

**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., <i>et al.</i> , ¹	: Case No. 20-11133 (MG)
	:
Debtors.	: (Jointly Administered)
	:
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**ORDER PURSUANT TO 11 U.S.C. § 105(a) AND
FED. R. BANKR. P. 3007 (I) ESTABLISHING CLAIMS OBJECTION
AND NOTICE PROCEDURES AND (II) GRANTING RELATED RELIEF**

Upon the Motion² of the debtors and debtors and debtors-in-possession in the above-captioned cases (collectively, the “Debtors”) for entry of the *Order Pursuant To 11 U.S.C. § 105(a) and Fed. R. Bankr. P. 3007 (I) Establishing Claims Objection and Notice Procedures and (II) Granting Related Relief* (this “Order”); and the Court having jurisdiction over this matter pursuant to 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 January 31, 2012 (Preska, C.J.); and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2);

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); Nicaragüense de Aviación, Sociedad Anónima (Nica, S.A.) (N/A); Regional Express Américas S.A.S. (N/A); Ronair N.V. (N/A); Servicio Terrestre, Aéreo 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); AV Loyalty Bermuda Ltd. (N/A); Aviacorp Enterprises S.A. (N/A). The Debtors’ principal offices are located at Avenida Calle 26 # 59 – 15 Bogotá, Colombia.

² All capitalized terms used and not defined herein shall have the meanings ascribed to them in the Motion.



and that the Court may enter a final order consistent with Article III of the United States Constitution; and the Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having found 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 the Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion was appropriate and no other notice need be provided; and the Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before the Court (the "Hearing"); and the Court having determined that the legal and factual bases set forth in the Motion and on the record of the Hearing establish just cause for the relief granted herein; and all objections to the Motion (if any) having been withdrawn or overruled; and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor;

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED to the extent set forth herein.
2. Bankruptcy Rule 3007 is modified to permit the Debtors to object to multiple claims in a single objection, in accordance with the following procedures (the "Claims Objection and Notice Procedures"):

- (a) Notwithstanding anything to the contrary in the Federal Rules of Bankruptcy Procedure, the Debtors are authorized to file omnibus objections to claims (an "Omnibus Objection") seeking reduction, reclassification or disallowance and expungement of claims on one or more of the following grounds (the "Additional Permitted Grounds"), in addition to the grounds set forth in Bankruptcy Rule 3007(d), including, without limitation:

- (i) the amount claimed is inconsistent with or contradicts the Debtors' books and records and the Debtors, after review and consideration of any information provided by the claimant, deny liability in excess of the amount reflected in the Debtors' books and records;

- (ii) the claim is incorrectly classified;
 - (iii) the claim incorrectly values the collateral securing the claim;
 - (iv) the claim fails to sufficiently specify the basis for the claim or does not include sufficient documentation to ascertain the validity of the claim;
 - (v) the claim is for reimbursement or contribution and is subject to disallowance under section 502(e)(1) of the Bankruptcy Code;
 - (vi) the claim fails to specify the asserted claim amount;
 - (vii) the claim is filed against non-debtors or is filed against multiple Debtors;
 - (viii) except as may be permitted under any order approving the bar date motion, the claim fails to specify a Debtor against which the claim is asserted;
 - (ix) the claim has been satisfied by one or more of the Debtors' insurers;
 - (x) the claim has been satisfied in full by a party that is not a debtor or has otherwise been satisfied during the pendency of the Chapter 11 Cases (separate from those claims satisfied in accordance with the Bankruptcy Code, applicable rules or a court order as set forth in Bankruptcy Rule 3007(d)(5));
 - (xi) the claim has been waived or withdrawn pursuant to an agreement with the Debtors; or
 - (xii) the claim is barred by the statute of limitations.
- (b) The Debtors are authorized to file Omnibus Objections to up to two hundred (200) claims at a time on the grounds set forth in Bankruptcy Rule 3007(d) and on the Additional Permitted Grounds;
- (c) An exhibit listing the claims that are subject to the particular Omnibus Objection will be attached thereto. Each exhibit will include only the Claims to which there is a common basis for the Omnibus Objection. Claims for which there is more than one basis for the Omnibus Objection will be referenced on one exhibit and include references to the additional basis or bases for the Omnibus Objection. Including an Omnibus Objection on one exhibit will not constitute a waiver of the Debtors' right to object to the Claim on an additional basis or bases. The exhibits will include, without limitation, the following information, alphabetized by claimant:

- (i) the Claims that are the subject of the Omnibus Objection and, if applicable, the Proof of Claim number(s) or schedule number(s) related thereto from the Claims Register;
 - (ii) the asserted amount of the Claim;
 - (iii) the grounds for the Omnibus Objection;
 - (iv) a cross-reference to the section of the Omnibus Objection discussing such Claim; and
 - (v) other information, as applicable, including: (A) the proposed classification of Claims the Debtors seek to reclassify; (B) the reduced Claim amounts of Claims the Debtors seek to reduce; or (C) the surviving Claim, if any, for Claims the Debtors seek to expunge.
- (d) Except as expressly provided herein, the Debtors shall comply with the requirements for omnibus claim objections set forth in Bankruptcy Rule 3007(e);
- (e) Any order sustaining an Omnibus Objection shall be a final order for each claim referenced in the Omnibus Objection as if an individual objection had been filed for such claim, unless otherwise ordered by this Court;
- (f) Nothing in this Order shall constitute a determination or admission by any of the Debtors as to the validity, nature, amount or priority of any claim asserted in the Chapter 11 Cases;
- (g) The Debtors are authorized, but not directed (in which case Debtors shall follow Bankruptcy Rule 3007(a) and provide a full copy of the Omnibus Objection), to serve a Customized Notice, rather than the entire Omnibus Objection, on each claimant whose claim is the subject of the applicable Omnibus Objection and, if known, on each claimant's counsel. The Customized Notice shall be in a form substantially similar to the notices attached hereto as Exhibit 1, and shall (i) identify the claims of the noticed party that are the subject of the Omnibus Objection (with reference to an attached exhibit or otherwise), (ii) describe the basis of the Omnibus Objection, (iii) notify claimants of the claim objection process (including the steps that must be taken to contest the objection, the response deadline, and hearing date); (iv) provide information on how the claimant can obtain a complete copy of the Omnibus Objection, free of charge, and (v) be written in both English and Spanish. Service of such Customized Notice on the affected claimant represents good and sufficient notice of the relevant claims objection and no further notice shall be required;
- (h) The Debtors shall file all omnibus and individual objections with this Court in accordance with the *Order Implementing Certain Notice and Case*

Management Procedures (the “Case Management Order”) (ECF Doc. # 47), to be made publicly available for free on the website of the Debtors’ approved claims and noticing agent, KCC (the “Claims and Noticing Agent”) at <http://www.kccllc.net/avianca> (the “Case Website”). These objections shall be served in a text searchable format.

- (i) Notice of all claim objections shall be limited to:
 - (i) service of a complete copy of each claim objection on (a) the U.S. Trustee and (b) by email to counsel to the Committee;
 - (ii) with respect to each Omnibus Objection, service of the Customized Notice on each claimant whose claim is the subject of the applicable Omnibus Objection and its counsel, if they have appeared in the Chapter 11 Cases; and
 - (iii) with respect to individual claim objections, service of a complete copy of each individual objection on the claimants whose claim is the subject of the objection and its counsel, if they have appeared in the Chapter 11 Cases.
- (j) Responses to both individual objections and Omnibus Objections shall be due on the date stated on the first page of the Objection and Customized Notice provided that such date is a business day that is at least thirty (30) calendar days after service of the objection or Customized Notice; *provided, however,* that the Debtors reserve the right to request that this Court impose an alternative response date or grant expedited consideration with respect to certain objections, if the circumstances so require, which may result in shortened notice of both the hearing date and the response deadline. Debtors shall also be authorized to extend any response period, in their sole discretion, without further notice or order of this Court.

3. Nothing in this Order shall preclude the settlement, in accordance with the *Order Establishing Procedures for Settling Certain Claims* (the “Settlement Order”) (ECF Doc. # 468), of a claim subject to an objection by mutual consent of the parties at any time.

4. The entry of this Order is without prejudice to the Debtors’ rights to seek entry of an order modifying or supplementing the relief granted herein, including with respect to the number of claims that the Debtors may include within a single Omnibus Objection.

5. Notwithstanding any provision in the Federal Rules of Bankruptcy Procedure to the contrary, (i) the terms of this Order shall be immediately effective and enforceable upon its entry,

(ii) the Debtors are not subject to any stay in the implementation, enforcement or realization of the relief granted in this Order and (iii) the Debtors may, in their discretion and without further delay, take any action and perform any act authorized under this Order.

6. This Court shall retain jurisdiction with respect to any matters, claims, rights or disputes arising from or related to the Motion or the implementation, interpretation or enforcement of this Order.

IT IS SO ORDERED.

Dated: November 16, 2020
New York, New York

/s/ Martin Glenn
MARTIN GLENN
United States Bankruptcy Judge

EXHIBIT 1

Customized Notice (English)

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

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: In re: : Chapter 11
: :
: AVIANCA HOLDINGS S.A., *et al.*,¹ : Case No. 20-11133 (MG)
: :
: Debtors. : (Jointly Administered)
: :
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**NOTICE OF HEARING ON DEBTORS' [INSERT ORDINAL] OMNIBUS OBJECTION
TO PROOFS OF CLAIM [INSERT BASIS FOR OBJECTION]**

PLEASE TAKE NOTICE that, on _____, 2020, the above-captioned debtors and debtors in possession (collectively, the "Debtors"), filed their **[insert ordinal]** Omnibus Objection to Proofs of Claim **[insert basis for objection]** (the "Objection") with the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court").

