

Presentment Date: August 12, 2020 at 10:00 a.m. (prevailing Eastern Time)
Objection Deadline: August 11, 2020 at 4:00 p.m. (prevailing Eastern Time)

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*Counsel for Debtors and
Debtors-In-Possession*

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

-----X
:
In re: : Chapter 11
:
AVIANCA HOLDINGS S.A., *et al.*,¹ : Case No. 20-11133 (MG)
:
Debtors. : (Jointly Administered)
:
-----X

**NOTICE OF PRESENTMENT OF AGREED ORDER AMENDING FEE LETTER
WITH ARNOLD & PORTER AS COUNSEL TO THE REPUBLIC OF COLOMBIA**

PLEASE TAKE NOTICE that on June 30, 2020, the Debtors filed their *Motion for
Authorization to Pay Certain Fees and Expenses of Professionals Retained by the Government of*

¹ The Debtors in these chapter 11 cases (the “Debtors”), 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); Nicaraguense 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). The Debtors’ principal offices are located at Avenida Calle 26 # 59 – 15 Bogotá, Colombia.



the Republic of Colombia [Docket No. 358] (the “Motion”). The Court entered an order granting the Motion on July 16, 2020 [Docket No. 524] (the “Order”).

PLEASE TAKE FURTHER NOTICE that the Debtors, the Republic of Colombia, and the Official Committee of Unsecured Creditors appointed in these chapter 11 cases have agreed to amend—or permit the amendment of, as applicable—the Fee Letter (as defined in the Motion) to permit the Republic of Colombia to retain one or more financial advisory and/or investment banking firms, rather than just a single financial advisory and/or investment banking firm, but subject in all respects to the \$3,000,000 Professional Fee Cap set forth in the Order.

PLEASE TAKE FURTHER NOTICE that the *Agreed Order Amending Fee Letter with Arnold & Porter as Counsel to the Republic of Colombia*, annexed hereto as **Annex A** (the “Agreed Order”), will approve the amended Fee Letter as stated above, and will be presented for signature to the Honorable Judge Martin Glenn, United States Bankruptcy Judge for the Southern District of New York (the “Court”), Room 501, One Bowling Green, New York, New York, 10004 on **August 12, 2020 at 10:00 a.m.** (prevailing Eastern Time).

PLEASE TAKE FURTHER NOTICE that any objections or responses to the Agreed Order shall: (a) be in writing; (b) conform to the Federal Rules of Bankruptcy Procedure, the Local Bankruptcy Rules for the Southern District of New York, all General Orders applicable to chapter 11 cases in the United States Bankruptcy Court for the Southern District of New York, and the *Order Implementing Certain Notice and Case Management Procedures* [Docket No. 47] (the “Case Management Order”); (c) be filed electronically with this Court on the docket of *In re Avianca Holdings S.A.*, Case 20-11133 (MG) by registered users of this Court’s electronic filing system and in accordance with the General Order M-399 (which is available on this Court’s website at <http://www.nysb.uscourts.gov>) by **August 11, at 4:00 p.m., prevailing Eastern Time**

(the “**Objection Deadline**”); and (d) be promptly served on the following parties: (i) the Chambers of the Honorable Martin Glenn, United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, NY 10004; (ii) the Debtors, c/o Richard Galindo (richard.galindo@avianca.com); (iii) Milbank LLP (Attn: Evan R. Fleck, Esq. and Gregory A. Bray, Esq. (efleck@milbank.com and gbray@milbank.com)), counsel for the Debtors; (iv) Morrison & Foerster LLP (Attn: Brett H. Miller, Esq. and Todd M. Goren, Esq. (brettmiller@mof.com and tgoren@mof.com)), counsel to the Official Committee of Unsecured Creditors (the “**Committee**”); (v) William K. Harrington, U.S. Department of Justice, Office of the U.S. Trustee, 201 Varick Street, Room 1006, New York, NY 10014 (Attn: Brian Masumoto, Est. and Greg Zipes, Esq.); (vi) the Securities and Exchange Commission, 100 F Street, NE, Washington, D.C. 20549; (vii) the Federal Aviation Administration, 800 Independence Ave., S.W. Washington, DC 20591 (Attn: Office of the Chief Counsel); and (viii) the attorneys for any other official committee(s) that may be appointed in these Chapter 11 Cases.

