, INC. (hereinafter referred to as "Eagle Jet"),
14 was a Nevada corporation with its principal place of business in Clark County, Nevada.
- 15 4. Eagle Jet was an aviation company that offered the general public the ability to charter
16 private aircraft. Eagle Jet had a FAR Part 135 Certificate (hereinafter referred to as the
17 "Operating Certificate") from the Federal Aviation Administration (hereinafter referred
18 to as the "FAA") to operate jet aircraft capable of carrying nine passengers or less
19 anywhere in the United States, Canada, Mexico and the Caribbean.
- 20 5. Eagle Jet was formed on or about January 5, 1999.
- 21 6. Cirrus's shares represented a minimum Twenty Five Percent (25%) interest in Eagle Jet.
- 22 7. The Defendant, ALEXANDER PENLY (hereinafter referred to as "Mr. Penly"), is a
23 citizen of the United Kingdom, and a resident of Las Vegas, Nevada.
- 24 8. Mr. Penly was an officer and director in Eagle Jet, and shareholder in Eagle Jet.
- 25 9. PRIVATE JET SERVICES, INC., (hereinafter referred to as "Private Jet") was and is a
26 Nevada corporation organized under the laws of the State of Nevada with its principal
27 place of business in Clark County, Nevada.

- 1 10. MILT'S EAGLE, LLC, (hereinafter referred to as "Milt's Eagle") was a Nevada Limited
- 2 Liability Company organized under the laws of the State of Nevada, currently in revoked
- 3 status, with its principal place of business in Clark County, Nevada.
- 4 11. Milt's Eagle was the owner of a Lear 35A Jet aircraft which is used in the operations of
- 5 Eagle Jet.
- 6 12. Milt's Eagle was owned by Eagle Jet.
- 7 13. Milt's Eagle filed bankruptcy in 2009.
- 8 14. Eagle Jet was originally formed and owned by Walter M. Frehe (hereinafter referred to as
- 9 "Mr. Frehe") and Roderick Thomson (hereinafter referred to as "Mr. Thomson").
- 10 15. Mr. Frehe and Mr. Thomson each owned a fifty percent (50%) interest in Eagle Jet.
- 11 16. After Mr. Frehe departed the company, shares in Eagle Jet were owned by his two sons,
- 12 Justin Thomson and Roland Thomson, with 49% each, and 2% being owned by Stuart
- 13 Warren. Later shares were 25% to each of Woods, Penly and Warren with the sons
- 14 splitting 25%.
- 15 17. At the time Eagle Jet was formed, Mr. Thomson was the owner of a Sabreliner Jet Model
- 16 NA265-75A (hereinafter referred to as the "Sabreliner").
- 17 18. Mr. Thomson owned the Sabreliner through a company called Lear 25, Inc. (hereinafter
- 18 referred to as "Lear 25").
- 19 19. In forming Eagle Jet, Eagle Jet entered into an agreement with Lear 25 for Eagle Jet to
- 20 manage leasing and chartering operations using the Sabreliner. Mr. Frehe was put in
- 21 charge of running Eagle Jet and the Sabreliner operations.
- 22 20. When Eagle Jet was formed, it did not have an Operating Certificate to operate the
- 23 Sabreliner so the aircraft was operated under the Operating Certificate of Scenic Airlines
- 24 (hereinafter referred to as "Scenic") and managed by a company known as Eagle Jet
- 25 Charter, Inc. (hereinafter referred to as "Eagle Charter").
- 26 21. Eagle Charter was wholly owned by Scenic.
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- 1 22. Shortly after Eagle Jet was formed, Mr. Thomson created an entity known as "The Flying
2 Hospital, Inc." (hereinafter referred to as the "The Flying Hospital"), a nonprofit
3 corporation funded by Mr. Thomson.
- 4 23. Mr. Frehe became the president of The Flying Hospital and was responsible for its
5 management. Around February of 2000, Mr. Woods became employed by Eagle Charter
6 as a Captain for the Sabreliner. He was hired by the then Chief Pilot for Eagle Charter,
7 Douglas Wright.
- 8 24. Mr. Woods and the other employees related to the Sabreliner were considered employees
9 of Scenic.
- 10 25. Subsequent to Mr. Woods starting with Eagle Charter, Mr. Penly arrived in Las Vegas
11 from England as a representative of Mr. Thomson, brought in to check the outflow of
12 money from Eagle Jet to The Flying Hospital.
- 13 26. Besides checking into the Flying Hospital, Mr. Penly became involved with the
14 operations of the Sabreliner.
- 15 27. Scenic terminated the agreement it had with Mr. Thomson that had allowed the
16 Sabreliner to operate under Scenic's Operating Certificate. Because Scenic terminated its
17 relationship with Eagle Jet, Eagle Jet was faced with either terminating its Sabreliner
18 operations or acquiring its own Operating Certificate. It was decided that Eagle Jet would
19 obtain its own Operating Certificate, and it assumed full responsibility for the Sabreliner.
- 20 28. To obtain an Operating Certificate, the FAA, as one its requirements, commands that a
21 company conduct 25 hours of proving runs with FAA personnel present in the aircraft for
22 each type of aircraft the company intends to operate under the Operating Certificate.
- 23 29. Because jet aircraft can cost several thousand dollars per hour to operate, conducting
24 proving runs can be very expensive. Eagle Jet conducted the Sabreliner proving runs
25 during July, 2002 and was issued an Operating Certificate on July 16, 2002.
- 26 30. In or about November 2001, during the time Eagle Jet was working to obtain its
27 Operating Certificate, Mr. Frehe and Mr. Thomson had a falling out. Mr. Thomson had
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1 apparently been losing a great deal of money through Eagle Jet and believed Mr. Frehe
2 was improperly siphoning money.

3 31. Mr. Frehe agreed to leave the company and tender his shares in the Sabreliner operation
4 and in Eagle Jet to Mr. Thomson for a purchase price of \$36,000, payable at \$3,000 per
5 month for 12 months.

6 32. This surrender of shares by Mr. Frehe left Mr. Thomson as the sole shareholder in Eagle
7 Jet. Mr. Thomson's ownership was held by Justin Thomson (500 shares) and Roland
8 Thomson (500 shares), while Stuart Warren (hereinafter "Mr. Warren") was issued 20
9 shares. Upon Mr. Frehe's departure from Eagle Jet Mr. Penly acted as a representative of
10 Mr. Thomson.

11 33. On December 21, 2001, Mr. Warren was elected as President and Mr. Penly was elected
12 as Secretary/Treasurer of Eagle Jet.

13 34. Mr. Frehe subsequently initiated a lawsuit against Mr. Thomson because Mr. Thomson
14 had quit paying the \$3,000 per month. Mr. Thomson countersued, alleging malfeasance
15 on the part of Mr. Frehe and mismanagement of funds through Eagle Jet. Prior to
16 adjudication of this action, Mr. Frehe passed away.

17 35. Around December of 2002 or January of 2003, Mr. Wright, the Chief Pilot for Eagle Jet
18 gave his notice to Eagle Jet and resigned. Mr. Penly, as a representative of Mr. Thomson,
19 approached Mr. Woods about Mr. Woods assuming the position of the Chief Pilot.

20 36. Mr. Penly essentially told Mr. Woods that without a Chief Pilot the company would have
21 to be shut down. Mr. Woods accepted the position of Chief Pilot under the conditions that
22 Mr. Penly stay away from the operation of Eagle Jet.

23 37. Mr. Penly agreed to accept those conditions under which Mr. Woods would assume the
24 Chief Pilot position.

25 38. Upon becoming Chief Pilot, Mr. Woods managed the operations of Eagle Jet.

26 39. When Mr. Woods took over as Chief Pilot, Eagle Jet was operating at a loss and Mr.
27 Thomson was infusing money into the company to keep it operating.

- 1 40. As Chief Pilot, Mr. Woods controlled and scheduled the pilots employed by Eagle Jet and
2 he ended up running the entire Eagle Jet operation, including the chartering operations.
- 3 41. At the time Mr. Woods took over as Chief Pilot, Lear 25 was in arrears on the Sabreliner
4 payments and it became apparent that it was going to lose the Sabreliner to the finance
5 company holding the mortgage.
- 6 42. By law, without an aircraft, Eagle Jet could not retain its Operating Certificate.
- 7 43. Mr. Woods facilitated an agreement with the owner of D&D Aviation (hereinafter
8 referred to as "D&D") out of Salt Lake City, Utah wherein D&D agreed to lease Eagle
9 Jet a Lear 35 Jet Aircraft so that Eagle Jet could continue its operations and maintain its
10 Operating Certificate.
- 11 44. Mr. Woods took delivery of the Lear 35 (hereinafter referred to as the "D&D Lear 35")
12 from D&D on February 11, 2003.
- 13 45. Eagle Jet returned the Sabreliner to the finance company by delivery to Scottsdale,
14 Arizona on February 16, 2003.
- 15 46. Mr. Woods used his personal credit cards to purchase fuel, parts and supplies for Eagle
16 Jet.
- 17 47. Mr. Woods used more than one credit card account for the payment of expenses for Eagle
18 Jet and aircraft managed or operated by Eagle Jet prior to April 26, 2007.
- 19 48. Mr. Woods directed reimbursement of the charges on his personal credit cards, and
20 received payments from Eagle Jet for charges on his personal credit cards.
- 21 49. During the latter part of 2003, Mr. Woods asked for an ownership interest in Eagle Jet.
- 22 50. The owners of Eagle Jet approved distribution of 1,000 shares in Eagle Jet to Mr. Woods.
- 23 51. Mr. Woods directed that the 1,000 shares be issued to Cirrus.
- 24 52. At the time Woods executed the "Shareholder Buy-Sell Agreement", all other
25 shareholders, save Justin Thomson and Roland Thomson, signed this agreement.
- 26 53. Except for his interest in Cirrus Aviation, LLC, Milton Woods has no direct ownership of
27 Eagle Jet.
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54. On or about November 3, 2003, Cirrus received 250 shares in Eagle Jet via Stock Certificate Number 9. Stock Certificate Number 9 was signed by Mr. Penly as Secretary and by Mr. Warren as President of Eagle Jet.

55. Approximately one month later, on or about December 1, 2003, Cirrus received the remaining 750 shares in Eagle Jet via Stock Certificate Number 14. Stock Certificate Number 14 was similarly signed by Mr. Penly as Secretary and by Mr. Warren as President.

56. Sometime in November 2003, Eagle Jet obtained another Lear 35 Jet Aircraft, under a more favorable lease from Robert Buck of Monterey, California.

57. Accordingly, the borrowed D&D Lear 35 was returned to D&D in Salt Lake.

58. Throughout 2003 and 2004, Eagle Jet's business continued to increase and eventually it reached a point where it became necessary to obtain a second Lear Jet.

59. Mr. Penly obtained a lease on a Lear 35 from CIT Bank (hereinafter referred to as the "CIT Lear 35").

60. The FAA requires that each company holding an Operating Certificate have both a Chief Pilot and a Director of Operations/General Manager. Sometime in 2003, the FAA required that Mr. Woods become either Chief Pilot or Director of Operations/General Manager. Mr. Woods became the Director of Operations/General Manager and a new Chief Pilot was hired.

61. In or around November of 2004, Mr. Woods found and negotiated the sale of a late serial number Lear 35 Jet Aircraft through Rolf Smith. On November 29, 2004, the Board of Directors of Eagle Jet, by unanimous written consent, authorized Eagle Jet to purchase the 1987 Gates Lear 35A Aircraft for \$2,300,000, pursuant to an Aircraft Purchase Agreement dated Sept 30, 2004 between M/G Transport Services, Inc. and Jeff Wyler Dealer Group, Inc. The Board of Directors further dictated that Eagle Jet take title to the Lear 35A in a previously formed company known as "Milt's Eagle, LLC."

- 1 62. Pursuant to the resolution, Eagle Jet's Board agreed that Eagle Jet would guarantee the
2 obligations of Milt's Eagle with respect to the loan. The written consent document shows
3 Mr. Penly, Mr. Woods and Mr. Warren as the Board of Directors of Eagle Jet.
- 4 63. Mr. Penly was personally handling all the financing arrangements for the purchase of the
5 Lear 35A, and was told that a \$250,000 down payment was necessary for the purchase.
6 Upon completion, the down payment requirement was \$350,000, with \$100,000 to come
7 from the assets of Eagle Jet.
- 8 64. Woods arranged to pick up the Lear 35A in Oregon because there is no applicable sales
9 tax. When Mr. Woods arrived in Oregon to take possession of the Lear 35A, the
10 financing to purchase the Lear 35A was not immediately available. Mr. Penly worked to
11 obtain replacement financing, which was obtained at a higher premium. To complete the
12 purchase of the Lear 35A, the finance company JODA required a personal commitment
13 from the Eagle Jet owners. Mr. Woods put up \$100,000, Mr. Warren agreed to put up
14 \$60,000, Mr. Penly put up \$90,000 and Mr. Thomson elected not to participate in this
15 transaction. Mr. Warren required that his \$60,000 contribution be considered a loan.
16 While Mr. Woods and Mr. Penly agreed to personally guaranty the loan for the Lear 35A,
17 Mr. Warren did not.
- 18 65. Eagle Jet, through Milt's Eagle LLC, received the Lear 35A in December of 2004
19 (hereinafter referred to as the "Purchased Lear 35A") and discontinued leasing the Lear
20 35 from CIT. Milt's Eagle LLC was to lease the Purchased Lear 35A to Eagle Jet. Eagle
21 Jet made the mortgage payments directly to the finance company.
- 22 66. Mr. Penly was reimbursed for his \$90,000 contribution.
- 23 67. Mr. Warren received his \$60,000 back within approximately two years thereafter,
24 comprised of two payments of \$30,000.
- 25 68. As of April 2007, Mr. Woods had not been reimbursed for his \$100,000 contribution.
- 26 69. About six to eight months later after obtaining the Purchased Lear 35A, Eagle Jet
27 obtained new financing for the Purchased Lear 35A through Center Capital Corporation
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1 under much more favorable terms, with the monthly mortgage payments being reduced
2 from approximately \$30,000 per month to \$20,900 per month.

3 70. Again, both Mr. Woods and Mr. Penly had to personally guarantee the loan. Mr. Warren
4 did not commit to the guaranty.

5 71. On July 22, 2005, the Board of Directors of Eagle Jet resolved to issue 2,000 Eagle Jet
6 shares to Messrs. Penly, Warren and Woods.

7 72. On January 6, 2006, Mr. Woods was elected as President of Eagle Jet.

8 73. Sometime in 2006, Mr. Penly obtained a hanger at the McCarran Airport from which
9 Eagle Jet could operate.

10 74. In June of 2006, Mr. Woods found an aircraft and assisted a group of local Las Vegas
11 businessmen in the purchase of a Lear 55 Jet Aircraft, that was added to Eagle Jet's
12 Operating Certificate as a managed aircraft pursuant to an agreement with those
13 businessmen (hereinafter referred to as the "Managed Lear 55 One").

14 75. This aircraft was owned by 4 Romeo Whiskey LLC, who in turn was owned by Randy
15 Kidd, Steven Aizenburg and Mr. Ostergaard.

16 76. Mr. Woods did not charge 4 Romeo Whiskey a finder's fee for the work in acquiring a
17 Lear 55.

18 77. Eagle Jet did not receive a finder's fee from 4 Romeo Whiskey.

19 78. Pursuant to the agreement, Eagle Jet was to receive 15% of the revenue derived from
20 charter operations for the Managed Lear 55 One, as well as a hanger and maintenance
21 contract for \$9,000 per month.

22 79. On December 29, 2006 the Board of Directors by Unanimous Written Consent voted to
23 give bonuses to Mr. Woods in the amount of \$200,000 and to Mr. Penly in the amount of
24 \$100,000 (hereinafter referred to as the "December Resolution"). In addition, the Board
25 voted to pay \$100,000 to Warren.

26 80. The December 29, 2006 resolution was rescinded by a resolution dated May 1, 2007.

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- 1 81. In February of 2007, Eagle Jet began managing another Lear 55 owned by Jim Monaghan
2 in Scottsdale, Arizona (hereinafter referred to as the "Managed Lear 55 Two"). The
3 Managed Lear 55 Two was also added to Eagle Jet's Certificate as a managed aircraft
4 pursuant to an agreement with Mr. Monaghan.
- 5 82. Mr. Woods located for Randy Kidd, Steve Aizenberg and associates a Challenger 601-
6 3ABR (hereinafter referred to as the "Challenger") which the businessmen purchased in
7 February of 2007.
- 8 83. At a called meeting of the Eagle Jet Board, in February of 2007 the Company elected to
9 not participate in the purchase of this aircraft.
- 10 84. Because the Challenger had more than nine seats, Eagle Jet would have had to expand its
11 Operating Certificate and conduct proving runs with the Challenger.
- 12 85. Eagle agreed that Advanced Air Management, Inc., a California corporation located in
13 Van Nuys, California (hereinafter referred to as "Advanced Air") should operate the
14 Challenger. Mr. Woods did not agree to have the Challenger operated by Advanced Air.
- 15 86. Advanced Air Management, Inc., a California corporation located in Van Nuys,
16 California was purchased in September 2006 by Eagle Jet and Private Jet Services and
17 shares were given to Mr. Woods (1,000 shares), Mr. Penly (1,000 shares), Mr. Warren
18 (1,000 shares), John Kaylor (500 shares) and Scott Chikar (500 shares).
- 19 87. Advanced Air Management was purchased for \$171,500, and Eagle Jet made the
20 purchase with an expenditure of company funds.
- 21 88. After the pre-buy inspection for the Challenger was completed in Tucson, Arizona, Eagle
22 Jet flew the owners of the Challenger down to take possession of the Challenger. Mr.
23 Woods was not type-rated in the Challenger.
- 24 89. Woods took pilot Bob McKenna (hereinafter referred to as "Mr. McKenna"), with him to
25 fly the aircraft back to Las Vegas with the owners on board.
- 26 90. Mr. Woods and Mr. McKenna violated an FAA regulation which requires that prior to
27 carrying passengers, the crew must have, within the past 90 days, completed three take-
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1 offs and three landings to a full stop. Although it was a private trip with only the owners
2 onboard the aircraft; nevertheless the FAA viewed this as an infraction. Mr. Woods
3 claims this was inadvertent.

4 91. The Challenger was never part of Eagle Jet's Certificate.

5 92. A letter signed by Mr. McKenna reports this violation to the FAA. Mr. Woods then
6 received a letter of investigation from the FAA.

7 93. Messrs. Penly and Warren wrote a letter to Mr. Woods, dated April 23, 2007, discussing
8 Mr. Wood's position with the company and setting forth several terms for his separation.

9 94. The proposal was conditioned on Mr. Woods not working for any Eagle Jet competitor,
10 being supportive of Eagle Jet, and not making derogatory statements about Eagle Jet.

11 95. Mr. Woods was presented with the letter by Mr. Warren and Mr. Penly.

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13 96. On or about April 27, 2007, Mr. Woods issued checks to pay for the charges on Mr.
14 Woods's personal credit cards for expenses alleged to have been incurred by Eagle Jet
15 including \$34,000 for a Lear 55 windshield, \$23,000 for installation of the windshield,
16 \$14,000 for training at Simuflite, miscellaneous fuel charges, ramp charges and aircraft
17 parts.

18 97. Mr. Woods also issued a check to himself for reimbursement of the \$100,000 he loaned
19 Eagle Jet for purchase of the Purchased Lear 35, plus \$15,000 interest.

20 98. Lastly, Mr. Woods cut check number 3304 to Cirrus for \$200,000. Mr. Woods cut the
21 checks to Cirrus instead of himself

22 99. Shortly thereafter, Mr. Penly and Mr. Warren, owning a majority interest of Eagle Jet,
23 told Mr. Woods they were voting him out.

24 100. At about this time Mr. Penly had the locks changed at Eagle Jet, and called to
25 cancel Mr. Woods's security badge for airport access.

1 101. On or about April 30, 2007, Mr. Penly sent a letter to Bank of Nevada, telling the
2 bank there was a dispute and to put a hold on all funds regarding check number 3304.

3 Bank of Nevada subsequently interpled the funds suing both Mr. Woods and Eagle Jet.

4 102. The owner of the Managed Lear 55 One took back its aircraft from Eagle Jet..

5 103. During all times he was the President, Chief Pilot and Director of Operations for
6 Eagle Jet, Milton J. Woods was a Canadian citizen.

7 104. Milton J. Woods obtained US Citizenship in 2009.

8 105. Mr. Woods directed the payment of expenses for Eagle Jet prior to April 26,
9 2007.

10 106. Milt Woods opened a bank account called 'Eagle Jet Maintenance' at Bank West
11 of Nevada.

12 107. Mr. Woods had access to the customer lists of Eagle Jet. Mr. Woods has had
13 contact with Randy Kidd since April 26, 2007.

14 108. Milt Woods and Greg Woods appeared at the offices of Eagle Jet on or about July
15 24, 2009 with more than one police officer to obtain or inspect financial records of Eagle
16 Jet.

17 DATED this 14th day of June, 2014.

DATED this 14th day of June, 2014.

18 PREMIER LEGAL GROUP

FLANGAS MCMILLAN LAW GROUP

19
20
21 By: 

By: 

22 Jay A. Shafer, Esq.
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24 Telephone: (702) 794-4411
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Attorneys for Defendants
26 EAGLE JET AVIATION, INC.
and ALEX PENLY

Gus D. Flangas, Esq.
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3275 S. Jones Boulevard, Suite 105
Las Vegas, Nevada 89146
Attorneys for Plaintiffs
MILTON WOODS and
CIRRUS AVIATION SERVICES

**DISTRICT COURT
CLARK COUNTY, NEVADA**

May 05, 2014

R0112

07A546250

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Business Court

COURT MINUTES

October 16, 2013

07A546250 Milton Woods, Cirrus Aviation Services Inc
vs
Eagle Jet Aviation Inc, Alex Penley, et al

October 16, 2013 9:30 AM Motion to Confirm
Arbitration Award

HEARD BY: Allf, Nancy

COURTROOM: RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Traci Rawlinson

REPORTER:

PARTIES

PRESENT: Flangas, Gus W
 Shafer, Jay A.

Attorney for Plaintiff
Attorney for Defendant

JOURNAL ENTRIES

- Arguments by counsel regarding the arbitration award for attorney's fees and costs, whether or not award was in lieu of striking the pleadings, NRS 38.239, arguments in supplement filed by defense counsel, and further arguments. Mr. Flangas moved to strike the supplement as a fugitive document. Court stated its findings and ORDERED, Motion to Confirm Arbitration Award for Attorney Fees and Costs GRANTED IN PART as to confirmation of the award and DENIED IN PART as Court FINDS it is interlocutory and not enforceable at this time, STATUS CHECK set 3/5/2014 9:00 am. Court stated that if the arbitration is not complete in February and it hears complaints regarding dilatory tactics on behalf of the Defendant it will enforce the order.

3/5/2014 9:00 AM STATUS CHECK: ARBITRATION PROCEEDINGS

PRINT DATE: 10/22/2013

Page 1 of 1

Minutes Date: October 16, 2013

R0113

EVENTS & ORDERS OF THE COURT

12/02/2015 All Pending Motions (9:00 AM) (Judicial Officer Cory, Kenneth)
PLAINTIFFS MOTION TO DISMISS ALL OF DEFENDANT HKLM'S CAUSES OF ACTION CONTAINED IN THE COUNTERCLAIM AND MOTION TO DISMISS OR IN THE ALTERNATIVE MOTION FOR SUMMARY JUDGMENT AS TO DEFENDANTS THIRD AND FOURTH CAUSES OF ACTION CONTAINED IN THE COUNTERCLAIM FOR FRAUD AND VIOLATION OF THE NEVADA DECEPTIVE TRADE PRACTICES ACT AND MOTION TO STRIKE IMMATERIAL, IMPERTINENT, IRRELEVANT AND SCANDALOUS ALLEGATIONS... DEFENDANTS' MOTION FOR SUMMARY JUDGMENT IN THEIR FAVOR AGAINST PLAINTIFFS MICHAEL D. RICHMAN AND LUZVIMINDA O. DAPAT

Minutes

12/02/2015 9:00 AM

- PLAINTIFFS MOTION TO DISMISS ALL OF DEFENDANT HKLM'S CAUSES OF ACTION CONTAINED IN THE COUNTERCLAIM AND MOTION TO DISMISS OR IN THE ALTERNATIVE MOTION FOR SUMMARY JUDGMENT AS TO DEFENDANTS THIRD AND FOURTH CAUSES OF ACTION CONTAINED IN THE COUNTERCLAIM FOR FRAUD AND VIOLATION OF THE NEVADA DECEPTIVE TRADE PRACTICES ACT AND MOTION TO STRIKE IMMATERIAL, IMPERTINENT, IRRELEVANT AND SCANDALOUS ALLEGATIONS... DEFENDANTS' MOTION FOR SUMMARY JUDGMENT IN THEIR FAVOR AGAINST PLAINTIFFS MICHAEL D. RICHMAN AND LUZVIMINDA O. DAPAT Mr. Flangas argued the causes of action are barred by NRS 78.585 and does not think there is a stay of the statute of limitations in 2011. As to fraud, Mr. Flangas argued he does not think it was stayed. Mr. Flangas further argued the deceptive trade practice is to protect the consumer and they are not a consumer and it does not apply and there is no cause of action. Mr. Kennedy argued the motion for summary judgment should be denied as there has to be a statement of undisputed facts and what is in the counterclaim must be considered and not what is in the third amended complaint. As to the fraud, it is clear from the affidavit they discovered in 2014 and the counterclaim was filed within two years. Plaintiffs are arguing the wrong statute as to statute of limitations chapter 86 because it is a LLC and there was a stay for four nine months. Mr. Kennedy further argued as to their deceptive trade practice argument that you have to be a consumer is wrong, it is a wrongful action. Mr. Richmond used his own words and the things he claims he was awarded were bought. Defendants have had to spend a lot of money fixing his representations. Mr. Flangas argued as to the auditors findings and files not being updated. Further argued defendants were on inquiry notice. Mr. Kennedy argued the bankruptcy ruling stated this should have been disclosed in the bankruptcy, but because of the lapse in time the Bankruptcy Court was unable to re-open the estate. Mr. Kennedy further argued the two issues in the summary judgment motion have been affirmed by the Bankruptcy Court. The question now is after closure of bankruptcy are the plaintiffs going to be able to pursue the claims now for their own benefit. Mr. Kennedy argued 7th Circuit case Cannon-Stokes vs. Potter and because they did not disclose in bankruptcy they are estopped from pursuing. Mr. Flangas argued judicial estoppel and gave summary of the bankruptcy procedures. Mr. Flangas further argued Mr. Daniel Marks was representing plaintiffs in this action not the bankruptcy action and therefore it was defendants responsibility to disclose the dispute. Mr. Zach Larsen, Bankruptcy counsel, gave summary of the Chapter 13 procedures. Further arguments by counsel. Mr. Kennedy argued the Nolm case. COURT ORDERED, BOTH Motions GRANTED and each party to prepare their own Order

Parties Present

Return to Register of Actions

EXHIBIT 2

EXHIBIT 2

33

Inst #: 20160201-0002431
Fees: \$49.00
N/C Fee: \$0.00
02/01/2016 03:39:42 PM
Receipt #: 2673647
Requestor:
AMPM LEGAL SOLUTIONS
Recorded By: RIVASR Pgs: 33
DEBBIE CONWAY
CLARK COUNTY RECORDER

RECORDING COVER PAGE

(Must be typed or printed clearly in BLACK ink only
and avoid printing in the 1" margins of document)

APN# _____

(11 digit Assessor's Parcel Number may be obtained at:
<http://redrock.co.clark.nv.us/assrrealprop/ownr.aspx>)

TITLE OF DOCUMENT

(DO NOT Abbreviate)

Judgment

Document Title on cover page must appear EXACTLY as the first page of the document
to be recorded.

