

**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 363(B), 507, AND 105(A) OF THE
BANKRUPTCY CODE (I) AUTHORIZING, BUT NOT DIRECTING, THE DEBTORS
TO (A) PAY PREPETITION WAGES, COMPENSATION AND EMPLOYEE BENEFITS
AND (B) CONTINUE PAYMENT OF WAGES, COMPENSATION, EMPLOYEE
BENEFITS AND RELATED ADMINISTRATIVE OBLIGATIONS IN THE ORDINARY
COURSE OF BUSINESS; AND (II) AUTHORIZING AND DIRECTING APPLICABLE
BANKS AND FINANCIAL INSTITUTIONS TO PROCESS AND PAY ALL
CHECKS PRESENTED FOR PAYMENT AND TO HONOR ALL
FUNDS TRANSFER REQUESTS MADE BY THE DEBTORS**

Upon consideration of the motion (the “Motion”)² of the above-captioned debtors and debtors-in-possession (the “Debtors”), seeking entry of an order pursuant to sections 363(b), 507, and 105(a) of the Bankruptcy Code (i) authorizing, but not directing, the Debtors to (a) pay certain prepetition wages, compensation and employee benefits; and (b) continue payment of wages,

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 meaning ascribed to them in the Motion.



compensation and certain employee benefit programs in the ordinary course of business; and (iii) authorizing and directing applicable banks and other financial institutions to process and pay all checks presented for payment and to honor all funds transfer requests made by the Debtors relating to the foregoing, all as described more fully in the Motion; 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 matter 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 on an interim basis as set forth herein.
2. The final hearing (the "Final Hearing") on the Motion shall be held on June 11, 2020, at 2:00 p.m., prevailing Eastern Time. Any objections or responses to entry of the 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 Final Order are timely received, this Court may enter the Final Order without need for the Final Hearing.

3. The Debtors are hereby authorized, but not directed, to pay, in their sole discretion, the Prepetition Employee Obligations; provided, however, that prior to the final hearing on the Motion, the Debtors shall not make any payments with respect to any of (i) the Incentive Programs, (ii) the Retention Program, (iii) Director Compensation, or (iv) Severance Obligations.

4. No payment to any Employee may be made pursuant to this Order to the extent that it is a transfer in derogation of section 503(c) of the Bankruptcy Code.

5. To the extent any of the Furloughed Employees are rehired and the Debtors seek to pay any such Furloughed Employees more than \$13,650 on account of prepetition claims that are subject to the priority cap of section 507(a)(4) of the Bankruptcy Code, the Debtors shall provide the U.S. Trustee (and counsel to any official committee of unsecured creditors) with at least five (5) days prior notice.

6. The Debtors are hereby authorized, but not directed, (i) to pay and/or honor the Employee Obligations that become due and owing during the pendency of these Chapter 11 Cases and (ii) to continue their practices, programs, and policies with respect to the Employees (and, where applicable, Retired Employees) as such practices, programs and policies were in effect as of the Petition Date.

7. Pursuant to section 362(d) of the Bankruptcy Code, Employees are authorized to proceed with their claims under the Workers' Compensation Plan in the appropriate judicial or administrative forum and the Debtors are authorized to continue the Workers' Compensation Plan

and pay all prepetition amounts relating thereto in the ordinary course. This modification of the automatic stay pertains solely to claims under the Workers' Compensation Plan.

8. All applicable Disbursement Banks and other financial institutions are authorized and directed, when requested by the Debtors in the Debtors' sole discretion, to receive, process, honor, and pay any and all prepetition and postpetition checks issued or to be issued, and fund transfers requested or to be requested, by the Debtors on account of the Prepetition Employee Obligations that were not honored or paid as of the Petition Date, whether those checks were presented or fund transfers requested prior to or after the Petition Date, provided that sufficient funds are available in the applicable accounts to make the payments.

9. Authorization to pay and/or honor all Prepetition Employee Obligations shall not affect the Debtors' right to contest the amount or validity of any Prepetition Employee Obligations, including without limitation the Payroll Tax Obligations that may be due to any taxing authority.

10. The Debtors are authorized, but not directed, to re-employ any and all Furloughed Employees postpetition without further order of this Court.

11. Nothing contained in this Order or the Motion shall constitute a rejection or assumption by the Debtors of any executory contract or unexpired lease by virtue of reference to any such contract or lease in the Motion.

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

13. 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.

14. 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.

15. Notwithstanding any applicability of Bankruptcy Rule 6004, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

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

17. 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