

**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.*,¹ : Case No. 20-11133 (MG)

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Debtors. : (Joint Administration Requested)

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**INTERIM ORDER PURSUANT TO SECTIONS 105(a) AND 363 OF
THE BANKRUPTCY CODE AUTHORIZING THE DEBTORS TO PAY
CERTAIN OUTSIDE MAINTENANCE AND SERVICE PROVIDERS, SHIPPERS,
AND CONTRACTORS IN SATISFACTION OF PERFECTED OR POTENTIAL
MECHANICS', MATERIALMEN'S OR SIMILAR LIENS OR INTERESTS**

Upon consideration of the motion (the “Motion”)² of the above-captioned debtors and debtors-in-possession (the “Debtors”), seeking entry of an interim order (the “Interim Order”) pursuant to sections 105(a) and 363 of the Bankruptcy Code (a) authorizing, but not directing, the Debtors to pay certain Outside Maintenance & Service Providers, Shippers and Contractors in satisfaction of perfected or potential mechanics’, materialmen’s, or similar liens or interests in the ordinary course of business; (b) scheduling a final hearing (the “Final Hearing”) to consider entry

¹ 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.

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



of the Proposed Final Order; and (c) granting related relief; and the 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 Pursuant to Local Bankruptcy Rule 1007-2 and in Support of the Debtors' Chapter 11 Petitions and First Day Pleadings*, 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.
1. The Debtors are authorized, but not directed, to pay any undisputed prepetition claim of any Lien Claimant that has given or may give rise to a Lien or similar interest, and to honor the contracts of the Outside Maintenance & Service Providers, Shippers and Contractors in the ordinary course of the Debtors' business; 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 \$11 million.

2. The Debtors shall (i) file with the Court under seal a list identifying the Lien Claimants 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 appointed in these cases copies of the Prepetition Payment Report in unredacted form.

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 Proposed 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 Office of the United States Trustee for the Southern District of New York; (b) the Debtors; (c) proposed counsel to the Debtors; and (d) those parties requesting notice pursuant to Bankruptcy Rule 2002. In the event no objections to entry of Proposed Final Order on the Motion are timely received, this Court may enter the Proposed Final Order without need for the Final Hearing.

3. All applicable banks and other financial institutions are authorized and directed, when requested by the Debtors and in the Debtors’ sole discretion, to receive, process, honor, and pay any and all checks drawn on the Debtors’ accounts by the Lien Claimants, whether those checks were presented prior to or after the Petition Date, and make other transfers, *provided* that sufficient funds are available in the applicable accounts to make the payments.

4. Upon satisfaction of any prepetition claim, the applicable Lien Claimant shall agree to release promptly its Liens, if any; *provided, however* that should such Lien Claimant fail to promptly release such Liens upon payment by the Debtors, any such Liens shall be deemed released and expunged, without necessity of any further action, and this Order shall be all that is required to evidence such release and expungement.

5. The Debtors are authorized, in their discretion and in the exercise of their business judgment, to make payment under this Order to the Lien Claimants on the condition that by accepting payment, the Lien Claimants agree to maintain, reinstate or otherwise comply with the On-Going Obligations/Terms during the pendency of these cases.

6. Any Lien Claimant's acceptance of payment is deemed to be acceptance of the terms of the Order, and if such Lien Claimant thereafter does not provide the Debtors with, or otherwise comply with, the On-Going Obligations/Terms during the pendency of these Chapter 11 Cases, then any payments of prepetition claims held by such Lien Claimant and made after the Petition Date will be deemed to be unauthorized postpetition transfers and automatically recoverable by the Debtors in their discretion.

7. The Debtors are authorized, but not required, to obtain written verification of the On-Going Obligations/Terms from the Lien Claimants before issuing payment hereunder, provided, however, that the absence of such written verification shall not limit the Debtors' rights hereunder.

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 Lien Claimant on any ground.

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.

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

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. This Interim 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