

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:

LEISURE INVESTMENTS HOLDINGS LLC,
et al.,¹

Debtors.

Chapter 11

Case No. 25-10606 (LSS)

(Jointly Administered)

Ref. Docket Nos. 7, 73, 87 & 88

**DEBTORS' OMNIBUS REPLY IN SUPPORT OF DEBTORS' MOTIONS
TO COMPEL TURNOVER AND ENFORCE THE AUTOMATIC STAY**

Leisure Investments Holdings LLC (“LIH”) and certain of its affiliates (collectively, the “**Debtors**”) in the above-captioned chapter 11 cases (collectively, the “**Chapter 11 Cases**”) hereby file this reply (this “**Reply**”) in support of (a) *Debtors’ Motion for Entry of an Order (I) Compelling Debtors’ Former Officers and Other Required Persons to Turn Over Records and (II) Granting Related Relief* [Docket No. 7] (the “**Turnover Motion**”) and (b) the *Debtors’ Motion for Entry of an Order (I) Enforcing (A) the Automatic Stay and (B) the Court’s Order Compelling Debtors’ Former Officers and Other Required Persons to Turn Over Records, and (II) Granting Related Relief* [Docket No. 73] (the “**Enforcement Motion**” and together with the Turnover Motion, the “**Motions**”)² and in response to (i) *Eduardo Albor’s Verified Response to Debtors’ Motion for Entry of an Order (I) Compelling Debtors’ Former Officers and Other Required Persons to Turn Over Records and (II) Granting Related Relief* [Docket No. 87] (the “**Turnover**

¹ Due to the large number of debtors in these chapter 11 cases, which are being jointly administered, a complete list of the Debtors is not provided herein. A complete list of the Debtors along with the last four digits of their tax identification numbers, where applicable, may be obtained on the website of the Debtors’ noticing and claims agent at <https://veritaglobal.net/dolphinco>, or by contacting counsel for the Debtors. For the purposes of these chapter 11 cases, the address for the Debtors is Leisure Investments Holdings LLC, c/o Riveron Management Services, LLC, 600 Brickell Avenue, Suite 2550, Miami, FL 33131.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motions or the First Day Declaration (as defined below), as applicable.



Response”) and (ii) *Eduardo Albor’s Verified Response to Debtors’ Motion for Entry of an Order (I) Enforcing (A) the Automatic Stay and (B) the Court’s Order Compelling Debtors’ Former Officers and Other Required Personnel to Turn Over Records and (II) Granting Related Relief [ECF No. 73] [Docket No. 88]* (the “**Enforcement Response**” and together with the Turnover Response, the “**Responses**”). In further support of the Motions and this Reply, the Debtors rely on and incorporate by reference the First Day Declaration,³ Wagstaff Declaration,⁴ and Luna Declaration,⁵ and respectfully represent as follows:

PRELIMINARY STATEMENT

1. Neither the Debtors’ operations (including daily animal care) nor the Chapter 11 Cases can function properly while Mr. Albor (a) pursues his relentless litigation tactics and other efforts to oust the Debtors’ validly appointed management, (b) interferes with the Debtors’ operations, and (c) attempts to control or divert the Debtors’ assets. The Debtors must continue to operate their businesses and manage their affairs, meet their obligations as debtors in possession, and continue their efforts to assess and construct a go-forward business plan and asset strategy that will maximize value of the Debtors’ estates for the benefit of the Debtors’ stakeholders.

2. It is undisputed that the filing of the Chapter 11 Cases triggered the imposition of the Automatic Stay. The Debtors have established, and will establish at the hearing on the Motions, that ongoing and direct violations of the Automatic Stay and the Turnover Order have

³ *Declaration of Steven Robert Strom in Support of the Debtors’ Chapter 11 Petitions and First Day Pleadings [Docket No. 10]* (the “**First Day Declaration**”).

⁴ *Declaration of Robert Wagstaff in Support of Debtors’ Motion for Entry of an Order (I) Enforcing (A) the Automatic Stay and (B) the Court’s Order Compelling Debtors’ Former Officers and Other Required Person to Turn Over Records, and (II) Granting Related Relief [Ex. B to Enforcement Motion]* (the “**Wagstaff Declaration**”).

⁵ *Declaration of Margarita Luna Ramos in Support of Debtors’ Motion for Entry of an Order (I) Enforcing (A) The Automatic Stay and (B) The Court’s Order Compelling Debtors’ Former Officers and Other Required Persons to Turn Over Records, and (II) Granting Related Relief* (the “**Luna Declaration**”), filed concurrently herewith.

occurred and are occurring. Indeed, Mr. Albor is unlawfully wielding near total control over the Mexico Debtors⁶ without any corporate approval or oversight. The Debtors will also produce documentation establishing, among other things, that Mr. Albor (a) directly contacted the Debtors' Chief Veterinary Officer and expressly instructed him not to communicate with the Debtors' current management, including the CRO and his team, and to continue to report only to Mr. Albor;⁷ (b) continues to file litigation proceedings as, and otherwise hold himself out to be, a purported Chief Executive Officer and duly representative of the Debtors; and (c) has taken actions to prevent the Debtors from exerting control over their assets, including refusing to provide documentation to the Debtors regarding the Debtors' Mexican operations. Each of these is an egregious stay violation that must be remedied immediately.

3. It is time to put an end to Mr. Albor's strategy of maintaining his control over the Dolphin Group for his own personal benefit. The sole premise for Mr. Albor's refusal to abide by the Automatic Stay and the Turnover Order is entry of the April 11th State Court Order, which was suspended by orders issued on April 29, 2025 and May 9, 2025.⁸ Mr. Albor has identified no precedent or other authority to excuse his non-compliance, other than an argument that he may in the future obtain relief from a Mexican court that could undo the governance changes effectuated on March 28, 2025. Accordingly, the Court's inquiry is straightforward: the Automatic Stay is in

⁶ The term "**Mexico Debtors**" as used herein means the MX Debtors (as defined in the First Day Declaration) and Debtor Controladora Dolphin S.A. de C.V. For the avoidance of doubt, the term "Debtors" as used herein includes the Mexico Debtors.

⁷ See April 21, 2025 Email from Eduardo Albor to Guillermo J. Sanchez Contreras ("Therefore, you should [sic] not keep any communication with this [sic] people who claims to have an authority in Controladora as of today. You will continue reporting to me directly.").

⁸ See, e.g., May 9th Federal Court Final Order (as defined below) (Developments 11270, 11352, 11353, 11351, & 11366), attached to the Luna Declaration as Exhibit E ("[T]he definitive suspension of the challenged acts mentioned above is granted, since the requirements established . . . [by applicable law] have been met and satisfied. [. . .] The order of [April 10, 2025] . . . is not executed . . . [and] such measures cannot have any legal effect whatsoever.").

effect and the Turnover Order has been issued, the Debtors have established a clear record of violations, and the Court should direct Mr. Albor's compliance and levy the appropriate sanctions to deter future stay violations. Granting this relief will enable the Debtors to abide their reporting obligations, operate their businesses, protect and preserve their assets, promote the welfare of their animals, and effectuate a fair, transparent, and orderly reorganization of their businesses.

4. The failure to obtain Mr. Albor's compliance unnecessarily puts animals at risk, creates uncertainty regarding the payment of obligations to employees and others, compounds costs and fees as the Debtors' management team and advisors attempt to facilitate operations without necessary documentation and the cooperation of the Debtors' employees, and jeopardizes the Debtors' efforts to maximize value, including through a marketing and sale process. The alternative scenario, where Mr. Albor is permitted to violate the stay continuously and interfere and block access to the Debtors' records, likely results in liquidation, risk to animal safety, the lenders' exercise of remedies, loss of jobs, and reduced value for all stakeholders.

5. Mr. Albor's stated willingness to comply with this Court's orders is betrayed by his actions to the contrary. While Mr. Albor provided, after repeated inquiry, a set of certain documents to the Debtors, such information is inadequate and incomplete, as noted in the schedule of document responses attached hereto as **Exhibit A**. Specifically, Mr. Albor failed to provide material information, such as historical bank statements for the Mexico Debtors; bank statements for the Mexico Debtors detailing cash balances as of March 31, 2025 and April 30, 2025; statements of cash flows for all Debtors; month-end financial statements for April 2025; payroll reports detailed by employee; detailed, non-consolidated, and weekly accounts payable and receivable reports; cash flow forecasts; disbursement data; and other information that is available and within his control. Moreover, in communications regarding the production of such documents,

the Debtors learned that the Mexico Debtors are currently operating without cash flow forecasts “due to the uncertainty surrounding the corporate governance,” evidencing a dire need for the Debtors’ advisors and management to quickly obtain access to material financial data to ensure that the Debtors’ Mexican operations are not being harmed by Mr. Albor’s litigation antics, continued non-compliance, and mismanagement.

