

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

**In re:**

**GRUPO AEROMÉXICO, S.A.B. de C.V., et  
al.,**

**Debtors.<sup>1</sup>**

**Chapter 11**

**Case No. 20-11563 (SCC)**

**(Jointly Administered)**

**SUPPLEMENTAL DECLARATION OF HOMER PARKHILL IN SUPPORT OF  
MOTION FOR ENTRY OF AN ORDER (I) AUTHORIZING THE DEBTORS' ENTRY  
INTO, AND PERFORMANCE UNDER, THE DEBT FINANCING COMMITMENT  
LETTER, (II) AUTHORIZING THE DEBTORS' ENTRY INTO, AND PERFORMANCE  
UNDER, THE EQUITY COMMITMENT LETTER, (III) AUTHORIZING THE  
DEBTORS' ENTRY INTO, AND PERFORMANCE UNDER, THE SUBSCRIPTION  
AGREEMENT AND (IV) AUTHORIZING INCURRENCE, PAYMENT, AND  
ALLOWANCE OF RELATED PREMIUMS,  
FEES, COSTS, AND EXPENSES AS SUPERPRIORITY  
ADMINISTRATIVE EXPENSE CLAIMS**

I, Homer Parkhill, hereby declare under penalty of perjury as follows:

1. I am the co-head of the North American restructuring practice of Rothschild & Co US Inc. ("**Rothschild & Co**"), a global financial advisory services and investment banking firm, which has its principal office in North America at 1251 Avenue of the Americas, 33rd Floor, New York, New York 10020. Rothschild & Co has been engaged as a financial advisor to the above-captioned debtors and debtors in possession (collectively, the "**Debtors**")<sup>2</sup> since June 2020.

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<sup>1</sup> The Debtors in these cases, along with each Debtor's registration number in the applicable jurisdiction, are as follows: Grupo Aeroméxico, S.A.B. de C.V. 286676; Aerovías de México, S.A. de C.V. 108984; Aerolitoral, S.A. de C.V. 217315; Aerovías Empresa de Cargo, S.A. de C.V. 437094-1. The Debtors' corporate headquarters is located at Paseo de la Reforma No. 243, piso 25 Colonia Cuauhtémoc, Mexico City, C.P. 06500.

<sup>2</sup> A detailed description of the Debtors and their businesses, and the facts and circumstances supporting this motion and the Debtors' chapter 11 cases, are set forth in greater detail in the *Declaration of Ricardo Javier Sánchez Baker in Support of the Debtors' chapter 11 Petitions and First Day Pleadings* (the "**First Day Sánchez Declaration**") [ECF No. 20], filed contemporaneously with the Debtors' voluntary petitions for relief filed under chapter 11 of the Bankruptcy Code on June 30, 2020 (the "**Petition Date**").

2. I am generally familiar with the Debtors' day-to-day operations, business affairs, financial performance, and restructuring efforts. I submit this declaration (this "**Declaration**") in support of the relief requested in the *Motion for Entry of an Order (I) Authorizing the Debtors' Entry Into, and Performance Under, the Debt Financing Commitment Letter, (II) Authorizing the Debtors' Entry Into, and Performance Under, the Equity Commitment Letter, (III) Authorizing the Debtors' Entry Into, and Performance Under, the Subscription Agreement and (IV) Authorizing Incurrence, Payment, and Allowance of Related Premiums, Fees, Costs, and Expenses as Superpriority Administrative Expense Claims* [Docket No. 1860] (the "**Exit Financing Motion**"), and the revised terms set forth in the *Supplement to Debtors' Exit Financing Motion and Notice of Filing of Revised Equity and Debt Commitment Letters* [Docket No. 2168] (the "**Supplement**" and, together with the Motion, the "**Motion**," and the transactions contemplated therein, the "**Exit Financing**").<sup>3</sup>

3. Except where specifically noted, the statements in this Declaration are based on (a) my personal knowledge, belief, or opinion; (b) information I have received from the Debtors' employees or advisors and/or employees of Rothschild & Co working directly with me or under my supervision, direction, or control; or (c) the Debtors' records maintained in the ordinary course of their business. I am authorized by the Debtors to submit this Declaration and, if I were called upon to testify, I could and would testify competently to the facts set forth herein.

