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VIA ECF FILING
The Honorable David S. Jones
United States Bankruptcy Judge
United States Bankruptcy Court for the
Southern District of New York
One Bowling Green
New York, New York 10004-1408

Re: In re MatlinPatterson Global Opportunities Partners II L.P., *et al.*
Case No. 21-11255 (DSJ)

Dear Judge Jones:

King & Spalding LLP represents GOL Linhas Aereas S.A. (formerly VRG Linhas Aereas S.A.) ("**VRG**") in the above-referenced chapter 11 bankruptcy cases. In advance of the hearing scheduled for this Friday, September 17, 2021 at 10:30 a.m., we write to update the Court on the informal discovery process and the open issues that remain.

Following the hearing on VRG's Rule 2004 Motion on August 26, 2021, counsel for VRG and counsel for the Debtors met and conferred on VRG's discovery requests. During the meet and confer, and in an effort to move this process along as consensually as possible, VRG agreed to significantly limit its discovery requests, while reserving its rights to request additional documents in the future. Subsequent to the meet and confer, VRG executed a confidentiality stipulation and the Debtors produced certain documents on September 3, 2021. Given the intervening Labor Day holiday and then the Jewish holiday of Rosh Hashanah immediately thereafter, VRG has not had sufficient time to fully analyze the documents the Debtors produced, although it has been able to preliminarily review them.

Based on VRG's review of documents to date, below are the open issues that currently remain between VRG and the Debtors:

1. In the Debtors' letter to the Court dated September 12, 2021 [ECF No. 143], they stated that their document production was complete, "subject to a very small number of documents for which Debtors continue to search their files." When VRG asked for clarification on this statement, it was told that the Debtors continue to search for certain bank statements and any

document that discussed why (i) the Contribution Agreement was entered into, (ii) the Security Agreement was entered into, or (iii) SUB II was created (collectively, the "**Subject Transactions**"). Separately, however, the Debtors have stated in writing that no documents exist explaining why the Subject Transactions were done. VRG has asked the Debtors to reconcile these inconsistent statements but, to date, no explanation has been provided.

2. As agreed to in connection with the meet and confer, the Debtors agreed to undertake reasonable efforts and produce targeted documents sufficient to show that the assets of MP Cayman have been in the United States from 2010 to the present. While certain bank account statements and other documents have been produced, they do not relate to the period from 2010 through 2014. It appears that the Debtors are still searching for such documents, but it is unclear if any exist. VRG has asked the Debtors to inform it when they expect their document search to be completed. No response has yet been provided.

3. VRG's Rule 2004 Motion sought the depositions of people knowledgeable about the Debtors, their prepetition conduct, and, among other things, the Subject Transactions. The subject of depositions was also discussed at the hearing on August 26, 2021 and was raised in VRG's letter to the Court dated September 10, 2021 [ECF No. 140]. To date, the Debtors appear to be resisting any effort by VRG to take any depositions.

   As but one example of why depositions are critical in this case, VRG requested documents explaining why the Subject Transactions were done. While the Debtors previously represented that the Contribution Agreement and the Security Agreement explain why such actions were taken,[1] they do not. In addition, based on the Debtors' statements to date, it is unclear if any document exists in connection with this issue. From a review of the documents produced to date, Matthew Doheny (Chief Restructuring Officer), Florina Klingbaum (Chief Financial Officer) and David Matlin (in certain capacities) each executed various documents that are relevant to this issue. These three people should have the requisite knowledge regarding, among other things, why the Subject Transactions were done. VRG has a right to depose them on, among others, these topics, as well as other relevant topics, including the basis of the non-Debtor affiliate alleged loan and whether a usurious interest rate was charged for such loan.[2] The Debtors have offered to side-step the deposition topic by agreeing to factual stipulations. But to VRG, there is a material difference between the Debtors admitting that a fiduciary agreed to enter into an insider preference transaction a month before a planned bankruptcy filing, and the parties involved in the transaction explaining why that transaction needed to occur, and the valid business purpose for doing so.

4. Finally, VRG will want to discuss with the Court the subject of its letter dated September 10, 2021. Certainly, the Court has the right to manage its calendar and to tell the parties the order in which it will hear issues in the cases. That is what VRG thought actually had occurred

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[1] *See* Hr'g Transcript, August 26, 2021, at 33:4-6 (Statement by Mr. Robinson) ("And, you know, from our perspective, the terms of those agreements explain their purpose, explain what the transaction is, what it was about").

[2] The principal amount of the loan was approximately $16 million and the Debtors claim that they owe their non-Debtor affiliate in excess of $56 million (the majority of which is obviously accrued interest).

when the Court made statements at the last hearing regarding providing VRG with the opportunity to first present its threshold issues for the Court to resolve.

Respectfully submitted,

/s/ Arthur Steinberg

Arthur Steinberg

cc: All counsel of record (via ECF filing).