6. Timing is not an excuse. The Chapter 11 Cases have been pending for over a month and a half, and Mr. Albor has been on notice of the Chapter 11 Cases for all of that time. Mr. Albor’s failure to provide any and all documents related to the Debtors’ operations undermines the chapter 11 process. It is well within this Court’s authority to require full and complete compliance. The Debtors respectfully request that the Motions be granted.

REPLY

A. The Mexican Courts Have Resolved the Conflicting Orders Regarding the Debtors’ Authority, and Mr. Strom and Mr. Wagstaff Remain the Debtors’ Authorized Representatives

7. On April 29, 2025, when the Debtors initially sought the Enforcement Motion to be heard, Mr. Albor relied upon allegedly contradictory rulings issued by the Superior Court of Justice of Mexico City (the “**Lower Mexican State Court**”). In the first instance, on April 4, 2025, the Lower Mexican Court issued an order (the “**April 4th State Court Order**”) upholding Mr. Strom’s appointment on March 28, 2025 and accompanying governance changes (the “**March 28th Appointment**”) and authorizing Mr. Strom, Mr. Wagstaff, and Riveron to access and control the Debtors’ bank accounts, records, tokens, documents, contracts, servers, computer programs, business software, human resources controls, and any instrument or document and resources that are necessary to carry out the Debtors’ business obligations and operations. The April 4th State Court Order also ordered Mr. Albor and the Debtors’ prior management not to present themselves as representatives of the Debtors, carry out or instruct any act to be carried out on behalf of the

Debtors, and allow the Debtors access to the resources necessary to carry out the Debtors' business obligations and operations.

8. Rather than simply complying with the April 4th State Court Order, Mr. Albor, ever the vexatious litigant, then opened a new proceeding before the same court to seek a contradictory ruling. He was successful in doing so, and on April 11, 2025, the same Lower Mexican Court issued an order (the "**April 11th State Court Order**")⁹ that appeared to conflict with the March 28th Appointment and the April 4th State Court Order. Mr. Albor claimed that the April 11th State Court Order suspended the actions Mr. Strom had taken since March 28, 2025. As noted in the Luna Declaration, there is no basis in Mexican law to conclude that the April 11th State Court Order controlled over the April 4th State Court Order. Nevertheless, to reconcile the potentially conflicting orders, on April 24, 2025, the Debtors filed a motion (the "**Motion to Accumulate**") requesting that the Lower Mexican State Court join the two judicial proceedings and resolve the seemingly conflicting rulings.

9. To resolve the confusion created by Mr. Albor's creation of two proceedings before the same court, on April 25, 2025, the Lower Mexican State Court issued an order (the "**April 25th State Court Final Order**"), which is attached to the Luna Declaration as Exhibit L, clarifying the competing orders and sustaining the March 28th Appointment and accompanying governance changes until the Lower Mexican State Court ruled on the Motion to Accumulate.¹⁰ As noted in the Luna Declaration, Mr. Albor did not appeal the April 25th State Court Final Order, under which the March 28th Appointment continues to enjoy the validity and the presumption of having been

⁹ The April 11th State Court Order was issued on April 10, 2025, but was not published until April 11, 2025. In his Responses, Mr. Albor refers to the April 11th State Court Order as the "April 10 Suspension Order."

¹⁰ See Luna Declaration ¶ 18 & Ex. L.

carried out in accordance with the law.¹¹ And Mr. Albor’s counsel conceded the April 25th Order’s effect, including that, under its terms, the March 28th Appointment would be valid until ordered otherwise.¹² Given that admission, Mr. Albor’s failure to provide full and complete access to all of the Debtors’ books and records remains inexplicable.

10. In addition to the April 25th State Court Final Order, any potential legal effect of the April 11th State Court Order has been unequivocally suspended by the Second District Court in Civil Matters in Mexico City (the “**Mexican Federal Court**”) in a litigation commenced by CIBanco, Institución de Banca Múltiple (as trustee of the Irrevocable Guaranty Trust No. CIB/2380 and holder of the corporate rights of Grupo Dolphin).¹³

11. Specifically, on April 29, 2025, as a result of certain *amparo* proceedings challenging the April 11th State Court Order, the Mexican Federal Court issued a provisional order (the “**April 29th Federal Court Provisional Order**”)¹⁴ nullifying the April 11th State Court Order. Pursuant to the April 29th Federal Court Provisional Order, the Mexican Federal Court also scheduled a hearing for May 9, 2025 to consider the permanent stay, or “definitive suspension,” of the April 11th State Court Order.¹⁵ Following the incidental hearing, the Mexican Federal Court entered an order (the “**May 9th Federal Court Final Order**”), which is attached to the Luna Declaration as Exhibit E, affirming its findings under the April 29th Federal Court Provisional

¹¹ See *id.* ¶ 18.

¹² See Declaration of Alfonso Dueñas Barajas (I) in Response to Declaration of Carlo Braulio Reyes Escandón [ECF No. 91] And (II) in Support of Eduardo Albor’s Verified Response to Debtors’ Motion for Entry of an Order (I) Enforcing (A) the Automatic Stay and (B) the Court’s Order Compelling Debtors’ Former Officers and Other Required Personnel to Turn Over Records and (II) Granting Related Relief [ECF No. 88] [Docket No. 95] at ¶ 4.

¹³ Luna Declaration ¶ 11.

¹⁴ A true and correct copy of the April 29th Federal Court Provisional Order is attached to the Luna Declaration as Exhibit D.

¹⁵ See April 29th Federal Court Provisional Order ¶ 9.

Order such as the finding that the April 11th State Court Order is *prima facie* unconstitutional,¹⁶ definitively suspending the April 11th State Court Order,¹⁷ and holding that the April 11th State Court Order “cannot have any legal effect whatsoever.”¹⁸ Accordingly, the April 4th State Court Order is the operative order with respect to the Debtors’ governance, and the March 28th Appointment represents the valid “existing factual situation.”¹⁹

12. In sum, as a result of the foregoing rulings, and as former Mexican Supreme Court Justice Luna describes in her declaration, the March 28th Appointment has been fully ratified and formalized in a public deed and registered before the Mexican Public Registry of Commerce.²⁰ The Governance Change Ratifications (as defined in the Luna Declaration) provide further certainty regarding the legal validity and effectiveness of the March 28th Appointment.

13. Given the Mexican courts’ rulings and ratifications described above and in the Luna Declaration, there can be no confusion about who currently has the right to control and act on behalf of the Debtors—including the Mexico Debtors—as well as the Debtors’ authority and right to their books, records, and property. Mr. Albor cannot be permitted to control any Debtor entity, use the Debtors’ cash, or strip parent Debtors’ governance rights in their subsidiaries. And any further attempt to delay the turnover of the Debtors’ information can only be characterized as gamesmanship, which would deprive the Debtors of critical documents and property that are necessary to the Debtors’ operations, animal welfare, and the Chapter 11 Cases. As the Mexican courts have addressed any lingering conflicts regarding the Debtors’ authority, this Court should

¹⁶ May 9th Federal Court Final Order at 6; *see also* Luna Declaration ¶ 19.

¹⁷ *See* May 9th Federal Court Final Order at 11-12.

¹⁸ *Id.* at 4 & 12; *see also* Luna Declaration ¶¶ 12-13.

¹⁹ *See, e.g.*, Luna Declaration ¶¶ 7, 8, 19 & 21.

²⁰ *Id.* ¶ 20.

grant the Motions, preventing Mr. Albor from unlawfully operating any of the Debtor entities and requiring him to provide the Debtors with full and complete access to their books, records, and property.

