

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

In re:

AVIANCA HOLDINGS S.A., *et al.*,

Debtors.

Case No. 20-11133 (MG)

(Jointly Administered)

AVIANCA HOLDINGS S.A., *et al.*,

Plaintiffs,

v

.

USAVFLOW LIMITED and CITIBANK,
N.A.,

Defendants.

Adv. Pro. Case No. 20-01244 (MG)

AVIANCA HOLDINGS S.A., *et al.*,

Plaintiffs,

v

.

USAVFLOW LIMITED,

Defendant.

Adv. Pro. Case No. 20-01189 (MG)

**ORDER DIRECTING AVIANCA S.A., THE OFFICIAL COMMITTEE OF
UNSECURED CREDITORS, USAVFLOW LIMITED, THE USAVFLOW
SECURED LENDERS AND CITIBANK, N.A. TO MEDIATION AND STAYING
CERTAIN MATTERS**

Disputes have arisen between the Debtors, USAVflow Limited, the USAVflow Secured Lenders and Citibank, N.A. regarding the Debtors' rejection and/or recharacterization of certain executory contracts concerning the sale and/or financing of credit card receivables. The Court has already ruled that certain of the contracts are



executory and may be rejected by the Debtors (although the Debtors assert that they have not yet rejected the contracts), which decision is currently on appeal to the district court; a motion to stay rejection pending appeal has been filed in the bankruptcy court and is scheduled for argument on October 29, 2020; a motion to dismiss Adversary Proceeding No. 20-01189 (MG) has been filed by the defendant and is scheduled for argument on November 4, 2020; and a hearing on motion for a preliminary and permanent injunction in Adversary Proceeding No. 20-01244 (MG) remains to be scheduled and heard by the Court.

The litigation concerning each of these matters is time consuming, burdensome and expensive for the Debtors' estates, and for each of the other parties to these disputes. The Court believes that before additional time and resources of the Court and the parties is consumed with all of this litigation, the parties to these disputes should be required to mediate these disputes in an effort to reach a consensual resolution that can then be presented to the Court for approval.

NOW, THEREFORE, the Court orders that

1. Debtors, the Official Committee of Unsecured Creditors, USAVflow Limited, the USAVflow Secured Lenders and Citibank, N.A. shall participate in a confidential expedited mediation before Hon. Shelley C. Chapman;
2. Counsel for these parties shall contact the Chambers of Judge Chapman to schedule the mediation and confer with Judge Chapman concerning the timing and procedures that shall apply to the mediation;
3. Pending the outcome of the mediation, (a) the Debtors are stayed from rejecting the executory contracts (i.e., the Contract Rights and Receivables

Sale, Purchase and Servicing Agreement (the “RSPA”) and the Receivables Maintenance Agreement (the “Undertaking Agreement”)), or entering into amended or replacement agreements, (b) the hearing on the motion to stay rejection pending appeal is adjourned, (c) Citibank, N.A. is stayed from sweeping the Collections Account and the Debt Service Reserve Account, (d) the hearing on the motion to dismiss Adversary Proceeding No. 20-01189 (MG) and the deadline for defendant to file a reply brief is adjourned, and (e) scheduling of discovery and other existing deadlines, and of the hearing for a preliminary and permanent injunction in Adversary Proceeding No. 20-01244 (MG) shall be held in abeyance; and

4. The parties to the disputes may apply to this Court for the amendment or modification of this Order for good cause shown.

IT IS SO ORDERED.

Dated: October 28, 2020
New York, New York

Martin Glenn

MARTIN GLENN
United States Bankruptcy Judge