RECORDING REQUESTED BY:

Kevin M. Sutehall (9437)

RETURN TO: Name Kevin M. Sutehall, Esq. (9437)

Address 1980 Festival Plaza Drive, Suite 700

City/State/Zip Las Vegas, Nevada 89135

MAIL TAX STATEMENT TO: (Applicable to documents transferring real property)

Name _____

Address _____

City/State/Zip _____

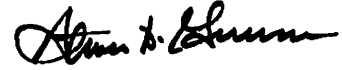
This page provides additional information required by NRS 111.312 Sections 1-2.

An additional recording fee of \$1.00 will apply.

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CLERK OF THE COURT

JUDG
GUS W. FLANGAS, ESQ.
Nevada Bar No. 004989
gwf@fdlawlv.com
FLANGAS MCMILLAN LAW GROUP
3275 South Jones Blvd., Suite 105
Las Vegas, Nevada 89146
Telephone: (702) 307-9500
Facsimile: (702) 382-9452
Attorney for Plaintiffs

DISTRICT COURT
CLARK COUNTY, NEVADA

MILTON J. WOODS, and CIRBUS
AVIATION SERVICES, INC., a Washington
Corporation,

Plaintiffs,

vs.

EAGLE JET AVIATION, INC., a Nevada
Corporation; ALEX PENLY, and STUART
M. WARREN; PRIVATE JET SERVICES, INC.,
a Nevada Corporation; MILT'S EAGLE, LLC, a
Nevada Limited Liability Company; and
DOES I-X, inclusive,

Defendants.

Case No.: A546250
Dept No.: XXVII

JUDGMENT

THIS MATTER came on for Binding Arbitration on August 14, 15, 20, 21, 22, 28;
September 3, 12, 15, 18; October 3, 15, 28, 29; November 3, 4, 24; and December 8, 9, 10, of 2014.
A written Arbitration Award in this matter was rendered on January 27, 2015. The Arbitration
Award was confirmed in a Hearing held on April 29, 2015 at 9:30 a.m., and an Order Confirming
Arbitration Award was entered on September 18, 2015.

Thereafter, there was a Hearing before this Court on June 15, 2015, on
Defendants/Counterclaimants' Motion to Modify or Correct Arbitration Award and Motion to
Vacate Arbitration Award, wherein the Court denied said Motions in an Order entered on September
18, 2015.

///

<input type="checkbox"/> Voluntary Dismissal	<input type="checkbox"/> Summary Judgment
<input type="checkbox"/> Involuntary Dismissal	<input type="checkbox"/> Stipulated Judgment
<input type="checkbox"/> Stipulated Dismissal	<input type="checkbox"/> Default Judgment
<input type="checkbox"/> Motion to Dismiss by Deft(s)	<input checked="" type="checkbox"/> Judgment of Arbitration

1 Therefore, this matter having been fully litigated and confirmed, and the Court being fully advised
2 in the premises,

3 **IT IS ORDERED, ADJUDGED and DECREED** that the Arbitration Award and Order
4 Confirming Arbitration Award attached hereto as Exhibit "1", is reduced to Judgment; and

5 **IT IS FURTHER ORDERED** that the Plaintiff, MILTON J. WOODS (hereinafter "Mr.
6 Woods"), shall have and recover from Defendant, EAGLE JET AVIATION, INC., a Judgment in
7 the sum of One Hundred Eleven Thousand Seven Hundred and Fifty dollars (\$111,750.00) with
8 interest thereon at the legal rate of interest as provided by law from the date of the service of the
9 Complaint herein through the date that the Judgment is paid in full; and

10 **IT IS FURTHER ORDERED, ADJUDGED and DECREED** that the Plaintiff, CIRRUS
11 AVIATION SERVICES, INC. (hereinafter "Cirrus") shall have and recover from Defendant, ALEX
12 PENLY, a Judgment in the sum of One Million Five Hundred Thousand Dollars (\$1,500,000.00)
13 with interest thereon at the legal rate of interest as provided by law from the date of the service of
14 the Complaint herein through the date that the Judgment is paid in full; and

15 **IT IS FURTHER ORDERED, ADJUDGED and DECREED** that the Plaintiffs shall have
16 and recover from Defendant, ALEX PENLY, a Judgment in the sum of Eighty Thousand Dollars
17 (\$80,000.00) with interest thereon at the legal rate of interest as provided by law from the date of
18 the service of the Complaint herein through the date that the Judgment is paid in full.

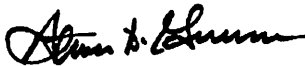
19 **DATED** this 14 day of January, 2016.

20
21 Nancy L. Allif
22 **DISTRICT JUDGE** EA

23 Respectfully submitted by:

24
25 GUS W. FLANGAS, ESQ.
26 Nevada Bar No. 004989
27 FLANGAS DALACAS LAW GROUP
28 gwf@fdlawlv.com
3275 South Jones Blvd., Suite 105
Las Vegas, Nevada 89146

EXHIBIT 1



CLERK OF THE COURT

1 **ORDER**
2 GUS W. FLANGAS, ESQ.
3 Nevada Bar No. 004989
4 gwf@fdlawlv.com
5 **FLANGAS MCMILLAN LAW GROUP**
6 3275 South Jones Blvd., Suite 105
7 Las Vegas, Nevada 89146
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9 Facsimile: (702) 382-9452
10 *Attorney for Plaintiffs*

11 **DISTRICT COURT**
12 **CLARK COUNTY, NEVADA**

13 MILTON J. WOODS, and CIRRUS
14 AVIATION SERVICES, INC., a Washington
15 Corporation,

16 Plaintiffs,

17 vs.

18 EAGLE JET AVIATION, INC., a Nevada
19 Corporation; ALEX PENLY, and STUART
20 M. WARREN; PRIVATE JET SERVICES, INC.,
21 a Nevada Corporation; MILT'S EAGLE, LLC, a
22 Nevada Limited Liability Company; and
23 DOES I-X, inclusive,

24 Defendants.

Case No.: A546250
Dept No.: XXVII

ORDER CONFIRMING
ARBITRATION AWARD

25 THIS MATTER came for Hearing before this Court on April 29, 2015 at 9:00 a.m. on the
26 Plaintiffs' "Motion to Confirm Arbitration Award." The Plaintiffs were represented by GUS W.
27 FLANGAS, ESQ. of the FLANGAS DALACAS LAW GROUP. The Defendants, ALEX PENLY
28 (hereinafter "Mr. Penly) and EAGLE JET SERVICES, INC. (hereinafter "Eagle Jet"), were
represented by their attorneys, JAY W. SHAFER, ESQ. of the PREMIER LEGAL GROUP who
appeared in person, and MARK C. FIELDS, ESQ. of the Law Offices of Mark C. Fields, APC, who
appeared telephonically.

Having reviewed the Pleadings and Papers on file in this matter, heard arguments by counsel,

....

1 and good cause appearing;

2 **THE COURT HEREBY FINDS** that the Plaintiffs brought a complaint against the
3 Defendants to recover monies owed the Plaintiffs for loss of shareholder interest and bonus
4 payments, among other relief sought.

5 **THE COURT FURTHER FINDS** that the Parties mentioned herein, voluntarily agreed to
6 submit the entire matter into Binding Arbitration. NLA

7 **THE COURT FURTHER FINDS** that the Parties agreed to have JOHN H. BAILEY, ESQ. WAS
8 (Hereinafter "Mr. Bailey") appointed as the Arbitrator in this case.

9 **THE COURT FURTHER FINDS** that the Parties arbitrated this case before Mr. Bailey on
10 August 14, 15, 20, 21, 22, 28; September 3, 12, 15, 18; October 3, 15, 28, 29; November 3, 4, 24;
11 and December 8, 9, 10, of 2014, at the law offices of BAILEY KENNEDY located in Clark County,
12 Las Vegas, Nevada.

13 **THE COURT FURTHER FINDS** that after the completion of the Binding Arbitration, Mr.
14 Bailey rendered a written Arbitration Award (hereinafter "the Award"), dated January 27, 2015. A
15 copy of the Award is attached hereto as Exhibit "1" and is incorporated in its entirety into this Order
16 and is binding as though fully set forth herein.

17 **THE COURT FURTHER FINDS** that pursuant to the Award, Mr. Bailey awarded the
18 Plaintiff, MILTON J. WOODS (hereinafter "Mr. Woods"), the amount of One Hundred Eleven
19 Thousand Seven Hundred and Fifty dollars (\$111,750.00) against Eagle Jet.

20 **THE COURT FURTHER FINDS** that pursuant to the Award Mr. Bailey awarded the
21 Plaintiff, CIRRUS AVIATION SERVICES, INC. (hereinafter "Cirrus") the amount of One Million
22 Five Hundred Thousand Dollars (\$1,500,000.000) against Mr. Penly.

23 **THE COURT FURTHER FINDS** that on October 16, 2013, the Court GRANTED the
24 Plaintiffs' previous "Motion to Confirm Arbitration Award" wherein Mr. Bailey awarded the
25 Plaintiffs the amount of Eighty Thousand Dollars (\$80,000) against Mr. Penly for Attorneys Fees
26 as sanctions but delayed the enforceability of the award until the Arbitration was complete
27 (hereinafter the "Previous Award"). A copy of the Previous Award is attached hereto as Exhibit "1"
28 and is incorporated in its entirety into this Order and binding as though fully set forth herein.

1 **THE COURT FURTHER FINDS** that pursuant to NRS 38.239, the Plaintiffs are entitled
2 to an Order confirming the Award and the Previous Award.

3 **THEREFORE, THE COURT HEREBY ORDERS** that the Plaintiffs' "Motion to Confirm
4 Arbitration Award" is **Granted**.

5 **THE COURT FURTHER ORDERS** that the Award to Mr. Woods in the amount of One
6 Hundred Eleven Thousand Seven Hundred and Fifty dollars (\$111,750.00) against Eagle Jet is
7 **Confirmed** and Mr. Woods is therefore entitled to Judgement against Eagle Jet in the amount of One
8 Hundred Eleven Thousand Seven Hundred and Fifty dollars (\$111,750.00), plus interest in an
9 amount allowed by law.

10 **THE COURT FURTHER ORDERS** that the Award to the Cirrus in the amount of One
11 Million Five Hundred Thousand Dollars (\$1,500,000.000) against Mr. Penly is **Confirmed** and
12 Cirrus is therefore entitled to Judgement against Mr. Penly in the amount of One Million Five
13 Hundred Thousand Dollars (\$1,500,000.000), plus interest in an amount allowed by law.

14 **THE COURT FURTHER ORDERS** that the Previous Award to the Plaintiffs which was
15 previously confirmed by the Court in the amount of \$80,000 against Mr. Penly is again **Confirmed**
16 and the Plaintiffs are therefore entitled to Judgement against Mr. Penly in the amount of Eighty
17 Thousand Dollars (\$80,000), plus interest in an amount allowed by law.

18 **THE COURT FURTHER ORDERS** that because the Defendants filed on the day before
19 the Hearing, "Defendants and Counterclaimants' Motion to Modify or Correct Arbitration Award,"
20 and "Defendants and Counterclaimants' Motion to Vacate Arbitration Award." a Hearing on the
21 Motions shall be heard on June 15, 2015 at 10:00 a.m.

22 **THE COURT FURTHER ORDERS** that the Plaintiffs' request for additional attorney's

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1 fees is deferred until after the Hearing on June 15, 2015.


2 **THE COURT FURTHER ORDERS** that the amounts set forth in this Order be reduced
3 to Judgment.

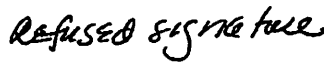
4 **IT IS SO ORDERED** this 20 day of August, 2015.

5
6 Nancy Allen
7 **DISTRICT JUDGE**

8 Respectfully submitted by:

Approved as to form by:

9
10 
11 **GUS W. FLANGAS, ESQ.**
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13 gwf@fdlawlv.com
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19 Attorney for Plaintiffs

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Attorney for Defendants

29 Refused Signature
30 **MARK C. FIELDS, ESQ.**
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32 fields@markfieldslaw.com
33 **LAW OFFICES OF MARK C. FIELDS, APC**
34 333 South Hope Street, 35th Floor
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38 Attorney for Defendants

EXHIBIT 1

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8984 Spanish Ridge Avenue
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4 Facsimile: (702) 562-8821
jbailey@baileykennedy.com
5

6 Arbitrator

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 MILTON J. WOODS and CIRRUS
10 AVIATION SERVICES, INC., a Washington
corporation,

11 Plaintiffs,

12 vs.

13 EAGLE JET AVIATION, INC., a Nevada
14 corporation; ALEX PENLY; STUART M.
WARREN; PRIVATE JET SERVICES, INC.,
15 a Nevada corporation; MILT'S EAGLE, LLC,
Nevada limited liability company; and
16 DOES I-X, inclusive,

17 Defendants.
18

Case No. A546250
Dept. No. XI

ARBITRATION AWARD

19
20 This matter came before the undersigned arbitrator for hearing on the following days in
21 accordance with the parties' agreement and the Court's Order:

- 22 • August 14, 15, 20, 21, 22, and 28, 2014;
23 • September 3, 12, 15, and 18, 2014;
24 • October 3, 15, 28, and 29, 2014;
25 • November 3, 4, and 24, 2014; and
26 • December 8, 9, and 10, 2014.
27
28

1 Plaintiffs/Counterdefendants Milton Woods and Cirrus Aviation Services, Inc. (individually
2 "MWoods" and "Cirrus," respectively, and collectively, "Plaintiffs") were represented by their
3 counsel, Gus W. Flangas, Esq. Defendants/Counterclaimants Eagle Jet Aviation Inc. and Alex
4 Penly (individually "EJA" and "Penly," respectively, and collectively, "Defendants") were
5 represented by their counsel, Mark C. Fields, Esq. and Jay A. Shafer, Esq.¹ Defendants
6 submitted their Post-Closing Arbitration Brief on December 29, 2014, at which time the
7 arbitration was closed.

8
9 Upon considering the parties' arbitration briefs, the Stipulation As To Undisputed
10 Facts, the testimony of the parties and witnesses, the substantial evidentiary submissions, the
11 closing arguments of counsel, Defendants' post-closing brief, and all other matters properly
12 submitted at arbitration, the arbitrator makes the following determinations and award.²

13 I. PRELIMINARY FINDINGS

14
15 A. Stipulation As To Undisputed Facts. At the request of the arbitrator, the parties
16 submitted, and the arbitrator accepted and hereby incorporates, a Stipulation As To Undisputed
17 Facts, which is attached to this Arbitration Award as Exhibit "A."

18
19 B. Quantity and Quality of the Evidence. This matter, and specifically the parties' ability to
20 present admissible evidence in support or defense of their respective claims and counterclaims
21 was materially plagued by the undisputed fact that a substantial portion of EJA's business and
22 financial records disappeared immediately after the time that MWoods departed from EJA in
23 April 2007. While the parties were unable to provide any clear indication as to what happened
24

25
26 ¹ The other parties identified in the Complaint (or Amended Complaint) and listed in the caption were either
27 dismissed under N.R.C.P. 41(e) or had sought and obtained bankruptcy protection.

28 ² Initially, the parties were unable to agree on the form of this Arbitration Award (i.e., a simple award vs. a
reasoned award). Ultimately, they stipulated to a simple award with summary reasoning.

1 to those records, it is undisputed that Penly, under oath and in his own declarations, asserted that
2 he is familiar with the creation of, maintenance of, and has line responsibility for the business
3 records (including the accounting records) of each of the two companies (EJA and Private Jet
4 Services, Inc.) for all relevant times. There was no credible evidence presented that MWoods
5 (or anyone under his control) took or was otherwise responsible for the disappearance of EJA's
6 business and financial records.³ Therefore, in the absence of any plausible explanation for their
7 disappearance, the responsibility to account for EJA's business and financial records falls upon
8 Penly.
9

10
11 C. Credibility of Key Witnesses.

12 a. Alex Penly. It is disconcerting and material to the findings that give rise to this
13 Arbitration Award that Penly admittedly: (i) was less than honest with the Court (Judge
14 Gonzalez) during a hearing in this matter on July 21, 2009, when he failed to disclose that EJA's
15 MSP payments due on its Lear 35 aircraft were current only because the finance company for
16 the aircraft made the payments by increasing the debt on the aircraft; and (ii) intentionally
17 misled and deceived the Court (Judge Gonzalez) during a hearing in this matter on January 21,
18 2010, and the shareholders of EJA during a shareholders' meeting on March 11, 2010, when he
19 failed to disclose that EJA had gone out of business; that EJA's Part 135 Certificate—issued by
20 the Federal Aviation Administration (the "FAA")—had been surrendered in favor of a new
21 company (*i.e.*, The Berkeley Group, LLC dba NV Jets) owned by Penly's relatives and others;
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27 ³ During discovery, Plaintiffs were awarded \$80,000.00 for attorneys' fees and costs against Penly in
28 connection with the disappearance of EJA's business and financial records, and received a presumption at the
arbitration hearing that Penly engaged in spoliation of EJA's (and other companies') business and financial records.
See, Arbitration Orders dated April 9, 2013, and May 21, 2013. It should be noted that Penly was awarded
\$2,590.75 as deposition sanctions against Plaintiffs. See, Arbitration Order dated February 26, 2014.

1 and that NV Jets was operating a business substantially similar to that which EJA had operated
2 (i.e., a private jet charter service) by using EJA's location, phone number, and other assets.⁴

3 b. **Milton Woods.** Although he clearly and undeniably dislikes Penly, MWoods
4 was generally credible. While he certainly acted in his own best interest after his departure from
5 EJA in April 2007, it was uncontradicted that he was not under any restrictive covenants that
6 would have prohibited him from competing directly against EJA, despite having an ownership
7 interest in EJA (through Cirrus).
8

9 c. **Stuart Warren.** It was uncontradicted that Mr. Warren, like MWoods (through
10 Cirrus), lost the value of his ownership interest in EJA when EJA went out of business in 2009.
11 While Mr. Warren's personal knowledge about all of the events that transpired among Penly,
12 MWoods, and EJA was limited by his lack of a physical presence in Las Vegas, Nevada, his
13 testimony about matters in which he was directly involved was very credible.
14

15 D. **MWoods' Bonus.** It is undisputed that EJA (through its Board of Directors)
16 unanimously granted bonuses to MWoods (in the amount of \$200,000.00), Penly (in the amount
17 of \$100,000.00), and Stuart Warren (in the amount of \$100,000.00) on December 29, 2006.⁵
18 There were no plausible explanations from any of the parties as to why these bonuses were not
19 paid either immediately or sometime in January 2007, when EJA's bank account records
20 indicated that such funds were available. Nonetheless, upon his separation from EJA in late
21
22
23
24

25
26 ⁴ The Lear 35 aircraft was owned by Milt's Eagle, LLC, which was a wholly-owned subsidiary of EJA.
27 There was no evidence showing that NV Jets ever paid EJA any consideration for the acquisition of EJA's assets.
The transfer of such assets directly inured to the benefit of Penly and his relatives at the expense of the EJA's other
shareholders; namely, Cirrus and Stuart Warren.

28 ⁵ While Mr. Warren's bonus was characterized as a payment of legal fees; the parties testified that each of
the principals was essentially being awarded a bonus.

1 April 2007, MWoods took his bonus.⁶ Then, on May 1, 2007, after MWoods' departure from
2 EJA, the EJA Shareholders (excluding Cirrus) took action to "disapprove payment of such
3 bonuses and/or the making of such payments to the extent not heretofore made due to the
4 Corporation's lack of adequate funds to support its operations" At the time that MWoods
5 took his bonus, EJA had sufficient funds to pay the bonus and such bonus had not been
6 "disapproved." While not an ideal situation, MWoods was nonetheless entitled to his bonus
7 from EJA at the time he took it. Accordingly, he is entitled to the \$111,750.00 of his bonus
8 from EJA that he did not receive.⁷

10
11 E. MWoods' Reimbursement of Company Expenses. Defendants assert that the
12 reimbursement monies MWoods received from EJA greatly exceeded the actual amount he was
13 entitled to for legitimate company expenses—an assertion MWoods adamantly disputes. Due to
14 the lack of business and financial records of EJA and missing credit card statements for
15 MWoods during the relevant time period, neither party was able to present evidence sufficient to
16 either prove or defend its position on this issue. Consequently, Defendants have failed to meet
17 their burden of proof on this counterclaim.

19 F. Penly's Breach of Fiduciary Duties. The parties (primarily, MWoods and Penly) spent a
20 significant amount of time pointing fingers at each other and accusing one another of
21 mismanagement.⁸ While individual actions taken years ago, through the benefit of 20/20
22

23
24 ⁶ MWoods' bonus (of \$200,000.00) was subsequently the subject of an interpleader action initiated by Bank
25 of Nevada. From all of the evidence presented, which is conflicting, it appears as though EJA received \$111,750
26 from the interpleader action and MW (through Cirrus) received \$86,750 from the interpleader action in October
27 2007.

28 ⁷ From the evidence, it appears as though Bank of Nevada received \$1,500.00 for attorneys' fees in
connection with the interpleader action. Under the circumstances, neither side should be entitled to keep or recover
the \$1,500.00.

⁸ Much of the evidence (testimony and documents) presented, as well as arguments of counsel, were
irrelevant to the claims/counterclaims asserted.

1 hindsight, may appear to be less than prudent, it does not appear that MWoods, during the time
2 that he was in charge of the daily operations of EJA, intentionally took any actions designed to
3 harm the company or any of its shareholders. On the other hand, while Penly inherited EJA at a
4 difficult time (e.g., employees loyal to MWoods left the company, and starting a year or so later
5 the national and local economy lapsed into a recession), he was untruthful to the Court and
6 shareholders about material matters involving EJA. Moreover, he ultimately breached his
7 fiduciary duties to EJA's shareholders when he failed to disclose that EJA's Part 135 Certificate
8 had been surrendered in favor of a new company—i.e., The Berkeley Group, LLC dba NV Jets—
9 owned by his relatives and others, and that NV Jets was operating a business substantially
10 similar to that which EJA had operated by using EJA's location, phone number, and other
11 assets.⁹

14 G. Damages. Based on all the evidence, it is clear that Cirrus lost its investment in EJA (a
15 30% interest) due to Penly's breaches of the fiduciary duties he owed to the company. It is
16 difficult to determine the exact value of the Cirrus' interest in EJA because Penly's breaches
17 occurred over a period of time (i.e., between April 2007 and early 2010) and the value of such
18 interest decreased after April 2007 due to the onset of the national and local economic recession
19 (which cannot be attributed to Penly). Instructive in determining the value of Cirrus' interest in
20 EJA (and damages) is the valuation given to such interest by Stuart Warren in his e-mail
21 communication to Penly, Greg Woods, and MWoods dated April 29, 2007, wherein he valued
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26 ⁹ See, Section I(C)(a) and footnote 4, above. Documents from the FAA indicate that Penly was the Chief
27 Executive Officer of The Berkeley Group, LLC. See, Plaintiffs' Exhibit 116. Further, these same documents from
28 the FAA state: "THE BERKELEY GROUP LLC IS A NEW LLC AND CERTIFICATE, THE SAME BASIC
GROUP OF PERSONS HOLDING EAGLE JET AVIATION, INC (EWJA 136K) HAVE APPLIED FOR THE
NEW CERTIFICATION UNDER THE BERKELEY GROUP LLC (DBA NV JETS). CERTIFICATE ISSUED
ON JANUARY 21, 2010." Id.

1 such interest at approximately \$2,000,000.00.¹⁰ Though difficult to determine, Cirrus' damages
2 due to Penly's breaches of his fiduciary duties can be calculated by looking at all of the
3 admissible evidence—for example, evidence that EJA's Part 135 Certificate in and of itself had
4 a separate market value—and applying the undersigned's knowledge, training and experience.
5 Based on such, Cirrus suffered damages of \$1,500,000.00 in the loss of its shareholder interest
6 in EJA due to Penly's conduct.