B. The Court Should Not Abstain from Enforcing the Automatic Stay and the Turnover Order

14. This Court should exercise its authority over the Chapter 11 Cases and enforce the Automatic Stay and the Turnover Order. First, as discussed above, there are no longer conflicting orders pending before the Mexican courts that would impact the Court's consideration of the Motions. There are now final orders from both a state and federal court that make clear that the injunctions against Mr. Albor in the April 4th State Court Order and the March 28th Appointment are controlling. Second, this Court should resist the notion that it is resolving disputes "regarding the rights and obligations of Mexican citizens and Mexican companies,"²¹ as if the Court does not have that authority or should not be exercising such consideration. The dispute, at least with respect to the present factual situation, has been resolved in Mexico. The fact that Mr. Albor is a Mexican citizen does not excuse him from compliance with U.S. law.

15. It is also not the case that the Chapter 11 Cases involve only Mexican interests. The Debtors comprise nine entities organized under the laws of Delaware and Florida and seven entities organized under the laws of Mexico. Immediately prior to the filing of the Chapter 11 Cases, Mr. Albor was a corporate officer and director of each of the nine Debtors that are organized under the laws of Delaware and in Florida, where upon information and belief Mr. Albor maintains a personal residence and where he operated four water parks for years, engaged in countless transactions with U.S. vendors and creditors, and employed hundreds of U.S. employees. It is

²¹ See Enforcement Response at ¶ 35.

simply not the case that this Court lacks authority over the Chapter 11 Cases or an interest in the governance and operations of the Debtors, and the notion that issues involving fundamental bankruptcy rights are beyond this Court's authority and jurisdiction is a red herring intended only to distract the Court.

16. The Debtors—including the direct and indirect parent of all of the Mexico Debtors, which is an entity incorporated under the laws of Delaware—must continue to operate, comply with applicable laws, and satisfy the obligations imposed under the Bankruptcy Code. While it is no surprise to the Debtors²² that Mr. Albor would deem these responsibilities as trivial,²³ the Debtors are operating in chapter 11 with a team of experienced restructuring professionals that take these responsibilities seriously. For example, the Debtors immediately addressed the need to timely file tax returns that were due on May 5, 2025, have secured or are working to secure necessary insurance (some of which Mr. Albor had allowed to lapse, such as worker's compensation insurance), and are working with various parties in interest to establish a budget and cash flow forecast, among the many tasks that the Debtors' advisors and staff have been performing since the Petition Date.

17. Despite the Debtors' herculean efforts to date, they have almost no information about their Mexican assets and operations because Mr. Albor is unlawfully controlling the Mexico Debtors. The Debtors also continue to lack basic information about the U.S. entities because,

²² Mr. Albor apparently viewed many of his duties and obligations as optional, including failing to timely file tax returns, allowing tax obligations to remain unpaid for years, failing to secure and maintain necessary insurance, failing to timely pay employees, and failing to adequately maintain the Debtors' facilities. In fact, Mr. Albor has not even stepped foot in any of the U.S. facilities other than Miami since 2023. *See* May 14, 2025 Deposition Transcript of Eduardo Albor at 43:6-21. The relevant excerpts of Mr. Albor's deposition are attached hereto as **Exhibit B**.

²³ *See* Enforcement Response at ¶¶ 24–27 (noting that tax return deadlines could be extended and implying that such a deadline was not a pressing consideration, but failing to mention that Mr. Albor had already extended at least one return deadline as long as possible and had failed to provide the Debtors' accountant with the necessary information to adequately finalize such return).

unlike what Mr. Albor would have this Court believe,²⁴ many of the Debtors' U.S. records were maintained at the Debtors' corporate headquarters in Cancun, Mexico. The Debtors' efforts are hampered on a daily basis by a lack of information, lack of access to the Debtors' Mexican facilities and employees, and lack of financial data and records necessary to fully inform budgetary needs, cash flow analysis, contract analysis, claim analysis, among other diligence items. The Debtors are unable to fully pursue a sale and marketing process without a complete understanding of their assets and obtaining the documentation that buyers will require to complete diligence and execute a sale transaction.

18. Accordingly, this Court has an extensive interest in ensuring that the Automatic Stay and Turnover Order are enforced, and resolving the issues presented to preserve and protect estate assets is squarely within this Court's purview. Accordingly, this Court should not abstain from hearing and deciding the relief requested.

C. Mr. Albor Must Cease Exercising Control Over the Debtors and Their Books, Records, and Property, and His Failure to Do So Poses Risks to the Debtors and the Chapter 11 Cases

19. The Debtors must be afforded the full protections of the Automatic Stay and provided full, unfettered access to their books and records. True to its name, the automatic stay is automatic and self-executing.²⁵ As noted in the Enforcement Motion, ample case law demonstrates the breadth of the Automatic Stay and the protections it affords to debtors,²⁶ and Section 362 is unequivocal—the filing of a petition for bankruptcy operates as a stay, applicable

²⁴ See Enforcement Response at ¶ 26 (“For example, Mr. Strom and/or Mr. Wagstaff are already in possession of U.S.-Based Dolphin Group properties and presumably have access to operational and financial records of those properties as a result.”).

²⁵ See, e.g., *Maritime Elec. Co., Inc. v. United Jersey Bank*, 959 F.2d 1194, 1204 (3d Cir. 1991); *THG Holdings LLC*, 604 B.R. 154, 162 (Bankr. D. Del. 2019).

²⁶ See Enforcement Motion ¶¶ 21-30.

to all entities, of any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate.²⁷

20. Here, Mr. Albor is not simply exercising control over certain estate property; he is unlawfully exercising control over entire Debtor entities, including the use of their cash. Mr. Albor openly admits to denying the Debtors access to their headquarters and possessing the Debtors' books and records that remain stored in that building, yet has failed to produce the full extent of such documents to the Debtors, despite this Court's clear directive to "share" information.²⁸ As indicated above, the Debtors do not possess anywhere close to the full-scale picture of the Debtors' finances and affairs. The Debtors have little information to date regarding the status of operations in Mexico and have only the incomplete information regarding the U.S. entities that they have been able to assemble from the operational teams in Florida.

21. Such information is critical to the Debtors' operations and the safety of their animals, but the Debtors must also comply with various reporting requirements imposed by the Chapter 11 Cases and the Bankruptcy Code. As debtors-in-possession, the Debtors must prepare various documents and reports, including their Schedules of Assets and Liabilities, the Statement of Financial Affairs, Rule 2015.3 reports, and monthly operating reports. The Debtors must also provide cash flow budgets to demonstrate the administrative solvency of the Chapter 11 Cases and to maintain access to debtor in possession ("**DIP**") financing being offered by the DIP Lenders, as well as the use of the Prepetition First Lien Noteholders' cash collateral. Many of these documents must be signed and attested to by the officers signing them, and without full access to the books and records, the Debtors do not have the available details to provide transparent, compliant

²⁷ 11 U.S.C. § 362(a)(3).

²⁸ See Tr. of May 5, 2025 Status Hearing at 7–8 (discussing the need to share information with the Debtors).

reporting that can be attested to by the officers. Not only are the Debtors entitled to such information, but the Debtors' creditors and other parties in interest rely on the Debtors' obtaining such information for purposes of establishing, among other things, a DIP budget, which is a critical component of any chapter 11 case, for purposes of assessing the DIP financing to be approved and understanding the Debtors' capacity to continue to perform and operate during the Chapter 11 Cases.²⁹

22. It is simply untenable for the Debtors, as operating businesses and fiduciaries to their estates, to be provided only the limited information that Mr. Albor deems fit for production. The Debtors will be unable to operate effectively (or, in the case of the entities Mr. Albor unlawfully controls, not at all), and their officers will be unable to make necessary representations. Moreover, given Mr. Albor's track record (or, more precisely, the lack thereof), the DIP Lenders and First Lien Prepetition Noteholders likely will not accept representations based on the limited and incomplete records that Mr. Albor deigns to provide. Mr. Albor has admitted to being in payment default under the prepetition financing documents,³⁰ and nowhere in either of the Responses does Mr. Albor contest the years of noncompliance with the Prepetition First Lien NPA, the failure to meaningfully engage in restructuring discussions with the First Lien Prepetition Noteholders, and the credible concerns regarding the safe and legally compliant operation of the businesses.

