

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
IN RE :
 : Civil Case No. 21-10004 (AJN)
 : Civil Case No. 21-10118 (AJN)
AVIANCA HOLDINGS S.A., *et al.* :
 :
Debtors and Reorganized Debtors. : Appeals arising from
 : Bankruptcy Case No. 20-11133 (MG)
-----X
BLAKE W. KIM ROLLOVER IRA, *et al.*, :
UDI BARUCH GUINDI, *et al.*, :
 :
Appellants, :
 :
v. :
 :
AVIANCA HOLDINGS S.A., *et al.*, :
 :
Appellees. :
-----X

**SECOND DECLARATION OF RICHARD GALINDO IN SUPPORT OF
APPELLEES' MOTION TO DISMISS APPEALS AS EQUITABLY MOOT**

I, Richard Galindo, pursuant to section 1746 of title 28 of the United States Code, hereby
declare under penalty of perjury as follows:

1. I serve as Legal Vice President and General Counsel for Avianca Group
International Limited and its affiliated entities, and have served in this position since December
1, 2021. Prior thereto, I served as Legal Vice President and General Counsel for Avianca
Holdings S.A. ("Avianca Holdings") and its affiliated debtor entities (collectively, the
"Debtors") since November 2020. I previously served as Associate General Counsel beginning
in October 2019, and prior thereto as Legal Director beginning in February 2017. I have more
than 20 years of experience in the legal market focused on the airline industry, corporate matters,
and international contracts. Prior to joining Avianca, I served as director of the corporate and
mergers and acquisitions practice group of a law firm in Colombia.



20111332202030000000000005

2. I am generally familiar with the Debtors' and the Reorganized Debtors'¹ day-to-day operations, financial affairs, business affairs, and books and records. Except as otherwise indicated, all facts set forth in this declaration (the "Second Declaration") are based upon my personal knowledge, my review of relevant documents, or my opinion based upon my experience, knowledge, and information concerning the Debtors' and the Reorganized Debtors' operations and legal affairs. I am authorized to submit this Declaration on behalf of the Appellees, and if called upon to testify, I would testify to the facts set forth herein.

3. I submit this Second Declaration in further support of the Motion and in support of the Appellees' reply in respect of the Motion (filed contemporaneously herewith). This Second Declaration also serves as additional support for the Galindo Declaration and provides direct responses to factual issues raised in the *Brief for Appellants in Opposition to Appellees' Motion to Dismiss Appeals as Equitably Moot* (the "Opposition"), filed on January 25, 2022 [Dkt. No. 18, case no. 21-10118].

4. I have overseen, and am generally familiar with, the actions taken to consummate the Debtors' confirmed plan of reorganization (the "Plan").

Substantial Consummation of the Plan

5. In addition to the actions described in the Motion and the Galindo Declaration, the Debtors have completed the following steps—identified in the Opposition—described in the transaction steps document, which was attached as Exhibit C to the Motion (the "Transaction Steps Description"):

¹ Capitalized terms used but not defined herein have the meanings ascribed to such terms in the *Memorandum of Law in Support of Appellees' Motion to Dismiss Appeals as Equitably Moot*, filed January 4, 2022 [Dkt. No. 14] (the "Motion") and the accompanying *Declaration of Richard Galindo in Support of Appellees' Motion to Dismiss Appeals as Equitably Moot* [Dkt. No. 15] (the "Galindo Declaration").

- Transferred a subscriber share in New U.K. Midco 1 from New U.K. Sub 1 to New Cayman Midco pursuant to a share purchase agreement and stock transfer on November 19, 2021 (Step 5).
- Completed the holding structure set-up through (i) New Panamanian Sub 1 allotting shares in the capital of New Panamanian Sub 1 to AVH, and (ii) New Panamanian Sub 2 allotting shares in the capital of New Panamanian Sub 2 to New Panamanian Sub 1, on November 23, 2021 (Step 8).
- Obtained all governmental approvals (Steps 6 and 9), including: (1) with respect to United Airlines, Inc., (a) the termination or expiration of the waiting period under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and (b) a decision approving the transaction issued by the Brazilian Administrative Council of Economic Defense under Law No. 12,529 of 2011 and Resolutions thereto; and (2) with respect to Avianca Holdings S.A., a waiver of the United States Department of Transportation's ownership and control standard, as set forth in various bilateral air service agreements to which the United States is a party, in respect of Avianca Holdings S.A. subsidiaries Aerovías del Continente Americano S.A., Taca International Airlines S.A., Avianca Costa Rica S.A., Aviateca, S.A. d/b/a Avianca Guatemala, AeroGal S.A. d/b/a Avianca Ecuador, Tampa Cargo S.A.S. d/b/a Avianca Cargo, and Tampa subsidiary Aerotransporte de Carga Unión S.A. de C.V.
- Completed capitalization of historic advances for future capital contributions prior to emergence (Step 10).

6. The Debtors are also in the process of completing the following steps—also identified in the Opposition—described in the Transaction Steps Description:

- Concerning Step 19, the Debtors have executed a warrant instrument for the issuance of equity warrants to electing general unsecured creditors. Reorganized AVH cannot finalize the allotment of shares to the general unsecured creditors until the value of *each* of the general unsecured claims has been determined due to the collective share of value among these claims under the Plan.
- Concerning Step 20, the design of a new management incentive plan is underway.
- Concerning Step 21, the multi-month waiting periods under U.K. and Panamanian law for the dissolution of the former holding companies (which no longer have any material value due to the completion of previous transactions) have begun.

7. In addition to the steps discussed above, as well as in the Motion and Galindo Declaration, the Reorganized Debtors have also taken the following actions pursuant to the Confirmation Order:

- In connection with the Debtors' exit financing, the pre-existing DIP liens on collateral were (or are in the process of being) terminated and new pledges have been (or are in the process of being) executed in favor of the Global Loan Agency Services, the collateral agent under the exit facility.
- The Reorganized Debtors, led by their financial advisor Seabury Securities, have reached agreements in principle as to a majority of the unsecured claims related to aircraft leases—the most complex category of claims to be resolved.
- The Reorganized Debtors filed omnibus objections against 147 non-aircraft unsecured claims. These objections will resolve the vast majority of non-aircraft-related claims.
- The Reorganized Debtors have agreed with indenture trustees for both sets of prepetition bonds on value of claims.
- The majority of the Debtors' aircraft leases have been amended and restated.
- It has been agreed that Avianca Holdings will be removed from the guarantees of *all* aircraft (and such removal has been completed for substantially all aircraft guarantees), and Reorganized AVH has issued guarantees for all of the Reorganized Debtors' long-term aircraft leases.
- All of the Debtors' and the Official Committee of Unsecured Creditors' professionals have filed final fee applications.

8. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated: February 1, 2022

/s/ Richard Galindo

Richard Galindo