

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

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	:	Chapter 11
In re: AVIANCA HOLDINGS S.A., <u>et al.</u> ,	:	
	:	Case No. 20-11133 (MG)
Debtors.	:	
	:	Jointly Administered
-----X	:	
AVIANCA HOLDINGS S.A., AEROVÍAS DEL	:	
CONTINENTE AMERICANO S.A. AVIANCA,	:	
TACA INTERNATIONAL AIRLINES, S.A.,	:	
AVIANCA COSTA RICA S.A., and TRANS	:	
AMERICAN AIRLINES, S.A.,	:	
	:	
Plaintiffs,	:	Adv. Pro. No. 20-01244 (MG)
	:	
v.	:	
	:	
CITIBANK, N.A., and USAVFLOW LIMITED,	:	
	:	
Defendants.	:	
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**PROPOSED ORDER TO SHOW CAUSE FOR  
TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

Upon reviewing the Motion for Temporary Restraining Order and Preliminary Injunction (the “**Motion**”) filed by Plaintiffs Avianca Holdings S.A., Aerovías del Continente Americano S.A. Avianca (“**Aerovías**”), Taca International Airlines, S.A., Avianca Costa Rica S.A., and Trans American Airlines, S.A. (collectively, “**Plaintiffs**”) against defendants USAVflow Limited (“**USAV**”) and Citibank, N.A. (“**Citibank**” and together with USAV, the “**Defendants**”), the Declaration of Adrian Neuhauser, dated October 14, 2020, the Declaration of Jaime Alberto Arrubla-Paucar, dated October 15, 2020, and upon the Declaration of James Tecce, dated October 16, 2020, and the exhibits annexed thereto, and the accompanying Memorandum of Law



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in Support of the Motion,<sup>1</sup> and the Court having conducted a hearing on the Motion to the extent the Motion requested a temporary restraining order, it is hereby:

ORDERED, Citibank and USAV and their attorneys show cause before this Court, at Room 523, of the United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, New York, on \_\_\_\_\_, 2020, at \_\_\_\_\_ a.m./p.m, or as soon thereafter as counsel may be heard, why an Order should not be made and entered pursuant to Federal Rule of Bankruptcy Procedure 7065:

- (a) enjoining Citibank from taking any actions to enforce the March Letter or the May Notice;
- (b) enjoining Citibank and USAV from issuing any notice of Trigger Event, Retention Event, or Adjustment Event absent prior court authorization by the Court;
- (c) enjoining Citibank from altering the waterfall payment priorities under the agreements, sweeping Collections—from the Collections and Debt Service Reserve Accounts or other accounts—to the Lenders' accounts, and otherwise retaining Additional Purchase Price;
- (d) directing Citibank to reverse the post-petition sweeps and return the funds to the Collections Account and Debt Service Reserve Account in an amount no less than \$34.3 million; and
- (e) directing Citibank and USAV, going forward, to comply with the standard priority of payments and resume payments of Additional Purchase Price to Aerovías.

ORDERED that, sufficient reason having been shown therefor, pending the hearing and determination of Avianca's motion for a preliminary injunction, pursuant to sections 105(a), 362(a), and 365(e), and Federal Rule of Bankruptcy Procedure 7065, it appearing that Avianca will suffer immediate and irreparable harm by continued sweeping of the accounts and

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<sup>1</sup> Capitalized terms used but not defined herein have the meanings ascribed to them in the Memorandum of Law.

deprivation of Additional Purchase Price to Aerovías, it is hereby ordered through and including  
\_\_\_\_\_, 2020 that

- (a) Citibank is enjoined from taking any actions to enforce the March Letter or the May Notice;
- (b) Citibank is enjoined from issuing any notice of Trigger Event, Retention Event, or Adjustment Event absent prior court authorization by the Court;
- (c) Citibank is enjoined from altering the waterfall payment priorities under the agreements, sweeping Collections—from the Collections and Debt Service Reserve Accounts or other accounts—to the Lenders' accounts, and otherwise retaining Additional Purchase Price;
- (d) Citibank is directed to reverse the post-petition sweeps and return the funds to the Collections Account and Debt Service Reserve Account in an amount no less than \$34.3 million; and
- (e) Citibank and USAV, are directed, going forward, to comply with the standard priority of payments and resume payments of Additional Purchase Price to Aerovías.

ORDERED that personal service of a copy of this Order To Show Cause together with the papers on which it is based upon Defendants or their counsel on or before \_\_\_\_\_, 2020, at \_\_\_\_\_ a.m./p.m., shall be deemed good and sufficient service thereof; and it is further

ORDERED that Defendants shall serve and file opposing affidavits and memoranda of law by \_\_\_\_\_, 2020, at 5:00 p.m. (Prevailing Eastern Time), and Avianca shall serve reply papers, if any, by \_\_\_\_\_, 2020, at 5:00 p.m. (Prevailing Eastern Time).

DATED: New York, New York  
Issued: \_\_\_\_\_

\_\_\_\_\_  
HONORABLE MARTIN GLENN  
UNITED STATES BANKRUPTCY JUDGE