23. The past is proving to be prescient. While Mr. Albor may claim in his papers that he respects the Court and intends to abide by its orders, his actions are unavailing. At the

²⁹ See, e.g., *Limited Objection of Keys Hotel Operator Inc. to Debtors' Motion of Debtors [sic] for Entry of Interim and Final Orders (I) Authorizing Debtors to Obtain Postpetition Financing Pursuant to Section 364 of the Bankruptcy Code, (II) Authorizing the Use of Cash Collateral Pursuant to Section 363 of the Bankruptcy Code, Etc.* [Docket No. 146] at 10–11.

³⁰ Albor Dep. Tr. at 46:2-13.

conclusion of the May 5, 2025 status conference before the Court, the Debtors indicated that they needed various general financial data to understand what may be transpiring in Mexico with respect to payment of obligations to vendors (such as vendors providing food and resources to animals) and transfers of funds into and out of the Mexico Debtors' accounts. The Debtors sent a list of requests the next day. The Debtors also requested documents that the company has been obligated, but has failed, to provide to the First Lien Prepetition Noteholders under the Prepetition First Lien NPA. The document production to date has been woefully inadequate and incomplete, as noted in the schedule of responses attached hereto as **Exhibit A**.

24. The DIP Lenders have agreed to provide new financing to the Debtors, and the First Lien Prepetition Noteholders have agreed to allow continued use of their cash collateral, on conditions that Mr. Strom—an independent director well experienced in dealing with challenging distressed scenarios—oversees the business in the transparent, public forum of the Chapter 11 Cases. Mr. Albor's actions to date have demonstrated that such oversight is acutely warranted in these Chapter 11 Cases, and Mr. Albor admitted that he has no business plans to improve the company.³¹

25. If Mr. Albor is permitted to continue to flout the reality of the present board composition and throw into chaos the continuing operation of the Debtors under Mr. Strom's watch, the Debtors risk conversion or dismissal of the Chapter 11 Cases as a result of failure to timely report and comply with the Bankruptcy Code, as well as failure to satisfy the terms by which the Debtors are able to obtain the consensual use of cash collateral and access necessary additional financing in accordance with the Debtors' financing orders. This failure would in turn result in a shutdown of operations, non-payment of administrative claims for employees and others, risk the

³¹ See *id.* at 199:17–200:4.

health and safety of the Debtors' animals, and risk further exercises on pledges of assets and foreclosure on collateral rights. All of the foregoing would undermine the goals of maximizing value for all creditors.

26. The Court should therefore send a clear message that Mr. Albor must abide by the this Court's orders and the Automatic Stay and require that Mr. Albor provide full and unimpeded access to the Debtors' books and records, no matter where they are located, including access to bank accounts and records and the Debtors' email and network systems, and restrict Mr. Albor from taking any actions to obtain or maintain control over such books and records. Mr. Albor must also not continue to interfere with, much less outright block, the Debtors' ability to interface with the Debtors' employees, to ensure that the Debtors' businesses are operating appropriately and within the guidelines of chapter 11.

D. The Debtors Should Have Access to the Corporate Headquarters and the Information Contained Therein

27. The Debtors have never illegally taken possession of their Headquarters. At all times, the Debtors have acted in accordance with valid court orders³² and have utilized a team of witnesses and legal representatives to effectuate the relief granted by various Mexican authorities. Any allegations to the contrary in the Responses are false. The CRO entered the premises on April 11, 2025, pursuant to the terms of the April 4th State Court Order, which ordered Mr. Albor to, among other things, provide the Debtors' new management with access to the resources necessary to carry out the Debtors' business obligations and operations. Then, just hours later on a Friday evening, Mr. Albor entered the premises without any court order whatsoever. Mr. Albor concedes that the premises at issues are indeed utilized as the corporate headquarters.³³ Mr. Albor further

³² See, e.g., April 4th State Court Order.

³³ See Albor Dep. Tr. 34:6–35:3.

concedes, among other things, that (a) the Debtors’ financial information is delivered to the Headquarters, and many (if not all) of the Debtors’ other books and records are also maintained at the Headquarters,³⁴ (b) the marketing, sales and call center are in the Headquarters,³⁵ and (c) the Headquarters “is where some of the top management have an office.”³⁶

28. Although Mr. Albor stresses that the Debtors purportedly have no possessory interest in the Headquarters, claiming that Mr. Albor, on behalf of the Debtors, exercised a lease termination agreement with Mr. Albor, on behalf of himself, in the fourth quarter of 2024,³⁷ it is clear that the Debtors have at least a possessory interest in the Headquarters. First, the building in question visibly displays the Debtors’ corporate logo and by all accounts is and has always been the Debtors’ Headquarters.



³⁴ See *id.* at 36:17–37:4, 57:18–59:10, 75:8-21, 76:25–79:19.

³⁵ *Id.* at 37:17 – 38:4.

³⁶ *Id.* at 34:6–35:3 & 72:10-25.

³⁷ *Id.* at 54:1-9.

29. Second, upon information and belief, in connection with the *Concurso Mercantil* proceeding that was previously commenced in Mexico, a third party³⁸ was tasked with scheduling various transactions by and among Debtor Controladora Dolphin and any “Related Parties.” The report produced in connection with that proceeding identified that certain *Transactional Lease Agreement*, by and between Eduardo Albor Villanueva and Controladora Dolphin for the “Dolphin Center Office” pursuant to which the Debtors purportedly paid Mr. Albor approximately \$30,000 per month, plus additional fees for a related parking area. That lease is listed as having a termination date of December 31, 2024. However, the Debtors’ operations continue to be administered at the same office location, the Debtors’ employees continue to work at the same office location, and the Debtors’ books and records continue to be stored and utilized at the same office location. Accordingly, it is reasonable to believe that the Debtors and Mr. Albor are operating under some agreement for the use of the facility.

30. Third, the Debtors understand, based on their discussions with Mexican counsel, that if Mr. Albor purports to have terminated the lease, then such attempt is flawed under Mexican law, and the Debtors still maintain an interest in the Headquarters akin to a month-to-month tenancy. The Debtors reserve all of their rights to enforce their interests in the Headquarters and raise further arguments, both in Mexico and the United States, regarding such interests under Mexican law.

³⁸ This third party was Gerardo Badín Cherit, who was designated as Visitor within the *Concurso Mercantil* proceeding. This designation was provided by the Federal Institute of Specialists in Commercial Insolvency Proceedings which is an entity of the Federal Judiciary responsible for providing assistance in insolvency proceedings. The Visitor, pursuant to the *Ley de Concursos Mercantiles*, is the individual who assists the Judge of Commercial Insolvency Proceedings and whose fundamental task is to conduct a visit to the debtor's domicile to verify accounting records, accounting information, financial statements, analyses, subsidiary ledgers, and other accounting and financial information, in order to ascertain whether the debtor meets the requirements established by the *Ley de Concursos Mercantiles* for a judicial declaration of Commercial Insolvency.

31. However, even if the Debtors' possessory interests in the Headquarters have terminated, it is nevertheless reasonable for the Debtors to access their Headquarters and obtain their books, records, and property (in which they undoubtedly possess an interest), including those records necessary to determine the extent of the Debtors' possessory interest in the Headquarters. Even if the Debtors and their non-debtor affiliates do not have a possessory interest, Mr. Albor cannot deny the Debtors or the non-debtors access to property of the estate contained within the building that he controls.³⁹

32. Mr. Albor's alleged concerns about the commingling of other non-Debtor documents and information should not delay the Debtors' rightful access. Notably, such concerns raised in the Responses were belied by Mr. Albor's own testimony during his deposition, in which he stated that his personal and non-debtor records are indeed separate from the Debtors' corporate records.⁴⁰ Regardless, Mr. Albor's intermingling of certain personal items with the Debtors' corporate records, if any, is not a basis to prevent the Debtors from accessing their property and records. Neither Section 362 or 542 of the Bankruptcy Code allow unauthorized third parties from exercising control over debtors, their property, or their records. As noted above, the automatic stay under Section 362 is broad and self-executing, and every moment Mr. Albor wields control over the Debtors and their property is another moment he is violating the stay.

33. Similarly, under Section 542(e) of the Bankruptcy Code, after notice and a hearing (which will occur on May 21, 2025), Mr. Albor must turn over all Debtor records in his individual

³⁹ See e.g., *Borman v. Raymark Indus., Inc.*, 946 F.2d 1031, 1036 (3d Cir. 1991) (recognizing that the automatic stay was designed to, among other things, "avoid interference with the orderly liquidation or rehabilitation of the debtor") (internal citations omitted); cf. *U.S. v. Whiting Pools, Inc.*, 462 U.S. 198, 205 (1983) (requiring a secured creditor who had repossessed the debtor's property prior to the petition date to turn over such property and noting that "[w]hile there are explicit limitations on the reach of § 542(a), none requires that the debtor hold a possessory interest in the property at the commencement of the reorganization proceedings").

