

Oren Haker (*admitted pro hac vice*)

oren.haker@stoel.com

Mark E. Hindley (7222)

mark.hindley@stoel.com

STOEL RIVES LLP

Suite 1100, One Utah Center

201 South Main Street

Salt Lake City, Utah 84111

Telephone: (801) 328-3131

Facsimile: (801) 578-6999

Attorneys for The Evergreen Aviation and Space Museum and the
Captain Michael King Smith Educational Institute

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

In re:

The Falls Event Center, LLC,

Debtor.

Case No. 18-25116

Chapter 11

Honorable Chief Judge R. Kimball Mosier

**RESPONSE TO TRUSTEE’S MOTION FOR ORDER TO APPOINT A CHAPTER 11
TRUSTEE AND APPROVE STIPULATION OF UNITED STATES TRUSTEE**

Evergreen Aviation and Space Museum and the Captain Michael King Smith Educational Institute (the “**Museum**”), a creditor and interested party, by and through its undersigned counsel, hereby submits this response (“**Response**”) to the United States Trustee’s Motion to Appoint a Chapter 11 Trustee (the “**Motion**”, Dkt. #184) in the above-captioned chapter 11 case of The Falls Event Center, LLC (“**TFEC**” and “**TFEC Case**”). In conjunction with the Motion, the U.S. Trustee, TFEC, and the Official Committee of Unsecured Creditors submitted a Stipulation to the Appointment of Trustee (the “**Stipulation**”). Dkt. #183.

The Museum supports the Motion and Stipulation. Indeed, the Museum believes that the appointment of a trustee is a good first step in addressing the issues that have arisen in this case. However, the Museum offers the following observations on the Motion and Stipulation.

First, although the Motion only contemplates the appointment of a chapter 11 trustee in the TFEC case, the Court should consider whether the person appointed as the TFEC trustee should also be appointed as trustee in the bankruptcy case of TFEC's subsidiary, The Falls at McMinnville, LLC, Case No. 18-25492 ("TFM" and "TFM Case").¹ While TFEC holds a 100% membership interest in TFM, the issue of whether the TFM Case was properly filed by someone with the requisite authority remains outstanding. The Museum raised this issue in its motion to dismiss the TFM Case, which remains pending. *See* TFM Case, Dkt. #26 (10/24/2018). Any remaining "authority" issues with respect to the TFM Case would be mooted by this Court's appointment of a trustee in the TFM Case

Second, if a chapter 11 trustee is only appointed in the TFEC case, that action does not moot the Museum's motion to dismiss the TFM case without a further order from the Court. In an effort to reach a consensual resolution on that dismissal motion, the Museum has agreed to extend the objection deadline from November 12 to November 15.

In sum, while the Museum supports the Motion to appoint a chapter 11 trustee, there remains an issue of whether the TFM Case was properly filed that still needs to be addressed.

¹ Appointing the same trustee to oversee the restructuring of both TFM and TFEC will be efficient and lead to a better, more cohesive plan in both cases. The Museum notes that multiple other subsidiaries of TFEC, in addition to TFM, have filed for bankruptcy in this district. The Museum takes no position on whether a chapter 11 trustee should also be appointed in those cases. Nor does the Museum take a position at this time on whether one or more of the subsidiary entities should be substantively consolidated.

Absent an order from this Court that the appointment of a chapter 11 trustee *in the TFEC Case* cures a defective filing by TFM or ratifies an unauthorized filing by TFM, the Museum intends to press forward seeking a dismissal of the TFM Case.

DATED: November 9, 2018

STOEL RIVES LLP

/s/ Oren Haker

Oren Haker (admitted pro hac vice)

Mark Hindley (7222)

*Attorneys for The Evergreen Aviation and
Space Museum and the Captain Michael
King Smith Educational Institute*

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of November, 2018 I filed a true and correct copy of the foregoing **RESPONSE** with the United States Bankruptcy Court for the District of Utah by using the CM/ECF system. I further certify that the parties of record in this case, as identified below, are registered CM/ECF Users.

- Michael R. Johnson mjohnson@rqn.com, docket@rqn.com; dburton@rqn.com
- David H. Leigh, dleigh@rqn.com
- Elaine A. Monson emonson@rqn.com, docket@rqn.com; pbrown@rqn.com
- Brent D. Wride bwride@rqn.com, docket@rqn.com
- Laurie A. Cayton trlaurie.cayton@usdoj.gov, James.Gee@usdoj.gov;

I further certify that the Response was mailed by certified United States mail to the Debtors' Mailing Matrix in this Bankruptcy case as of this date.

/s/ Robin Noss