8 II. AWARD

9 After considering the pleadings, the testimony and evidence presented at the hearing, the
10 arbitrator has decided, in full and final resolution of the claims and counterclaims submitted for
11 determination, as follows:

12
13 1. Defendant Eagle Jet Aviation, Inc. is liable for and shall pay Plaintiff Milton J. Woods
14 compensatory damages in the amount of \$111,750.00.

15 2. Defendant Alex Penly is liable for and shall pay Plaintiff Cirrus Aviation Services, Inc.
16 compensatory damages in the amount of \$1,500,000.00.

17 3. Any and all relief not specifically addressed herein, including punitive damages, is
18 expressly denied.

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27 ¹⁰ See, Plaintiffs' Exhibit 66. The \$2,000,000.00 offer from Mr. Warren was for MWoods' interest in EJA
28 and "other companies," and was contingent upon other specified conditions. It is noted that MWoods never agreed
to accept Mr. Warren's offer. Additionally, there was testimony presented by Plaintiffs about offers that were made
to purchase EJA in the range of \$3,000,000.00 to \$6,000,000.00; however, there was no written evidence of any
bona fide offers.

1 Each party shall bear its own fees and costs, including attorneys' fees, relating to this
2 Arbitration.

3 DATED this 27th day of January, 2015.

4 BAILEY ♦ KENNEDY

5
6 By: 
7 JOHN R. BAILEY
8 Nevada Bar No. 0137
8984 Spanish Ridge Avenue
Las Vegas, Nevada 89148

9 Arbitrator
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CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of January, 2015, a copy of the foregoing
ARBITRATION AWARD was served by sending a copy via electronic mail and by depositing a
true and correct copy in the U.S. Mail, first class postage prepaid, and addressed to the following
at their last known addresses:

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(E-mail: GWF@fdlawlv.com)
Michelle Di Silvestro Alanis, Esq.
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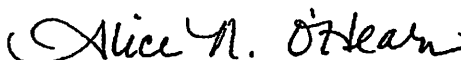
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Exhibit A

1 **STIP**

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10 Attorneys for Defendant ALEX PENLY

11 and EAGLE JET AVIATION, INC.

12 **PRIVATE BINDING ARBITRATION**

13 MILTON WOODS; CIRRUS AVIATION
14 SERVICES INC., a Washington Corporation,

15 Plaintiffs,

16 v.

17 EAGLE JET AVIATION INC., a Nevada
18 Corporation; ALEX PENLY; STUART M.
19 WARREN; PRIVATE JET SERVICES INC., a
20 Nevada Corporation; MILT'S EAGLE LLC, a
21 Nevada Limited Liability Company; DOES I
22 through x, Inclusive,

23 Defendants.

24 EAGLE JET AVIATION INC., a Nevada
25 Company; ALEX PENLY, an Individual,

26 Counterclaimants,

27 v.

28 MILTON WOODS, an Individual; CIRRUS
AVIATION SERVICES INC., a Washington
Corporation; DOES I through X, Inclusive,

Counterdefendants.

Case No.: A-07-546250-B

Dept. No.: XXVII

**STIPULATION AS TO UNDISPUTED
FACTS**

IT IS HEREBY STIPULATED AND AGREED by and between Defendants ALEX
PENLY and EAGLE JET AVIATION, INC., being represented by Jay A. Shafer, Esq. of the law
firm of Premier Legal Group, and Plaintiffs MILTON WOODS and CIRRUS AVIATION

1 SERVICES, INC., being represented by their counsel Gus D. Flangas, Esq., and the law offices
2 of Flangas McMillan Law Group, that the following facts are stipulated to as undisputed:

- 3 1. The Plaintiff, MILTON J. WOODS (hereinafter referred to as "Mr. Woods"), is a United
4 States citizen residing and working in Las Vegas, Nevada. He is an aircraft pilot with an
5 Airline Transport Pilot ("ATP") rating and he has 48 years of experience as a pilot. He
6 has lived in Las Vegas for over ten years. Mr. Woods became a United States Citizen in
7 2009.
- 8 2. The Plaintiff, CIRRUS AVIATION SERVICES (hereinafter referred to as "Cirrus"), is a
9 Washington corporation with its principal place of business in Clark County, Nevada.
10 Mr. Woods, along with his two sons, are the shareholders of Cirrus. Mr. Woods presently
11 owns Ten Percent (10%) of the shares in Cirrus and his sons Mark Woods and Greg
12 Woods each own Forty Five Percent (45%) of the shares.
- 13 3. The Defendant, EAGLE JET AVIATION, INC. (hereinafter referred to as "Eagle Jet"),
14 was a Nevada corporation with its principal place of business in Clark County, Nevada.
- 15 4. Eagle Jet was an aviation company that offered the general public the ability to charter
16 private aircraft. Eagle Jet had a FAR Part 135 Certificate (hereinafter referred to as the
17 "Operating Certificate") from the Federal Aviation Administration (hereinafter referred
18 to as the "FAA") to operate jet aircraft capable of carrying nine passengers or less
19 anywhere in the United States, Canada, Mexico and the Caribbean.
- 20 5. Eagle Jet was formed on or about January 5, 1999.
- 21 6. Cirrus's shares represented a minimum Twenty Five Percent (25%) interest in Eagle Jet.
- 22 7. The Defendant, ALEXANDER PENLY (hereinafter referred to as "Mr. Penly"), is a
23 citizen of the United Kingdom, and a resident of Las Vegas, Nevada.
- 24 8. Mr. Penly was an officer and director in Eagle Jet, and shareholder in Eagle Jet.
- 25 9. PRIVATE JET SERVICES, INC., (hereinafter referred to as "Private Jet") was and is a
26 Nevada corporation organized under the laws of the State of Nevada with its principal
27 place of business in Clark County, Nevada.

- 1 10. MILT'S EAGLE, LLC, (hereinafter referred to as "Milt's Eagle") was a Nevada Limited
- 2 Liability Company organized under the laws of the State of Nevada, currently in revoked
- 3 status, with its principal place of business in Clark County, Nevada.
- 4 11. Milt's Eagle was the owner of a Lear 35A Jet aircraft which is used in the operations of
- 5 Eagle Jet.
- 6 12. Milt's Eagle was owned by Eagle Jet.
- 7 13. Milt's Eagle filed bankruptcy in 2009.
- 8 14. Eagle Jet was originally formed and owned by Walter M. Frehe (hereinafter referred to as
- 9 "Mr. Frehe") and Roderick Thomson (hereinafter referred to as "Mr. Thomson").
- 10 15. Mr. Frehe and Mr. Thomson each owned a fifty percent (50%) interest in Eagle Jet.
- 11 16. After Mr. Frehe departed the company, shares in Eagle Jet were owned by his two sons,
- 12 Justin Thomson and Roland Thomson, with 49% each, and 2% being owned by Stuart
- 13 Warren. Later shares were 25% to each of Woods, Penly and Warren with the sons
- 14 splitting 25%.
- 15 17. At the time Eagle Jet was formed, Mr. Thomson was the owner of a Sabreliner Jet Model
- 16 NA265-75A (hereinafter referred to as the "Sabreliner").
- 17 18. Mr. Thomson owned the Sabreliner through a company called Lear 25, Inc. (hereinafter
- 18 referred to as "Lear 25").
- 19 19. In forming Eagle Jet, Eagle Jet entered into an agreement with Lear 25 for Eagle Jet to
- 20 manage leasing and chartering operations using the Sabreliner. Mr. Frehe was put in
- 21 charge of running Eagle Jet and the Sabreliner operations.
- 22 20. When Eagle Jet was formed, it did not have an Operating Certificate to operate the
- 23 Sabreliner so the aircraft was operated under the Operating Certificate of Scenic Airlines
- 24 (hereinafter referred to as "Scenic") and managed by a company known as Eagle Jet
- 25 Charter, Inc. (hereinafter referred to as "Eagle Charter").
- 26 21. Eagle Charter was wholly owned by Scenic.
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- 1 22. Shortly after Eagle Jet was formed, Mr. Thomson created an entity known as "The Flying
2 Hospital, Inc." (hereinafter referred to as the "The Flying Hospital"), a nonprofit
3 corporation funded by Mr. Thomson.
- 4 23. Mr. Frehe became the president of The Flying Hospital and was responsible for its
5 management. Around February of 2000, Mr. Woods became employed by Eagle Charter
6 as a Captain for the Sabreliner. He was hired by the then Chief Pilot for Eagle Charter,
7 Douglas Wright.
- 8 24. Mr. Woods and the other employees related to the Sabreliner were considered employees
9 of Scenic.
- 10 25. Subsequent to Mr. Woods starting with Eagle Charter, Mr. Penly arrived in Las Vegas
11 from England as a representative of Mr. Thomson, brought in to check the outflow of
12 money from Eagle Jet to The Flying Hospital.
- 13 26. Besides checking into the Flying Hospital, Mr. Penly became involved with the
14 operations of the Sabreliner.
- 15 27. Scenic terminated the agreement it had with Mr. Thomson that had allowed the
16 Sabreliner to operate under Scenic's Operating Certificate. Because Scenic terminated its
17 relationship with Eagle Jet, Eagle Jet was faced with either terminating its Sabreliner
18 operations or acquiring its own Operating Certificate. It was decided that Eagle Jet would
19 obtain its own Operating Certificate, and it assumed full responsibility for the Sabreliner.
- 20 28. To obtain an Operating Certificate, the FAA, as one its requirements, commands that a
21 company conduct 25 hours of proving runs with FAA personnel present in the aircraft for
22 each type of aircraft the company intends to operate under the Operating Certificate.
- 23 29. Because jet aircraft can cost several thousand dollars per hour to operate, conducting
24 proving runs can be very expensive. Eagle Jet conducted the Sabreliner proving runs
25 during July, 2002 and was issued an Operating Certificate on July 16, 2002.
- 26 30. In or about November 2001, during the time Eagle Jet was working to obtain its
27 Operating Certificate, Mr. Frehe and Mr. Thomson had a falling out. Mr. Thomson had
28

1 apparently been losing a great deal of money through Eagle Jet and believed Mr. Frehe
2 was improperly siphoning money.

3 31. Mr. Frehe agreed to leave the company and tender his shares in the Sabreliner operation
4 and in Eagle Jet to Mr. Thomson for a purchase price of \$36,000, payable at \$3,000 per
5 month for 12 months.

6 32. This surrender of shares by Mr. Frehe left Mr. Thomson as the sole shareholder in Eagle
7 Jet. Mr. Thomson's ownership was held by Justin Thomson (500 shares) and Roland
8 Thomson (500 shares), while Stuart Warren (hereinafter "Mr. Warren") was issued 20
9 shares. Upon Mr. Frehe's departure from Eagle Jet Mr. Penly acted as a representative of
10 Mr. Thomson.

11 33. On December 21, 2001, Mr. Warren was elected as President and Mr. Penly was elected
12 as Secretary/Treasurer of Eagle Jet.

13 34. Mr. Frehe subsequently initiated a lawsuit against Mr. Thomson because Mr. Thomson
14 had quit paying the \$3,000 per month. Mr. Thomson countersued, alleging malfeasance
15 on the part of Mr. Frehe and mismanagement of funds through Eagle Jet. Prior to
16 adjudication of this action, Mr. Frehe passed away.

17 35. Around December of 2002 or January of 2003, Mr. Wright, the Chief Pilot for Eagle Jet
18 gave his notice to Eagle Jet and resigned. Mr. Penly, as a representative of Mr. Thomson,
19 approached Mr. Woods about Mr. Woods assuming the position of the Chief Pilot.

20 36. Mr. Penly essentially told Mr. Woods that without a Chief Pilot the company would have
21 to be shut down. Mr. Woods accepted the position of Chief Pilot under the conditions that
22 Mr. Penly stay away from the operation of Eagle Jet.

23 37. Mr. Penly agreed to accept those conditions under which Mr. Woods would assume the
24 Chief Pilot position.

25 38. Upon becoming Chief Pilot, Mr. Woods managed the operations of Eagle Jet.

26 39. When Mr. Woods took over as Chief Pilot, Eagle Jet was operating at a loss and Mr.
27 Thomson was infusing money into the company to keep it operating.

- 1 40. As Chief Pilot, Mr. Woods controlled and scheduled the pilots employed by Eagle Jet and
2 he ended up running the entire Eagle Jet operation, including the chartering operations.
- 3 41. At the time Mr. Woods took over as Chief Pilot, Lear 25 was in arrears on the Sabreliner
4 payments and it became apparent that it was going to lose the Sabreliner to the finance
5 company holding the mortgage.
- 6 42. By law, without an aircraft, Eagle Jet could not retain its Operating Certificate.
- 7 43. Mr. Woods facilitated an agreement with the owner of D&D Aviation (hereinafter
8 referred to as "D&D") out of Salt Lake City, Utah wherein D&D agreed to lease Eagle
9 Jet a Lear 35 Jet Aircraft so that Eagle Jet could continue its operations and maintain its
10 Operating Certificate.
- 11 44. Mr. Woods took delivery of the Lear 35 (hereinafter referred to as the "D&D Lear 35")
12 from D&D on February 11, 2003.
- 13 45. Eagle Jet returned the Sabreliner to the finance company by delivery to Scottsdale,
14 Arizona on February 16, 2003.
- 15 46. Mr. Woods used his personal credit cards to purchase fuel, parts and supplies for Eagle
16 Jet.
- 17 47. Mr. Woods used more than one credit card account for the payment of expenses for Eagle
18 Jet and aircraft managed or operated by Eagle Jet prior to April 26, 2007.
- 19 48. Mr. Woods directed reimbursement of the charges on his personal credit cards, and
20 received payments from Eagle Jet for charges on his personal credit cards.
- 21 49. During the latter part of 2003, Mr. Woods asked for an ownership interest in Eagle Jet.
- 22 50. The owners of Eagle Jet approved distribution of 1,000 shares in Eagle Jet to Mr. Woods.
- 23 51. Mr. Woods directed that the 1,000 shares be issued to Cirrus.
- 24 52. At the time Woods executed the "Shareholder Buy-Sell Agreement", all other
25 shareholders, save Justin Thomson and Roland Thomson, signed this agreement.
- 26 53. Except for his interest in Cirrus Aviation, LLC, Milton Woods has no direct ownership of
27 Eagle Jet.
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- 1 54. On or about November 3, 2003, Cirrus received 250 shares in Eagle Jet via Stock
2 Certificate Number 9. Stock Certificate Number 9 was signed by Mr. Penly as Secretary
3 and by Mr. Warren as President of Eagle Jet.
- 4 55. Approximately one month later, on or about December 1, 2003, Cirrus received the
5 remaining 750 shares in Eagle Jet via Stock Certificate Number 14. Stock Certificate
6 Number 14 was similarly signed by Mr. Penly as Secretary and by Mr. Warren as
7 President.
- 8 56. Sometime in November 2003, Eagle Jet obtained another Lear 35 Jet Aircraft, under a
9 more favorable lease from Robert Buck of Monterey, California.
- 10 57. Accordingly, the borrowed D&D Lear 35 was returned to D&D in Salt Lake.
- 11 58. Throughout 2003 and 2004, Eagle Jet's business continued to increase and eventually it
12 reached a point where it became necessary to obtain a second Lear Jet.
- 13 59. Mr. Penly obtained a lease on a Lear 35 from CIT Bank (hereinafter referred to as the
14 "CIT Lear 35").
- 15 60. The FAA requires that each company holding an Operating Certificate have both a Chief
16 Pilot and a Director of Operations/General Manager. Sometime in 2003, the FAA
17 required that Mr. Woods become either Chief Pilot or Director of Operations/General
18 Manager. Mr. Woods became the Director of Operations/General Manager and a new
19 Chief Pilot was hired.
- 20 61. In or around November of 2004, Mr. Woods found and negotiated the sale of a late serial
21 number Lear 35 Jet Aircraft through Rolf Smith. On November 29, 2004, the Board of
22 Directors of Eagle Jet, by unanimous written consent, authorized Eagle Jet to purchase
23 the 1987 Gates Lear 35A Aircraft for \$2,300,000, pursuant to an Aircraft Purchase
24 Agreement dated Sept 30, 2004 between M/G Transport Services, Inc. and Jeff Wyler
25 Dealer Group, Inc. The Board of Directors further dictated that Eagle Jet take title to the
26 Lear 35A in a previously formed company known as "Milt's Eagle, LLC."
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- 1 62. Pursuant to the resolution, Eagle Jet's Board agreed that Eagle Jet would guarantee the
2 obligations of Milt's Eagle with respect to the loan. The written consent document shows
3 Mr. Penly, Mr. Woods and Mr. Warren as the Board of Directors of Eagle Jet.
- 4 63. Mr. Penly was personally handling all the financing arrangements for the purchase of the
5 Lear 35A, and was told that a \$250,000 down payment was necessary for the purchase.
6 Upon completion, the down payment requirement was \$350,000, with \$100,000 to come
7 from the assets of Eagle Jet.
- 8 64. Woods arranged to pick up the Lear 35A in Oregon because there is no applicable sales
9 tax. When Mr. Woods arrived in Oregon to take possession of the Lear 35A, the
10 financing to purchase the Lear 35A was not immediately available. Mr. Penly worked to
11 obtain replacement financing, which was obtained at a higher premium. To complete the
12 purchase of the Lear 35A, the finance company JODA required a personal commitment
13 from the Eagle Jet owners. Mr. Woods put up \$100,000, Mr. Warren agreed to put up
14 \$60,000, Mr. Penly put up \$90,000 and Mr. Thomson elected not to participate in this
15 transaction. Mr. Warren required that his \$60,000 contribution be considered a loan.
16 While Mr. Woods and Mr. Penly agreed to personally guaranty the loan for the Lear 35A,
17 Mr. Warren did not.
- 18 65. Eagle Jet, through Milt's Eagle LLC, received the Lear 35A in December of 2004
19 (hereinafter referred to as the "Purchased Lear 35A") and discontinued leasing the Lear
20 35 from CIT. Milt's Eagle LLC was to lease the Purchased Lear 35A to Eagle Jet. Eagle
21 Jet made the mortgage payments directly to the finance company.
- 22 66. Mr. Penly was reimbursed for his \$90,000 contribution.
- 23 67. Mr. Warren received his \$60,000 back within approximately two years thereafter,
24 comprised of two payments of \$30,000.
- 25 68. As of April 2007, Mr. Woods had not been reimbursed for his \$100,000 contribution.
- 26 69. About six to eight months later after obtaining the Purchased Lear 35A, Eagle Jet
27 obtained new financing for the Purchased Lear 35A through Center Capital Corporation
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1 under much more favorable terms, with the monthly mortgage payments being reduced
2 from approximately \$30,000 per month to \$20,900 per month.

3 70. Again, both Mr. Woods and Mr. Penly had to personally guarantee the loan. Mr. Warren
4 did not commit to the guaranty.

5 71. On July 22, 2005, the Board of Directors of Eagle Jet resolved to issue 2,000 Eagle Jet
6 shares to Messrs. Penly, Warren and Woods.

7 72. On January 6, 2006, Mr. Woods was elected as President of Eagle Jet.

8 73. Sometime in 2006, Mr. Penly obtained a hanger at the McCarran Airport from which
9 Eagle Jet could operate.

10 74. In June of 2006, Mr. Woods found an aircraft and assisted a group of local Las Vegas
11 businessmen in the purchase of a Lear 55 Jet Aircraft, that was added to Eagle Jet's
12 Operating Certificate as a managed aircraft pursuant to an agreement with those
13 businessmen (hereinafter referred to as the "Managed Lear 55 One").

14 75. This aircraft was owned by 4 Romeo Whiskey LLC, who in turn was owned by Randy
15 Kidd, Steven Aizenburg and Mr. Ostergaard.

16 76. Mr. Woods did not charge 4 Romeo Whiskey a finder's fee for the work in acquiring a
17 Lear 55.

18 77. Eagle Jet did not receive a finder's fee from 4 Romeo Whiskey.

19 78. Pursuant to the agreement, Eagle Jet was to receive 15% of the revenue derived from
20 charter operations for the Managed Lear 55 One, as well as a hanger and maintenance
21 contract for \$9,000 per month.

22 79. On December 29, 2006 the Board of Directors by Unanimous Written Consent voted to
23 give bonuses to Mr. Woods in the amount of \$200,000 and to Mr. Penly in the amount of
24 \$100,000 (hereinafter referred to as the "December Resolution"). In addition, the Board
25 voted to pay \$100,000 to Warren.

26 80. The December 29, 2006 resolution was rescinded by a resolution dated May 1, 2007.

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- 1 81. In February of 2007, Eagle Jet began managing another Lear 55 owned by Jim Monaghan
2 in Scottsdale, Arizona (hereinafter referred to as the "Managed Lear 55 Two"). The
3 Managed Lear 55 Two was also added to Eagle Jet's Certificate as a managed aircraft
4 pursuant to an agreement with Mr. Monaghan.
- 5 82. Mr. Woods located for Randy Kidd, Steve Aizenberg and associates a Challenger 601-
6 3ABR (hereinafter referred to as the "Challenger") which the businessmen purchased in
7 February of 2007.
- 8 83. At a called meeting of the Eagle Jet Board, in February of 2007 the Company elected to
9 not participate in the purchase of this aircraft.
- 10 84. Because the Challenger had more than nine seats, Eagle Jet would have had to expand its
11 Operating Certificate and conduct proving runs with the Challenger.
- 12 85. Eagle agreed that Advanced Air Management, Inc., a California corporation located in
13 Van Nuys, California (hereinafter referred to as "Advanced Air") should operate the
14 Challenger. Mr. Woods did not agree to have the Challenger operated by Advanced Air.
- 15 86. Advanced Air Management, Inc., a California corporation located in Van Nuys,
16 California was purchased in September 2006 by Eagle Jet and Private Jet Services and
17 shares were given to Mr. Woods (1,000 shares), Mr. Penly (1,000 shares), Mr. Warren
18 (1,000 shares), John Kaylor (500 shares) and Scott Chikar (500 shares).
- 19 87. Advanced Air Management was purchased for \$171,500, and Eagle Jet made the
20 purchase with an expenditure of company funds.
- 21 88. After the pre-buy inspection for the Challenger was completed in Tucson, Arizona, Eagle
22 Jet flew the owners of the Challenger down to take possession of the Challenger. Mr.
23 Woods was not type-rated in the Challenger.
- 24 89. Woods took pilot Bob McKenna (hereinafter referred to as "Mr. McKenna"), with him to
25 fly the aircraft back to Las Vegas with the owners on board.
- 26 90. Mr. Woods and Mr. McKenna violated an FAA regulation which requires that prior to
27 carrying passengers, the crew must have, within the past 90 days, completed three take-
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1 offs and three landings to a full stop. Although it was a private trip with only the owners
2 onboard the aircraft; nevertheless the FAA viewed this as an infraction. Mr. Woods
3 claims this was inadvertent.

4 91. The Challenger was never part of Eagle Jet's Certificate.

5 92. A letter signed by Mr. McKenna reports this violation to the FAA. Mr. Woods then
6 received a letter of investigation from the FAA.

7 93. Messrs. Penly and Warren wrote a letter to Mr. Woods, dated April 23, 2007, discussing
8 Mr. Wood's position with the company and setting forth several terms for his separation.

9 94. The proposal was conditioned on Mr. Woods not working for any Eagle Jet competitor,
10 being supportive of Eagle Jet, and not making derogatory statements about Eagle Jet.

11 95. Mr. Woods was presented with the letter by Mr. Warren and Mr. Penly.

12
13 96. On or about April 27, 2007, Mr. Woods issued checks to pay for the charges on Mr.
14 Woods's personal credit cards for expenses alleged to have been incurred by Eagle Jet
15 including \$34,000 for a Lear 55 windshield, \$23,000 for installation of the windshield,
16 \$14,000 for training at Simuflite, miscellaneous fuel charges, ramp charges and aircraft
17 parts.

18 97. Mr. Woods also issued a check to himself for reimbursement of the \$100,000 he loaned
19 Eagle Jet for purchase of the Purchased Lear 35, plus \$15,000 interest.

20 98. Lastly, Mr. Woods cut check number 3304 to Cirrus for \$200,000. Mr. Woods cut the
21 checks to Cirrus instead of himself

22 99. Shortly thereafter, Mr. Penly and Mr. Warren, owning a majority interest of Eagle Jet,
23 told Mr. Woods they were voting him out.

24 100. At about this time Mr. Penly had the locks changed at Eagle Jet, and called to
25 cancel Mr. Woods's security badge for airport access.

1 101. On or about April 30, 2007, Mr. Penly sent a letter to Bank of Nevada, telling the
2 bank there was a dispute and to put a hold on all funds regarding check number 3304.

3 Bank of Nevada subsequently interpled the funds suing both Mr. Woods and Eagle Jet.

4 102. The owner of the Managed Lear 55 One took back its aircraft from Eagle Jet..

5 103. During all times he was the President, Chief Pilot and Director of Operations for
6 Eagle Jet, Milton J. Woods was a Canadian citizen.

7 104. Milton J. Woods obtained US Citizenship in 2009.

8 105. Mr. Woods directed the payment of expenses for Eagle Jet prior to April 26,
9 2007.

10 106. Milt Woods opened a bank account called 'Eagle Jet Maintenance' at Bank West
11 of Nevada.

12 107. Mr. Woods had access to the customer lists of Eagle Jet. Mr. Woods has had
13 contact with Randy Kidd since April 26, 2007.

14 108. Milt Woods and Greg Woods appeared at the offices of Eagle Jet on or about July
15 24, 2009 with more than one police officer to obtain or inspect financial records of Eagle
16 Jet.

17 DATED this 14th day of June, 2014.

DATED this 14th day of June, 2014.