⁴⁰ Albor Dep. Tr. at 84:12–85:2.

possession. Section 542(e) is not a discovery rule, and it does not put any burden on the Debtors to determine what documents they “need,” as Mr. Albor suggests in his Enforcement Response.⁴¹ To be clear, the Debtors have delineated certain documents through written document requests because such documents are critical for the Debtors to operate and understand their financial position. By no means do the Debtors intend to limit the scope of access to their books and records, and Mr. Albor’s vague request for an “access protocol” should be seen for what it is—an improper attempt to turn Section 542(e) into a discovery provision and shift his burden to produce every Debtor document in his possession.

34. Moreover, any potential issues can be prevented through non-disclosure and clawback agreements. The Debtors are prepared to preserve any and all books and records (indeed, preservation of everything is critical in connection with any potential future litigation). Accordingly, this Court should not allow Mr. Albor to pre-screen information, provide only the information that he deems appropriate, or otherwise provide the Debtors with less than all of the books, records, and property to which they are entitled.

[Remainder of Page Intentionally Left Blank]

⁴¹ Enforcement Response ¶ 39.

CONCLUSION

WHEREFORE, the Debtors respectfully request that this Court enter orders granting the Motions and such other and further relief as is just and proper.

Dated: May 19, 2025

/s/ Jared W. Kochenash

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EXHIBIT A

Preliminary Document Responses

Request No.	Information Request	Mr. Albor's Response	Documents Produced	Documents Outstanding
1	List of all bank accounts, with full account number, and bank balance as of 4/29/2025.	In Sharefile - US entities balances to March 27, date on which counterparty took control of the entities. Dolphin Group no longer has access to the bank accounts. I will follow up on Mexican accounts.	List of United States bank accounts with existing cash balances as of March 27, 2025. List of Mexican bank accounts.	List of all Mexican bank accounts along with cash balances as of 4/29/2025.
2	All bank statements in PDF and Excel for the month ended 3/31.	Dolphin no longer has authority to request Bank account statements for US entities. For Mexican Debtors we are still working on this.	Bank accounts only for BBVA and Santander banks.	Bank statements for the following banks: Banca Monte; Brianza Unione; Banca Sella; Banco BPM; Banco de la Provincia de Buenos Aires; Banco de Reservas de la República Dominicana; Scotiabank Inverlat; BANORTE; Banco de la Nacion Argentina; Banco Nacional de México; Grupo Popular; Bank of America; BNP Paribas; Cadence Bank; CIBANCO; PNC Bank; Crédit Agricole Italia; CIBC Caribbean; First National Northwest Florida Bank; Intesa Sanpaolo; Intercam Banco; JPMorgan Chase; La Cassa di Ravenna; Regions Bank; Unicredit; and Wise Business Bank.
3	All bank statements in PDF and Excel for the month ended 4/30.	Dolphin no longer has authority to request Bank account statements for US entities. For Mexican Debtors we are still working on this.	Bank accounts only for BBVA and Santander banks.	Bank statements for the following banks: Banca Monte; Brianza Unione; Banca Sella; Banco BPM; Banco de la Provincia de Buenos Aires; Banco de Reservas de la República Dominicana; Scotiabank Inverlat; BANORTE; Banco de la Nacion Argentina; Banco Nacional de México; Grupo Popular; Bank of America; BNP Paribas; Cadence Bank; CIBANCO; PNC Bank; Crédit Agricole Italia; CIBC Caribbean; First National Northwest Florida Bank; Intesa Sanpaolo; Intercam Banco; JPMorgan Chase; La Cassa di Ravenna; Regions Bank; Unicredit; and Wise Business Bank.

4	Daily bank statements, for all accounts, in PDF and Excel.	Dolphin no longer has authority to request Bank account statements for US entities. For Mexican Debtors we do not get daily statements, they are produced monthly, but working on this.	None.	Historical monthly bank account statements for all of the Mexican Debtors' bank accounts.
5	Month ended financial statements, individual and consolidated for month ending 3/31.	In Sharefile – NOTE: There is no cash flow statement on an individual basis, since this report is not produced by the ERP. There is no accounting of GWMP, since this entity has no activity and all the expenses associated are already booked in Gulf World Marine Park, Inc.	Trial balances, income statements, and balance sheets.	Statements of cash flows for all Debtors.
6	Month end financial statements for the month ending 4/30 and subsequent months, within 10 calendar days of the month end close.	<p>Dolphin does not have the resources to produce month end financial statements. Financial statements are produced on a quarterly basis. Quarterly financial statements are produced within 30 days following the closure of the corresponding quarter.</p> <p>NOTE: producing documents for turnover pursuant to 11 U.S.C. § 542 (e) does not require records to be created. See e.g., In re Vaughn Company Realtors, 2015 WL 4498748 at *5 (Bankr. D.N.M. 2015) holding: “The plain language of § 542(e) limits turnover or disclosure to existing recorded information and does not require the creation of new information, such as compiling an accounting. A “record” is “[a] documentary account of past events” consisting of documented information regardless of its physical form. Black’s Law Dictionary 1279 (7 th ed. 1999). The phrase “recorded information” denotes documented information already in existence because “recorded” as used in § 542(a) is a past tense verb.”).</p>	April financial statements for: Aqua Tours, Controladora Dolphin, Dolphin Austral, Dolphin Capital Company, Ejecutivos de Turismo, Promotora Garrafon, and Viajero Cibernetico.	Month end financial statements for the month ending in 4/30 for all other Debtors.

7	Payroll reports for April and continued receipt of reports as paid.	In Sharefile - Information is only provided for Mexican Entities given that as of March 28, 2025, Grupo Dolphin no longer has access to such information for the other debtors.	Payroll summaries for Mexican entities	Detailed payroll reports for month ending 4/30/2025 for all Mexican Debtors.
8	Accounts payable aging for the month ended 3/31, for the month ending 4/30.	In Sharefile - Provided on a consolidated basis for Controladora Dolphin and its subsidiaries that are Mexican Debtors. For any non-Mexican Debtors, Grupo Dolphin no longer has access to such information.	Consolidated accounts payable for Mexican entities; updated consolidated accounts payable and accounts receivables with categories for "current," "1-30," "31-60," "61-90," "> 90," and "Balance."	Non-consolidated accounts payable by entity for all Mexican Debtors for months ending 3/31/2025 and 4/30/2025.
9	Weekly updated accounts payable aging.	Delivery will begin on May 15, 2025, for Mexican entities, subject to approval of legal advisors in Mexico. For non-Mexican Debtors, Dolphin has no access to such information.	None.	Weekly accounts payable aging reports for all Mexican Debtors.
10	Accounts receivable aging for the month ended 3/31, for the month ending 4/30.	In Sharefile - Provided on a consolidated basis for Controladora Dolphin and its subsidiaries that are Mexican Debtors. For any non-Mexican Debtors, Grupo Dolphin no longer has access to such information.	Consolidated accounts receivable for Mexican entities; updated consolidated accounts payable and accounts receivables with categories for "current," "1-30," "31-60," "61-90," "> 90," and "Balance."	Non-consolidated accounts receivable by entity for all Mexican Debtors for months ending 3/31/2025 and 4/30/2025.
11	Weekly updated accounts receivable aging.	Delivery will begin on May 15, 2025, for Mexican entities, subject to approval of legal advisors in Mexico. For non-Mexican Debtors, Dolphin has no access to such information.	None.	Weekly accounts receivable aging reports for all Mexican Debtors.
12	Daily disbursement report with payor, payee, amount, date, invoice number/code and bank account.	In Sharefile -- Partial Production -- "Provided for Controladora Dolphin, Ejecutivos de Turismo and Promotora Garrafon for 05.05.25. Grupo Dolphin no longer has access to such information for non-Mexican Debtors."	Daily disbursement reports for Controladora Dolphin, Ejecutivos de Turismo, and Promotora Garrafon as of May 5, 2025.	Daily disbursement reports for all other Mexican Debtors.