4. My previous declarations regarding the Motion in these cases: *Declaration of Homer Parkhill in Support of Debtors' Motion for Entry of an Order (I) Authorizing the Debtors' Entry Into, and Performance Under, the Debt Financing Commitment Letter, (II) Authorizing the Debtors' Entry Into, and Performance Under, the Equity Commitment Letter, (III) Authorizing the Debtors' Entry Into, and Performance Under, the Subscription Agreement and (IV) Authorizing*

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<sup>3</sup> Capitalized terms used but not defined herein shall have the meaning given to them in the Exit Financing Motion.

*Incurrence, Payment, and Allowance of Related Premiums, Fees, Costs, and Expenses as Superpriority Administrative Expense Claims* [ECF No. 1860]; and *Declaration of Homer Parkhill in Support of Supplement to Debtors' Exit Financing Motion and Notice of Filing of Revised Equity and Debt Commitment Letters* [ECF. No. 2168]; are hereby incorporated herein by reference as if set forth verbatim herein.

### **Preliminary Statement**

5. I have reviewed the objections filed by the Official Committee of Unsecured Creditors (the "UCC")<sup>4</sup> and the Ad Hoc Group of OpCo Creditors (the "OpCo Creditors")<sup>5</sup> to the Motion (together, the "Objections"). The Objections contain a number of misstatements and misrepresentations. Notwithstanding the Objections, I remain confident in the views I expressed in my prior declarations and my deposition taken on November 30, 2021, in particular, that the relief sought by and through the Motion is reasonable, that the Exit Financing clears the way for Debtors to emerge from chapter 11 as a viable reorganized entity, and that the Exit Financing will provide the necessary backdrop in determining the optimal capital structure, governance, and operations of the reorganized Debtors through the chapter 11 Plan.

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<sup>4</sup> *Objection of the Official Committee of Unsecured Creditors to Disclosure Statement for the Joint chapter 11 Plan of Reorganization of Grupo Aeroméxico, S.A.B. de C.V. and its Affiliated Debtors* [ECF No. 2233]; *Objection of the Official Committee of Unsecured Creditors to Debtors' Motion Seeking Approval of Commitment Premium* [ECF No. 2232].

<sup>5</sup> *The Ad Hoc Group of OpCo Creditors' Objection to Debtors' Disclosure Statement for the Joint chapter 11 Plan of Reorganization of Grupo Aeroméxico, S.A.B. de C.V. and its Affiliated Debtors* [ECF No. 2227]; *Objection of the Ad Hoc Group of OpCo Creditors to Debtors' Motion for Entry of an Order (I) Authorizing the Debtors' Entry Into, and Performance Under, the Debt Financing Commitment Letter, (II) Authorizing the Debtors' Entry Into, and Performance Under, the Equity Commitment Letter, (III) Authorizing the Debtors' Entry Into, and Performance Under, the Subscription Agreement and (IV) Authorizing Incurrence, Payment, and Allowance of Related Premiums, Fees, Costs, and Expenses as Superpriority Administrative Expense Claims* [ECF No. 2228].

6. The chapter 11 Plan, on file as *Debtors' Joint Plan of Reorganization under chapter 11 of the Bankruptcy Code* [ECF No. 2184], represents the only actionable path for Debtors to achieve timely emergence from chapter 11.

**History of Negotiations Leading Up to Updated Exit Financing Proposal**

7. The Objections appear to have clouded the timeline regarding the 15% Commitment Fee even though the Objectors have been fully informed throughout. I set out below the history with respect to the fee to make it clear that the move from 12% to 15% is not a recent development, and that the 15% fee has been feature of executable proposals.

8. As discussed in my prior declarations, the parties in interest engaged in a court-ordered mediation beginning in August 2021. The mediation culminated in the Debtors sending Final Valuation Materials with the then-existing of the Exit Financing Proposal as a primary input to such materials on September 10, 2021. During the mediation, the creditor groups bidding to provide exit financing united behind a single bid, with such combination being disclosed to all mediation parties. At the time, neither Delta nor the Mexican Investors were supportive of, or participants in, the proposed exit financing. The equity commitment in the Final Valuation Materials had an Equity Commitment Premium of 12%.