18 PREMIER LEGAL GROUP

FLANGAS MCMILLAN LAW GROUP

19
20
21 By: 

By: 

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FLANGAS MCMILLAN LAW GROUP
3275 S. Jones Boulevard, Suite 105
Las Vegas, Nevada 89146
Attorneys for Plaintiffs
MILTON WOODS and
CIRRUS AVIATION SERVICES

07A546250

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Business Court

COURT MINUTES

May 05, 2014

07A546250	Milton Woods, Cirrus Aviation Services Inc
	vs
	Eagle Jet Aviation Inc, Alex Penley, et al

May 05, 2014	2:53 PM	Minute Order
--------------	---------	--------------

HEARD BY: Allf, Nancy

COURTROOM: Dist Court XXVII -
Chambers

COURT CLERK: Sharon Chun

JOURNAL ENTRIES

- MINUTE ORDER - NO HEARING

COURT FINDS after review a Status Check on Arbitration was set for MOTION CALENDAR on May 7, 2014 at 9.00 a.m. COURT FURTHER FINDS after review the Court Granted a motion to Confirm Arbitration Award for Attorney Fees on October 16, 2013 however the Award would not be enforceable until arbitration was complete. At a status check on arbitration on March 5, 2014 the Court found that the parties had not yet set an arbitration date and ordered the status check continued 60 days. If the case did not move forward in the next 60 days the Court would set a Show Cause Hearing for dismissal.

COURT FURTHER FINDS after review Defendant filed a Motion to Dismiss Claims against Milt s Eagle, Private Jet Services and Stuart Warren pursuant to NRCP 41(e) on April 18, 2014 and the Motion is set for Hearing on MOTION CALENDAR on May 21, 2014 at 10.00 a.m.

COURT ORDERS for good cause appearing Status Check on arbitration VACATED.

CLERK'S NOTE: A copy of this minute order has been distributed to the following:
Gus W. Flangas (Flangas & McMillan) FAX: 702-382-9452
Jay A. Shafer or Robert C. Reade (Premier Legal Group)
Email: jshafer@premierlegalgroup.com

PRINT DATE: 05/05/2014

Page 1 of 1

Minutes Date: May 05, 2014

R0147

07A546250

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Business Court

COURT MINUTES

October 16, 2013

07A546250 Milton Woods, Cirrus Aviation Services Inc
vs
Eagle Jet Aviation Inc, Alex Penley, et al

October 16, 2013 9:30 AM Motion to Confirm
Arbitration Award

HEARD BY: Allf, Nancy

COURTROOM: RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Traci Rawlinson

REPORTER:

PARTIES

PRESENT: Flangas, Gus W
 Shafer, Jay A.

Attorney for Plaintiff
Attorney for Defendant

JOURNAL ENTRIES

- Arguments by counsel regarding the arbitration award for attorney's fees and costs, whether or not award was in lieu of striking the pleadings, NRS 38.239, arguments in supplement filed by defense counsel, and further arguments. Mr. Flangas moved to strike the supplement as a fugitive document. Court stated its findings and ORDERED, Motion to Confirm Arbitration Award for Attorney Fees and Costs GRANTED IN PART as to confirmation of the award and DENIED IN PART as Court FINDS it is interlocutory and not enforceable at this time, STATUS CHECK set 3/5/2014 9:00 am. Court stated that if the arbitration is not complete in February and it hears complaints regarding dilatory tactics on behalf of the Defendant it will enforce the order.

3/5/2014 9:00 AM STATUS CHECK: ARBITRATION PROCEEDINGS

PRINT DATE: 10/22/2013

Page 1 of 1

Minutes Date: October 16, 2013

R0148

EVENTS & ORDERS OF THE COURT

12/02/2015 All Pending Motions (9:00 AM) (Judicial Officer Cory, Kenneth)
PLAINTIFFS MOTION TO DISMISS ALL OF DEFENDANT HKLM'S CAUSES OF ACTION CONTAINED IN THE COUNTERCLAIM AND MOTION TO DISMISS OR IN THE ALTERNATIVE MOTION FOR SUMMARY JUDGMENT AS TO DEFENDANTS THIRD AND FOURTH CAUSES OF ACTION CONTAINED IN THE COUNTERCLAIM FOR FRAUD AND VIOLATION OF THE NEVADA DECEPTIVE TRADE PRACTICES ACT AND MOTION TO STRIKE IMMATERIAL, IMPERTINENT, IRRELEVANT AND SCANDALOUS ALLEGATIONS... DEFENDANTS' MOTION FOR SUMMARY JUDGMENT IN THEIR FAVOR AGAINST PLAINTIFFS MICHAEL D. RICHMAN AND LUZVIMINDA O. DAPAT

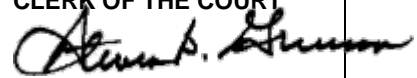
Minutes

12/02/2015 9:00 AM

- PLAINTIFFS MOTION TO DISMISS ALL OF DEFENDANT HKLM'S CAUSES OF ACTION CONTAINED IN THE COUNTERCLAIM AND MOTION TO DISMISS OR IN THE ALTERNATIVE MOTION FOR SUMMARY JUDGMENT AS TO DEFENDANTS THIRD AND FOURTH CAUSES OF ACTION CONTAINED IN THE COUNTERCLAIM FOR FRAUD AND VIOLATION OF THE NEVADA DECEPTIVE TRADE PRACTICES ACT AND MOTION TO STRIKE IMMATERIAL, IMPERTINENT, IRRELEVANT AND SCANDALOUS ALLEGATIONS... DEFENDANTS' MOTION FOR SUMMARY JUDGMENT IN THEIR FAVOR AGAINST PLAINTIFFS MICHAEL D. RICHMAN AND LUZVIMINDA O. DAPAT Mr. Flangas argued the causes of action are barred by NRS 78.585 and does not think there is a stay of the statute of limitations in 2011. As to fraud, Mr. Flangas argued he does not think it was stayed. Mr. Flangas further argued the deceptive trade practice is to protect the consumer and they are not a consumer and it does not apply and there is no cause of action. Mr. Kennedy argued the motion for summary judgment should be denied as there has to be a statement of undisputed facts and what is in the counterclaim must be considered and not what is in the third amended complaint. As to the fraud, it is clear from the affidavit they discovered in 2014 and the counterclaim was filed within two years. Plaintiffs are arguing the wrong statute as to statute of limitations chapter 86 because it is a LLC and there was a stay for four nine months. Mr. Kennedy further argued as to their deceptive trade practice argument that you have to be a consumer is wrong, it is a wrongful action. Mr. Richmond used his own words and the things he claims he was awarded were bought. Defendants have had to spend a lot of money fixing his representations. Mr. Flangas argued as to the auditors findings and files not being updated. Further argued defendants were on inquiry notice. Mr. Kennedy argued the bankruptcy ruling stated this should have been disclosed in the bankruptcy, but because of the lapse in time the Bankruptcy Court was unable to re-open the estate. Mr. Kennedy further argued the two issues in the summary judgment motion have been affirmed by the Bankruptcy Court. The question now is after closure of bankruptcy are the plaintiffs going to be able to pursue the claims now for their own benefit. Mr. Kennedy argued 7th Circuit case Cannon-Stokes vs. Potter and because they did not disclose in bankruptcy they are estopped from pursuing. Mr. Flangas argued judicial estoppel and gave summary of the bankruptcy procedures. Mr. Flangas further argued Mr. Daniel Marks was representing plaintiffs in this action not the bankruptcy action and therefore it was defendants responsibility to disclose the dispute. Mr. Zach Larsen, Bankruptcy counsel, gave summary of the Chapter 13 procedures. Further arguments by counsel. Mr. Kennedy argued the Nolm case. COURT ORDERED, BOTH Motions GRANTED and each party to prepare their own Order

Parties Present

Return to Register of Actions



1 **ARJ**
2 MARK J. CONNOT (10010)
3 **FOX ROTHSCHILD LLP**
4 1980 Festival Plaza Drive, Suite 700
5 Las Vegas, Nevada 89135
6 (702) 262-6899 tel
7 (702) 597-5503 fax
8 mconnot@foxrothschild.com
9 *Attorneys for Plaintiffs*

6 **DISTRICT COURT**
7
8 **CLARK COUNTY, NEVADA**

9 MILTON J. WOODS and CIRRUS
10 AVIATION SERVICES, INC., a
11 Washington corporation,

12 Plaintiffs,

13 vs.

14 EAGLE JET AVIATION, INC., A Nevada
15 corporation; ALEX PENLY; STUART M.
16 WARREN; PRIVATE JET SERVICES,
17 INC., a Nevada corporation; MILT'S
18 EAGLE, LLC, a Nevada limited liability
19 company and DOES I-X, inclusive.

20 Defendants.

Case No.: 07A546250
Dept. No.: XI

AFFIDAVIT OF RENEWAL OF
JUDGMENT

21 I, Greg Woods, hereby affirm the following:

- 22 1. I am the President of Cirrus Aviation Services, Inc., Plaintiff/Judgment Creditor
23 ("Cirrus") in the above action.
24 2. On January 20, 2016, a Judgment was entered in the above-entitled Court in favor
25 of Cirrus Aviation Services, Inc. and Milton J. Woods ("Plaintiffs/Judgment Creditors"), against
26 Alex Penly, Defendant/Judgment Debtor ("Penly"), in amount of \$80,000.00 (the "Judgment").
27 See Judgment attached hereto as Exhibit 1 and incorporated herein. Post-judgment interest
28 accrues on the Judgment per the terms of the Judgment itself.

1 3. The Judgment was recorded in the Clark County Recorder's Office on February
2 1, 2016, as Instrument No. 20160201-0002431. *See* recorded Judgment, attached hereto as
3 Exhibit 2, and incorporated herein.

4 4. Penly has not made any payments on the Judgment.

5 5. To date, Plaintiffs/Judgment Creditors have not collected any amounts from Penly
6 in relation to the Judgment.

7 6. There are no set-offs or counterclaims in favor of Penly.

8 7. There is no outstanding writ of execution for enforcement of the Judgment.

9 8. The legal interest accrued on the Judgment commencing on August 15, 2007
10 through January 7, 2022 totals \$68,698.40, and is calculated as follows:

11 08/15/2007 - 12/31/2007 \$ 3,122.74(139 days @ \$22.47/daily @ 10.250%/year)

12 01/01/2008 - 06/30/2008 \$ 3,679.78(182 days @ \$20.22/daily @ 9.250%/year)

13 07/01/2008 - 12/31/2008 \$ 2,815.30(184 days @ \$15.30/daily @ 7.000%/year)

14 01/01/2009 - 06/30/2009 \$ 2,082.74(181 days @ \$11.51/daily @ 5.250%/year)

15 07/01/2009 - 12/31/2009 \$ 2,117.26(184 days @ \$11.51/daily @ 5.250%/year)

16 01/01/2010 - 06/30/2010 \$ 2,082.74(181 days @ \$11.51/daily @ 5.250%/year)

17 07/01/2010 - 12/31/2010 \$ 2,117.26(184 days @ \$11.51/daily @ 5.250%/year)

18 01/01/2011 - 06/30/2011 \$ 2,082.74(181 days @ \$11.51/daily @ 5.250%/year)

19 07/01/2011 - 12/31/2011 \$ 2,117.26(184 days @ \$11.51/daily @ 5.250%/year)

20 01/01/2012 - 06/30/2012 \$ 2,088.52(182 days @ \$11.48/daily @ 5.250%/year)

21 07/01/2012 - 12/31/2012 \$ 2,111.48(184 days @ \$11.48/daily @ 5.250%/year)

22 01/01/2013 - 06/30/2013 \$ 2,082.74(181 days @ \$11.51/daily @ 5.250%/year)

23 07/01/2013 - 12/31/2013 \$ 2,117.26(184 days @ \$11.51/daily @ 5.250%/year)

24 01/01/2014 - 06/30/2014 \$ 2,082.74(181 days @ \$11.51/daily @ 5.250%/year)

25 07/01/2014 - 12/31/2014 \$ 2,117.26(184 days @ \$11.51/daily @ 5.250%/year)

26 01/01/2015 - 06/30/2015 \$ 2,082.74(181 days @ \$11.51/daily @ 5.250%/year)

07/01/2015 - 12/31/2015 \$ 2,117.26(184 days @ \$11.51/daily @ 5.250%/year)
01/01/2016 - 06/30/2016 \$ 2,187.98(182 days @ \$12.02/daily @ 5.500%/year)
07/01/2016 - 12/31/2016 \$ 2,212.02(184 days @ \$12.02/daily @ 5.500%/year)
01/01/2017 - 06/30/2017 \$ 2,281.10(181 days @ \$12.60/daily @ 5.750%/year)
07/01/2017 - 12/31/2017 \$ 2,520.55(184 days @ \$13.70/daily @ 6.250%/year)
01/01/2018 - 06/30/2018 \$ 2,578.63(181 days @ \$14.25/daily @ 6.500%/year)
07/01/2018 - 12/31/2018 \$ 2,823.01(184 days @ \$15.34/daily @ 7.000%/year)
01/01/2019 - 06/30/2019 \$ 2,975.34(181 days @ \$16.44/daily @ 7.500%/year)
07/01/2019 - 12/31/2019 \$ 3,024.66(184 days @ \$16.44/daily @ 7.500%/year)
01/01/2020 - 06/30/2020 \$ 2,685.25(182 days @ \$14.75/daily @ 6.750%/year)
07/01/2020 - 12/31/2020 \$ 2,111.48(184 days @ \$11.48/daily @ 5.250%/year)
01/01/2021 - 06/30/2021 \$ 2,082.74(181 days @ \$11.51/daily @ 5.250%/year)
07/01/2021 - 12/31/2021 \$ 2,117.26(184 days @ \$11.51/daily @ 5.250%/year)
01/01/2022 - 01/07/2022 \$ 80.57(7 days @ \$11.51/daily @ 5.250%/year)

9. The sum total of the judgment currently due, inclusive of interest through January 7, 2022 is \$148,698.40.

10. Alex Penly's last known address is 1287 Rolling Sunset Street, Henderson, Nevada 89052.

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

Executed this 7th day of January, 2022.

CIRRUS AVIATION SERVICES

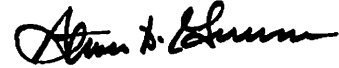
By: 
Greg Woods

Its: President

(No Notary Per NRS 53.045)

EXHIBIT 1

EXHIBIT 1



CLERK OF THE COURT

JUDG
GUS W. FLANGAS, ESQ.
Nevada Bar No. 004989
gwf@fdlawlv.com
FLANGAS MCMILLAN LAW GROUP
3275 South Jones Blvd., Suite 105
Las Vegas, Nevada 89146
Telephone: (702) 307-9500
Facsimile: (702) 382-9452
Attorney for Plaintiffs

DISTRICT COURT
CLARK COUNTY, NEVADA

MILTON J. WOODS, and CIRRUS
AVIATION SERVICES, INC., a Washington
Corporation,

Plaintiffs,

vs.

EAGLE JET AVIATION, INC., a Nevada
Corporation; ALEX PENLY, and STUART
M. WARREN; PRIVATE JET SERVICES, INC.,
a Nevada Corporation; MILT'S EAGLE, LLC, a
Nevada Limited Liability Company; and
DOES I-X, inclusive,

Defendants.

Case No.: A546250
Dept No.: XXVII

JUDGMENT

THIS MATTER came on for Binding Arbitration on August 14, 15, 20, 21, 22, 28;
September 3, 12, 15, 18; October 3, 15, 28, 29; November 3, 4, 24; and December 8, 9, 10, of 2014.
A written Arbitration Award in this matter was rendered on January 27, 2015. The Arbitration
Award was confirmed in a Hearing held on April 29, 2015 at 9:30 a.m., and an Order Confirming
Arbitration Award was entered on September 18, 2015.

Thereafter, there was a Hearing before this Court on June 15, 2015, on
Defendants/Counterclaimants' Motion to Modify or Correct Arbitration Award and Motion to
Vacate Arbitration Award, wherein the Court denied said Motions in an Order entered on September
18, 2015.

///

<input type="checkbox"/> Voluntary Dismissal	<input type="checkbox"/> Summary Judgment
<input type="checkbox"/> Involuntary Dismissal	<input type="checkbox"/> Stipulated Judgment
<input type="checkbox"/> Stipulated Dismissal	<input type="checkbox"/> Default Judgment
<input type="checkbox"/> Motion to Dismiss by Deft(s)	<input checked="" type="checkbox"/> Judgment of Arbitration

1 Therefore, this matter having been fully litigated and confirmed, and the Court being fully advised
2 in the premises,

3 **IT IS ORDERED, ADJUDGED and DECREED** that the Arbitration Award and Order
4 Confirming Arbitration Award attached hereto as Exhibit "1", is reduced to Judgment; and

5 **IT IS FURTHER ORDERED** that the Plaintiff, MILTON J. WOODS (hereinafter "Mr.
6 Woods"), shall have and recover from Defendant, EAGLE JET AVIATION, INC., a Judgment in
7 the sum of One Hundred Eleven Thousand Seven Hundred and Fifty dollars (\$111,750.00) with
8 interest thereon at the legal rate of interest as provided by law from the date of the service of the
9 Complaint herein through the date that the Judgment is paid in full; and

10 **IT IS FURTHER ORDERED, ADJUDGED and DECREED** that the Plaintiff, CIRRUS
11 AVIATION SERVICES, INC. (hereinafter "Cirrus") shall have and recover from Defendant, ALEX
12 PENLY, a Judgment in the sum of One Million Five Hundred Thousand Dollars (\$1,500,000.00)
13 with interest thereon at the legal rate of interest as provided by law from the date of the service of
14 the Complaint herein through the date that the Judgment is paid in full; and

15 **IT IS FURTHER ORDERED, ADJUDGED and DECREED** that the Plaintiffs shall have
16 and recover from Defendant, ALEX PENLY, a Judgment in the sum of Eighty Thousand Dollars
17 (\$80,000.00) with interest thereon at the legal rate of interest as provided by law from the date of
18 the service of the Complaint herein through the date that the Judgment is paid in full.

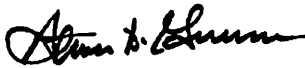
19 DATED this 14 day of January, 2016.

20
21 Nancy L. Allif
22 DISTRICT JUDGE EA

23 Respectfully submitted by:

24
25 GUS W. FLANGAS, ESQ.
26 Nevada Bar No. 004989
27 FLANGAS DALACAS LAW GROUP
28 gwf@fdlawlv.com
3275 South Jones Blvd., Suite 105
Las Vegas, Nevada 89146

EXHIBIT 1



CLERK OF THE COURT

1 **ORDER**
2 GUS W. FLANGAS, ESQ.
3 Nevada Bar No. 004989
4 gwf@fdlawlv.com
5 **FLANGAS MCMILLAN LAW GROUP**
6 3275 South Jones Blvd., Suite 105
7 Las Vegas, Nevada 89146
8 Telephone: (702) 307-9500
9 Facsimile: (702) 382-9452
10 *Attorney for Plaintiffs*

11 **DISTRICT COURT**
12 **CLARK COUNTY, NEVADA**

13 MILTON J. WOODS, and CIRRUS
14 AVIATION SERVICES, INC., a Washington
15 Corporation,

16 Plaintiffs,

17 vs.

18 EAGLE JET AVIATION, INC., a Nevada
19 Corporation; ALEX PENLY, and STUART
20 M. WARREN; PRIVATE JET SERVICES, INC.,
21 a Nevada Corporation; MILT'S EAGLE, LLC, a
22 Nevada Limited Liability Company; and
23 DOES I-X, inclusive,

24 Defendants.

Case No.: A546250
Dept No.: XXVII

ORDER CONFIRMING
ARBITRATION AWARD

25 THIS MATTER came for Hearing before this Court on April 29, 2015 at 9:00 a.m. on the
26 Plaintiffs' "Motion to Confirm Arbitration Award." The Plaintiffs were represented by GUS W.
27 FLANGAS, ESQ. of the FLANGAS DALACAS LAW GROUP. The Defendants, ALEX PENLY
28 (hereinafter "Mr. Penly) and EAGLE JET SERVICES, INC. (hereinafter "Eagle Jet"), were
represented by their attorneys, JAY W. SHAFER, ESQ. of the PREMIER LEGAL GROUP who
appeared in person, and MARK C. FIELDS, ESQ. of the Law Offices of Mark C. Fields, APC, who
appeared telephonically.

Having reviewed the Pleadings and Papers on file in this matter, heard arguments by counsel,

....

1 and good cause appearing;

2 **THE COURT HEREBY FINDS** that the Plaintiffs brought a complaint against the
3 Defendants to recover monies owed the Plaintiffs for loss of shareholder interest and bonus
4 payments, among other relief sought.

5 **THE COURT FURTHER FINDS** that the Parties mentioned herein, voluntarily agreed to
6 submit the entire matter into Binding Arbitration. NLA

7 **THE COURT FURTHER FINDS** that the Parties agreed to have JOHN H. BAILEY, ESQ. WAS
8 (Hereinafter "Mr. Bailey") appointed as the Arbitrator in this case.

9 **THE COURT FURTHER FINDS** that the Parties arbitrated this case before Mr. Bailey on
10 August 14, 15, 20, 21, 22, 28; September 3, 12, 15, 18; October 3, 15, 28, 29; November 3, 4, 24;
11 and December 8, 9, 10, of 2014, at the law offices of BAILEY KENNEDY located in Clark County,
12 Las Vegas, Nevada.

13 **THE COURT FURTHER FINDS** that after the completion of the Binding Arbitration, Mr.
14 Bailey rendered a written Arbitration Award (hereinafter "the Award"), dated January 27, 2015. A
15 copy of the Award is attached hereto as Exhibit "1" and is incorporated in its entirety into this Order
16 and is binding as though fully set forth herein.

17 **THE COURT FURTHER FINDS** that pursuant to the Award, Mr. Bailey awarded the
18 Plaintiff, MILTON J. WOODS (hereinafter "Mr. Woods"), the amount of One Hundred Eleven
19 Thousand Seven Hundred and Fifty dollars (\$111,750.00) against Eagle Jet.

20 **THE COURT FURTHER FINDS** that pursuant to the Award Mr. Bailey awarded the
21 Plaintiff, CIRRUS AVIATION SERVICES, INC. (hereinafter "Cirrus") the amount of One Million
22 Five Hundred Thousand Dollars (\$1,500,000.000) against Mr. Penly.

23 **THE COURT FURTHER FINDS** that on October 16, 2013, the Court GRANTED the
24 Plaintiffs' previous "Motion to Confirm Arbitration Award" wherein Mr. Bailey awarded the
25 Plaintiffs the amount of Eighty Thousand Dollars (\$80,000) against Mr. Penly for Attorneys Fees
26 as sanctions but delayed the enforceability of the award until the Arbitration was complete
27 (hereinafter the "Previous Award"). A copy of the Previous Award is attached hereto as Exhibit "1"
28 and is incorporated in its entirety into this Order and binding as though fully set forth herein.

1 **THE COURT FURTHER FINDS** that pursuant to NRS 38.239, the Plaintiffs are entitled
2 to an Order confirming the Award and the Previous Award.

3 **THEREFORE, THE COURT HEREBY ORDERS** that the Plaintiffs' "Motion to Confirm
4 Arbitration Award" is **Granted**.

5 **THE COURT FURTHER ORDERS** that the Award to Mr. Woods in the amount of One
6 Hundred Eleven Thousand Seven Hundred and Fifty dollars (\$111,750.00) against Eagle Jet is
7 **Confirmed** and Mr. Woods is therefore entitled to Judgement against Eagle Jet in the amount of One
8 Hundred Eleven Thousand Seven Hundred and Fifty dollars (\$111,750.00), plus interest in an
9 amount allowed by law.

10 **THE COURT FURTHER ORDERS** that the Award to the Cirrus in the amount of One
11 Million Five Hundred Thousand Dollars (\$1,500,000.000) against Mr. Penly is **Confirmed** and
12 Cirrus is therefore entitled to Judgement against Mr. Penly in the amount of One Million Five
13 Hundred Thousand Dollars (\$1,500,000.000), plus interest in an amount allowed by law.

14 **THE COURT FURTHER ORDERS** that the Previous Award to the Plaintiffs which was
15 previously confirmed by the Court in the amount of \$80,000 against Mr. Penly is again **Confirmed**
16 and the Plaintiffs are therefore entitled to Judgement against Mr. Penly in the amount of Eighty
17 Thousand Dollars (\$80,000), plus interest in an amount allowed by law.

18 **THE COURT FURTHER ORDERS** that because the Defendants filed on the day before
19 the Hearing, "Defendants and Counterclaimants' Motion to Modify or Correct Arbitration Award,"
20 and "Defendants and Counterclaimants' Motion to Vacate Arbitration Award." a Hearing on the
21 Motions shall be heard on June 15, 2015 at 10:00 a.m.

22 **THE COURT FURTHER ORDERS** that the Plaintiffs' request for additional attorney's

23

24

25

26

27

28

1 fees is deferred until after the Hearing on June 15, 2015.


2 **THE COURT FURTHER ORDERS** that the amounts set forth in this Order be reduced
3 to Judgment.

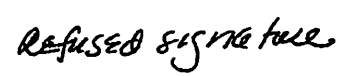
4 **IT IS SO ORDERED** this 20 day of August, 2015.

5
6 Nancy Allen
7 **DISTRICT JUDGE**

8 Respectfully submitted by:

Approved as to form by:

9
10 
11 **GUS W. FLANGAS, ESQ.**
12 Nevada Bar No. 004989
13 gwflawlv.com
14 **FLANGAS DALACAS LAW GROUP**
15 3275 South Jones Blvd., Suite 105
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18 Facsimile: (702) 382-9452
19 Attorney for Plaintiffs

20 
21 **JAY A. SHAFER, ESQ.**
22 Nevada Bar No. 009184
23 jshafer@premierlegalgroup.com
24 **PREMIER LEGAL GROUP**
25 1333 N. Buffalo Drive, Suite 210
26 Las Vegas, Nevada 89128
27 Telephone: (702) 794-4411
28 Facsimile: (702) 794-4421
Attorney for Defendants

29 Refused Signature
30 **MARK C. FIELDS, ESQ.**
31 Nevada Bar No. 008453
32 fields@markfieldslaw.com
33 **LAW OFFICES OF MARK C. FIELDS, APC**
34 333 South Hope Street, 35th Floor
35 Los Angeles, California
36 Telephone: (213) 617-5225
37 Facsimile: (213) 629-4520
38 Attorney for Defendants

EXHIBIT 1

1 JOHN R. BAILEY
Nevada Bar No. 0137
2 BAILEY ♦ KENNEDY
8984 Spanish Ridge Avenue
3 Las Vegas, Nevada 89148
Telephone: (702) 562-8820
4 Facsimile: (702) 562-8821
jbailey@baileykennedy.com
5

6 Arbitrator

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 MILTON J. WOODS and CIRRUS
10 AVIATION SERVICES, INC., a Washington
corporation,

11 Plaintiffs,

12 vs.

