Scott L. Hazan (SH 0650)
Brett H. Miller (BM 4902)
Lorenzo Marinuzzi (LM 7099)
Otterbourg, Steindler, Houston
& Rosen, P.C.
230 Park Avenue
New York, New York 10169
(212) 661-9100
Counsel to the Official Committee
of Unsecured Creditors

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

----------X

In re:	Chapter 11 Case No. 05-17930 (ALG)
NORTHWEST AIRLINES CORP., et al.	Jointly Administered
Debtors.	

----------X

OBJECTION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS TO AD HOC EQUITY COMMITTEE'S MOTION FOR AN ORDER GRANTING LEAVE TO FILE ITS RULE 2019(a) STATEMENT UNDER SEAL

The Official Committee of Unsecured Creditors (the "Committee") of Northwest Airlines Corp., et al. (the "Debtors"), by and through its undersigned counsel, hereby files this Objection to the Ad Hoc Equity Committee's Motion for an Order Granting Leave to File its Rule 2019(a) Statement Under Seal [Docket No. 5090]. In support thereof, the Committee respectfully represents as follows:

INTRODUCTION

1. Rule 2019 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") is "part of the disclosure scheme of the Bankruptcy Code and is designed to foster the goal of reorganization plans which deal fairly with creditors and which are arrived at openly." Collier on Bankruptcy, ¶ 2019.01 (15th Ed. 2006). Filing the disclosure statement mandated by Bankruptcy Rule 2019(a) (the "2019 Statement") under seal would defeat the very purpose of the Rule. Accordingly, the Ad Hoc Equity Committee's Motion should be denied.

BACKGROUND

2. On September 14, 2005 (the "Petition Date"), the Debtors filed voluntary petitions for reorganization under Chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code"). The Court entered an Order directing joint administration of these Chapter 11 cases (the "Cases"). The Debtors continue to operate their businesses and manage their properties as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in these Cases.

3. On September 30, 2005, the United States Trustee for the Southern District of New York appointed a 9-member committee pursuant to section 1102(a)(1) of the Bankruptcy Code. The Committee also selected on that date the law firm of Otterbourg, Steindler, Houston & Rosen, P.C. to serve as its counsel. On October 6, 2005, the Committee selected FTI Consulting, Inc. and Lazard Frères & Co., LLC to serve as its financial advisors.

4. On January 11, 2007, the Ad Hoc Equity Committee moved this Court to direct the appointment of an official equity committee for all Northwest Airlines Corporation shareholders. See Motion of the Ad Hoc Committee of Equity Security Holders for an Order

Compelling the Acting United States Trustee for Region 2 to Appoint an Official Committee of Equity Security Holders [Docket No. 4490].

5. On January 16, 2007, Kasowitz, Benson, Torres & Friedman LLP ("KBT&F"), counsel to the Ad Hoc Equity Committee, filed a Verified Statement of Kasowitz, Benson, Torres & Friedman LLP Pursuant to Bankruptcy Rule 2019(a) [Docket No. 4514]. On January 19, 2007, KBT&F filed a second Verified Statement of Kasowitz, Benson, Torres & Friedman LLP Pursuant to Bankruptcy Rule 2019(a) [Docket No. 4574].

6. On February 9, 2007, the Debtors filed a Motion for (I) an Order Imposing Civil Contempt Sanctions on the Ad Hoc Committee and Awarding Attorneys' Fees and Costs to the Debtors, (II) a Protective Order Pursuant to Rules 26(c) and 45(c) of the Federal Rules of Civil Procedure and (III) an Order Compelling the Ad Hoc Committee to File a Verified Statement Pursuant to Bankruptcy Rule 2019(a), [Docket No. 4817] (the "Motion to Compel"). In the Motion to Compel, the Debtors argued that the "Ad Hoc Committee has failed to comply fully with the requirements of Rule 2019(a)" and requested that the Court "refuse to further hear the Ad Hoc Committee and strike the Ad Hoc Committee's request for the appointment of an official committee of equity security holders." Motion to Compel, ¶ 48.