9. Rothschild & Co was unable to certify that the Refinancing Qualification under the DIP Facility had been met, given the non-customary conditions outstanding. Nevertheless, given the potential for materially higher recoveries to unsecured creditors if consummated, as well as substantial progress on resolving outstanding contingencies, the Debtors determined that, consistent with their fiduciary duties, the Exit Financing Proposal was worth pursuing, even if some value that would otherwise flow to unsecured creditors, would need to be used to finalize the Exit Financing and, potentially, a global settlement.

10. On September 22, 2021, the Debtors received revised equity commitment documentation from the Joint Bidders reflecting an Equity Commitment Premium payable on 15% of the proposed commitments (increased from 12%). However, the updated term sheet also removed the following provision, that was included in the Final Valuation “provided, however, that the Commitment Parties and the Debtors shall work together in good faith to provide for mutually acceptable additional economics to account for the fact that the Common Price Per Share will not be calculated at a discount to Plan Equity Value so long as such additional economics will not result in the Debtors applying a discount to Plan Equity Value for purposes of any conversion of the Tranche 2 DIP Loans.” The Debtors understood that the increase in the fee was in part responsive to the deletion of the preceding language that contemplated additional economics to the Equity Commitment Parties in the 12% Equity Commitment Premium construct.

11. In early October, the Committee requested changes to the Exit Financing Proposal including, among other things, a reversion of the Equity Commitment Premium back to 12%. The Debtors also made the request to reduce the Equity Commitment Premium back to 12%. The Joint Bidders did not accept either request.

12. On October 8, 2021, the Debtors filed the Motion, which included seeking authorization for, among other things, an Equity Commitment Premium of 15%. At the time, the Debtors needed sufficient funding to refinance the DIP Facility in full while allowing them to successfully reorganize. Notwithstanding the increased Equity Commitment Premium, the Exit Financing still gave the Debtors the best chance to accomplish these goals. The Debtors subsequently filed a revised Plan and Disclosure Statement on October 15, 2021, with updated terms (including, without limitation, the updated terms of the Exit Financing).

13. In November 2021, the Debtors received an updated exit financing proposal that had the support of Apollo, as well as the Exit Financing providers, Delta, and the Mexican Investors (the “**Alliance Proposal**”). Notably, the alliance arose from the Joint Bidders and Apollo exchanging their existing restructuring proposals, which was done with the full knowledge and consent of all organized stakeholders. In the revised proposal, while the Equity Commitment Premium percentage remained the same (15%), the Equity Commitment Premium was now payable on a significantly smaller total new money equity investment (\$720 million, down from \$1,187.5 million) and, accordingly, the Equity Commitment Premium would lead to significantly less dilution to unsecured creditors.

14. Despite the material economic concession in the interest of global peace and the reduction in equity values throughout the industry, discussed further below, the Joint Bidders did not ask for a corresponding increase in the fees or other material economics to account for such concession. The Alliance Proposal not only led to a DIP maturity extension (which would have otherwise cost the estate substantial fees in connection with a stand-alone extension, DIP refinancing), but also eliminated substantial litigation risk arising from an interpretation question under Schedule 2.12 of the DIP Credit Agreement, which is moot for as long as the Debtors are pursuing the Alliance Proposal.

15. Accordingly, on November 19, 2021, the Debtors filed revised commitment papers reflecting the new Exit Financing proposal and global settlement reflected by the Alliance Proposal. Contrary to the various assertions in the objections that the new Exit Financing was obtained by siphoning value from unsecured creditors, the updated Exit Financing Proposal provided more value for general unsecured creditors and eliminated litigation risk with Apollo, at the expense of the value to the new money investors, Mexican Investors, and Delta.

16. As it now stands, the chapter 11 Plan has enhanced the recovery to unsecured creditors over and above the recovery provided for in the initial proposal of Apollo Management Holdings, L.P. (“**Apollo**”), and with an increase of \$858 million in value attributable to General Unsecured Creditors since the transaction set forth in originally contemplated Final Valuation Materials from July 29, 2021.

**The Equity Commitment Premium is Reasonable**

17. The Equity Commitment Premium is not a deal term that exists in a vacuum, but rather, part of a larger proposed Exit Financing that is of immense value to the Debtors and their stakeholders. This is not an asset sale or open auction; rather, it is a specific process arising from the bespoke requirements of a unique DIP Facility. The proposed transaction is indeed highly unusual in a chapter 11 case, but just like the convertible DIP Financing, unique times have compelled unique agreements. There are not appropriate comparables for this type of agreement in a chapter 11 proceeding, and therefore the Debtors took a holistic approach to the Equity Commitment Premium. As noted above, the Debtors tried to negotiate the fee down but were unable to, and because the Alliance Proposal was so much better than the alternative, the Debtors did not turn it down when the parties refused to reduce it. Indeed, the Exit Financing is also a key component of the Alliance Proposal that the Debtors believe will enable them to emerge from Chapter 11 successfully and expeditiously. It is in this context that the Debtors submit that the Equity Commitment Premium is reasonable and appropriate.