13 EAGLE JET AVIATION, INC., a Nevada
14 corporation; ALEX PENLY; STUART M.
WARREN; PRIVATE JET SERVICES, INC.,
15 a Nevada corporation; MILT'S EAGLE, LLC,
Nevada limited liability company; and
16 DOES I-X, inclusive,

17 Defendants.
18

Case No. A546250
Dept. No. XI

ARBITRATION AWARD

19
20 This matter came before the undersigned arbitrator for hearing on the following days in
21 accordance with the parties' agreement and the Court's Order:

- 22 • August 14, 15, 20, 21, 22, and 28, 2014;
23 • September 3, 12, 15, and 18, 2014;
24 • October 3, 15, 28, and 29, 2014;
25 • November 3, 4, and 24, 2014; and
26 • December 8, 9, and 10, 2014.
27
28

1 Plaintiffs/Counterdefendants Milton Woods and Cirrus Aviation Services, Inc. (individually
2 "MWoods" and "Cirrus," respectively, and collectively, "Plaintiffs") were represented by their
3 counsel, Gus W. Flangas, Esq. Defendants/Counterclaimants Eagle Jet Aviation Inc. and Alex
4 Penly (individually "EJA" and "Penly," respectively, and collectively, "Defendants") were
5 represented by their counsel, Mark C. Fields, Esq. and Jay A. Shafer, Esq.¹ Defendants
6 submitted their Post-Closing Arbitration Brief on December 29, 2014, at which time the
7 arbitration was closed.

8
9 Upon considering the parties' arbitration briefs, the Stipulation As To Undisputed
10 Facts, the testimony of the parties and witnesses, the substantial evidentiary submissions, the
11 closing arguments of counsel, Defendants' post-closing brief, and all other matters properly
12 submitted at arbitration, the arbitrator makes the following determinations and award.²

13 I. PRELIMINARY FINDINGS

14
15 A. Stipulation As To Undisputed Facts. At the request of the arbitrator, the parties
16 submitted, and the arbitrator accepted and hereby incorporates, a Stipulation As To Undisputed
17 Facts, which is attached to this Arbitration Award as Exhibit "A."

18
19 B. Quantity and Quality of the Evidence. This matter, and specifically the parties' ability to
20 present admissible evidence in support or defense of their respective claims and counterclaims
21 was materially plagued by the undisputed fact that a substantial portion of EJA's business and
22 financial records disappeared immediately after the time that MWoods departed from EJA in
23 April 2007. While the parties were unable to provide any clear indication as to what happened
24

25
26 ¹ The other parties identified in the Complaint (or Amended Complaint) and listed in the caption were either
27 dismissed under N.R.C.P. 41(e) or had sought and obtained bankruptcy protection.

28 ² Initially, the parties were unable to agree on the form of this Arbitration Award (i.e., a simple award vs. a
reasoned award). Ultimately, they stipulated to a simple award with summary reasoning.

1 to those records, it is undisputed that Penly, under oath and in his own declarations, asserted that
2 he is familiar with the creation of, maintenance of, and has line responsibility for the business
3 records (including the accounting records) of each of the two companies (EJA and Private Jet
4 Services, Inc.) for all relevant times. There was no credible evidence presented that MWoods
5 (or anyone under his control) took or was otherwise responsible for the disappearance of EJA's
6 business and financial records.³ Therefore, in the absence of any plausible explanation for their
7 disappearance, the responsibility to account for EJA's business and financial records falls upon
8 Penly.
9

10
11 C. Credibility of Key Witnesses.

12 a. Alex Penly. It is disconcerting and material to the findings that give rise to this
13 Arbitration Award that Penly admittedly: (i) was less than honest with the Court (Judge
14 Gonzalez) during a hearing in this matter on July 21, 2009, when he failed to disclose that EJA's
15 MSP payments due on its Lear 35 aircraft were current only because the finance company for
16 the aircraft made the payments by increasing the debt on the aircraft; and (ii) intentionally
17 misled and deceived the Court (Judge Gonzalez) during a hearing in this matter on January 21,
18 2010, and the shareholders of EJA during a shareholders' meeting on March 11, 2010, when he
19 failed to disclose that EJA had gone out of business; that EJA's Part 135 Certificate—issued by
20 the Federal Aviation Administration (the "FAA")—had been surrendered in favor of a new
21 company (*i.e.*, The Berkeley Group, LLC dba NV Jets) owned by Penly's relatives and others;
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27 ³ During discovery, Plaintiffs were awarded \$80,000.00 for attorneys' fees and costs against Penly in
28 connection with the disappearance of EJA's business and financial records, and received a presumption at the
arbitration hearing that Penly engaged in spoliation of EJA's (and other companies') business and financial records.
See, Arbitration Orders dated April 9, 2013, and May 21, 2013. It should be noted that Penly was awarded
\$2,590.75 as deposition sanctions against Plaintiffs. See, Arbitration Order dated February 26, 2014.

1 and that NV Jets was operating a business substantially similar to that which EJA had operated
2 (i.e., a private jet charter service) by using EJA's location, phone number, and other assets.⁴

3 b. **Milton Woods.** Although he clearly and undeniably dislikes Penly, MWoods
4 was generally credible. While he certainly acted in his own best interest after his departure from
5 EJA in April 2007, it was uncontradicted that he was not under any restrictive covenants that
6 would have prohibited him from competing directly against EJA, despite having an ownership
7 interest in EJA (through Cirrus).
8

9 c. **Stuart Warren.** It was uncontradicted that Mr. Warren, like MWoods (through
10 Cirrus), lost the value of his ownership interest in EJA when EJA went out of business in 2009.
11 While Mr. Warren's personal knowledge about all of the events that transpired among Penly,
12 MWoods, and EJA was limited by his lack of a physical presence in Las Vegas, Nevada, his
13 testimony about matters in which he was directly involved was very credible.
14

15 D. **MWoods' Bonus.** It is undisputed that EJA (through its Board of Directors)
16 unanimously granted bonuses to MWoods (in the amount of \$200,000.00), Penly (in the amount
17 of \$100,000.00), and Stuart Warren (in the amount of \$100,000.00) on December 29, 2006.⁵
18 There were no plausible explanations from any of the parties as to why these bonuses were not
19 paid either immediately or sometime in January 2007, when EJA's bank account records
20 indicated that such funds were available. Nonetheless, upon his separation from EJA in late
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26 ⁴ The Lear 35 aircraft was owned by Milt's Eagle, LLC, which was a wholly-owned subsidiary of EJA.
27 There was no evidence showing that NV Jets ever paid EJA any consideration for the acquisition of EJA's assets.
The transfer of such assets directly inured to the benefit of Penly and his relatives at the expense of the EJA's other
shareholders; namely, Cirrus and Stuart Warren.

28 ⁵ While Mr. Warren's bonus was characterized as a payment of legal fees; the parties testified that each of
the principals was essentially being awarded a bonus.

1 April 2007, MWoods took his bonus.⁶ Then, on May 1, 2007, after MWoods' departure from
2 EJA, the EJA Shareholders (excluding Cirrus) took action to "disapprove payment of such
3 bonuses and/or the making of such payments to the extent not heretofore made due to the
4 Corporation's lack of adequate funds to support its operations" At the time that MWoods
5 took his bonus, EJA had sufficient funds to pay the bonus and such bonus had not been
6 "disapproved." While not an ideal situation, MWoods was nonetheless entitled to his bonus
7 from EJA at the time he took it. Accordingly, he is entitled to the \$111,750.00 of his bonus
8 from EJA that he did not receive.⁷

10
11 E. MWoods' Reimbursement of Company Expenses. Defendants assert that the
12 reimbursement monies MWoods received from EJA greatly exceeded the actual amount he was
13 entitled to for legitimate company expenses—an assertion MWoods adamantly disputes. Due to
14 the lack of business and financial records of EJA and missing credit card statements for
15 MWoods during the relevant time period, neither party was able to present evidence sufficient to
16 either prove or defend its position on this issue. Consequently, Defendants have failed to meet
17 their burden of proof on this counterclaim.

19 F. Penly's Breach of Fiduciary Duties. The parties (primarily, MWoods and Penly) spent a
20 significant amount of time pointing fingers at each other and accusing one another of
21 mismanagement.⁸ While individual actions taken years ago, through the benefit of 20/20
22

23
24 ⁶ MWoods' bonus (of \$200,000.00) was subsequently the subject of an interpleader action initiated by Bank
25 of Nevada. From all of the evidence presented, which is conflicting, it appears as though EJA received \$111,750
26 from the interpleader action and MW (through Cirrus) received \$86,750 from the interpleader action in October
27 2007.

28 ⁷ From the evidence, it appears as though Bank of Nevada received \$1,500.00 for attorneys' fees in
connection with the interpleader action. Under the circumstances, neither side should be entitled to keep or recover
the \$1,500.00.

⁸ Much of the evidence (testimony and documents) presented, as well as arguments of counsel, were
irrelevant to the claims/counterclaims asserted.

1 hindsight, may appear to be less than prudent, it does not appear that MWoods, during the time
2 that he was in charge of the daily operations of EJA, intentionally took any actions designed to
3 harm the company or any of its shareholders. On the other hand, while Penly inherited EJA at a
4 difficult time (e.g., employees loyal to MWoods left the company, and starting a year or so later
5 the national and local economy lapsed into a recession), he was untruthful to the Court and
6 shareholders about material matters involving EJA. Moreover, he ultimately breached his
7 fiduciary duties to EJA's shareholders when he failed to disclose that EJA's Part 135 Certificate
8 had been surrendered in favor of a new company—i.e., The Berkeley Group, LLC dba NV Jets—
9 —owned by his relatives and others, and that NV Jets was operating a business substantially
10 similar to that which EJA had operated by using EJA's location, phone number, and other
11 assets.⁹

14 G. Damages. Based on all the evidence, it is clear that Cirrus lost its investment in EJA (a
15 30% interest) due to Penly's breaches of the fiduciary duties he owed to the company. It is
16 difficult to determine the exact value of the Cirrus' interest in EJA because Penly's breaches
17 occurred over a period of time (i.e., between April 2007 and early 2010) and the value of such
18 interest decreased after April 2007 due to the onset of the national and local economic recession
19 (which cannot be attributed to Penly). Instructive in determining the value of Cirrus' interest in
20 EJA (and damages) is the valuation given to such interest by Stuart Warren in his e-mail
21 communication to Penly, Greg Woods, and MWoods dated April 29, 2007, wherein he valued
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26 ⁹ See, Section I(C)(a) and footnote 4, above. Documents from the FAA indicate that Penly was the Chief
27 Executive Officer of The Berkeley Group, LLC. See, Plaintiffs' Exhibit 116. Further, these same documents from
28 the FAA state: "THE BERKELEY GROUP LLC IS A NEW LLC AND CERTIFICATE, THE SAME BASIC
GROUP OF PERSONS HOLDING EAGLE JET AVIATION, INC (EWJA 136K) HAVE APPLIED FOR THE
NEW CERTIFICATION UNDER THE BERKELEY GROUP LLC (DBA NV JETS). CERTIFICATE ISSUED
ON JANUARY 21, 2010." Id.

1 such interest at approximately \$2,000,000.00.¹⁰ Though difficult to determine, Cirrus' damages
2 due to Penly's breaches of his fiduciary duties can be calculated by looking at all of the
3 admissible evidence—for example, evidence that EJA's Part 135 Certificate in and of itself had
4 a separate market value—and applying the undersigned's knowledge, training and experience.
5 Based on such, Cirrus suffered damages of \$1,500,000.00 in the loss of its shareholder interest
6 in EJA due to Penly's conduct.

8 II. AWARD

9 After considering the pleadings, the testimony and evidence presented at the hearing, the
10 arbitrator has decided, in full and final resolution of the claims and counterclaims submitted for
11 determination, as follows:
12

13 1. Defendant Eagle Jet Aviation, Inc. is liable for and shall pay Plaintiff Milton J. Woods
14 compensatory damages in the amount of \$111,750.00.

15 2. Defendant Alex Penly is liable for and shall pay Plaintiff Cirrus Aviation Services, Inc.
16 compensatory damages in the amount of \$1,500,000.00.
17

18 3. Any and all relief not specifically addressed herein, including punitive damages, is
19 expressly denied.

20 ////

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26 ¹⁰ See, Plaintiffs' Exhibit 66. The \$2,000,000.00 offer from Mr. Warren was for MWoods' interest in EJA
27 and "other companies," and was contingent upon other specified conditions. It is noted that MWoods never agreed
28 to accept Mr. Warren's offer. Additionally, there was testimony presented by Plaintiffs about offers that were made
to purchase EJA in the range of \$3,000,000.00 to \$6,000,000.00; however, there was no written evidence of any
bona fide offers.

1 Each party shall bear its own fees and costs, including attorneys' fees, relating to this
2 Arbitration.

3 DATED this 27th day of January, 2015.

4 BAILEY ♦ KENNEDY

5
6 By: 
7 JOHN R. BAILEY
8 Nevada Bar No. 0137
9 8984 Spanish Ridge Avenue
10 Las Vegas, Nevada 89148

11 *Arbitrator*
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CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of January, 2015, a copy of the foregoing
ARBITRATION AWARD was served by sending a copy via electronic mail and by depositing a
true and correct copy in the U.S. Mail, first class postage prepaid, and addressed to the following
at their last known addresses:

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(E-mail: GWF@fdlawlv.com)
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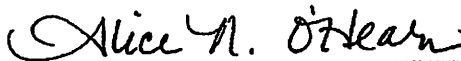
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Alice N. O'Hearn, an Employee of
BAILEY ♦ KENNEDY

Exhibit A

1 **STIP**

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10 Attorneys for Defendant ALEX PENLY

11 and EAGLE JET AVIATION, INC.

12 **PRIVATE BINDING ARBITRATION**

13 MILTON WOODS; CIRRUS AVIATION
14 SERVICES INC., a Washington Corporation,

15 Plaintiffs,

16 v.

17 EAGLE JET AVIATION INC., a Nevada
18 Corporation; ALEX PENLY; STUART M.
19 WARREN; PRIVATE JET SERVICES INC., a
20 Nevada Corporation; MILT'S EAGLE LLC, a
21 Nevada Limited Liability Company; DOES I
22 through x, Inclusive,

23 Defendants.

24 EAGLE JET AVIATION INC., a Nevada
25 Company; ALEX PENLY, an Individual,

26 Counterclaimants,

27 v.

28 MILTON WOODS, an Individual; CIRRUS
AVIATION SERVICES INC., a Washington
Corporation; DOES I through X, Inclusive,

Counterdefendants.

Case No.: A-07-546250-B

Dept. No.: XXVII

**STIPULATION AS TO UNDISPUTED
FACTS**

IT IS HEREBY STIPULATED AND AGREED by and between Defendants ALEX
PENLY and EAGLE JET AVIATION, INC., being represented by Jay A. Shafer, Esq. of the law
firm of Premier Legal Group, and Plaintiffs MILTON WOODS and CIRRUS AVIATION

1 SERVICES, INC., being represented by their counsel Gus D. Flangas, Esq., and the law offices
2 of Flangas McMillan Law Group, that the following facts are stipulated to as undisputed:

- 3 1. The Plaintiff, MILTON J. WOODS (hereinafter referred to as "Mr. Woods"), is a United
4 States citizen residing and working in Las Vegas, Nevada. He is an aircraft pilot with an
5 Airline Transport Pilot ("ATP") rating and he has 48 years of experience as a pilot. He
6 has lived in Las Vegas for over ten years. Mr. Woods became a United States Citizen in
7 2009.
- 8 2. The Plaintiff, CIRRUS AVIATION SERVICES (hereinafter referred to as "Cirrus"), is a
9 Washington corporation with its principal place of business in Clark County, Nevada.
10 Mr. Woods, along with his two sons, are the shareholders of Cirrus. Mr. Woods presently
11 owns Ten Percent (10%) of the shares in Cirrus and his sons Mark Woods and Greg
12 Woods each own Forty Five Percent (45%) of the shares.
- 13 3. The Defendant, EAGLE JET AVIATION, INC. (hereinafter referred to as "Eagle Jet"),
14 was a Nevada corporation with its principal place of business in Clark County, Nevada.
- 15 4. Eagle Jet was an aviation company that offered the general public the ability to charter
16 private aircraft. Eagle Jet had a FAR Part 135 Certificate (hereinafter referred to as the
17 "Operating Certificate") from the Federal Aviation Administration (hereinafter referred
18 to as the "FAA") to operate jet aircraft capable of carrying nine passengers or less
19 anywhere in the United States, Canada, Mexico and the Caribbean.
- 20 5. Eagle Jet was formed on or about January 5, 1999.
- 21 6. Cirrus's shares represented a minimum Twenty Five Percent (25%) interest in Eagle Jet.
- 22 7. The Defendant, ALEXANDER PENLY (hereinafter referred to as "Mr. Penly"), is a
23 citizen of the United Kingdom, and a resident of Las Vegas, Nevada.
- 24 8. Mr. Penly was an officer and director in Eagle Jet, and shareholder in Eagle Jet.
- 25 9. PRIVATE JET SERVICES, INC., (hereinafter referred to as "Private Jet") was and is a
26 Nevada corporation organized under the laws of the State of Nevada with its principal
27 place of business in Clark County, Nevada.

- 1 10. MILT'S EAGLE, LLC, (hereinafter referred to as "Milt's Eagle") was a Nevada Limited
- 2 Liability Company organized under the laws of the State of Nevada, currently in revoked
- 3 status, with its principal place of business in Clark County, Nevada.
- 4 11. Milt's Eagle was the owner of a Lear 35A Jet aircraft which is used in the operations of
- 5 Eagle Jet.
- 6 12. Milt's Eagle was owned by Eagle Jet.
- 7 13. Milt's Eagle filed bankruptcy in 2009.
- 8 14. Eagle Jet was originally formed and owned by Walter M. Frehe (hereinafter referred to as
- 9 "Mr. Frehe") and Roderick Thomson (hereinafter referred to as "Mr. Thomson").
- 10 15. Mr. Frehe and Mr. Thomson each owned a fifty percent (50%) interest in Eagle Jet.
- 11 16. After Mr. Frehe departed the company, shares in Eagle Jet were owned by his two sons,
- 12 Justin Thomson and Roland Thomson, with 49% each, and 2% being owned by Stuart
- 13 Warren. Later shares were 25% to each of Woods, Penly and Warren with the sons
- 14 splitting 25%.
- 15 17. At the time Eagle Jet was formed, Mr. Thomson was the owner of a Sabreliner Jet Model
- 16 NA265-75A (hereinafter referred to as the "Sabreliner").
- 17 18. Mr. Thomson owned the Sabreliner through a company called Lear 25, Inc. (hereinafter
- 18 referred to as "Lear 25").
- 19 19. In forming Eagle Jet, Eagle Jet entered into an agreement with Lear 25 for Eagle Jet to
- 20 manage leasing and chartering operations using the Sabreliner. Mr. Frehe was put in
- 21 charge of running Eagle Jet and the Sabreliner operations.
- 22 20. When Eagle Jet was formed, it did not have an Operating Certificate to operate the
- 23 Sabreliner so the aircraft was operated under the Operating Certificate of Scenic Airlines
- 24 (hereinafter referred to as "Scenic") and managed by a company known as Eagle Jet
- 25 Charter, Inc. (hereinafter referred to as "Eagle Charter").
- 26 21. Eagle Charter was wholly owned by Scenic.
- 27
- 28

- 1 22. Shortly after Eagle Jet was formed, Mr. Thomson created an entity known as "The Flying
2 Hospital, Inc." (hereinafter referred to as the "The Flying Hospital"), a nonprofit
3 corporation funded by Mr. Thomson.
- 4 23. Mr. Frehe became the president of The Flying Hospital and was responsible for its
5 management. Around February of 2000, Mr. Woods became employed by Eagle Charter
6 as a Captain for the Sabreliner. He was hired by the then Chief Pilot for Eagle Charter,
7 Douglas Wright.
- 8 24. Mr. Woods and the other employees related to the Sabreliner were considered employees
9 of Scenic.
- 10 25. Subsequent to Mr. Woods starting with Eagle Charter, Mr. Penly arrived in Las Vegas
11 from England as a representative of Mr. Thomson, brought in to check the outflow of
12 money from Eagle Jet to The Flying Hospital.
- 13 26. Besides checking into the Flying Hospital, Mr. Penly became involved with the
14 operations of the Sabreliner.
- 15 27. Scenic terminated the agreement it had with Mr. Thomson that had allowed the
16 Sabreliner to operate under Scenic's Operating Certificate. Because Scenic terminated its
17 relationship with Eagle Jet, Eagle Jet was faced with either terminating its Sabreliner
18 operations or acquiring its own Operating Certificate. It was decided that Eagle Jet would
19 obtain its own Operating Certificate, and it assumed full responsibility for the Sabreliner.
- 20 28. To obtain an Operating Certificate, the FAA, as one its requirements, commands that a
21 company conduct 25 hours of proving runs with FAA personnel present in the aircraft for
22 each type of aircraft the company intends to operate under the Operating Certificate.
- 23 29. Because jet aircraft can cost several thousand dollars per hour to operate, conducting
24 proving runs can be very expensive. Eagle Jet conducted the Sabreliner proving runs
25 during July, 2002 and was issued an Operating Certificate on July 16, 2002.
- 26 30. In or about November 2001, during the time Eagle Jet was working to obtain its
27 Operating Certificate, Mr. Frehe and Mr. Thomson had a falling out. Mr. Thomson had
28

1 apparently been losing a great deal of money through Eagle Jet and believed Mr. Frehe
2 was improperly siphoning money.

3 31. Mr. Frehe agreed to leave the company and tender his shares in the Sabreliner operation
4 and in Eagle Jet to Mr. Thomson for a purchase price of \$36,000, payable at \$3,000 per
5 month for 12 months.

6 32. This surrender of shares by Mr. Frehe left Mr. Thomson as the sole shareholder in Eagle
7 Jet. Mr. Thomson's ownership was held by Justin Thomson (500 shares) and Roland
8 Thomson (500 shares), while Stuart Warren (hereinafter "Mr. Warren") was issued 20
9 shares. Upon Mr. Frehe's departure from Eagle Jet Mr. Penly acted as a representative of
10 Mr. Thomson.

11 33. On December 21, 2001, Mr. Warren was elected as President and Mr. Penly was elected
12 as Secretary/Treasurer of Eagle Jet.

13 34. Mr. Frehe subsequently initiated a lawsuit against Mr. Thomson because Mr. Thomson
14 had quit paying the \$3,000 per month. Mr. Thomson countersued, alleging malfeasance
15 on the part of Mr. Frehe and mismanagement of funds through Eagle Jet. Prior to
16 adjudication of this action, Mr. Frehe passed away.

17 35. Around December of 2002 or January of 2003, Mr. Wright, the Chief Pilot for Eagle Jet
18 gave his notice to Eagle Jet and resigned. Mr. Penly, as a representative of Mr. Thomson,
19 approached Mr. Woods about Mr. Woods assuming the position of the Chief Pilot.

20 36. Mr. Penly essentially told Mr. Woods that without a Chief Pilot the company would have
21 to be shut down. Mr. Woods accepted the position of Chief Pilot under the conditions that
22 Mr. Penly stay away from the operation of Eagle Jet.

23 37. Mr. Penly agreed to accept those conditions under which Mr. Woods would assume the
24 Chief Pilot position.

25 38. Upon becoming Chief Pilot, Mr. Woods managed the operations of Eagle Jet.

26 39. When Mr. Woods took over as Chief Pilot, Eagle Jet was operating at a loss and Mr.
27 Thomson was infusing money into the company to keep it operating.

- 1 40. As Chief Pilot, Mr. Woods controlled and scheduled the pilots employed by Eagle Jet and
2 he ended up running the entire Eagle Jet operation, including the chartering operations.
- 3 41. At the time Mr. Woods took over as Chief Pilot, Lear 25 was in arrears on the Sabreliner
4 payments and it became apparent that it was going to lose the Sabreliner to the finance
5 company holding the mortgage.
- 6 42. By law, without an aircraft, Eagle Jet could not retain its Operating Certificate.
- 7 43. Mr. Woods facilitated an agreement with the owner of D&D Aviation (hereinafter
8 referred to as "D&D") out of Salt Lake City, Utah wherein D&D agreed to lease Eagle
9 Jet a Lear 35 Jet Aircraft so that Eagle Jet could continue its operations and maintain its
10 Operating Certificate.
- 11 44. Mr. Woods took delivery of the Lear 35 (hereinafter referred to as the "D&D Lear 35")
12 from D&D on February 11, 2003.
- 13 45. Eagle Jet returned the Sabreliner to the finance company by delivery to Scottsdale,
14 Arizona on February 16, 2003.
- 15 46. Mr. Woods used his personal credit cards to purchase fuel, parts and supplies for Eagle
16 Jet.
- 17 47. Mr. Woods used more than one credit card account for the payment of expenses for Eagle
18 Jet and aircraft managed or operated by Eagle Jet prior to April 26, 2007.
- 19 48. Mr. Woods directed reimbursement of the charges on his personal credit cards, and
20 received payments from Eagle Jet for charges on his personal credit cards.
- 21 49. During the latter part of 2003, Mr. Woods asked for an ownership interest in Eagle Jet.
- 22 50. The owners of Eagle Jet approved distribution of 1,000 shares in Eagle Jet to Mr. Woods.
- 23 51. Mr. Woods directed that the 1,000 shares be issued to Cirrus.
- 24 52. At the time Woods executed the "Shareholder Buy-Sell Agreement", all other
25 shareholders, save Justin Thomson and Roland Thomson, signed this agreement.
- 26 53. Except for his interest in Cirrus Aviation, LLC, Milton Woods has no direct ownership of
27 Eagle Jet.
- 28

54. On or about November 3, 2003, Cirrus received 250 shares in Eagle Jet via Stock Certificate Number 9. Stock Certificate Number 9 was signed by Mr. Penly as Secretary and by Mr. Warren as President of Eagle Jet.