7. On February 26, 2007, the Court issued its Memorandum of Opinion and Order Signed on 2/26/2007 Regarding Statement Pursuant to Bankruptcy Rule 2019 [Docket No. 5032] (the "Opinion") requiring the Ad Hoc Equity Committee to file an amended Bankruptcy Rule 2019(a) statement within three business days. The Court held that the amended statement must include "the amount of clams or interest owned by members of the committee, the times when acquired, the amounts paid therefor, and any sales or other disposition thereof." Opinion at 4.

8. On March 1, 2007, the Ad Hoc Equity Committee filed the Motion of the Ad Hoc Equity Committee for an Order (A) Pursuant to Sections 105(a) and 107(b) of the Bankruptcy Code and Rule 9018 of the Federal Rules of Bankruptcy Procedure Granting Leave to File its Bankruptcy Rule 2019(a) Statement Under Seal, and (B) Granting a Temporary Stay Pending Determination of this Motion [Docket No. 5090] (the "Motion to File Under Seal"). In the motion, the Ad Hoc Equity Committee seeks to evade the Court's order and the statutory requirements of Rule 2019 by arguing that the information requested by this Court constitutes "trade secrets."

ARGUMENT

9. The "purpose of Rule 2019 is to further the Bankruptcy Code's goal of complete disclosure during the business reorganization process." In the Matter of CF Holding Corp., 145 B.R. 124, 126 (Bankr. D. Conn. 1992). See also Collier on Bankruptcy, ¶ 2019.01, (15th Ed. 2006) (Bankruptcy Rule 2019 is "part of the disclosure scheme of the Bankruptcy Code and is designed to foster the goal of reorganization plans which deal fairly with creditors and which are arrived at openly."). This underlying purpose would be defeated if the Ad Hoc Equity Committee is permitted to file its 2019 Statement under seal. Disclosure is not complete if the "disclosed" information remains under seal.

10. The Ad Hoc Equity Committee has not correctly identified any case in which a court allowed a Rule 2019 disclosure statement to be filed under seal. The Ad Hoc Equity Committee cites In re Kaiser Aluminum Corp. for the proposition that a Rule 2019 statement may be filed under seal, but their reliance on Kaiser Aluminum is misplaced. In re Kaiser Aluminum Corp., 327 B.R. 554 (D. Del. 2005).

11. Specifically, In re Kaiser Aluminum Corp. dealt with disclosure of sensitive and private information including personal medical records as part of a Rule 2019 statement. Notwithstanding the sensitivity of the material involved, the Bankruptcy Court did not seal the Rule 2019 information. See Kaiser 327 B.R. at 560 (affirming Bankruptcy Court's decision to not file Rule 2019 information under seal). Rather, the Bankruptcy court simply determined to remove the statement from the electronic docket. Id. Thus, while the Rule 2019 information in that case was not available on the electronic docket, it was available upon written request and was certainly not under seal. The court's choice to keep the information off the electronic docket was an effort to "strike the appropriate balance between maintaining the public's right to access the Rule 2019 information and ensuring that the information is not misused." Id. Therefore, the court in Kaiser Aluminum preserved the privacy concerns of those filing the Rule 2019 statement without sacrificing the fundamental disclosure purpose of the Rule.

12. The Ad Hoc Equity Committee dedicates much of its Motion to File Under Seal to the argument that the required Rule 2019 information constitutes a "trade secret" and is accordingly protected under section 107(b) of the Bankruptcy Code ("Section 107(b)"). Nothing in Section 107(b) alters the Ad Hoc Equity Committee's disclosure obligations under Rule 2019. While Section 107(b) protects confidential information under certain circumstances, the Ad Hoc Committee has not identified any case in which a Rule 2019 statement has been filed under seal due to the privacy protection of Section 107(b). Furthermore, by requiring disclosure under Rule 2019 the rule-makers implicitly expressed the view that information such as the time of acquisition and the amount paid is not a confidential trade secret which should be protected from disclosure.

