

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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In re: : Chapter 11
  
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AVIANCA HOLDINGS S.A., *et al.*,<sup>1</sup> : Case No. 20-11133 (MG)
  
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Debtors. : (Joint Administration Requested)
  
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**INTERIM ORDER PURSUANT TO SECTIONS 105(a), 362 363, AND 553 OF THE BANKRUPTCY CODE (I) AUTHORIZING, BUT NOT DIRECTING, THE DEBTORS TO PAY PREPETITION AMOUNTS OWING TO FUEL RELATIONSHIP PARTIES AND TO CONTINUE PERFORMING UNDER RELATED CONTRACTS, AND (II) AUTHORIZING THE FUEL RELATIONSHIP PARTIES TO EXERCISE THEIR SETOFF AND RECOUPMENT RIGHTS**

Upon consideration of the motion (the “Motion”)<sup>2</sup> of the above-captioned debtors and debtors-in-possession (the “Debtors”), seeking entry of an interim order (this “Interim Order”) pursuant to sections 105(a), 362, 363, and 553 of the Bankruptcy Code: (i) authorizing (but not directing) the Debtors to pay prepetition amounts owing to the Fuel Relationship Parties and to continue performing under the related contracts and arrangements, (ii) authorizing the Fuel

<sup>1</sup> The Debtors in these chapter 11 cases, and each Debtor’s federal tax identification number (to the extent applicable), are as follows: Avianca Holdings S.A. (N/A); Aero Transporte de Carga Unión, S.A. de C.V. (N/A); Aeroinversiones de Honduras, S.A. (N/A); Aerovías del Continente Americano S.A. Avianca (N/A); Airlease Holdings One Ltd. (N/A); America Central (Canada) Corp. (00-1071563); America Central Corp. (65-0444665); AV International Holdco S.A. (N/A); AV International Holdings S.A. (N/A); AV International Investments S.A. (N/A); AV International Ventures S.A. (N/A); AV Investments One Colombia S.A.S. (N/A); AV Investments Two Colombia S.A.S. (N/A); AV Taca International Holdco S.A. (N/A); Avianca Costa Rica S.A. (N/A); Avianca Leasing, LLC (47-2628716); Avianca, Inc. (13-1868573); Avianca-Ecuador S.A. (N/A); Aviaservicios, S.A. (N/A); Aviateca, S.A. (N/A); Avifreight Holding Mexico, S.A.P.I. de C.V. (N/A); C.R. Int’l Enterprises, Inc. (59-2240957); Grupo Taca Holdings Limited (N/A); International Trade Marks Agency Inc. (N/A); Inversiones del Caribe, S.A. (N/A); Isleña de Inversiones, S.A. de C.V. (N/A); Latin Airways Corp. (N/A); Latin Logistics, LLC (41-2187926); Nicaraguense de Aviación, Sociedad Anónima (Nica, S.A.) (N/A); Regional Express Américas S.A.S. (N/A); Ronair N.V. (N/A); Servicio Terrestre, Aereo y Rampa S.A. (N/A); Servicios Aeroportuarios Integrados SAI S.A.S. (92-4006439); Taca de Honduras, S.A. de C.V. (N/A); Taca de México, S.A. (N/A); Taca International Airlines S.A. (N/A); Taca S.A. (N/A); Tampa Cargo S.A.S. (N/A); Technical and Training Services, S.A. de C.V. (N/A). The Debtors’ principal offices are located at Avenida Calle 26 # 59 – 15 Bogotá, Colombia.

<sup>2</sup> Capitalized terms not defined herein shall have the meanings ascribed to them in the Motion.



Relationship Parties to, subject to the prior written permission of the Debtors, exercise their setoff and recoupment rights to apply any prepetition credits or prepayments toward the Debtors' outstanding obligations; and (iii) scheduling a final hearing (the "Final Hearing"); and this Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated February 1, 2012; and it appearing that venue of these Chapter 11 Cases and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that this proceeding is a core proceeding pursuant to 28 U.S.C. § 157(b); and it appearing that proper and adequate notice of the Motion has been given and that no other or further notice is necessary; and upon the Motion and the *Declaration of Adrian Neuhauser in Support of the Debtors' Chapter 11 Petitions and First Day Orders*, dated as of the Petition Date; and upon the statements of counsel in support of the relief requested in the Motion at the hearing before the Court; and all of the proceedings had before the Court; and this Court having determined that the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors and other parties-in-interest; and after due deliberation thereon; and good and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED THAT:**