13	Any and all appraisal reports from 2024 and 2025 on the Company assets.	In Sharefile.	Appraisal reports for: Unit 19 in Cancun, Units B1 and B2 in Bahia Xcace1, and Units B3A, B3B, and B3C in Marina Puerto Aventura.	See Debtors' response.
14	Any and all IOIs / LOIs for any and all of the Company assets from 2024 and 2025.	In Sharefile.	LOIs for Huatulco.	See Debtors' response.
15	Weekly cash flow forecast going out 13-weeks, minimum.	These are not being created due to the uncertainty surrounding the corporate governance, so nothing to turn over. Same Note as Note for Response to Request No. 6.	None.	Weekly cash flow forecast going out 13-weeks, minimum.
16	Listing of all Company properties, owned and leased.	In Sharefile.	Owned and Leased Properties List for entities (not including Argentina, Italy, and other countries outside of the United States and Mexico).	See Debtors' response.
17	All requested documents per the Credit Agreements.	Work in Progress. Dolphin should have a final report in the following 5 business days. Pursuant to the credit agreement information is to be provided within 45 days following the closure of each quarter (in this case May 15).	2024 Annual Report.	All requested documents per the Credit Agreements.
Debtors' Follow Up Requests				
18	Please confirm (i) all open bank accounts currently open and (ii) any bank accounts closed in 2024 through present.			
19	Please provide bank statements for month ended 12/31/2024, 1/31/2025, 2/28/2025, and 4/30/2025 for all company entities.			
20	Please provide payroll processing provider information and an employee census for all locations that includes detail information including, but not limited to, (i) employee title, (ii) start date, (iii) annual pay, (iv) salary/hourly designation, (v) exempt/nonexempt designation, and (vi) department.			

21	Please provide monthly and quarterly reports including, but not limited to, complete veterinary records on all animals that the Debtor owns, leases, manages, provides care, holds at its facilities or other facilities.			
22	<p>Note Purchase and Guarantee Agreement Documents as defined in the “Agreement”:</p> <p>a. Section 7.1:</p> <p>i.7.1(a) – Quarterly Statements</p> <p>ii.7.1(b) – Annual Statements</p> <p>iii.7.1(c) – SEC and Other Reports</p> <p>iv.7.1(d) – Notice of Default or Event of Default</p> <p>v.7.1(e) – Employee Benefits Matters</p> <p>vi.7.1(f) – Notices from Governmental Authority</p> <p>vii.7.1(g) – Litigation</p> <p>viii.7.1(h) – Resignation or Replacement of Auditors</p> <p>ix.7.1(i) – Collateral Document Reports</p> <p>x.7.1(j) – Insurance Coverage Reports</p> <p>xi.7.1(k) – New Subsidiaries</p> <p>xii.7.1(l) – New Accounts</p> <p>xiii.7.1(m) – Annual Financial Projections</p> <p>xiv.7.1(n) – Requested Information</p> <p>b. Section 7.2:</p> <p>i.7.2(a) – Certification of a Senior Financial Officer of the Company</p> <p>1.(i) – Covenant Compliance</p> <p>2.(ii) – Event of Default</p> <p>3.(iii) – Subsidiary Guarantors</p> <p>4.(iv) – Unrestricted Subsidiaries –</p> <p>5.(v) – Perfection Certificate</p> <p>6.(vi) – Operating Licenses</p>			

Exhibit B

Albor Deposition Excerpts

1 Q. When you use the phrase "Dolphin Group
2 corporate headquarters," what does that mean to you?

3 A. Enter and take control of the Dolphin Group
4 corporate headquarters in Cancun. It is -- I mean,
5 this -- it was what they intended to do.

6 Q. Well, let's just take it out from that
7 sentence. What is the Dolphin Group corporate
8 headquarters?

9 A. Well, let me tell you, I mean, we keep probably
10 calling that way because it is where some of the top
11 management have an office which is in that building. So
12 we used to have most of the top management, the management
13 that supervises the operation, the total operation in that
14 building. And even there is another entity that makes
15 like the eCommerce to Dolphin Discovery and other
16 entities, so we lease spaces to them.

17 But in the last months, especially since
18 November, the last six months, in order to reduce costs
19 and expenses, we basically allocate in each park most of
20 the administration, financial. So each park has -- maybe
21 you have seen in the US parks, it has most of the
22 administration and the people that runs the business. So
23 we have reduced -- we reduced probably like 50 percent of
24 the people that used to be corporate officers, and each
25 park is running basically independently and there is

1 supervision. So we call it corporate headquarters but,
2 since beginning of this year, basically, it is where some
3 of the officers have offices and we work from there.

4 Q. Okay. So I am going to break it down to a
5 couple questions. You said since November you have
6 reduced the number of employees and officers that work at
7 the corporate headquarters building, correct?

8 A. Let me just rephrase this. During the year --
9 I mean, we have been reducing since -- mainly since June,
10 July last year. But it was mainly in November when we
11 officially decided to relocate people more in each
12 location and reduce our corporate staff.

13 Q. As of today, how many people typically work in
14 the corporate headquarters building that you mentioned --

15 MR. MOON: Object to form.

16 BY MR. NEIBURG:

17 Q. -- that you mentioned on page four of your
18 verified response?

19 A. That work under supervision, corporate, I mean,
20 there are some people that are doing the accounting. I
21 don't know. Probably 12, 15 people.

22 Q. Can you generally describe the Dolphin Company
23 administrative services or work that still occurs in that
24 building?

25 A. No, not really. There have been changes.

1 Again, for instance, Mexico has relocated most of the
2 people in their parks, people in Cozumel, people in Maya
3 Rivera, people in the park that we bought just a couple
4 years ago in the zoo. And many people -- I mean, they
5 prepare the information, and the information in the
6 Caribbean, like the headquarters is in Jamaica and they
7 collect all those information from Dominican Republic, the
8 Keys and Cayman. And like the accounting and the director
9 for the Caribbean operation is in Jamaica, the accountant
10 located in Jamaica.

11 So we wanted to relocate the administration.
12 And I would say that just a few people that are the
13 supervisors, the chief operating officer, COO, CFO, chief
14 controller have an office there, but actually they have
15 both offices to another place which we have in the zoo,
16 the Dolphin Discovery in the zoo, so we have relocated it.

17 Q. So with respect to the Dolphin Group Mexican
18 entities, where does the accounting take place?

19 A. The accounting is taking place in each
20 location. And then the information of, I mean, the
21 performance of each location and they record account
22 receivable, account payable. They have an accountant in
23 each location. One accountant in Cozumel, one in Maya
24 Riviera, another account in the park in Cancun, another in
25 Isla Mujeres. Different locations. They collect the

1 information and it is -- and then it goes to a place where
2 the accountants are in that building, there are a group of
3 five, six or seven accountants, that they put all the
4 information and prepare the reports for Controladora.

5 Q. When you say the group of five, six or seven
6 accountants, those accountants are located in the Dolphin
7 Group corporate headquarters that is identified on page
8 four of your verified response, correct?

9 A. No, not really. Actually, actually, next to
10 that building there is a place that we use as a parking
11 lot and next to that building there are two offices which
12 is where the accountants work, not in that building.

13 Q. Okay. So if you could just maybe generally
14 describe, with respect to the Dolphin Group Mexican
15 entities, which specific officers still work in the
16 Dolphin Group corporate headquarters?

17 A. I believe that officers CFO, the comptroller --
18 but basically he is between two offices because -- and the
19 people that makes the -- the sales department. In other
20 words, you have the salespeople, the sales department and
21 the people that makes the purchasing for the stores.
22 Because even all the operations, like the chief operating
23 officer, the supervisor of maintenance, the chief
24 veterinarian, the chief -- the chief of the traders or
25 the -- all of them were moved to another office which is

1 located in park in the zoo, in the dolphin habitat that we
2 have in the hotel zone, where is the operation. So all
3 the operations were moved to another office. And only
4 marketing, sales and the -- and the call center.

5 Q. So you believe you are still the CEO of the
6 Dolphin Group Mexican entities, correct?

7 A. Yes.

8 Q. Where do you work?

9 A. I have an office in -- I spend -- I have an
10 office in the park that I mentioned. We call it
11 Dolphin -- it used to be the Dolphin -- it is now Dolphin
12 Discovery in the zoo, or Dolphin Discovery. I have an
13 office there where I spend probably a couple days there,
14 and then another couple of days in the other office, and
15 sometimes even I stay in my house. But I have two
16 offices.