13. The members of the Ad Hoc Equity Committee voluntarily opted to organize themselves as an ad hoc committee and accordingly subjected themselves to the disclosure obligations of Rule 2019. As such, they cannot now hide behind the cloak of "trade secrets" and refuse to make public information required by the Bankruptcy Rules. If the members of the Ad Hoc Equity Committee do not wish to disclose the information required by Rule 2019, they are free to simply resign from the Ad Hoc Equity Committee and pursue any remedies available to them as an individual interest holder. The Court has already ruled that the information the Ad Hoc Equity Committee seeks to protect as a trade secret must be disclosed. See Opinion at 4 (noting that Rule 2019 requires the disclosure of "the amount of claims or interests owned by the members of the committee, the times when acquired, the amounts paid therefor, and any sales or other disposition thereof."). If the members of the Ad Hoc Equity Committee choose to remain organized as an ad hoc committee, they must therefore meet the disclosure requirements of Rule 2019, which, as discussed above, require such information to be disclosed to the public.

14. The Ad Hoc Equity Committee has not been asked to disclose proprietary financial models or analyses underlying their purchase of the Debtors' equity. This Court has merely asked the Ad Hoc Equity Committee to comply with the specific requirements of Rule 2019 and disclose the amount of securities owned by each member of the committee, the date the securities were purchased, and the amount paid. The Ad Hoc Equity Committee has failed to demonstrate the existence of "an extraordinary circumstance or compelling need" to keep such information under seal, pursuant to Section 107(b). See In re Orion Pictures Corp., 21 F.3d 24, 26 (2d Cir. 1994) (noting that "a judge must carefully and skeptically review sealing requests to insure that there really is an extraordinary circumstance of compelling need."). In fact, the very information the Ad Hoc Equity Committee seeks to protect was disclosed by Owl Creek Asset

Management LLP (one of the lead members of the Ad Hoc Equity Committee) in a Securities and Exchange Commission ("SEC") filing, even though such information was apparently not required by any SEC rule or regulation.

Conclusion

15. The Ad Hoc Equity Committee's Motion to File Under Seal is the latest in a series of attempts to evade the disclosure requirements mandated by Bankruptcy Rule 2019. Counsel for the Ad Hoc Equity Committee filed two Rule 2019 Statements, both of which fell short of the requirements set forth in Rule 2019(a). Now, after the Court has issued an order to compel compliance with Rule 2019, KBT&F continues to attempt to dodge the Rule 2019 requirements by hiding behind the argument that the required information constitutes "trade secrets." In the Motion to File Under Seal, the Ad Hoc Equity Committee absurdly attempts to restrict the Rule 2019 information to the Court and the U.S. Trustee, not even allowing access to the Debtors or Official Committee of Unsecured Creditors. The Ad Hoc Equity Committee voluntarily organized itself in order to participate in the bankruptcy proceedings and, like every other committee representing more than one creditor or equity security holder (other than committees appointed pursuant to § 1102 or 1114 of the Code), it must comply with Rule 2019. Failure to grant public access to the Rule 2019 information would defeat the underlying purpose of Rule 2019.

WHEREFORE, the Committee respectfully requests that the Court grant the relief requested or such other and further relief as the Court deems just and proper.

Dated: New York, New York
March 5, 2007

OTTERBOURG, STEINDLER,
HOUSTON & ROSEN, P.C.

By: /s/ Scott L. Hazan
Scott L. Hazan (SH 0650)
Brett H. Miller (BM 4902)
Lorenzo Marinuzzi (LM 7099)
230 Park Avenue
New York, New York 10169
Tel: (212) 661-9100
Fax: (212) 682-6104
Counsel for the Official
Committee of Unsecured Creditors