1. The Motion is GRANTED and approved in all respects on an interim basis.
2. The Final Hearing shall be held on June 11, 2020, at 2:00 p.m., prevailing Eastern Time. Any objections or responses to entry of the Propose Final Order shall be filed on or before 4:00 p.m., prevailing Eastern Time, on June 4, 2020, and shall be served on: (a) the Debtors; (b) proposed counsel to the Debtors; (c) counsel to any statutory committee appointed in these cases; and (d) the Office of the United States Trustee for the Southern District of New York. In the event

no objections to entry of the Proposed Final Order are timely received, this Court may enter the Final Order without need for the Final Hearing.

3. The Debtors are authorized (but not directed) to (i) pay undisputed prepetition amounts owing to the Fuel Relationship Parties; and (ii) continue performing under any related contracts and arrangements; provided, however, that during the period between entry of this Interim Order and entry of the Final Order, the Debtors' authority to pay in cash the undisputed prepetition amounts requested in the Motion is limited to an aggregate amount of up to \$4 million.

4. The Debtors shall (i) file with the Court under seal a list identifying the Fuel Relationship Parties to which all such payments are made and the amounts of such payments (the "Prepetition Payment Report"); and (ii) provide to Chambers, the Office of the United States Trustee, and counsel to any statutory committee copies of the Prepetition Payment Report in unredacted form.

5. The automatic stay in effect pursuant to section 362(a) of the Bankruptcy Code is modified to the limited extent necessary to allow the Fuel Relationship Parties, subject to the prior written permission of the Debtors, to exercise their setoff and recoupment rights with respect to any credits or prepayments received from the Debtors.

6. The Debtors' banks and other financial institutions at which the Debtors maintain disbursement accounts are authorized to, at the Debtors' direction, receive, process, honor, and pay, to the extent of any funds on deposit, any and all checks drawn or electronic fund transfers requested or to be requested by the Debtors relating to the Debtors' obligations to the Fuel Relationship Parties.

7. The Debtors are authorized to issue new checks, or effect new electronic fund transfers, on account of obligations owed to the Fuel Relationship Parties, and to replace any pre-

petition checks or electronic fund transfer requests that may be lost, dishonored, or rejected as a result of the commencement of the Debtors' Chapter 11 Cases.

8. This Order shall not be construed to limit, or in any way affect, the Debtors' ability to contest any invoice or other charge or claim of any Fuel Relationship Party on any grounds.

9. Nothing contained in this Order or the Motion shall constitute a rejection or assumption by the Debtors, as debtors-in-possession, of any executory contract or unexpired lease by virtue of reference of any such contract or lease in the Motion.

10. Any payment made pursuant to this Order is not, and shall not be, deemed an admission to the validity of the underlying obligation or waiver of any rights the Debtors may have to dispute such obligation subsequently.

11. Notwithstanding entry of this Order, the Debtors' rights to enforce the automatic stay provisions of section 362(a) of the Bankruptcy Code with respect to any creditor who demands payment of their prepetition debts as a condition to doing business with the Debtors postpetition are preserved.

12. Notwithstanding the relief granted herein and any actions taken hereunder, nothing herein shall create, nor is intended to create, any rights in favor of, or enhance the status of any claim held by any party.

13. Bankruptcy Rule 6003(b) has been satisfied because the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors.

14. Notwithstanding any applicability of Bankruptcy Rule 6004, this Order is effective from the date of entry through this Court's disposition of the Motion on a final basis; provided that the Court's ultimate disposition of the Motion on the final basis shall not impair or otherwise affect any action taken pursuant to this Order.

15. The Debtors are authorized and empowered to take all actions necessary to implement the relief requested in this Order.

16. This Court shall retain jurisdiction with respect to any matters, claims, rights or disputes arising from or related to the implementation of this Order.

**IT IS SO ORDERED.**

Dated: May 12, 2020  
New York, New York

/s/ Martin Glenn  
MARTIN GLENN  
United States Bankruptcy Judge