PLEASE TAKE FURTHER NOTICE that, if no objections are received by the Objection Deadline, the Court may enter the Agreed Order without further notice.

PLEASE TAKE FURTHER NOTICE that if an objection is timely filed by the Objection Deadline, the Court will notify the Debtors and the objecting parties of the date and time of the hearing with respect to the Agreed Order and the Debtors’ obligation to notify all other parties entitled to receive notice. The Debtors and any objecting parties are required to attend the hearing in accordance with General Order M-543 (which can be found at <http://www.nysb.uscourts.gov>), and failure to attend may result in relief being granted or denied upon default.

PLEASE TAKE FURTHER NOTICE that copies of the Agreed Order and other pleadings for subsequent hearings may be obtained free of charge by visiting the KCC website at

<http://www.kccllc.net/avianca>. You may also obtain copies of any pleadings by visiting at
<http://www.nysb.uscourts.gov> in accordance with the procedures and fees set forth therein.

Dated: New York, New York
August 6, 2020

/s/ Evan R. Fleck
Dennis F. Dunne
Evan R. Fleck
MILBANK LLP
55 Hudson Yards
New York, New York 10001
Telephone: (212) 530-5000
Facsimile: (212) 530-5219

- and -

Gregory A. Bray
MILBANK LLP
2029 Century Park East, 33rd Floor
Los Angeles, CA 90067
Telephone: (424) 386-4000
Facsimile: (213) 629-5063

*Counsel for Debtors and
Debtors-in-Possession*

Annex A

Agreed Order

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

-----X
In re: : Chapter 11
: :
AVIANCA HOLDINGS S.A., *et al.*,¹ : Case No. 20-11133 (MG)
: :
Debtors. : (Jointly Administered)
: :
-----X

**ORDER AUTHORIZING DEBTORS TO PAY CERTAIN FEES AND EXPENSES
OF PROFESSIONALS RETAINED BY THE GOVERNMENT OF THE
REPUBLIC OF COLOMBIA PURSUANT TO AMENDED FEE LETTER**

Upon the Motion (the “Motion”)² of Avianca Holdings S.A. and its direct and indirect subsidiaries in the above-captioned chapter 11 cases, as debtors and debtors in possession (collectively, the “Debtors”), pursuant to sections 105 and 363 of title 11, United States Code (the “Bankruptcy Code”), for approval of the Fee Letter, as amended, to pay certain fees and expenses of professionals employed by the Republic, all as more fully described in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334 and the Amended Standing Order of Reference M-431, dated

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); Nicaraguense 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). The Debtors’ principal offices are located at Avenida Calle 26 # 59 – 15 Bogotá, Colombia.

² Capitalized terms used herein but not defined shall have the meanings ascribed to them in the Motion.

January 31, 2012 (Preska, C.J.); and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided, and it appearing that no other or further notice need be provided; and a hearing having been held to consider the relief requested in the Motion (the “Hearing”); and upon the record of the Hearing and all of the proceedings had before the Court; and the Court having found and determined that the relief sought in the Motion is in the best interests of the Debtors, and all parties in interest, and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due consideration and deliberation and sufficient cause appearing therefor, it is it is HEREBY ORDERED THAT:

1. The Motion is granted to the extent set forth herein.
2. The Debtors are authorized to act in accordance with the Fee Letter (as amended) and pay the Republic’s Professionals for their Professional Fees, commencing as of June 15, 2020, subject to an aggregate cap of \$3,000,000 (the “Professional Fee Cap”), and subject to the other terms and conditions of the amended Fee Letter attached hereto as **Exhibit A**.
3. The Professional Fee Cap may be increased from time to time by agreement of the Debtors, the Committee, and the Republic, or pursuant to an order of the Court in the event that the Committee does not consent to an increase of the Professional Fee Cap that has otherwise been agreed to by the Debtors and the Republic.
4. The Professional Fees payable pursuant to the Fee Letter shall constitute allowed administrative expenses of each of the Debtors in these Cases pursuant to section 503(b) of the Bankruptcy Code.

5. Entry of this Order is without prejudice to the Debtors' right to seek entry of an order modifying or supplementing the relief granted herein.

6. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

7. This Court shall retain jurisdiction to hear and determine all matters arising from the interpretation, enforcement, or implementation of this Order.