**Efforts to Engage the Ad Hoc Group of OpCo Creditors**

18. The chapter 11 Plan remains the only actionable deal for Debtors to emerge from chapter 11 notwithstanding the very recent, and ever changing, proposal submitted by the Ad Hoc Group of OpCo Creditors.

19. The Debtors became aware, through the submission of an alternate proposal, that Invictus Global Management, LLC (together with its affiliates, “**Invictus**”) had disassociated from the BSPO Investors on November 12, 2021,<sup>6</sup> and the Ad Hoc Group of OpCo Creditors filed their initial 2019 statement on November 26, 2021. In the brief time since Invictus left the BSPO Investors, the Debtors have received at least *eight* iterations of proposals and scenarios from the Ad Hoc Group of OpCo Creditors or its members.

20. On November 12, 2021, certain of the Ad Hoc Group of OpCo Creditors submitted their initial proposal. At the time, Debtors were unaware of the precise makeup of the group. Nonetheless, Debtors moved quickly to engage the group on the proposal. Indeed, in less than a week, Debtors’ advisors, including myself, attended an in-person a meeting in Austin, Texas on November 17, 2021 with representatives from Invictus, to discuss the proposal.<sup>7</sup> At that meeting, and through numerous discussions that took place since, I and other of the Debtors’ advisors sought to make clear to the Ad Hoc Group of OpCo Creditors the ways in which their proposal would have to change to be an actionable and viable alternative to the chapter 11 Plan.

21. Discussions with the Ad Hoc Group of OpCo Creditors continued on November 22, 2021, and on the next day, Debtors’ advisors had a formal discussion with Guggenheim Partners, financial advisor to the OpCo creditors.

22. From November 27 through December 2, 2021, the Debtors and the Ad Hoc Group of OpCo Creditors engaged on a daily basis, through telephone calls and email exchanges. During this period, Debtors, with the Ad Hoc Group of OpCo Creditors, reviewed and considered multiple

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<sup>6</sup> Prior to its association with the BSPO Investors (*see Verified Statement Pursuant to Bankruptcy Rule 2019* [ECF No. 1995]), Invictus was a member of the Ad Hoc Group of Unsecured Claimholders identified in the First Amended Verified Statement of the Ad Hoc Group of Unsecured Claimholders Pursuant to Bankruptcy Rule 2019 [ECF No. 1733].

<sup>7</sup> Invictus was formerly a member of the BSPO group, which it left on or about November 12, 2021.



iterations of the Ad Hoc Group of OpCo Creditors' proposal. With the exception of the term sheet attached as Exhibit 2 to the their Preliminary Objection (the "**OpCo Exit Financing Term Sheet**")—where part of the Exit Financing documentation was largely copied and pasted, with no demonstration in that "documentation" of how the deal would need to change given differing levels of support from various stakeholders—each of the proposals consisted of a chart or slide, no detailed term sheet, and insufficient underlying calculations. None of the proposals were actionable.

23. For example, the proposals of Ad Hoc Group of OpCo Creditors assumed the support of key stakeholders, including Apollo, ongoing operational support from Delta Air Lines, and Mexican ownership that complies with Mexican foreign ownership requirements. But the Ad Hoc Group of OpCo Creditors have provided no concrete proposals or consideration to the Debtors on how they plan to satisfy Mexican foreign ownership law, which is an issue the Debtors and their stakeholders have been carefully considering for months. And the Debtors have been informed, however, that Apollo does not support the Ad Hoc Group of OpCo Creditors' proposal. The Debtors recently executed an amendment with Apollo to extend the maturity of the DIP Facility (and corresponding milestones tied to such maturity) by three months.<sup>8</sup> While there is no fee in connection with such amendment, in exchange for such necessary extension the Debtors are required to support and pursue the Exit Financing as part of a global settlement amongst the parties.<sup>9</sup> If the Debtors do not pursue the Exit Financing, the Debtors are required to provide revised Final Valuation Materials within 15 days of the Termination Event.<sup>10</sup> The last time the

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<sup>8</sup> See Notice of Presentment of Proposed Order Authorizing Debtors' Entry into the Third DIP Amendment [ECF No. 2177].