THIS OBJECTION ADDRESSES ONE OR MORE OF THE CLAIM(S) YOU HAVE FILED IN THE DEBTORS' CASES. Attachment 1 annexed to the Objection (and attached hereto) identifies your claim and the category of claim objection applicable to you. The complete Objection can be viewed and/or obtained by: (i) accessing the Court's website at www.nysb.uscourts.gov, or (ii) free of charge from the Debtors' notice and claims agent, KCC, at <http://www.kccllc.net/avianca> or by calling (866) 967-1780 (U.S./Canada) or +1 (310) 751-2680 (International). Note that a PACER password is needed to access documents on the Court's website. The complete Objection is entitled **[insert document name]**.

The Objection requests that the Bankruptcy Court **[expunge, reduce, reclassify, or disallow]** one or more of your claims listed in Attachment 1 under **["Claim(s) to Be Disallowed & Expunged or Reduced & Reclassified],"** on the ground that **[insert basis for disallowance,**

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reduction, reclassification, or expungement]. Any claim that the Bankruptcy Court expunges or disallows will be treated as if such claim had not been filed. Any claim that the Bankruptcy Court reduces or reclassifies will be treated as if such claim had been filed in the reduced amount or reclassified class.

If you DO oppose the disallowance, expungement, reduction, or reclassification of your claim(s) listed in **Attachment 1** under [**“Claim(s) to Be Disallowed & Expunged or Reduced & Reclassified,”**] then you **MUST file a written response** to the Objection (the **“Response”**) **ON OR BEFORE _____ AT 4:00 P.M. EASTERN TIME** (the **“Response Deadline”**) and **serve such Response as set forth herein**. If you DO NOT oppose the [disallowance, expungement, reduction, or reclassification] of your claim(s) listed in **Attachment 1** under [**“Claim(s) to Be Disallowed & Expunged or Reduced & Reclassified,”**] then no further action is required by you.

The Response, if any, must include the following: (i) a caption identifying the name of the Bankruptcy Court, the names of the Debtors, the case number and the title of the Objection to which the Response is directed; (ii) the name of the claimant and description of the basis for the claim; (iii) a short statement describing the reasons for which the claim should not be [**disallowed, reduced, reclassified, or modified**] as set forth in the Objection; (iv) additional documentation or other evidence upon which you rely in opposing the Objection (if it was not included with the proof of claim previously filed with the Bankruptcy Court); (v) the address(es) to which the Debtors must return any reply to your Response, if different from that presented in your proof of claim; (vi) the name, address, and telephone number of the person (which may be you or your legal representative) holding ultimate authority to resolve the claim on your behalf.

The Bankruptcy Court will consider a Response only if the Response is filed with the Court on or prior to the Response Deadline. All Responses must be served on (i) the Bankruptcy Court at Chambers of Honorable Judge Martin Glenn, One Bowling Green, New York, New York 10004-1408, (ii) counsel for the Debtors at Milbank LLP, 55 Hudson Yards, New York, New York 10001 (Attn: Evan R. Fleck, Esq. and Gregory A. Bray, Esq. (efleck@milbank.com and gbray@milbank.com)), (iii) the Debtors, c/o Richard Galindo (richard.galindo@avianca.com), and (iv) counsel for the Committee of Unsecured Creditors at Morrison & Foerster LLP, brettmiller@mofocom and tgoren@mofocom (Attn: Brett H. Miller, Esq. and Todd M. Goren, Esq.).

A HEARING WILL BE HELD ON _____ (the **“Hearing”**) to consider the Objection. **THE HEARING WILL BE HELD AT _____ (EASTERN TIME)** at the United States Bankruptcy Court for the Southern District of New York, One Bowling Green, Room 723, New York, New York 10004 in front of the Honorable Martin Glenn. If you file a written Response to the Objection, you or your counsel must attend the Hearing (which attendance may be via telephone). In light of the COVID-19 pandemic, the Hearing may be conducted telephonically. Parties wishing to participate in the Hearing via telephone must make arrangements through Court Solutions LLC (www.court-solutions.com). Instructions to register for Court Solutions LLC are attached to General Order M-543. The Debtors, reserve the right to continue the Hearing on the Objection for your claim(s) at a later date.

If the Bankruptcy Court does NOT disallow, expunge, reduce, or reclassify your claim(s) listed in **Attachment 1** under [**“Claim(s) to Be Disallowed & Expunged or Reduced & Reclassified,”**] then the Debtors may object on other grounds to the claim(s) (or to any other claims you may have filed) at a later date. You will receive a separate notice of any such objection.

Dated: [[Date]], 2020
 New York, New York

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