55. Approximately one month later, on or about December 1, 2003, Cirrus received the remaining 750 shares in Eagle Jet via Stock Certificate Number 14. Stock Certificate Number 14 was similarly signed by Mr. Penly as Secretary and by Mr. Warren as President.

56. Sometime in November 2003, Eagle Jet obtained another Lear 35 Jet Aircraft, under a more favorable lease from Robert Buck of Monterey, California.

57. Accordingly, the borrowed D&D Lear 35 was returned to D&D in Salt Lake.

58. Throughout 2003 and 2004, Eagle Jet's business continued to increase and eventually it reached a point where it became necessary to obtain a second Lear Jet.

59. Mr. Penly obtained a lease on a Lear 35 from CIT Bank (hereinafter referred to as the "CIT Lear 35").

60. The FAA requires that each company holding an Operating Certificate have both a Chief Pilot and a Director of Operations/General Manager. Sometime in 2003, the FAA required that Mr. Woods become either Chief Pilot or Director of Operations/General Manager. Mr. Woods became the Director of Operations/General Manager and a new Chief Pilot was hired.

61. In or around November of 2004, Mr. Woods found and negotiated the sale of a late serial number Lear 35 Jet Aircraft through Rolf Smith. On November 29, 2004, the Board of Directors of Eagle Jet, by unanimous written consent, authorized Eagle Jet to purchase the 1987 Gates Lear 35A Aircraft for \$2,300,000, pursuant to an Aircraft Purchase Agreement dated Sept 30, 2004 between M/G Transport Services, Inc. and Jeff Wyler Dealer Group, Inc. The Board of Directors further dictated that Eagle Jet take title to the Lear 35A in a previously formed company known as "Milt's Eagle, LLC."

- 1 62. Pursuant to the resolution, Eagle Jet's Board agreed that Eagle Jet would guarantee the
2 obligations of Milt's Eagle with respect to the loan. The written consent document shows
3 Mr. Penly, Mr. Woods and Mr. Warren as the Board of Directors of Eagle Jet.
- 4 63. Mr. Penly was personally handling all the financing arrangements for the purchase of the
5 Lear 35A, and was told that a \$250,000 down payment was necessary for the purchase.
6 Upon completion, the down payment requirement was \$350,000, with \$100,000 to come
7 from the assets of Eagle Jet.
- 8 64. Woods arranged to pick up the Lear 35A in Oregon because there is no applicable sales
9 tax. When Mr. Woods arrived in Oregon to take possession of the Lear 35A, the
10 financing to purchase the Lear 35A was not immediately available. Mr. Penly worked to
11 obtain replacement financing, which was obtained at a higher premium. To complete the
12 purchase of the Lear 35A, the finance company JODA required a personal commitment
13 from the Eagle Jet owners. Mr. Woods put up \$100,000, Mr. Warren agreed to put up
14 \$60,000, Mr. Penly put up \$90,000 and Mr. Thomson elected not to participate in this
15 transaction. Mr. Warren required that his \$60,000 contribution be considered a loan.
16 While Mr. Woods and Mr. Penly agreed to personally guaranty the loan for the Lear 35A,
17 Mr. Warren did not.
- 18 65. Eagle Jet, through Milt's Eagle LLC, received the Lear 35A in December of 2004
19 (hereinafter referred to as the "Purchased Lear 35A") and discontinued leasing the Lear
20 35 from CIT. Milt's Eagle LLC was to lease the Purchased Lear 35A to Eagle Jet. Eagle
21 Jet made the mortgage payments directly to the finance company.
- 22 66. Mr. Penly was reimbursed for his \$90,000 contribution.
- 23 67. Mr. Warren received his \$60,000 back within approximately two years thereafter,
24 comprised of two payments of \$30,000.
- 25 68. As of April 2007, Mr. Woods had not been reimbursed for his \$100,000 contribution.
- 26 69. About six to eight months later after obtaining the Purchased Lear 35A, Eagle Jet
27 obtained new financing for the Purchased Lear 35A through Center Capital Corporation
28

1 under much more favorable terms, with the monthly mortgage payments being reduced
2 from approximately \$30,000 per month to \$20,900 per month.

3 70. Again, both Mr. Woods and Mr. Penly had to personally guarantee the loan. Mr. Warren
4 did not commit to the guaranty.

5 71. On July 22, 2005, the Board of Directors of Eagle Jet resolved to issue 2,000 Eagle Jet
6 shares to Messrs. Penly, Warren and Woods.

7 72. On January 6, 2006, Mr. Woods was elected as President of Eagle Jet.

8 73. Sometime in 2006, Mr. Penly obtained a hanger at the McCarran Airport from which
9 Eagle Jet could operate.

10 74. In June of 2006, Mr. Woods found an aircraft and assisted a group of local Las Vegas
11 businessmen in the purchase of a Lear 55 Jet Aircraft, that was added to Eagle Jet's
12 Operating Certificate as a managed aircraft pursuant to an agreement with those
13 businessmen (hereinafter referred to as the "Managed Lear 55 One").

14 75. This aircraft was owned by 4 Romeo Whiskey LLC, who in turn was owned by Randy
15 Kidd, Steven Aizenburg and Mr. Ostergaard.

16 76. Mr. Woods did not charge 4 Romeo Whiskey a finder's fee for the work in acquiring a
17 Lear 55.

18 77. Eagle Jet did not receive a finder's fee from 4 Romeo Whiskey.

19 78. Pursuant to the agreement, Eagle Jet was to receive 15% of the revenue derived from
20 charter operations for the Managed Lear 55 One, as well as a hanger and maintenance
21 contract for \$9,000 per month.

22 79. On December 29, 2006 the Board of Directors by Unanimous Written Consent voted to
23 give bonuses to Mr. Woods in the amount of \$200,000 and to Mr. Penly in the amount of
24 \$100,000 (hereinafter referred to as the "December Resolution"). In addition, the Board
25 voted to pay \$100,000 to Warren.

26 80. The December 29, 2006 resolution was rescinded by a resolution dated May 1, 2007.

27
28

- 1 81. In February of 2007, Eagle Jet began managing another Lear 55 owned by Jim Monaghan
2 in Scottsdale, Arizona (hereinafter referred to as the "Managed Lear 55 Two"). The
3 Managed Lear 55 Two was also added to Eagle Jet's Certificate as a managed aircraft
4 pursuant to an agreement with Mr. Monaghan.
- 5 82. Mr. Woods located for Randy Kidd, Steve Aizenberg and associates a Challenger 601-
6 3ABR (hereinafter referred to as the "Challenger") which the businessmen purchased in
7 February of 2007.
- 8 83. At a called meeting of the Eagle Jet Board, in February of 2007 the Company elected to
9 not participate in the purchase of this aircraft.
- 10 84. Because the Challenger had more than nine seats, Eagle Jet would have had to expand its
11 Operating Certificate and conduct proving runs with the Challenger.
- 12 85. Eagle agreed that Advanced Air Management, Inc., a California corporation located in
13 Van Nuys, California (hereinafter referred to as "Advanced Air") should operate the
14 Challenger. Mr. Woods did not agree to have the Challenger operated by Advanced Air.
- 15 86. Advanced Air Management, Inc., a California corporation located in Van Nuys,
16 California was purchased in September 2006 by Eagle Jet and Private Jet Services and
17 shares were given to Mr. Woods (1,000 shares), Mr. Penly (1,000 shares), Mr. Warren
18 (1,000 shares), John Kaylor (500 shares) and Scott Chikar (500 shares).
- 19 87. Advanced Air Management was purchased for \$171,500, and Eagle Jet made the
20 purchase with an expenditure of company funds.
- 21 88. After the pre-buy inspection for the Challenger was completed in Tucson, Arizona, Eagle
22 Jet flew the owners of the Challenger down to take possession of the Challenger. Mr.
23 Woods was not type-rated in the Challenger.
- 24 89. Woods took pilot Bob McKenna (hereinafter referred to as "Mr. McKenna"), with him to
25 fly the aircraft back to Las Vegas with the owners on board.
- 26 90. Mr. Woods and Mr. McKenna violated an FAA regulation which requires that prior to
27 carrying passengers, the crew must have, within the past 90 days, completed three take-
28

1 offs and three landings to a full stop. Although it was a private trip with only the owners
2 onboard the aircraft; nevertheless the FAA viewed this as an infraction. Mr. Woods
3 claims this was inadvertent.

4 91. The Challenger was never part of Eagle Jet's Certificate.

5 92. A letter signed by Mr. McKenna reports this violation to the FAA. Mr. Woods then
6 received a letter of investigation from the FAA.

7 93. Messrs. Penly and Warren wrote a letter to Mr. Woods, dated April 23, 2007, discussing
8 Mr. Wood's position with the company and setting forth several terms for his separation.

9 94. The proposal was conditioned on Mr. Woods not working for any Eagle Jet competitor,
10 being supportive of Eagle Jet, and not making derogatory statements about Eagle Jet.

11 95. Mr. Woods was presented with the letter by Mr. Warren and Mr. Penly.

12
13 96. On or about April 27, 2007, Mr. Woods issued checks to pay for the charges on Mr.
14 Woods's personal credit cards for expenses alleged to have been incurred by Eagle Jet
15 including \$34,000 for a Lear 55 windshield, \$23,000 for installation of the windshield,
16 \$14,000 for training at Simuflite, miscellaneous fuel charges, ramp charges and aircraft
17 parts.

18 97. Mr. Woods also issued a check to himself for reimbursement of the \$100,000 he loaned
19 Eagle Jet for purchase of the Purchased Lear 35, plus \$15,000 interest.

20 98. Lastly, Mr. Woods cut check number 3304 to Cirrus for \$200,000. Mr. Woods cut the
21 checks to Cirrus instead of himself

22 99. Shortly thereafter, Mr. Penly and Mr. Warren, owning a majority interest of Eagle Jet,
23 told Mr. Woods they were voting him out.

24 100. At about this time Mr. Penly had the locks changed at Eagle Jet, and called to
25 cancel Mr. Woods's security badge for airport access.

1 101. On or about April 30, 2007, Mr. Penly sent a letter to Bank of Nevada, telling the
2 bank there was a dispute and to put a hold on all funds regarding check number 3304.

3 Bank of Nevada subsequently interpled the funds suing both Mr. Woods and Eagle Jet.

4 102. The owner of the Managed Lear 55 One took back its aircraft from Eagle Jet..

5 103. During all times he was the President, Chief Pilot and Director of Operations for
6 Eagle Jet, Milton J. Woods was a Canadian citizen.

7 104. Milton J. Woods obtained US Citizenship in 2009.

8 105. Mr. Woods directed the payment of expenses for Eagle Jet prior to April 26,
9 2007.

10 106. Milt Woods opened a bank account called 'Eagle Jet Maintenance' at Bank West
11 of Nevada.

12 107. Mr. Woods had access to the customer lists of Eagle Jet. Mr. Woods has had
13 contact with Randy Kidd since April 26, 2007.

14 108. Milt Woods and Greg Woods appeared at the offices of Eagle Jet on or about July
15 24, 2009 with more than one police officer to obtain or inspect financial records of Eagle
16 Jet.

17 DATED this 14th day of June, 2014.

DATED this 14th day of June, 2014.

18 PREMIER LEGAL GROUP

FLANGAS MCMILLAN LAW GROUP

19
20
21 By: 

By: 

22 Jay A. Shafer, Esq.
23 Nevada Bar No. 9184
1333 North Buffalo Drive, Suite 210
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24 Telephone: (702) 794-4411
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Attorneys for Defendants
26 EAGLE JET AVIATION, INC.
and ALEX PENLY

Gus D. Flangas, Esq.
Nevada Bar No. 4989
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3275 S. Jones Boulevard, Suite 105
Las Vegas, Nevada 89146
Attorneys for Plaintiffs
MILTON WOODS and
CIRRUS AVIATION SERVICES

07A546250

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Business Court

COURT MINUTES

May 05, 2014

07A546250	Milton Woods, Cirrus Aviation Services Inc
	vs
	Eagle Jet Aviation Inc, Alex Penley, et al

May 05, 2014	2:53 PM	Minute Order
--------------	---------	--------------

HEARD BY: Allf, Nancy

COURTROOM: Dist Court XXVII -
Chambers

COURT CLERK: Sharon Chun

JOURNAL ENTRIES

- MINUTE ORDER - NO HEARING

COURT FINDS after review a Status Check on Arbitration was set for MOTION CALENDAR on May 7, 2014 at 9.00 a.m. COURT FURTHER FINDS after review the Court Granted a motion to Confirm Arbitration Award for Attorney Fees on October 16, 2013 however the Award would not be enforceable until arbitration was complete. At a status check on arbitration on March 5, 2014 the Court found that the parties had not yet set an arbitration date and ordered the status check continued 60 days. If the case did not move forward in the next 60 days the Court would set a Show Cause Hearing for dismissal.

COURT FURTHER FINDS after review Defendant filed a Motion to Dismiss Claims against Milt s Eagle, Private Jet Services and Stuart Warren pursuant to NRCP 41(e) on April 18, 2014 and the Motion is set for Hearing on MOTION CALENDAR on May 21, 2014 at 10.00 a.m.

COURT ORDERS for good cause appearing Status Check on arbitration VACATED.

CLERK'S NOTE: A copy of this minute order has been distributed to the following:
Gus W. Flangas (Flangas & McMillan) FAX: 702-382-9452
Jay A. Shafer or Robert C. Reade (Premier Legal Group)
Email: jshafer@premierlegalgroup.com

PRINT DATE: 05/05/2014

Page 1 of 1

Minutes Date: May 05, 2014

R0184

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Business Court

COURT MINUTES

October 16, 2013

07A546250

**Milton Woods, Cirrus Aviation Services Inc
vs
Eagle Jet Aviation Inc, Alex Penley, et al**

October 16, 2013

9:30 AM

Motion to Confirm Arbitration Award

HEARD BY: Alf, Nancy

COURTROOM: RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Traci Rawlinson

REPORTER:

PARTIES

PRESENT: Flangas, Gus W
Shafer, Jay A.

Attorney for Plaintiff
Attorney for Defendant

JOURNAL ENTRIES

- Arguments by counsel regarding the arbitration award for attorney's fees and costs, whether or not award was in lieu of striking the pleadings, NRS 38.239, arguments in supplement filed by defense counsel, and further arguments. Mr. Flangas moved to strike the supplement as a fugitive document. Court stated its findings and ORDERED, Motion to Confirm Arbitration Award for Attorney Fees and Costs GRANTED IN PART as to confirmation of the award and DENIED IN PART as Court FINDS it is interlocutory and not enforceable at this time, STATUS CHECK set 3/5/2014 9:00 am. Court stated that if the arbitration is not complete in February and it hears complaints regarding dilatory tactics on behalf of the Defendant it will enforce the order.

3/5/2014 9:00 AM STATUS CHECK: ARBITRATION PROCEEDINGS

PRINT DATE: 10/22/2013

Page 1 of 1

Minutes Date: October 16, 2013

R0185

EVENTS & ORDERS OF THE COURT

12/02/2015 All Pending Motions (9:00 AM) (Judicial Officer Cory, Kenneth)
PLAINTIFFS MOTION TO DISMISS ALL OF DEFENDANT HKLM'S CAUSES OF ACTION CONTAINED IN THE COUNTERCLAIM AND MOTION TO DISMISS OR IN THE ALTERNATIVE MOTION FOR SUMMARY JUDGMENT AS TO DEFENDANTS THIRD AND FOURTH CAUSES OF ACTION CONTAINED IN THE COUNTERCLAIM FOR FRAUD AND VIOLATION OF THE NEVADA DECEPTIVE TRADE PRACTICES ACT AND MOTION TO STRIKE IMMATERIAL, IMPERTINENT, IRRELEVANT AND SCANDALOUS ALLEGATIONS... DEFENDANTS' MOTION FOR SUMMARY JUDGMENT IN THEIR FAVOR AGAINST PLAINTIFFS MICHAEL D. RICHMAN AND LUZVIMINDA O. DAPAT

Minutes

12/02/2015 9:00 AM

- PLAINTIFFS MOTION TO DISMISS ALL OF DEFENDANT HKLM'S CAUSES OF ACTION CONTAINED IN THE COUNTERCLAIM AND MOTION TO DISMISS OR IN THE ALTERNATIVE MOTION FOR SUMMARY JUDGMENT AS TO DEFENDANTS THIRD AND FOURTH CAUSES OF ACTION CONTAINED IN THE COUNTERCLAIM FOR FRAUD AND VIOLATION OF THE NEVADA DECEPTIVE TRADE PRACTICES ACT AND MOTION TO STRIKE IMMATERIAL, IMPERTINENT, IRRELEVANT AND SCANDALOUS ALLEGATIONS... DEFENDANTS' MOTION FOR SUMMARY JUDGMENT IN THEIR FAVOR AGAINST PLAINTIFFS MICHAEL D. RICHMAN AND LUZVIMINDA O. DAPAT Mr. Flangas argued the causes of action are barred by NRS 78.585 and does not think there is a stay of the statute of limitations in 2011. As to fraud, Mr. Flangas argued he does not think it was stayed. Mr. Flangas further argued the deceptive trade practice is to protect the consumer and they are not a consumer and it does not apply and there is no cause of action. Mr. Kennedy argued the motion for summary judgment should be denied as there has to be a statement of undisputed facts and what is in the counterclaim must be considered and not what is in the third amended complaint. As to the fraud, it is clear from the affidavit they discovered in 2014 and the counterclaim was filed within two years. Plaintiffs are arguing the wrong statute as to statute of limitations chapter 86 because it is a LLC and there was a stay for four nine months. Mr. Kennedy further argued as to their deceptive trade practice argument that you have to be a consumer is wrong, it is a wrongful action. Mr. Richmond used his own words and the things he claims he was awarded were bought. Defendants have had to spend a lot of money fixing his representations. Mr. Flangas argued as to the auditors findings and files not being updated. Further argued defendants were on inquiry notice. Mr. Kennedy argued the bankruptcy ruling stated this should have been disclosed in the bankruptcy, but because of the lapse in time the Bankruptcy Court was unable to re-open the estate. Mr. Kennedy further argued the two issues in the summary judgment motion have been affirmed by the Bankruptcy Court. The question now is after closure of bankruptcy are the plaintiffs going to be able to pursue the claims now for their own benefit. Mr. Kennedy argued 7th Circuit case Cannon-Stokes vs. Potter and because they did not disclose in bankruptcy they are estopped from pursuing. Mr. Flangas argued judicial estoppel and gave summary of the bankruptcy procedures. Mr. Flangas further argued Mr. Daniel Marks was representing plaintiffs in this action not the bankruptcy action and therefore it was defendants responsibility to disclose the dispute. Mr. Zach Larsen, Bankruptcy counsel, gave summary of the Chapter 13 procedures. Further arguments by counsel. Mr. Kennedy argued the Nolm case. COURT ORDERED, BOTH Motions GRANTED and each party to prepare their own Order

Parties Present

Return to Register of Actions

EXHIBIT 2

EXHIBIT 2

33

Inst #: 20160201-0002431
Fees: \$49.00
N/C Fee: \$0.00
02/01/2016 03:39:42 PM
Receipt #: 2673647
Requestor:
AMPM LEGAL SOLUTIONS
Recorded By: RIVASR Pgs: 33
DEBBIE CONWAY
CLARK COUNTY RECORDER

RECORDING COVER PAGE

(Must be typed or printed clearly in BLACK ink only
and avoid printing in the 1" margins of document)

APN#

(11 digit Assessor's Parcel Number may be obtained at:
<http://redrock.co.clark.nv.us/assrrealprop/ownr.aspx>)

TITLE OF DOCUMENT

(DO NOT Abbreviate)

Judgment

Document Title on cover page must appear EXACTLY as the first page of the document
to be recorded.

RECORDING REQUESTED BY:

Kevin M. Sutehall (9437)

RETURN TO: Name Kevin M. Sutehall, Esq. (9437)

Address 1980 Festival Plaza Drive, Suite 700

City/State/Zip Las Vegas, Nevada 89135

MAIL TAX STATEMENT TO: (Applicable to documents transferring real property)

Name

Address

City/State/Zip

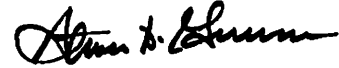
This page provides additional information required by NRS 111.312 Sections 1-2.

An additional recording fee of \$1.00 will apply.

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CLERK OF THE COURT

JUDG
GUS W. FLANGAS, ESQ.
Nevada Bar No. 004989
gwf@fdlawlv.com
FLANGAS MCMILLAN LAW GROUP
3275 South Jones Blvd., Suite 105
Las Vegas, Nevada 89146
Telephone: (702) 307-9500
Facsimile: (702) 382-9452
Attorney for Plaintiffs

DISTRICT COURT
CLARK COUNTY, NEVADA

MILTON J. WOODS, and CIRBUS
AVIATION SERVICES, INC., a Washington
Corporation,

Plaintiffs,

vs.

EAGLE JET AVIATION, INC., a Nevada
Corporation; ALEX PENLY, and STUART
M. WARREN; PRIVATE JET SERVICES, INC.,
a Nevada Corporation; MILT'S EAGLE, LLC, a
Nevada Limited Liability Company; and
DOES I-X, inclusive,

Defendants.

Case No.: A546250
Dept No.: XXVII

JUDGMENT

THIS MATTER came on for Binding Arbitration on August 14, 15, 20, 21, 22, 28;
September 3, 12, 15, 18; October 3, 15, 28, 29; November 3, 4, 24; and December 8, 9, 10, of 2014.
A written Arbitration Award in this matter was rendered on January 27, 2015. The Arbitration
Award was confirmed in a Hearing held on April 29, 2015 at 9:30 a.m., and an Order Confirming
Arbitration Award was entered on September 18, 2015.

Thereafter, there was a Hearing before this Court on June 15, 2015, on
Defendants/Counterclaimants' Motion to Modify or Correct Arbitration Award and Motion to
Vacate Arbitration Award, wherein the Court denied said Motions in an Order entered on September
18, 2015.

///

<input type="checkbox"/> Voluntary Dismissal	<input type="checkbox"/> Summary Judgment
<input type="checkbox"/> Involuntary Dismissal	<input type="checkbox"/> Stipulated Judgment
<input type="checkbox"/> Stipulated Dismissal	<input type="checkbox"/> Default Judgment
<input type="checkbox"/> Motion to Dismiss by Deft(s)	<input checked="" type="checkbox"/> Judgment of Arbitration

1 Therefore, this matter having been fully litigated and confirmed, and the Court being fully advised
2 in the premises,

3 **IT IS ORDERED, ADJUDGED and DECREED** that the Arbitration Award and Order
4 Confirming Arbitration Award attached hereto as Exhibit "1", is reduced to Judgment; and

5 **IT IS FURTHER ORDERED** that the Plaintiff, MILTON J. WOODS (hereinafter "Mr.
6 Woods"), shall have and recover from Defendant, EAGLE JET AVIATION, INC., a Judgment in
7 the sum of One Hundred Eleven Thousand Seven Hundred and Fifty dollars (\$111,750.00) with
8 interest thereon at the legal rate of interest as provided by law from the date of the service of the
9 Complaint herein through the date that the Judgment is paid in full; and

10 **IT IS FURTHER ORDERED, ADJUDGED and DECREED** that the Plaintiff, CIRRUS
11 AVIATION SERVICES, INC. (hereinafter "Cirrus") shall have and recover from Defendant, ALEX
12 PENLY, a Judgment in the sum of One Million Five Hundred Thousand Dollars (\$1,500,000.00)
13 with interest thereon at the legal rate of interest as provided by law from the date of the service of
14 the Complaint herein through the date that the Judgment is paid in full; and

15 **IT IS FURTHER ORDERED, ADJUDGED and DECREED** that the Plaintiffs shall have
16 and recover from Defendant, ALEX PENLY, a Judgment in the sum of Eighty Thousand Dollars
17 (\$80,000.00) with interest thereon at the legal rate of interest as provided by law from the date of
18 the service of the Complaint herein through the date that the Judgment is paid in full.

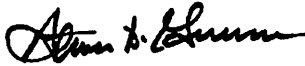
19 **DATED** this 14 day of January, 2016.

20
21 Nancy L. Allif
22 **DISTRICT JUDGE** EA

23 Respectfully submitted by:

24
25 GUS W. FLANGAS, ESQ.
26 Nevada Bar No. 004989
27 FLANGAS DALACAS LAW GROUP
28 gwf@fdlawlv.com
3275 South Jones Blvd., Suite 105
Las Vegas, Nevada 89146

EXHIBIT 1



CLERK OF THE COURT

1 **ORDER**
2 GUS W. FLANGAS, ESQ.
3 Nevada Bar No. 004989
4 gwf@fdlawlv.com
5 **FLANGAS MCMILLAN LAW GROUP**
6 3275 South Jones Blvd., Suite 105
7 Las Vegas, Nevada 89146
8 Telephone: (702) 307-9500
9 Facsimile: (702) 382-9452
10 *Attorney for Plaintiffs*

11 **DISTRICT COURT**
12 **CLARK COUNTY, NEVADA**

13 MILTON J. WOODS, and CIRRUS
14 AVIATION SERVICES, INC., a Washington
15 Corporation,

16 Plaintiffs,

17 vs.