17 Q. When you say "other office," what do you mean
18 specifically?

19 A. There is -- I have an office fully, I mean,
20 which is the office I like the most because I have the
21 Dolphin view. I spend most of my time there. An office
22 in a park called Dolphin Discovery that we bought from --
23 that used to be called Dolphin Isles and it is next to the
24 park and the zoo. So I have an office where all the
25 people of the operations, chief operating officer, the

1 with the managers of the US-based facilities?

2 A. Basically, not very often. Basically, my
3 communications were with the regional director. He had
4 the authority with the managers. So, I mean, my
5 communication was with the regional director.

6 Q. And you talked about, before the bankruptcy,
7 you used to visit the US-based Dolphin Group facilities,
8 primarily Miami, correct?

9 A. Correct.

10 Q. Where are the other facilities located in
11 Florida?

12 A. One, Marineland, is in St. Augustine, very
13 close to St. Augustine. Gulf world is in Panama City
14 Beach. And Dolphin Connection is in Hawks Cay resort in
15 the Keys.

16 Q. And approximately how often, prior to the
17 debtors' bankruptcy, how often would you visit the other
18 US-based facilities?

19 A. During '24 I don't believe that I had the
20 opportunity to visit them. Prior to '23, years before, at
21 least once a year.

22 Q. Since the US-based Dolphin Group entities have
23 filed for bankruptcy in Delaware, have you visited any of
24 the US-based facilities?

25 A. No.

1 your question, please?

2 Q. Would you agree that the Dolphin Group is in
3 payment default under the financings?

4 A. Yes.

5 Q. And do you recall the date on which there was a
6 payment default under the financings?

7 A. The date -- the first day or the last day or
8 what do you mean, what the day? There have been many
9 days.

10 Q. Just to be clear, you do not dispute that the
11 Dolphin Group was in payment default under the financings,
12 correct?

13 A. Not at all. We don't dispute that.

14 Q. So if we go to page five of your verified
15 response.

16 A. Same document?

17 Q. Same document. We are going to be on this one
18 for a little bit.

19 A. Page five, yes.

20 Q. So on page five, middle paragraph, you state
21 that "Mr. Wagstaff" -- and I will quote -- "forcibly
22 entered a building owned by Mr. Albor in Cancun that is
23 neither owned or leased by any of the Mexican Dolphin
24 Group entities, including without limitation, Controladora
25 Dolphin." Do you see that?

1 Q. And you mentioned that the lease agreement was
2 terminated, correct?

3 A. Correct.

4 Q. Do you recall when the lease agreement with
5 Controladora Dolphin was terminated?

6 A. Sometime around November last year.

7 Q. November 2024?

8 A. November 2024. I mean, at the end of the year,
9 could be October, November, December.

10 Q. Is there a written agreement that provided for
11 the termination of the lease agreement between you --

12 A. There should be.

13 Q. Let me just finish.

14 Is there a written agreement that provides for
15 the termination of the lease agreement between you and
16 Controladora Dolphin?

17 A. There should be.

18 MR. NEIBURG: Jim, we will follow up with a
19 request for the written lease agreement, as well as
20 the termination agreement.

21 BY MR. NEIBURG:

22 Q. Can you describe what were the reasons that you
23 terminated the lease with Controladora Dolphin for space
24 in the building that is reflected on Exhibit 5?

25 A. To reduce expenses to Controladora Dolphin and

1 address but I don't remember. It is a different address.
2 It is a different property. It is a different -- it is
3 completely different. But it is not -- it is a different
4 address. I don't remember the address.

5 Q. So taking a step back -- and we are talking
6 about the time period before Controladora Dolphin stopped
7 leasing the building that is on Exhibit 5 from you. Okay?

8 A. All right.

9 Q. What records, both hard copy and electronic
10 copies on servers, were located in Controladora's office
11 that it leased from you?

12 A. Could you repeat your question, please.

13 Q. So just so we are clear, the time period is
14 during the time that Controladora Dolphin was leasing
15 office space from you in the building that is reflected on
16 Exhibit 5.

17 A. Mm-hmm.

18 Q. Okay? What records of Dolphin Group company
19 business were kept in Controladora's office?

20 A. Is that the end of the question?

21 Q. Yes.

22 A. Legal papers, legal files, accounting,
23 financial consolidated or financial records.

24 Q. Okay. And what about -- you understand that
25 emails and electronically-stored information are stored on

1 servers? Do you understand that?

2 A. Yes.

3 Q. Was the server that stored Controladora's
4 electronically-stored information also located in the
5 office space that Controladora Dolphin leased from you?

6 MR. MOON: Object to form.

7 THE WITNESS: That is correct. That is my
8 understanding, yes.

9 BY MR. NEIBURG:

10 Q. So then at some point in October or November of
11 2024, you terminated the lease between you and
12 Controladora Dolphin, correct?

13 A. Correct.

14 Q. And Controladora Dolphin then leased some space
15 from you in the second building, correct?

16 A. Correct.

17 Q. What happened to the records and server that we
18 just talked about?

19 A. Well, some of them even remain in this
20 building. Because, again, I mean, most of the people
21 preparing information, the documents for each of the parks
22 that were there were relocated, and even some people doing
23 work for the corporativo in other offices.

24 Now, there are people in offices next door and
25 there are people like me that dedicate time to

1 Controladora. And I have an office there which I also use
2 as my personal office and I charge nothing. I mean, the
3 lease agreement was terminated and we charge nothing. But
4 there are people like me, like CFO, like the chief legal
5 officer, people who continue working for Controladora or
6 different entities and we don't charge anything.

7 Q. But the records and server are still located in
8 the office space that Controladora Dolphin used to lease
9 from you in the building reflected in Exhibit 5, correct?

10 A. I believe they still are there.

11 Q. Have you ever represented to the perpetuation
12 lenders that you leased the building to Controladora
13 Dolphin?

14 A. Could you ask the question again?

15 Q. Sure. Have you ever represented to the lenders
16 that you leased office space in the building reflected on
17 Exhibit 5 to Controladora Dolphin?

18 MR. MOON: Object to form.

19 THE WITNESS: I believe that is even there are
20 some quarterly reports that we, according to the EPA,
21 we need to file. We need to make a list of asset or
22 assets used by the company and it was -- I mean, it
23 was all known that there was a lease. So the answer
24 is there were representations or they knew about
25 that.

1 the information was as of November 30, 2024. All the
2 information that we sent to the court was as of November,
3 and then prepared information and we file it in December.
4 But information was as of November, even financial and all
5 that.

6 The termination of the lease, I believe that
7 was at the end of the year. But in any case, I don't
8 believe it was ever mentioned in the termination. I don't
9 believe it was mentioned.

10 Q. Do you recall that in the Concurso proceeding
11 for Controladora Dolphin that a visitorator was appointed?

12 A. Oh, yes.

13 Q. And do you recall that the visitorator that was
14 appointed is Mr. Gerardo Badin Cherit?

15 A. Yes.

16 Q. Did the visitorator perform an audit at the
17 Dolphin Group corporate headquarters located at the
18 building in Exhibit 5?

19 A. At this building, if you want to call it, for
20 convenience, corporate headquarters, that is fine. But it
21 doesn't say corporate headquarters.

22 He was there and he was in the other building
23 where we had the other offices in the park in the zoo. He
24 spent time in both places but he spent time there because
25 the chief financial officer is there.

1 personal information is separate from company information.

2 Q. In the same sentence you mention nondebtor
3 business records. Do you see that?

4 A. Yes.

5 Q. Can you generally describe what nondebtor
6 business records are located at the building that is shown
7 in Exhibit 5?

8 A. Legal documents, records of legal reports.
9 Like, for instance, all the information that is sent to
10 the lenders, according to NPA, it is housed there. And
11 probably some of the business plans, like the work done
12 with FTI, bookings and reservations made by the call
13 center. It should be there.

14 Q. Now, you mentioned business plans like the work
15 with FTI. It was my understanding that the work with FTI
16 was on behalf of the Dolphin Company, correct?

17 A. Mm-hmm.

18 Q. Okay. So this was asking about nondebtor
19 business records, correct?

20 A. Correct. What I just answered, my
21 understanding of your question is debtors, business
22 records is what I just answered.