<sup>9</sup> Third Amendment to the Credit Agreement, Section 12.02(b).

<sup>10</sup> *Id.* Section 12.06.

Debtors delivered Final Valuation Materials without committed, executable exit financing, unsecured creditor recoveries were much lower than what is provided for in the Revised Plan supported by the Exit Financing. This is just one of numerous examples of why the OpCo Exit Financing Proposal is not, in the current landscape, practical and cannot lead to a confirmable chapter 11 plan.

24. The Ad Hoc Group of OpCo Creditors argue that their proposal provides higher general unsecured creditor recoveries, but the mathematical assumptions on which that conclusion is based are flawed. For instance, the Ad Hoc Group of OpCo Creditors appears to consider the Commitment Premium as a component of creditor recovery on account of General Unsecured Claims. The Ad Hoc Group of OpCo Creditors also estimates materially higher excess cash than the Debtors current estimate, and use of that purported excess cash to fund additional distributions to stakeholders. This not only portrays a misleading differential in “recoveries,” it also results in higher net debt and lower liquidity—i.e., a worse airline—for the Reorganized Debtors.

25. The Objections seem to indicate the Debtors told interested parties that any proposal would only be considered by the Debtors if it included the Mexican Investors and Delta. As I made clear during my deposition, this is contrary to the facts, including as stated in my deposition, that while Delta and the Mexican Investors were valued and important, they were not a requirement for a compliant bid from the Debtors’ perspective. The Debtors made it clear to bidders that “in order to have an executable financing to sponsor emergence, they needed to have satisfied Mexican foreign ownership requirements, and [Debtors] needed to understand, for the purposes of evaluating that proposal, whether or not Delta was going to be involved . . . as anything other than a JCA party, which Delta had said expressly they would continue.” (Homer Parkhill Tr. 100:11–105:5.)

**Steady Valuation of Aeroméxico in a Worsening Environment**

26. Since June 2021, when the Noteholder Investors and BSPO group submitted their initial indication of interest to Debtors, the markets have significantly changed and other airlines situated similarly to Debtors have had steep declines in trading prices. For example, Latin American public airlines GOL Intelligent Airlines, Azul Brazilian Airlines, Volaris Airlines, and Copa Airlines have had, on average, a 32.5% decrease in trading prices since June 2021. Additionally, North American public airlines American Airlines, Southwest Airlines, United Airlines, Spirit Airlines, Alaska Air Group, JetBlue Airways, and Delta Air Lines have had, on average, a 31.7% decrease in trading prices since June 2021.

27. Those declines are almost certainly attributable, at least in significant part, to the volatile travel environment created by the ongoing COVID-19 pandemic. Most recently, this environment seems only to be worsening with news of the emergence of a new virus variant and the potential for increased governmental travel restrictions in response.

28. Despite this environment, which Debtors, too, operate in, the group of investors involved in the chapter 11 Plan have remained steadfast and have even maintained a valuation for Debtors during this period that has changed little from the proposal submitted in June 2021 to now.

29. In this environment, the chapter 11 plan remains a singular path forward through an increasingly treacherous landscape.

**The Exit Financing Provides the Best Chance for the Debtors to Refinance the DIP Facility and Successfully Reorganize**

30. The Exit Financing Commitments secured under the Motion provide \$1,482,500,000 in debt and equity financing that will serve as the backbone to the Revised Plan that preserves and maximizes value, mitigates costly and distracting litigation, provides robust recoveries for general unsecured creditors, and enjoys broad stakeholder support, including from

key constituencies that are essential to maximizing the Company's go-forward operations and performance. Furthermore, as part of the Exit Financing Proposal, approximately \$663 million of the DIP Facility will be equitized.

31. The Exit Financing provides the best chance for the Debtors to Refinance the DIP Facility and successfully emerge from chapter 11 as a valuable reorganized Company.

*[Remainder of page intentionally left blank.]*

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge, information, and belief.

Executed: December 4, 2021

By: /s/ Homer Parkhill  
Homer Parkhill  
Partner, Rothschild & Co.