18 EAGLE JET AVIATION, INC., a Nevada
19 Corporation; ALEX PENLY, and STUART
20 M. WARREN; PRIVATE JET SERVICES, INC.,
21 a Nevada Corporation; MILT'S EAGLE, LLC, a
22 Nevada Limited Liability Company; and
23 DOES I-X, inclusive,

24 Defendants.

Case No.: A546250
Dept No.: XXVII

ORDER CONFIRMING
ARBITRATION AWARD

25 THIS MATTER came for Hearing before this Court on April 29, 2015 at 9:00 a.m. on the
26 Plaintiffs' "Motion to Confirm Arbitration Award." The Plaintiffs were represented by GUS W.
27 FLANGAS, ESQ. of the FLANGAS DALACAS LAW GROUP. The Defendants, ALEX PENLY
28 (hereinafter "Mr. Penly) and EAGLE JET SERVICES, INC. (hereinafter "Eagle Jet"), were
represented by their attorneys, JAY W. SHAFER, ESQ. of the PREMIER LEGAL GROUP who
appeared in person, and MARK C. FIELDS, ESQ. of the Law Offices of Mark C. Fields, APC, who
appeared telephonically.

Having reviewed the Pleadings and Papers on file in this matter, heard arguments by counsel,

....

1 and good cause appearing;

2 **THE COURT HEREBY FINDS** that the Plaintiffs brought a complaint against the
3 Defendants to recover monies owed the Plaintiffs for loss of shareholder interest and bonus
4 payments, among other relief sought.

5 **THE COURT FURTHER FINDS** that the Parties mentioned herein, voluntarily agreed to
6 submit the entire matter into Binding Arbitration. NLA

7 **THE COURT FURTHER FINDS** that the Parties agreed to have JOHN H. BAILEY, ESQ. WAS
8 (Hereinafter "Mr. Bailey") appointed as the Arbitrator in this case.

9 **THE COURT FURTHER FINDS** that the Parties arbitrated this case before Mr. Bailey on
10 August 14, 15, 20, 21, 22, 28; September 3, 12, 15, 18; October 3, 15, 28, 29; November 3, 4, 24;
11 and December 8, 9, 10, of 2014, at the law offices of BAILEY KENNEDY located in Clark County,
12 Las Vegas, Nevada.

13 **THE COURT FURTHER FINDS** that after the completion of the Binding Arbitration, Mr.
14 Bailey rendered a written Arbitration Award (hereinafter "the Award"), dated January 27, 2015. A
15 copy of the Award is attached hereto as Exhibit "1" and is incorporated in its entirety into this Order
16 and is binding as though fully set forth herein.

17 **THE COURT FURTHER FINDS** that pursuant to the Award, Mr. Bailey awarded the
18 Plaintiff, MILTON J. WOODS (hereinafter "Mr. Woods"), the amount of One Hundred Eleven
19 Thousand Seven Hundred and Fifty dollars (\$111,750.00) against Eagle Jet.

20 **THE COURT FURTHER FINDS** that pursuant to the Award Mr. Bailey awarded the
21 Plaintiff, CIRRUS AVIATION SERVICES, INC. (hereinafter "Cirrus") the amount of One Million
22 Five Hundred Thousand Dollars (\$1,500,000.000) against Mr. Penly.

23 **THE COURT FURTHER FINDS** that on October 16, 2013, the Court GRANTED the
24 Plaintiffs' previous "Motion to Confirm Arbitration Award" wherein Mr. Bailey awarded the
25 Plaintiffs the amount of Eighty Thousand Dollars (\$80,000) against Mr. Penly for Attorneys Fees
26 as sanctions but delayed the enforceability of the award until the Arbitration was complete
27 (hereinafter the "Previous Award"). A copy of the Previous Award is attached hereto as Exhibit "1"
28 and is incorporated in its entirety into this Order and binding as though fully set forth herein.

1 **THE COURT FURTHER FINDS** that pursuant to NRS 38.239, the Plaintiffs are entitled
2 to an Order confirming the Award and the Previous Award.

3 **THEREFORE, THE COURT HEREBY ORDERS** that the Plaintiffs' "Motion to Confirm
4 Arbitration Award" is **Granted**.

5 **THE COURT FURTHER ORDERS** that the Award to Mr. Woods in the amount of One
6 Hundred Eleven Thousand Seven Hundred and Fifty dollars (\$111,750.00) against Eagle Jet is
7 **Confirmed** and Mr. Woods is therefore entitled to Judgement against Eagle Jet in the amount of One
8 Hundred Eleven Thousand Seven Hundred and Fifty dollars (\$111,750.00), plus interest in an
9 amount allowed by law.

10 **THE COURT FURTHER ORDERS** that the Award to the Cirrus in the amount of One
11 Million Five Hundred Thousand Dollars (\$1,500,000.000) against Mr. Penly is **Confirmed** and
12 Cirrus is therefore entitled to Judgement against Mr. Penly in the amount of One Million Five
13 Hundred Thousand Dollars (\$1,500,000.000), plus interest in an amount allowed by law.

14 **THE COURT FURTHER ORDERS** that the Previous Award to the Plaintiffs which was
15 previously confirmed by the Court in the amount of \$80,000 against Mr. Penly is again **Confirmed**
16 and the Plaintiffs are therefore entitled to Judgement against Mr. Penly in the amount of Eighty
17 Thousand Dollars (\$80,000), plus interest in an amount allowed by law.

18 **THE COURT FURTHER ORDERS** that because the Defendants filed on the day before
19 the Hearing, "Defendants and Counterclaimants' Motion to Modify or Correct Arbitration Award,"
20 and "Defendants and Counterclaimants' Motion to Vacate Arbitration Award." a Hearing on the
21 Motions shall be heard on June 15, 2015 at 10:00 a.m.

22 **THE COURT FURTHER ORDERS** that the Plaintiffs' request for additional attorney's
23
24
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1 fees is deferred until after the Hearing on June 15, 2015.


2 **THE COURT FURTHER ORDERS** that the amounts set forth in this Order be reduced
3 to Judgment.

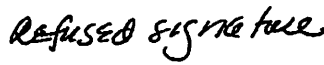
4 **IT IS SO ORDERED** this 20 day of August, 2015.

5
6 Nancy Allen
7 **DISTRICT JUDGE**

8 Respectfully submitted by:

Approved as to form by:

9
10 
11 **GUS W. FLANGAS, ESQ.**
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13 gwf@fdlawlv.com
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15 3275 South Jones Blvd., Suite 105
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19 Attorney for Plaintiffs

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Attorney for Defendants

29 Refused Signature
30 **MARK C. FIELDS, ESQ.**
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33 **LAW OFFICES OF MARK C. FIELDS, APC**
34 333 South Hope Street, 35th Floor
35 Los Angeles, California
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37 Facsimile: (213) 629-4520
38 Attorney for Defendants

EXHIBIT 1

1 JOHN R. BAILEY
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2 BAILEY ♦ KENNEDY
8984 Spanish Ridge Avenue
3 Las Vegas, Nevada 89148
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4 Facsimile: (702) 562-8821
jbailey@baileykennedy.com

5 Arbitrator

6 DISTRICT COURT
7
8 CLARK COUNTY, NEVADA

9 MILTON J. WOODS and CIRRUS
10 AVIATION SERVICES, INC., a Washington
corporation,

11 Plaintiffs,

12 vs.

13 EAGLE JET AVIATION, INC., a Nevada
14 corporation; ALEX PENLY; STUART M.
WARREN; PRIVATE JET SERVICES, INC.,
15 a Nevada corporation; MILT'S EAGLE, LLC,
Nevada limited liability company; and
16 DOES I-X, inclusive,

17 Defendants.
18

Case No. A546250
Dept. No. XI

ARBITRATION AWARD

19 This matter came before the undersigned arbitrator for hearing on the following days in
20 accordance with the parties' agreement and the Court's Order:
21

- 22 • August 14, 15, 20, 21, 22, and 28, 2014;
- 23 • September 3, 12, 15, and 18, 2014;
- 24 • October 3, 15, 28, and 29, 2014;
- 25 • November 3, 4, and 24, 2014; and
- 26 • December 8, 9, and 10, 2014.
- 27
- 28

1 Plaintiffs/Counterdefendants Milton Woods and Cirrus Aviation Services, Inc. (individually
2 "MWoods" and "Cirrus," respectively, and collectively, "Plaintiffs") were represented by their
3 counsel, Gus W. Flangas, Esq. Defendants/Counterclaimants Eagle Jet Aviation Inc. and Alex
4 Penly (individually "EJA" and "Penly," respectively, and collectively, "Defendants") were
5 represented by their counsel, Mark C. Fields, Esq. and Jay A. Shafer, Esq.¹ Defendants
6 submitted their Post-Closing Arbitration Brief on December 29, 2014, at which time the
7 arbitration was closed.

8
9 Upon considering the parties' arbitration briefs, the Stipulation As To Undisputed
10 Facts, the testimony of the parties and witnesses, the substantial evidentiary submissions, the
11 closing arguments of counsel, Defendants' post-closing brief, and all other matters properly
12 submitted at arbitration, the arbitrator makes the following determinations and award.²

13 I. PRELIMINARY FINDINGS

14
15 A. Stipulation As To Undisputed Facts. At the request of the arbitrator, the parties
16 submitted, and the arbitrator accepted and hereby incorporates, a Stipulation As To Undisputed
17 Facts, which is attached to this Arbitration Award as Exhibit "A."

18
19 B. Quantity and Quality of the Evidence. This matter, and specifically the parties' ability to
20 present admissible evidence in support or defense of their respective claims and counterclaims
21 was materially plagued by the undisputed fact that a substantial portion of EJA's business and
22 financial records disappeared immediately after the time that MWoods departed from EJA in
23 April 2007. While the parties were unable to provide any clear indication as to what happened
24

25
26 ¹ The other parties identified in the Complaint (or Amended Complaint) and listed in the caption were either
27 dismissed under N.R.C.P. 41(e) or had sought and obtained bankruptcy protection.

28 ² Initially, the parties were unable to agree on the form of this Arbitration Award (i.e., a simple award vs. a
reasoned award). Ultimately, they stipulated to a simple award with summary reasoning.

1 to those records, it is undisputed that Penly, under oath and in his own declarations, asserted that
2 he is familiar with the creation of, maintenance of, and has line responsibility for the business
3 records (including the accounting records) of each of the two companies (EJA and Private Jet
4 Services, Inc.) for all relevant times. There was no credible evidence presented that MWoods
5 (or anyone under his control) took or was otherwise responsible for the disappearance of EJA's
6 business and financial records.³ Therefore, in the absence of any plausible explanation for their
7 disappearance, the responsibility to account for EJA's business and financial records falls upon
8 Penly.
9

10
11 C. Credibility of Key Witnesses.

12 a. Alex Penly. It is disconcerting and material to the findings that give rise to this
13 Arbitration Award that Penly admittedly: (i) was less than honest with the Court (Judge
14 Gonzalez) during a hearing in this matter on July 21, 2009, when he failed to disclose that EJA's
15 MSP payments due on its Lear 35 aircraft were current only because the finance company for
16 the aircraft made the payments by increasing the debt on the aircraft; and (ii) intentionally
17 misled and deceived the Court (Judge Gonzalez) during a hearing in this matter on January 21,
18 2010, and the shareholders of EJA during a shareholders' meeting on March 11, 2010, when he
19 failed to disclose that EJA had gone out of business; that EJA's Part 135 Certificate—issued by
20 the Federal Aviation Administration (the "FAA")—had been surrendered in favor of a new
21 company (*i.e.*, The Berkeley Group, LLC dba NV Jets) owned by Penly's relatives and others;
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27 ³ During discovery, Plaintiffs were awarded \$80,000.00 for attorneys' fees and costs against Penly in
28 connection with the disappearance of EJA's business and financial records, and received a presumption at the
arbitration hearing that Penly engaged in spoliation of EJA's (and other companies') business and financial records.
See, Arbitration Orders dated April 9, 2013, and May 21, 2013. It should be noted that Penly was awarded
\$2,590.75 as deposition sanctions against Plaintiffs. See, Arbitration Order dated February 26, 2014.

1 and that NV Jets was operating a business substantially similar to that which EJA had operated
2 (i.e., a private jet charter service) by using EJA's location, phone number, and other assets.⁴

3 b. **Milton Woods.** Although he clearly and undeniably dislikes Penly, MWoods
4 was generally credible. While he certainly acted in his own best interest after his departure from
5 EJA in April 2007, it was uncontradicted that he was not under any restrictive covenants that
6 would have prohibited him from competing directly against EJA, despite having an ownership
7 interest in EJA (through Cirrus).

8
9 c. **Stuart Warren.** It was uncontradicted that Mr. Warren, like MWoods (through
10 Cirrus), lost the value of his ownership interest in EJA when EJA went out of business in 2009.
11 While Mr. Warren's personal knowledge about all of the events that transpired among Penly,
12 MWoods, and EJA was limited by his lack of a physical presence in Las Vegas, Nevada, his
13 testimony about matters in which he was directly involved was very credible.

14
15 D. **MWoods' Bonus.** It is undisputed that EJA (through its Board of Directors)
16 unanimously granted bonuses to MWoods (in the amount of \$200,000.00), Penly (in the amount
17 of \$100,000.00), and Stuart Warren (in the amount of \$100,000.00) on December 29, 2006.⁵
18 There were no plausible explanations from any of the parties as to why these bonuses were not
19 paid either immediately or sometime in January 2007, when EJA's bank account records
20 indicated that such funds were available. Nonetheless, upon his separation from EJA in late
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26 ⁴ The Lear 35 aircraft was owned by Milt's Eagle, LLC, which was a wholly-owned subsidiary of EJA.
27 There was no evidence showing that NV Jets ever paid EJA any consideration for the acquisition of EJA's assets.
The transfer of such assets directly inured to the benefit of Penly and his relatives at the expense of the EJA's other
shareholders; namely, Cirrus and Stuart Warren.

28 ⁵ While Mr. Warren's bonus was characterized as a payment of legal fees; the parties testified that each of
the principals was essentially being awarded a bonus.

1 April 2007, MWoods took his bonus.⁶ Then, on May 1, 2007, after MWoods' departure from
2 EJA, the EJA Shareholders (excluding Cirrus) took action to "disapprove payment of such
3 bonuses and/or the making of such payments to the extent not heretofore made due to the
4 Corporation's lack of adequate funds to support its operations" At the time that MWoods
5 took his bonus, EJA had sufficient funds to pay the bonus and such bonus had not been
6 "disapproved." While not an ideal situation, MWoods was nonetheless entitled to his bonus
7 from EJA at the time he took it. Accordingly, he is entitled to the \$111,750.00 of his bonus
8 from EJA that he did not receive.⁷

10
11 E. MWoods' Reimbursement of Company Expenses. Defendants assert that the
12 reimbursement monies MWoods received from EJA greatly exceeded the actual amount he was
13 entitled to for legitimate company expenses—an assertion MWoods adamantly disputes. Due to
14 the lack of business and financial records of EJA and missing credit card statements for
15 MWoods during the relevant time period, neither party was able to present evidence sufficient to
16 either prove or defend its position on this issue. Consequently, Defendants have failed to meet
17 their burden of proof on this counterclaim.

19 F. Penly's Breach of Fiduciary Duties. The parties (primarily, MWoods and Penly) spent a
20 significant amount of time pointing fingers at each other and accusing one another of
21 mismanagement.⁸ While individual actions taken years ago, through the benefit of 20/20
22

23
24 ⁶ MWoods' bonus (of \$200,000.00) was subsequently the subject of an interpleader action initiated by Bank
25 of Nevada. From all of the evidence presented, which is conflicting, it appears as though EJA received \$111,750
26 from the interpleader action and MW (through Cirrus) received \$86,750 from the interpleader action in October
27 2007.

28 ⁷ From the evidence, it appears as though Bank of Nevada received \$1,500.00 for attorneys' fees in
connection with the interpleader action. Under the circumstances, neither side should be entitled to keep or recover
the \$1,500.00.

⁸ Much of the evidence (testimony and documents) presented, as well as arguments of counsel, were
irrelevant to the claims/counterclaims asserted.

1 hindsight, may appear to be less than prudent, it does not appear that MWoods, during the time
2 that he was in charge of the daily operations of EJA, intentionally took any actions designed to
3 harm the company or any of its shareholders. On the other hand, while Penly inherited EJA at a
4 difficult time (e.g., employees loyal to MWoods left the company, and starting a year or so later
5 the national and local economy lapsed into a recession), he was untruthful to the Court and
6 shareholders about material matters involving EJA. Moreover, he ultimately breached his
7 fiduciary duties to EJA's shareholders when he failed to disclose that EJA's Part 135 Certificate
8 had been surrendered in favor of a new company—i.e., The Berkeley Group, LLC dba NV Jets—
9 owned by his relatives and others, and that NV Jets was operating a business substantially
10 similar to that which EJA had operated by using EJA's location, phone number, and other
11 assets.⁹

14 G. Damages. Based on all the evidence, it is clear that Cirrus lost its investment in EJA (a
15 30% interest) due to Penly's breaches of the fiduciary duties he owed to the company. It is
16 difficult to determine the exact value of the Cirrus' interest in EJA because Penly's breaches
17 occurred over a period of time (i.e., between April 2007 and early 2010) and the value of such
18 interest decreased after April 2007 due to the onset of the national and local economic recession
19 (which cannot be attributed to Penly). Instructive in determining the value of Cirrus' interest in
20 EJA (and damages) is the valuation given to such interest by Stuart Warren in his e-mail
21 communication to Penly, Greg Woods, and MWoods dated April 29, 2007, wherein he valued
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26 ⁹ See, Section I(C)(a) and footnote 4, above. Documents from the FAA indicate that Penly was the Chief
27 Executive Officer of The Berkeley Group, LLC. See, Plaintiffs' Exhibit 116. Further, these same documents from
28 the FAA state: "THE BERKELEY GROUP LLC IS A NEW LLC AND CERTIFICATE, THE SAME BASIC
GROUP OF PERSONS HOLDING EAGLE JET AVIATION, INC (EWJA 136K) HAVE APPLIED FOR THE
NEW CERTIFICATION UNDER THE BERKELEY GROUP LLC (DBA NV JETS). CERTIFICATE ISSUED
ON JANUARY 21, 2010." Id.

1 such interest at approximately \$2,000,000.00.¹⁰ Though difficult to determine, Cirrus' damages
2 due to Penly's breaches of his fiduciary duties can be calculated by looking at all of the
3 admissible evidence—for example, evidence that EJA's Part 135 Certificate in and of itself had
4 a separate market value—and applying the undersigned's knowledge, training and experience.
5 Based on such, Cirrus suffered damages of \$1,500,000.00 in the loss of its shareholder interest
6 in EJA due to Penly's conduct.

8 II. AWARD

9 After considering the pleadings, the testimony and evidence presented at the hearing, the
10 arbitrator has decided, in full and final resolution of the claims and counterclaims submitted for
11 determination, as follows:

12
13 1. Defendant Eagle Jet Aviation, Inc. is liable for and shall pay Plaintiff Milton J. Woods
14 compensatory damages in the amount of \$111,750.00.

15 2. Defendant Alex Penly is liable for and shall pay Plaintiff Cirrus Aviation Services, Inc.
16 compensatory damages in the amount of \$1,500,000.00.

17 3. Any and all relief not specifically addressed herein, including punitive damages, is
18 expressly denied.

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27 ¹⁰ See, Plaintiffs' Exhibit 66. The \$2,000,000.00 offer from Mr. Warren was for MWoods' interest in EJA
28 and "other companies," and was contingent upon other specified conditions. It is noted that MWoods never agreed
to accept Mr. Warren's offer. Additionally, there was testimony presented by Plaintiffs about offers that were made
to purchase EJA in the range of \$3,000,000.00 to \$6,000,000.00; however, there was no written evidence of any
bona fide offers.

1 Each party shall bear its own fees and costs, including attorneys' fees, relating to this
2 Arbitration.

3 DATED this 27th day of January, 2015.
4

5 BAILEY ♦ KENNEDY

6 By: 
7 JOHN R. BAILEY
8 Nevada Bar No. 0137
9 8984 Spanish Ridge Avenue
10 Las Vegas, Nevada 89148

11 *Arbitrator*
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CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of January, 2015, a copy of the foregoing
ARBITRATION AWARD was served by sending a copy via electronic mail and by depositing a
true and correct copy in the U.S. Mail, first class postage prepaid, and addressed to the following
at their last known addresses:

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(E-mail: GWF@fdlawlv.com)
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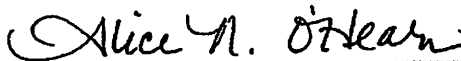
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Alice N. O'Hearn, an Employee of
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Exhibit A

1 **STIP**

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10 Attorneys for Defendant ALEX PENLY

11 and EAGLE JET AVIATION, INC.

12 **PRIVATE BINDING ARBITRATION**

13 MILTON WOODS; CIRRUS AVIATION
14 SERVICES INC., a Washington Corporation,

15 Plaintiffs,

16 v.

17 EAGLE JET AVIATION INC., a Nevada
18 Corporation; ALEX PENLY; STUART M.
19 WARREN; PRIVATE JET SERVICES INC., a
20 Nevada Corporation; MILT'S EAGLE LLC, a
21 Nevada Limited Liability Company; DOES I
22 through x, Inclusive,

23 Defendants.

24 EAGLE JET AVIATION INC., a Nevada
25 Company; ALEX PENLY, an Individual,

26 Counterclaimants,

27 v.

28 MILTON WOODS, an Individual; CIRRUS
AVIATION SERVICES INC., a Washington
Corporation; DOES I through X, Inclusive,

Counterdefendants.

Case No.: A-07-546250-B

Dept. No.: XXVII

**STIPULATION AS TO UNDISPUTED
FACTS**

IT IS HEREBY STIPULATED AND AGREED by and between Defendants ALEX
PENLY and EAGLE JET AVIATION, INC., being represented by Jay A. Shafer, Esq. of the law
firm of Premier Legal Group, and Plaintiffs MILTON WOODS and CIRRUS AVIATION

1 SERVICES, INC., being represented by their counsel Gus D. Flangas, Esq., and the law offices
2 of Flangas McMillan Law Group, that the following facts are stipulated to as undisputed:

- 3 1. The Plaintiff, MILTON J. WOODS (hereinafter referred to as "Mr. Woods"), is a United
4 States citizen residing and working in Las Vegas, Nevada. He is an aircraft pilot with an
5 Airline Transport Pilot ("ATP") rating and he has 48 years of experience as a pilot. He
6 has lived in Las Vegas for over ten years. Mr. Woods became a United States Citizen in
7 2009.
- 8 2. The Plaintiff, CIRRUS AVIATION SERVICES (hereinafter referred to as "Cirrus"), is a
9 Washington corporation with its principal place of business in Clark County, Nevada.
10 Mr. Woods, along with his two sons, are the shareholders of Cirrus. Mr. Woods presently
11 owns Ten Percent (10%) of the shares in Cirrus and his sons Mark Woods and Greg
12 Woods each own Forty Five Percent (45%) of the shares.
- 13 3. The Defendant, EAGLE JET AVIATION, INC. (hereinafter referred to as "Eagle Jet"),
14 was a Nevada corporation with its principal place of business in Clark County, Nevada.
- 15 4. Eagle Jet was an aviation company that offered the general public the ability to charter
16 private aircraft. Eagle Jet had a FAR Part 135 Certificate (hereinafter referred to as the
17 "Operating Certificate") from the Federal Aviation Administration (hereinafter referred
18 to as the "FAA") to operate jet aircraft capable of carrying nine passengers or less
19 anywhere in the United States, Canada, Mexico and the Caribbean.
- 20 5. Eagle Jet was formed on or about January 5, 1999.
- 21 6. Cirrus's shares represented a minimum Twenty Five Percent (25%) interest in Eagle Jet.
- 22 7. The Defendant, ALEXANDER PENLY (hereinafter referred to as "Mr. Penly"), is a
23 citizen of the United Kingdom, and a resident of Las Vegas, Nevada.
- 24 8. Mr. Penly was an officer and director in Eagle Jet, and shareholder in Eagle Jet.
- 25 9. PRIVATE JET SERVICES, INC., (hereinafter referred to as "Private Jet") was and is a
26 Nevada corporation organized under the laws of the State of Nevada with its principal
27 place of business in Clark County, Nevada.

