

**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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**THIRD STIPULATION, AGREEMENT AND
ORDER BETWEEN DEBTORS AND SECURITIES
AND EXCHANGE COMMISSION EXTENDING TIME TO
OBJECT TO DISCHARGEABILITY AND TO FILE PROOFS OF CLAIM**

This stipulation, agreement, and order (the “**Stipulation**”) is entered into by and between the above-captioned debtors and debtors-in-possession (collectively, the “**Debtors**”) and the Securities and Exchange Commission (the “**SEC**”). The Debtors and the SEC collectively are referred to in this Stipulation as the “**Parties**,” and each as a “**Party**.” The Parties hereby stipulate and agree as follows:

RECITALS

A. On May 10, 2020 (the “**Initial Petition Date**”), certain of the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code. On September 21, 2020

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, 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); 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.



(together with the Initial Petition Date, as applicable to each Debtor, the “**Commencement Date**”), each of AV Loyalty Bermuda Ltd. and Aviacorp Enterprises S.A. filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”) in the United States Bankruptcy Court for the Southern District of New York (the “**Bankruptcy Court**”). The Debtors are authorized to continue to operate their business and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

B. Section 1141(d)(6) of the Bankruptcy Code provides that “the confirmation of a plan does not discharge a debtor that is a corporation from any debt . . . (A) of a kind specified in paragraph (2)(A) or (2)(B) of section 523(a) that is owed to a domestic governmental unit.” 11 U.S.C. § 1141(d)(6).

C. Nothing in this Stipulation constitutes a determination that section 523(c) of the Bankruptcy Code or Rule 4007(c) of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”) apply, or that any deadline exists to seek a determination of dischargeability under section 1141(d)(6) of the Bankruptcy Code.

D. Out of an abundance of caution, the SEC staff has requested the extension set forth herein, without prejudice to the SEC staff’s right to seek further extensions or to assert that the statute is self-executing and without prejudice to the Debtors’ claims, objections or defenses.

E. The Debtors have established August 10, 2020 (the “**Objection Deadline**”) as the deadline for filing a complaint to assert the non-dischargeability of a claim pursuant to section 523 of the Bankruptcy Code.

F. The Parties submitted a first stipulation on August 6, 2020 [Docket No. 676] (the “**First Stipulation**”). On August 17, 2020, the Court granted the First Stipulation for a

further extension of the deadline for filing a complaint or taking other action that may be required in the Debtors' chapter 11 cases to assert the non-dischargeability of a claim under section 1141(d)(6) of the Bankruptcy Code, from August 10, 2020 to February 1, 2021 [Docket No. 707].

G. By Order dated November 16, 2020 [Docket No. 1180] (the "**Bar Date Order**"), the Bankruptcy Court set February 5, 2021 at 11:59 p.m. Pacific Time (the "**Governmental Bar Date**") as the deadline by which a governmental unit, as defined in section 101(27) of the Bankruptcy Code, must file proofs of claim in these chapter 11 cases.

H. The Parties submitted a second stipulation on January 13, 2021 [Docket No. 1319] (the "**Second Stipulation**"). On January 21, 2021, the Court granted the Second Stipulation for a further extension of the deadline for filing a complaint or taking other action that may be required in the Debtors' chapter 11 cases to assert the non-dischargeability of a claim under section 1141(d)(6) of the Bankruptcy Code, from February 1, 2021 to March 8, 2021 [Docket No. 1345].

I. The Parties have agreed, subject to the approval of the Bankruptcy Court, to an extension of the Objection Deadline and the Governmental Bar Date.

NOW, THEREFORE, UPON THE FOREGOING RECITALS, WHICH ARE INCORPORATED AS THOUGH FULLY SET FORTH HEREIN, IT HEREBY IS STIPULATED AND AGREED, BY AND BETWEEN THE PARTIES, THROUGH THE UNDERSIGNED, AND UPON COURT APPROVAL HEREOF, IT SHALL BE ORDERED THAT:

1. This Stipulation shall have no force or effect unless and until approved by the Bankruptcy Court (the "**Effective Date**").

2. Upon the Effective Date, to the extent section 523(c) or Rule 4007(c) applies, the deadline by which the SEC must file a complaint or take any other action that may be required, if any, in the Debtors' chapter 11 cases to determine the dischargeability of a debt under section

1141(d)(6) of the Bankruptcy Code shall be May 3, 2021, or such later date as may be ordered by the Bankruptcy Court, without prejudice to the SEC's right to seek further extensions of such deadline or to argue that such deadline should not apply to the SEC and the Debtors' rights, objections, or defenses related thereto or to any claims or dischargeability actions asserted by the SEC.

3. Nothing in this Stipulation constitutes a determination that section 523(c) of the Bankruptcy Code or Bankruptcy Rule 4007(c) apply, or that any deadline exists to seek a determination of dischargeability under section 1141(d)(6) of the Bankruptcy Code.

4. Upon the Effective Date, the deadline by which the SEC must file proofs of claim shall be May 3, 2021.

5. This Stipulation shall constitute the entire agreement and understanding of the Parties relating to the subject matter hereof and supersedes all prior agreements and understandings relating to the subject matter hereof.

6. The undersigned persons represent and warrant that they have full authority to execute this Stipulation on behalf of the respective Parties and that the respective Parties have full knowledge of and have consented to this Stipulation.

7. Each of the Parties shall bear its own attorneys' fees and costs with respect to the execution and delivery of this Stipulation.

8. This Stipulation may be executed in counterparts, any of which may be transmitted by facsimile or electronic mail, and each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

9. This Stipulation shall not be modified, altered, amended, or vacated without the written consent of all Parties hereto or further order of the Bankruptcy Court.

10. This Stipulation shall be governed by, and construed in accordance with the laws of the State of New York, except to the extent that the Bankruptcy Code applies, without regard to principles of conflicts of law that would require the application of laws of another jurisdiction.

11. The Bankruptcy Court shall retain jurisdiction to resolve any disputes or controversies arising from this Stipulation.

[Signature Page Follows]

IN WITNESS WHEREOF, this Stipulation has been executed and delivered as of the day
and year first below written.

Dated: February 24, 2021

By: /s/ Evan R. Fleck

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*Attorneys for Debtors and
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Dated: February 24, 2021

By: /s/ Therese A. Scheuer

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*Attorney for the Securities and Exchange
Commission*

SO ORDERED.

Dated: March 4, 2021
New York, New York

/s/ Martin Glenn
MARTIN GLENN
United States Bankruptcy Judge