Dated: _____, 2020
New York, New York

UNITED STATES BANKRUPTCY JUDGE

Exhibit A

Amended Fee Letter



Michael L. Bernstein
+1 202.942.5577 Direct
Michael.Bernstein@arnoldporter.com

August 6, 2020

Marcelo A. Mottes
Evan R. Fleck
Milbank LLP
55 Hudson Yards
New York, New York 10001

Re: *In re Avianca Holdings S.A. et al.*, United States Bankruptcy Court for the
Southern District of New York, No. 20-11133

Dear Counsel:

Arnold & Porter Kaye Scholer LLP is counsel to the Republic of Colombia (the “**Republic**”) in connection with the above-referenced chapter 11 cases (the “**Chapter 11 Cases**”) of Avianca Holdings S.A. and its affiliated debtors and debtors-in-possession (“**Avianca**,” or the “**Debtors**”) which are pending in the United States Bankruptcy Court for the Southern District of New York (the “**Bankruptcy Court**”).

We understand that the Debtors are engaged in discussions with various parties regarding financing for Avianca’s restructuring. In connection with such discussions, the Debtors have asked the Republic to evaluate whether the Republic would potentially provide, or participate in, debtor-in-possession financing, exit financing, or other forms of support to the Debtors in connection with the Chapter 11 Cases (a “**Financing Transaction**”). The Republic’s participation in the Chapter 11 Cases, including participation in any Financing Transaction, may involve, and be conditioned upon, the Republic conducting satisfactory legal, financial and other due diligence, engaging in negotiations with the Debtors and other parties-in-interest in the Chapter 11 Cases, documenting agreements related to any Financing Transaction, and participating in obtaining Bankruptcy Court approval of any Financing Transaction.¹

¹ The definitive documentation of any Financing Transaction may include provisions for payment or reimbursement of certain fees and expenses of the Republic, including for matters not addressed in this letter.

Arnold & Porter

Marcelo A. Mottes
Evan R. Fleck
August 6, 2020
Page 2

In connection with the foregoing, the Debtors have agreed to pay in full, within ten (10) days following their receipt of an invoice from the applicable professional firm and without the need for any party to file a fee application, reasonable documented fees and expenses incurred by the Republic, which fees and expenses shall, for purposes of this agreement, be (i) the reasonable documented fees, charges, and disbursements of Arnold & Porter Kaye Scholer LLP as the Republic's legal counsel in the Chapter 11 Cases, and (ii) the reasonable documented fees, charges, and disbursements of one or more financial advisory and/or investment banking firms selected by the Republic in its sole discretion (collectively, the "**Professional Fees**"), in an aggregate amount not to exceed \$3,000,000, or such greater amount as may be approved by each of the Debtors, the Official Committee of Unsecured Creditors in the Chapter 11 Cases (the "**Committee**"), and the Republic (the "**Professional Fee Cap**"). The Professional Fee Cap may be increased from time to time by agreement of the Debtors, the Committee and the Republic, or pursuant to an order of the Bankruptcy Court in the event that the Committee does not consent to an increase of the Professional Fee Cap that has otherwise been agreed to by the Debtors and the Republic. Professional Fees payable pursuant to this letter shall constitute an allowed administrative expense of each of the Debtors in the Chapter 11 Cases. The payment of the Professionals Fees hereunder shall be subject in all respects to Bankruptcy Court approval of this letter. Notwithstanding anything herein to the contrary, the Debtors shall have no obligation to reimburse the Republic for any Professional Fees incurred in the Chapter 11 Cases except for Professional Fees that the Republic, or counsel on its behalf, asserts in good faith are related to: (i) the Republic's consideration, analysis or evaluation of whether to provide financing or other financial accommodations to the Debtors (and if so on what terms), (ii) due diligence, negotiations with the Debtors and other parties-in-interest, documenting agreements, participating in court approval thereof and any other court proceedings relevant thereto, in each case related to any actual or potential Financing Transaction, or (iii) enforcement of its rights under this letter.

Nothing herein constitutes an agreement, offer or commitment by the Republic to enter into any Financing Transaction, otherwise provide financing or support to the Debtors, or support any relief requested by the Debtors in the Chapter 11 Cases, and the Debtors acknowledge that no such offer, commitment, or agreement has been made by or on behalf of the Republic pursuant to this letter or otherwise. The Debtors represent and agree that, subject only to obtaining Bankruptcy Court approval of this letter, their obligations hereunder are legally valid, binding, and enforceable against them in accordance with the terms hereof and that the Debtors' agreement to pay the Professional Fees is not conditioned upon, and is independent of, any commitment or agreement by the Republic to enter into any Financing Transaction or to take any other action in, or in connection with, the Chapter 11 Cases.