- 1 10. MILT'S EAGLE, LLC, (hereinafter referred to as "Milt's Eagle") was a Nevada Limited
- 2 Liability Company organized under the laws of the State of Nevada, currently in revoked
- 3 status, with its principal place of business in Clark County, Nevada.
- 4 11. Milt's Eagle was the owner of a Lear 35A Jet aircraft which is used in the operations of
- 5 Eagle Jet.
- 6 12. Milt's Eagle was owned by Eagle Jet.
- 7 13. Milt's Eagle filed bankruptcy in 2009.
- 8 14. Eagle Jet was originally formed and owned by Walter M. Frehe (hereinafter referred to as
- 9 "Mr. Frehe") and Roderick Thomson (hereinafter referred to as "Mr. Thomson").
- 10 15. Mr. Frehe and Mr. Thomson each owned a fifty percent (50%) interest in Eagle Jet.
- 11 16. After Mr. Frehe departed the company, shares in Eagle Jet were owned by his two sons,
- 12 Justin Thomson and Roland Thomson, with 49% each, and 2% being owned by Stuart
- 13 Warren. Later shares were 25% to each of Woods, Penly and Warren with the sons
- 14 splitting 25%.
- 15 17. At the time Eagle Jet was formed, Mr. Thomson was the owner of a Sabreliner Jet Model
- 16 NA265-75A (hereinafter referred to as the "Sabreliner").
- 17 18. Mr. Thomson owned the Sabreliner through a company called Lear 25, Inc. (hereinafter
- 18 referred to as "Lear 25").
- 19 19. In forming Eagle Jet, Eagle Jet entered into an agreement with Lear 25 for Eagle Jet to
- 20 manage leasing and chartering operations using the Sabreliner. Mr. Frehe was put in
- 21 charge of running Eagle Jet and the Sabreliner operations.
- 22 20. When Eagle Jet was formed, it did not have an Operating Certificate to operate the
- 23 Sabreliner so the aircraft was operated under the Operating Certificate of Scenic Airlines
- 24 (hereinafter referred to as "Scenic") and managed by a company known as Eagle Jet
- 25 Charter, Inc. (hereinafter referred to as "Eagle Charter").
- 26 21. Eagle Charter was wholly owned by Scenic.
- 27
- 28

- 1 22. Shortly after Eagle Jet was formed, Mr. Thomson created an entity known as "The Flying
2 Hospital, Inc." (hereinafter referred to as the "The Flying Hospital"), a nonprofit
3 corporation funded by Mr. Thomson.
- 4 23. Mr. Frehe became the president of The Flying Hospital and was responsible for its
5 management. Around February of 2000, Mr. Woods became employed by Eagle Charter
6 as a Captain for the Sabreliner. He was hired by the then Chief Pilot for Eagle Charter,
7 Douglas Wright.
- 8 24. Mr. Woods and the other employees related to the Sabreliner were considered employees
9 of Scenic.
- 10 25. Subsequent to Mr. Woods starting with Eagle Charter, Mr. Penly arrived in Las Vegas
11 from England as a representative of Mr. Thomson, brought in to check the outflow of
12 money from Eagle Jet to The Flying Hospital.
- 13 26. Besides checking into the Flying Hospital, Mr. Penly became involved with the
14 operations of the Sabreliner.
- 15 27. Scenic terminated the agreement it had with Mr. Thomson that had allowed the
16 Sabreliner to operate under Scenic's Operating Certificate. Because Scenic terminated its
17 relationship with Eagle Jet, Eagle Jet was faced with either terminating its Sabreliner
18 operations or acquiring its own Operating Certificate. It was decided that Eagle Jet would
19 obtain its own Operating Certificate, and it assumed full responsibility for the Sabreliner.
- 20 28. To obtain an Operating Certificate, the FAA, as one its requirements, commands that a
21 company conduct 25 hours of proving runs with FAA personnel present in the aircraft for
22 each type of aircraft the company intends to operate under the Operating Certificate.
- 23 29. Because jet aircraft can cost several thousand dollars per hour to operate, conducting
24 proving runs can be very expensive. Eagle Jet conducted the Sabreliner proving runs
25 during July, 2002 and was issued an Operating Certificate on July 16, 2002.
- 26 30. In or about November 2001, during the time Eagle Jet was working to obtain its
27 Operating Certificate, Mr. Frehe and Mr. Thomson had a falling out. Mr. Thomson had
28

1 apparently been losing a great deal of money through Eagle Jet and believed Mr. Frehe
2 was improperly siphoning money.

3 31. Mr. Frehe agreed to leave the company and tender his shares in the Sabreliner operation
4 and in Eagle Jet to Mr. Thomson for a purchase price of \$36,000, payable at \$3,000 per
5 month for 12 months.

6 32. This surrender of shares by Mr. Frehe left Mr. Thomson as the sole shareholder in Eagle
7 Jet. Mr. Thomson's ownership was held by Justin Thomson (500 shares) and Roland
8 Thomson (500 shares), while Stuart Warren (hereinafter "Mr. Warren") was issued 20
9 shares. Upon Mr. Frehe's departure from Eagle Jet Mr. Penly acted as a representative of
10 Mr. Thomson.

11 33. On December 21, 2001, Mr. Warren was elected as President and Mr. Penly was elected
12 as Secretary/Treasurer of Eagle Jet.

13 34. Mr. Frehe subsequently initiated a lawsuit against Mr. Thomson because Mr. Thomson
14 had quit paying the \$3,000 per month. Mr. Thomson countersued, alleging malfeasance
15 on the part of Mr. Frehe and mismanagement of funds through Eagle Jet. Prior to
16 adjudication of this action, Mr. Frehe passed away.

17 35. Around December of 2002 or January of 2003, Mr. Wright, the Chief Pilot for Eagle Jet
18 gave his notice to Eagle Jet and resigned. Mr. Penly, as a representative of Mr. Thomson,
19 approached Mr. Woods about Mr. Woods assuming the position of the Chief Pilot.

20 36. Mr. Penly essentially told Mr. Woods that without a Chief Pilot the company would have
21 to be shut down. Mr. Woods accepted the position of Chief Pilot under the conditions that
22 Mr. Penly stay away from the operation of Eagle Jet.

23 37. Mr. Penly agreed to accept those conditions under which Mr. Woods would assume the
24 Chief Pilot position.

25 38. Upon becoming Chief Pilot, Mr. Woods managed the operations of Eagle Jet.

26 39. When Mr. Woods took over as Chief Pilot, Eagle Jet was operating at a loss and Mr.
27 Thomson was infusing money into the company to keep it operating.

- 1 40. As Chief Pilot, Mr. Woods controlled and scheduled the pilots employed by Eagle Jet and
2 he ended up running the entire Eagle Jet operation, including the chartering operations.
- 3 41. At the time Mr. Woods took over as Chief Pilot, Lear 25 was in arrears on the Sabreliner
4 payments and it became apparent that it was going to lose the Sabreliner to the finance
5 company holding the mortgage.
- 6 42. By law, without an aircraft, Eagle Jet could not retain its Operating Certificate.
- 7 43. Mr. Woods facilitated an agreement with the owner of D&D Aviation (hereinafter
8 referred to as "D&D") out of Salt Lake City, Utah wherein D&D agreed to lease Eagle
9 Jet a Lear 35 Jet Aircraft so that Eagle Jet could continue its operations and maintain its
10 Operating Certificate.
- 11 44. Mr. Woods took delivery of the Lear 35 (hereinafter referred to as the "D&D Lear 35")
12 from D&D on February 11, 2003.
- 13 45. Eagle Jet returned the Sabreliner to the finance company by delivery to Scottsdale,
14 Arizona on February 16, 2003.
- 15 46. Mr. Woods used his personal credit cards to purchase fuel, parts and supplies for Eagle
16 Jet.
- 17 47. Mr. Woods used more than one credit card account for the payment of expenses for Eagle
18 Jet and aircraft managed or operated by Eagle Jet prior to April 26, 2007.
- 19 48. Mr. Woods directed reimbursement of the charges on his personal credit cards, and
20 received payments from Eagle Jet for charges on his personal credit cards.
- 21 49. During the latter part of 2003, Mr. Woods asked for an ownership interest in Eagle Jet.
- 22 50. The owners of Eagle Jet approved distribution of 1,000 shares in Eagle Jet to Mr. Woods.
- 23 51. Mr. Woods directed that the 1,000 shares be issued to Cirrus.
- 24 52. At the time Woods executed the "Shareholder Buy-Sell Agreement", all other
25 shareholders, save Justin Thomson and Roland Thomson, signed this agreement.
- 26 53. Except for his interest in Cirrus Aviation, LLC, Milton Woods has no direct ownership of
27 Eagle Jet.
- 28

- 1 54. On or about November 3, 2003, Cirrus received 250 shares in Eagle Jet via Stock
2 Certificate Number 9. Stock Certificate Number 9 was signed by Mr. Penly as Secretary
3 and by Mr. Warren as President of Eagle Jet.
- 4 55. Approximately one month later, on or about December 1, 2003, Cirrus received the
5 remaining 750 shares in Eagle Jet via Stock Certificate Number 14. Stock Certificate
6 Number 14 was similarly signed by Mr. Penly as Secretary and by Mr. Warren as
7 President.
- 8 56. Sometime in November 2003, Eagle Jet obtained another Lear 35 Jet Aircraft, under a
9 more favorable lease from Robert Buck of Monterey, California.
- 10 57. Accordingly, the borrowed D&D Lear 35 was returned to D&D in Salt Lake.
- 11 58. Throughout 2003 and 2004, Eagle Jet's business continued to increase and eventually it
12 reached a point where it became necessary to obtain a second Lear Jet.
- 13 59. Mr. Penly obtained a lease on a Lear 35 from CIT Bank (hereinafter referred to as the
14 "CIT Lear 35").
- 15 60. The FAA requires that each company holding an Operating Certificate have both a Chief
16 Pilot and a Director of Operations/General Manager. Sometime in 2003, the FAA
17 required that Mr. Woods become either Chief Pilot or Director of Operations/General
18 Manager. Mr. Woods became the Director of Operations/General Manager and a new
19 Chief Pilot was hired.
- 20 61. In or around November of 2004, Mr. Woods found and negotiated the sale of a late serial
21 number Lear 35 Jet Aircraft through Rolf Smith. On November 29, 2004, the Board of
22 Directors of Eagle Jet, by unanimous written consent, authorized Eagle Jet to purchase
23 the 1987 Gates Lear 35A Aircraft for \$2,300,000, pursuant to an Aircraft Purchase
24 Agreement dated Sept 30, 2004 between M/G Transport Services, Inc. and Jeff Wyler
25 Dealer Group, Inc. The Board of Directors further dictated that Eagle Jet take title to the
26 Lear 35A in a previously formed company known as "Milt's Eagle, LLC."
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28

- 1 62. Pursuant to the resolution, Eagle Jet's Board agreed that Eagle Jet would guarantee the
2 obligations of Milt's Eagle with respect to the loan. The written consent document shows
3 Mr. Penly, Mr. Woods and Mr. Warren as the Board of Directors of Eagle Jet.
- 4 63. Mr. Penly was personally handling all the financing arrangements for the purchase of the
5 Lear 35A, and was told that a \$250,000 down payment was necessary for the purchase.
6 Upon completion, the down payment requirement was \$350,000, with \$100,000 to come
7 from the assets of Eagle Jet.
- 8 64. Woods arranged to pick up the Lear 35A in Oregon because there is no applicable sales
9 tax. When Mr. Woods arrived in Oregon to take possession of the Lear 35A, the
10 financing to purchase the Lear 35A was not immediately available. Mr. Penly worked to
11 obtain replacement financing, which was obtained at a higher premium. To complete the
12 purchase of the Lear 35A, the finance company JODA required a personal commitment
13 from the Eagle Jet owners. Mr. Woods put up \$100,000, Mr. Warren agreed to put up
14 \$60,000, Mr. Penly put up \$90,000 and Mr. Thomson elected not to participate in this
15 transaction. Mr. Warren required that his \$60,000 contribution be considered a loan.
16 While Mr. Woods and Mr. Penly agreed to personally guaranty the loan for the Lear 35A,
17 Mr. Warren did not.
- 18 65. Eagle Jet, through Milt's Eagle LLC, received the Lear 35A in December of 2004
19 (hereinafter referred to as the "Purchased Lear 35A") and discontinued leasing the Lear
20 35 from CIT. Milt's Eagle LLC was to lease the Purchased Lear 35A to Eagle Jet. Eagle
21 Jet made the mortgage payments directly to the finance company.
- 22 66. Mr. Penly was reimbursed for his \$90,000 contribution.
- 23 67. Mr. Warren received his \$60,000 back within approximately two years thereafter,
24 comprised of two payments of \$30,000.
- 25 68. As of April 2007, Mr. Woods had not been reimbursed for his \$100,000 contribution.
- 26 69. About six to eight months later after obtaining the Purchased Lear 35A, Eagle Jet
27 obtained new financing for the Purchased Lear 35A through Center Capital Corporation
28

1 under much more favorable terms, with the monthly mortgage payments being reduced
2 from approximately \$30,000 per month to \$20,900 per month.

3 70. Again, both Mr. Woods and Mr. Penly had to personally guarantee the loan. Mr. Warren
4 did not commit to the guaranty.

5 71. On July 22, 2005, the Board of Directors of Eagle Jet resolved to issue 2,000 Eagle Jet
6 shares to Messrs. Penly, Warren and Woods.

7 72. On January 6, 2006, Mr. Woods was elected as President of Eagle Jet.

8 73. Sometime in 2006, Mr. Penly obtained a hanger at the McCarran Airport from which
9 Eagle Jet could operate.

10 74. In June of 2006, Mr. Woods found an aircraft and assisted a group of local Las Vegas
11 businessmen in the purchase of a Lear 55 Jet Aircraft, that was added to Eagle Jet's
12 Operating Certificate as a managed aircraft pursuant to an agreement with those
13 businessmen (hereinafter referred to as the "Managed Lear 55 One").

14 75. This aircraft was owned by 4 Romeo Whiskey LLC, who in turn was owned by Randy
15 Kidd, Steven Aizenburg and Mr. Ostergaard.

16 76. Mr. Woods did not charge 4 Romeo Whiskey a finder's fee for the work in acquiring a
17 Lear 55.

18 77. Eagle Jet did not receive a finder's fee from 4 Romeo Whiskey.

19 78. Pursuant to the agreement, Eagle Jet was to receive 15% of the revenue derived from
20 charter operations for the Managed Lear 55 One, as well as a hanger and maintenance
21 contract for \$9,000 per month.

22 79. On December 29, 2006 the Board of Directors by Unanimous Written Consent voted to
23 give bonuses to Mr. Woods in the amount of \$200,000 and to Mr. Penly in the amount of
24 \$100,000 (hereinafter referred to as the "December Resolution"). In addition, the Board
25 voted to pay \$100,000 to Warren.

26 80. The December 29, 2006 resolution was rescinded by a resolution dated May 1, 2007.

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- 1 81. In February of 2007, Eagle Jet began managing another Lear 55 owned by Jim Monaghan
2 in Scottsdale, Arizona (hereinafter referred to as the "Managed Lear 55 Two"). The
3 Managed Lear 55 Two was also added to Eagle Jet's Certificate as a managed aircraft
4 pursuant to an agreement with Mr. Monaghan.
- 5 82. Mr. Woods located for Randy Kidd, Steve Aizenberg and associates a Challenger 601-
6 3ABR (hereinafter referred to as the "Challenger") which the businessmen purchased in
7 February of 2007.
- 8 83. At a called meeting of the Eagle Jet Board, in February of 2007 the Company elected to
9 not participate in the purchase of this aircraft.
- 10 84. Because the Challenger had more than nine seats, Eagle Jet would have had to expand its
11 Operating Certificate and conduct proving runs with the Challenger.
- 12 85. Eagle agreed that Advanced Air Management, Inc., a California corporation located in
13 Van Nuys, California (hereinafter referred to as "Advanced Air") should operate the
14 Challenger. Mr. Woods did not agree to have the Challenger operated by Advanced Air.
- 15 86. Advanced Air Management, Inc., a California corporation located in Van Nuys,
16 California was purchased in September 2006 by Eagle Jet and Private Jet Services and
17 shares were given to Mr. Woods (1,000 shares), Mr. Penly (1,000 shares), Mr. Warren
18 (1,000 shares), John Kaylor (500 shares) and Scott Chikar (500 shares).
- 19 87. Advanced Air Management was purchased for \$171,500, and Eagle Jet made the
20 purchase with an expenditure of company funds.
- 21 88. After the pre-buy inspection for the Challenger was completed in Tucson, Arizona, Eagle
22 Jet flew the owners of the Challenger down to take possession of the Challenger. Mr.
23 Woods was not type-rated in the Challenger.
- 24 89. Woods took pilot Bob McKenna (hereinafter referred to as "Mr. McKenna"), with him to
25 fly the aircraft back to Las Vegas with the owners on board.
- 26 90. Mr. Woods and Mr. McKenna violated an FAA regulation which requires that prior to
27 carrying passengers, the crew must have, within the past 90 days, completed three take-
28

1 offs and three landings to a full stop. Although it was a private trip with only the owners
2 onboard the aircraft; nevertheless the FAA viewed this as an infraction. Mr. Woods
3 claims this was inadvertent.

4 91. The Challenger was never part of Eagle Jet's Certificate.

5 92. A letter signed by Mr. McKenna reports this violation to the FAA. Mr. Woods then
6 received a letter of investigation from the FAA.

7 93. Messrs. Penly and Warren wrote a letter to Mr. Woods, dated April 23, 2007, discussing
8 Mr. Wood's position with the company and setting forth several terms for his separation.

9 94. The proposal was conditioned on Mr. Woods not working for any Eagle Jet competitor,
10 being supportive of Eagle Jet, and not making derogatory statements about Eagle Jet.

11 95. Mr. Woods was presented with the letter by Mr. Warren and Mr. Penly.

12
13 96. On or about April 27, 2007, Mr. Woods issued checks to pay for the charges on Mr.
14 Woods's personal credit cards for expenses alleged to have been incurred by Eagle Jet
15 including \$34,000 for a Lear 55 windshield, \$23,000 for installation of the windshield,
16 \$14,000 for training at Simuflite, miscellaneous fuel charges, ramp charges and aircraft
17 parts.

18 97. Mr. Woods also issued a check to himself for reimbursement of the \$100,000 he loaned
19 Eagle Jet for purchase of the Purchased Lear 35, plus \$15,000 interest.

20 98. Lastly, Mr. Woods cut check number 3304 to Cirrus for \$200,000. Mr. Woods cut the
21 checks to Cirrus instead of himself

22 99. Shortly thereafter, Mr. Penly and Mr. Warren, owning a majority interest of Eagle Jet,
23 told Mr. Woods they were voting him out.

24 100. At about this time Mr. Penly had the locks changed at Eagle Jet, and called to
25 cancel Mr. Woods's security badge for airport access.

1 101. On or about April 30, 2007, Mr. Penly sent a letter to Bank of Nevada, telling the
2 bank there was a dispute and to put a hold on all funds regarding check number 3304.

3 Bank of Nevada subsequently interpled the funds suing both Mr. Woods and Eagle Jet.

4 102. The owner of the Managed Lear 55 One took back its aircraft from Eagle Jet..

5 103. During all times he was the President, Chief Pilot and Director of Operations for
6 Eagle Jet, Milton J. Woods was a Canadian citizen.

7 104. Milton J. Woods obtained US Citizenship in 2009.

8 105. Mr. Woods directed the payment of expenses for Eagle Jet prior to April 26,
9 2007.

10 106. Milt Woods opened a bank account called 'Eagle Jet Maintenance' at Bank West
11 of Nevada.

12 107. Mr. Woods had access to the customer lists of Eagle Jet. Mr. Woods has had
13 contact with Randy Kidd since April 26, 2007.

14 108. Milt Woods and Greg Woods appeared at the offices of Eagle Jet on or about July
15 24, 2009 with more than one police officer to obtain or inspect financial records of Eagle
16 Jet.

17 DATED this 14th day of June, 2014.

DATED this 14th day of June, 2014.

18 PREMIER LEGAL GROUP

FLANGAS MCMILLAN LAW GROUP

19
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21 By: 

By: 

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MILTON WOODS and
CIRRUS AVIATION SERVICES

07A546250

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Business Court

COURT MINUTES

May 05, 2014

07A546250	Milton Woods, Cirrus Aviation Services Inc vs Eagle Jet Aviation Inc, Alex Penley, et al
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May 05, 2014	2:53 PM	Minute Order
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HEARD BY: Allf, Nancy

COURTROOM: Dist Court XXVII -
Chambers

COURT CLERK: Sharon Chun

JOURNAL ENTRIES

- MINUTE ORDER - NO HEARING

COURT FINDS after review a Status Check on Arbitration was set for MOTION CALENDAR on May 7, 2014 at 9.00 a.m. COURT FURTHER FINDS after review the Court Granted a motion to Confirm Arbitration Award for Attorney Fees on October 16, 2013 however the Award would not be enforceable until arbitration was complete. At a status check on arbitration on March 5, 2014 the Court found that the parties had not yet set an arbitration date and ordered the status check continued 60 days. If the case did not move forward in the next 60 days the Court would set a Show Cause Hearing for dismissal.

COURT FURTHER FINDS after review Defendant filed a Motion to Dismiss Claims against Milt s Eagle, Private Jet Services and Stuart Warren pursuant to NRCP 41(e) on April 18, 2014 and the Motion is set for Hearing on MOTION CALENDAR on May 21, 2014 at 10.00 a.m.

COURT ORDERS for good cause appearing Status Check on arbitration VACATED.

CLERK'S NOTE: A copy of this minute order has been distributed to the following:
Gus W. Flangas (Flangas & McMillan) FAX: 702-382-9452
Jay A. Shafer or Robert C. Reade (Premier Legal Group)
Email: jshafer@premierlegalgroup.com

PRINT DATE: 05/05/2014

Page 1 of 1

Minutes Date: May 05, 2014

R0219

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Business Court

COURT MINUTES

October 16, 2013

07A546250 Milton Woods, Cirrus Aviation Services Inc
vs
Eagle Jet Aviation Inc, Alex Penley, et al

October 16, 2013 9:30 AM Motion to Confirm Arbitration Award

HEARD BY: Alf, Nancy

COURTROOM: RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Traci Rawlinson

REPORTER:

PARTIES

PRESENT: Flangas, Gus W
Shafer, Jay A.

Attorney for Plaintiff
Attorney for Defendant

JOURNAL ENTRIES

- Arguments by counsel regarding the arbitration award for attorney's fees and costs, whether or not award was in lieu of striking the pleadings, NRS 38.239, arguments in supplement filed by defense counsel, and further arguments. Mr. Flangas moved to strike the supplement as a fugitive document. Court stated its findings and ORDERED, Motion to Confirm Arbitration Award for Attorney Fees and Costs GRANTED IN PART as to confirmation of the award and DENIED IN PART as Court FINDS it is interlocutory and not enforceable at this time, STATUS CHECK set 3/5/2014 9:00 am. Court stated that if the arbitration is not complete in February and it hears complaints regarding dilatory tactics on behalf of the Defendant it will enforce the order.

3/5/2014 9:00 AM STATUS CHECK: ARBITRATION PROCEEDINGS

PRINT DATE: 10/22/2013

Page 1 of 1

Minutes Date: October 16, 2013

R0220

EVENTS & ORDERS OF THE COURT

12/02/2015 All Pending Motions (9:00 AM) (Judicial Officer Cory, Kenneth)
PLAINTIFFS MOTION TO DISMISS ALL OF DEFENDANT HKLM'S CAUSES OF ACTION CONTAINED IN THE COUNTERCLAIM AND MOTION TO DISMISS OR IN THE ALTERNATIVE MOTION FOR SUMMARY JUDGMENT AS TO DEFENDANTS THIRD AND FOURTH CAUSES OF ACTION CONTAINED IN THE COUNTERCLAIM FOR FRAUD AND VIOLATION OF THE NEVADA DECEPTIVE TRADE PRACTICES ACT AND MOTION TO STRIKE IMMATERIAL, IMPERTINENT, IRRELEVANT AND SCANDALOUS ALLEGATIONS... DEFENDANTS' MOTION FOR SUMMARY JUDGMENT IN THEIR FAVOR AGAINST PLAINTIFFS MICHAEL D. RICHMAN AND LUZVIMINDA O. DAPAT

Minutes

12/02/2015 9:00 AM

- PLAINTIFFS MOTION TO DISMISS ALL OF DEFENDANT HKLM'S CAUSES OF ACTION CONTAINED IN THE COUNTERCLAIM AND MOTION TO DISMISS OR IN THE ALTERNATIVE MOTION FOR SUMMARY JUDGMENT AS TO DEFENDANTS THIRD AND FOURTH CAUSES OF ACTION CONTAINED IN THE COUNTERCLAIM FOR FRAUD AND VIOLATION OF THE NEVADA DECEPTIVE TRADE PRACTICES ACT AND MOTION TO STRIKE IMMATERIAL, IMPERTINENT, IRRELEVANT AND SCANDALOUS ALLEGATIONS... DEFENDANTS' MOTION FOR SUMMARY JUDGMENT IN THEIR FAVOR AGAINST PLAINTIFFS MICHAEL D. RICHMAN AND LUZVIMINDA O. DAPAT Mr. Flangas argued the causes of action are barred by NRS 78.585 and does not think there is a stay of the statute of limitations in 2011. As to fraud, Mr. Flangas argued he does not think it was stayed. Mr. Flangas further argued the deceptive trade practice is to protect the consumer and they are not a consumer and it does not apply and there is no cause of action. Mr. Kennedy argued the motion for summary judgment should be denied as there has to be a statement of undisputed facts and what is in the counterclaim must be considered and not what is in the third amended complaint. As to the fraud, it is clear from the affidavit they discovered in 2014 and the counterclaim was filed within two years. Plaintiffs are arguing the wrong statute as to statute of limitations chapter 86 because it is a LLC and there was a stay for four nine months. Mr. Kennedy further argued as to their deceptive trade practice argument that you have to be a consumer is wrong, it is a wrongful action. Mr. Richmond used his own words and the things he claims he was awarded were bought. Defendants have had to spend a lot of money fixing his representations. Mr. Flangas argued as to the auditors findings and files not being updated. Further argued defendants were on inquiry notice. Mr. Kennedy argued the bankruptcy ruling stated this should have been disclosed in the bankruptcy, but because of the lapse in time the Bankruptcy Court was unable to re-open the estate. Mr. Kennedy further argued the two issues in the summary judgment motion have been affirmed by the Bankruptcy Court. The question now is after closure of bankruptcy are the plaintiffs going to be able to pursue the claims now for their own benefit. Mr. Kennedy argued 7th Circuit case Cannon-Stokes vs. Potter and because they did not disclose in bankruptcy they are estopped from pursuing. Mr. Flangas argued judicial estoppel and gave summary of the bankruptcy procedures. Mr. Flangas further argued Mr. Daniel Marks was representing plaintiffs in this action not the bankruptcy action and therefore it was defendants responsibility to disclose the dispute. Mr. Zach Larsen, Bankruptcy counsel, gave summary of the Chapter 13 procedures. Further arguments by counsel. Mr. Kennedy argued the Nolm case. COURT ORDERED, BOTH Motions GRANTED and each party to prepare their own Order

Parties Present

Return to Register of Actions