23 Q. Well, just so we are clear, your sentence
24 states "that building houses not only Mr. Albor's
25 personal" -- which we already talked about?

1 A. Uh-huh.

2 Q. -- "and nondebtor business records."

3 My question to you was, can you generally
4 describe the nondebtor business records that are located
5 at the building that is shown in Exhibit 5?

6 A. In that case I will strike my answer because my
7 understanding was that you were asking debtors' business
8 records and that is what I mentioned.

9 Q. So let's first get a general description of the
10 nondebtor business records that are located at the
11 building.

12 A. Okay. As I was telling you, information
13 related to entities or businesses where I have investments
14 which are not any of the companies regarding as debtors.

15 Q. And are the nondebtor business records that are
16 stored electronically, are they in the same server as your
17 personal records?

18 A. No. Shouldn't be. Should be not. One is for
19 the company and one is for other businesses not related to
20 debtors. That is -- that is my understanding how it is.

21 Q. Okay. So it is your understanding that
22 nondebtor business records should not be on the server
23 that relates to the Dolphin Company business?

24 A. That is my understanding.

25 Q. So the last part of this sentence, or another

1 part of this sentence, I'm sorry, you state that "the
2 building houses corporate records of the Dolphin Group
3 Mexican entities." So let's talk about those. Can you
4 generally describe the corporate records of the Dolphin
5 Group Mexican entities that are located at the building
6 should be in Exhibit 5?

7 A. Which is what I mentioned about all the -- for
8 instance, all the -- all the legal information related to
9 the entities, NPAs, corporate records like bylaws, all the
10 legal information of those entities, mainly are there.
11 Mexican companies or in some cases copy of other entities,
12 but it is mainly for the Mexican entities. We have the
13 consolidated financial information which we report to
14 lenders or in the board meetings. It is that information
15 that is financial information, information related to
16 taxes, payments of filing of tax returns, should be like
17 information from the call center, reservations.

18 Q. Just so we are clear, with respect to debtor
19 entities that are not Mexican entities, what records would
20 you expect to be in the building?

21 A. Well, I believe that we should have copies of
22 the financial statements because the information, the
23 source of the information is local. Like Europe, they
24 have, I mean they have everything. We receive copies
25 which we use to consolidate information or review, for

1 instance. And if there is anything that the auditing
2 department has questions, we just review. But the
3 original the source of the information is local.

4 Q. So prior to the debtors' bankruptcy filings in
5 Delaware, could someone at a US-based facility access the
6 server that is located at the building shown in Exhibit 5?

7 A. I don't believe it.

8 Q. And so it sounds like you prepare consolidated
9 financials for all of the entities within the Dolphin
10 Group?

11 A. That is correct.

12 Q. But the information for each entity comes from
13 the specific location of that entity or facility, correct?

14 A. That is correct.

15 Q. Are all the accounting records kept on a
16 consolidated basis, as well, after you get the source
17 information?

18 A. Ask it again, please.

19 Q. So we were just talking about financial
20 statements.

21 A. Mm-hmm.

22 Q. You get local information, prepare
23 consolidated. What about general accounting records for
24 each entity?

25 A. It is prepared locally.

1 Q. But consolidated in Mexico?

2 A. I will put you an example. US, each park has
3 its own accounting, its own financing information. It is
4 consolidated in Miami, which is like the headquarters of
5 the US operation, consolidated in Miami, all the US
6 information parks and then the consolidated information
7 from Miami will be consolidated with the rest of the
8 information from Europe, from Mexico or the Caribbean.

9 Q. And with respect to US-based debtor records
10 that happen to be located in the building shown in
11 Exhibit 5, would you expect that those are both hard
12 copies and electronically-stored information?

13 A. No hard copies. No. It is electronic. Hard
14 copies are kept in each location.

15 Q. And in the last sentence of paragraph 55 of
16 docket 87 you state "records that are subject to the
17 precautionary measures issued by the Tenth Civil Court of
18 Mexico City." Do you see that?

19 A. Mm-hmm.

20 Q. Without revealing the substance of
21 communications with counsel, can you describe the specific
22 records that are subject to precautionary measures?

23 MR. MOON: I am going to caution you, to the
24 extent you can answer that question without relying
25 on attorney-client privileged information, you can do

1 personally how to do but it is something that my
2 lawyers will indicate how and when is the moment.
3 That is why what we are experiencing here is that we
4 are willing to do it when it gets the moment. But it
5 will be done when it has to be done.

6 BY MR. NEIBURG:

7 Q. So in paragraph 55, again, that second sentence
8 said that building houses, personal, nondebtor business
9 records and corporate records of the Dolphin Group Mexican
10 entities, correct?

11 A. Mm-hmm.

12 Q. Have you personally attempted to segregate the
13 documents such that the corporate records of the Dolphin
14 Group Mexican entities are separate and apart from your
15 personal and nondebtor business records?

16 A. I believe that they are -- they have been kept
17 separate.

18 Q. So -- go on. So?

19 A. I mean, there are files for my personal files
20 and personal files of the company. So I'm not sure we
21 need to take steps separate.

22 Q. So is it fair to say that you believe that the
23 corporate records for the Dolphin Group Mexican entities
24 and any records of other debtor entities are already
25 separate from your personal and nondebtor business

1 records?

2 A. That is the way I understand should be. And we
3 are -- as we are willing to work with the people that our
4 lawyers indicate us to do, as long as they don't show us
5 raiders and kick us out of our own building.

6 Q. And then back to paragraph 56, the last part of
7 that sentence states "to the extent such information is in
8 his possession or control." Do you see that?

9 A. 56? Mm-hmm. The second paragraph?

10 Q. First sentence, but it is the last part that I
11 am focussing on.

12 A. To the extent the information -- (reading) --
13 okay. Yes.

14 Q. As you sit here today, do you believe there are
15 corporate records of the Dolphin Group Mexican entities
16 that are not in your possession or control?

17 MR. MOON: Object to form.

18 THE WITNESS: Ask your -- could you please
19 repeat your question?

20 BY MR. NEIBURG:

21 Q. Sure. As you sit here today, do you believe
22 there are corporate records of the Dolphin Group Mexican
23 entities that are not within your possession or control?

24 A. I am a little confused because you made me read
25 this line and it has nothing to do with what you asked me.

1 as I was telling you, during April we had a flow of people
2 and then the collection of -- we sent the invoices and
3 then the collection happens during the month of May. So
4 the cash flow produces for growth of the business and we
5 are now getting to high season. We are supposed to sell
6 some assets that we have to wait until we see what happens
7 with the bankruptcy process. So the business is producing
8 to keep it running, but we have to come up with -- we will
9 be reducing expenses. We are even considering to close
10 some locations that could combine the business with others
11 and reduce expenses.

12 Q. In light of the payment default under the first
13 and second lien facilities, and current state of
14 operations for the Mexican group entities, what is your
15 long-term business plan?

16 A. Ask your question.

17 Q. Sure. In light of the payment default on the
18 first and second lien facilities and current state of
19 operations for the Mexican group entities what is your
20 long-term business plan?

21 A. I need to think about first the short term,
22 which is to see if I stay in operation or not. If I am
23 the CEO or I am the former CEO or if I am the former
24 shareholder, I am the former. I am not going to waste
25 thinking long term. I am trying to survive this week.

1 Q. So it is fair to say that at this time you
2 don't have a long-term business plan?

3 A. That is fair, yeah. Things change from
4 day to day.

5 MR. NEIBURG: I have no further questions.

6 CROSS-EXAMINATION

7 BY MR. MOON:

8 Q. I have a couple questions for redirect, if that
9 is okay.

10 Could you go to Exhibit 16?

11 A. 16. Yes.

12 MR. NEIBURG: Sorry, which one was that?

13 MR. MOON: The Santamarina.

14 MR. NEIBURG: Gotcha.

15 BY MR. MOON:

16 Q. Do you have it in front of you?

17 A. Yes, I do.

18 Q. Do you remember that Mr. Neiburg was asking you
19 questions about whether Santamarina y Steta represented
20 you personally, as well as represented Controladora
21 Dolphin? Do you remember him asking you those questions?

22 A. That is correct.

23 Q. Okay. Could you go to the last page of this
24 particular letter?

25 A. Correct.