Arnold & Porter

Marcelo A. Mottes
Evan R. Fleck
August 6, 2020
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Please indicate the Debtors' agreement to the foregoing by returning a countersigned copy of this letter.

Sincerely,

Michael L. Bernstein

AGREED AND ACCEPTED:

Avianca Holdings S.A., on behalf of the Debtors

Name:
Title:



Michael L. Bernstein
+1 202.942.5577 Direct
Michael.Bernstein@arnoldporter.com

~~June 30~~August 6, 2020

Marcelo A. Mottes
Evan R. Fleck
Milbank LLP
55 Hudson Yards
New York, New York 10001

Re: *In re Avianca Holdings S.A. et al.*, United States Bankruptcy Court for the
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Dear Counsel:

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Arnold & Porter

Marcelo A. Mottes

Evan R. Fleck

~~June 30, 2020~~ August 6, 2020

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In connection with the foregoing, the Debtors have agreed to pay in full, within ten (10) days following their receipt of an invoice from the applicable professional firm and without the need for any party to file a fee application, reasonable documented fees and expenses incurred by the Republic, which fees and expenses shall, for purposes of this agreement, be (i) the reasonable documented fees, charges, and disbursements of Arnold & Porter Kaye Scholer LLP as the Republic's legal counsel in the Chapter 11 Cases, and (ii) the reasonable documented fees, charges, and disbursements of one or more financial advisory and/or investment banking ~~firm~~firms selected by the Republic in its sole discretion (collectively, the "**Professional Fees**"), in an aggregate amount not to exceed \$3,000,000, or such greater amount as may be approved by each of the Debtors, the Official Committee of Unsecured Creditors in the Chapter 11 Cases (the "**Committee**"), and the Republic (the "**Professional Fee Cap**"). The Professional Fee Cap may be increased from time to time by agreement of the Debtors, the Committee and the Republic, or pursuant to an order of the Bankruptcy Court in the event that the Committee does not consent to an increase of the Professional Fee Cap that has otherwise been agreed to by the Debtors and the Republic. Professional Fees payable pursuant to this letter shall constitute an allowed administrative expense of each of the Debtors in the Chapter 11 Cases. The payment of the Professionals Fees hereunder shall be subject in all respects to Bankruptcy Court approval of this letter. Notwithstanding anything herein to the contrary, the Debtors shall have no obligation to reimburse the Republic for any Professional Fees incurred in the Chapter 11 Cases except for Professional Fees that the Republic, or counsel on its behalf, asserts in good faith are related to: (i) the Republic's consideration, analysis or evaluation of whether to provide financing or other financial accommodations to the Debtors (and if so on what terms), (ii) due diligence, negotiations with the Debtors and other parties-in-interest, documenting agreements, participating in court approval thereof and any other court proceedings relevant thereto, in each case related to any actual or potential Financing Transaction, or (iii) enforcement of its rights under this letter.

Nothing herein constitutes an agreement, offer or commitment by the Republic to enter into any Financing Transaction, otherwise provide financing or support to the Debtors, or support any relief requested by the Debtors in the Chapter 11 Cases, and the Debtors acknowledge that no such offer, commitment, or agreement has been made by or on behalf of the Republic pursuant to this letter or otherwise. The Debtors represent and agree that, subject only to obtaining Bankruptcy Court approval of this letter, their obligations hereunder are legally valid, binding, and enforceable against them in accordance with the terms hereof and that the Debtors' agreement to pay the Professional Fees is not conditioned upon, and is independent of, any commitment or agreement by the Republic to

Arnold & Porter

Marcelo A. Mottes

Evan R. Fleck

~~June 30, 2020~~ August 6, 2020

Page 3

enter into any Financing Transaction or to take any other action in, or in connection with,
the Chapter 11 Cases.

Arnold & Porter

Marcelo A. Mottes
Evan R. Fleck

~~June 30, 2020~~ August 6, 2020

Page 4

Please indicate the Debtors' agreement to the foregoing by returning a countersigned copy of this letter.

Sincerely,

Michael L. Bernstein

AGREED AND ACCEPTED:

Avianca Holdings S.A., on behalf of the Debtors

Name:

Title: