

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

Case No. 21-cv-60462-BLOOM/Valle

CCUR AVIATION FINANCE, LLC and  
CCUR HOLDINGS, INC.,

Plaintiffs,

v.

SOUTH AVIATION, INC. and  
FEDERICO A. MACHADO,

Defendants.

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**TEMPORARY RECEIVER'S THIRD STATUS REPORT**

**I. INTRODUCTION**

The Court-appointed Temporary Receiver, Barbara Martinez, Esq. (the "Temporary Receiver") for South Aviation, Inc. ("South Aviation") and its respective affiliates, subsidiaries, successors, and assigns (excluding Defendant Federico A. Machado individually) (collectively, the "Receivership Estates") hereby files this Third Status Report in order to inform the Court in addition to Plaintiffs CCUR Aviation Finance, LLC ("CCURA"), and CCUR Holdings, Inc. ("CCURH" and collectively with CCURA, the "Plaintiffs"); WBIP Aviation One, LLC and WBIP Aviation Two, LLC ("WBIP Intervenors"); Metrocity Holdings, LLC ("Metrocity Intervenor"); and all parties who have appeared in this action of her activities and expenses incurred from August 30, 2021, to date ("Reporting Period"), as well as her plans going forward. This report is part of the Temporary Receiver's ongoing efforts to provide timely information to the Court and interested creditors of the Receivership Estates pursuant to her duties under the Order appointing her Temporary Receiver dated April 15, 2021 ("Appointing Order").

## **II. PRELIMINARY STATEMENT**

Since the Second Status Report was filed, the Temporary Receiver has primarily focused on two fronts: (i) the preservation, valuation and liquidation of foreign assets; and (ii) furthering the investigation to identify potential third party claims for the benefit of the creditor body.

On the domestic front, the Temporary Receiver has engaged a firm to assist in asset tracing and recovery and help guide the litigation strategy to recover funds for the benefit of the Receivership Estates. It has also reached an agreement with regards to the only asset identified so far in the U.S., an aircraft.

On the Guatemala front, during the Reporting Period the Temporary Receiver has liquidated Minas del Pueblo, S.A.'s assets in the amount of USD 34,000. All proceeds received have been used to preserve assets in Guatemala.

The Temporary Receiver obtained an independent report from a reputed mining company, Broadlands Mineral Advisory Services Ltd., assessing the value of MDP's assets. The report was filed with the Court under seal together with a protective order. The report will be sent to the parties in this litigation in due course. The value of MDP's assets included in the report has recently allowed the Temporary Receiver and her team to revamp efforts to obtain funding from third party providers.

The Temporary Receiver continues to make efforts to identify legal proceedings involving MDP in Guatemala. Over the Reporting Period, the Temporary Receiver confirmed that (i) MDP had not been indicted, accused or made a party to any criminal proceeding as of October 27, 2021; and (ii) MDP is a party to twelve (12) civil litigations, mostly involving claims from former employees for past wages.

The Temporary Receiver has obtained a copy of MDP's financial statements for 2020 and part of 2021.

Additionally, the Temporary Receiver and her counsel have taken steps to identify and sell assets of Desarrollos Inmobiliarios Izabal, S.A., including equipment, a lot of land, and blueprint. This effort will require funding.

Generally, prioritizing the sale of foreign assets is critical to maintaining and preserving the Receivership Estates in compliance with the Appointing Order. The Temporary Receiver is optimistic that bigger asset sales will occur within the next three month period. However, protecting the assets in Guatemala remains a challenging and time-intensive task.

A detailed summary of the Temporary Receiver's activities and recommendations over the Reporting Period are set forth below.

### **III. DOMESTIC RECOVERY**

Since the Second Status Report was filed on August 30, 2021, [ECF No. 111], the Temporary Receiver and her team's efforts have been focused on foreign asset recovery. This is because the majority of the assets that the Temporary Receiver and her team have identified so far—worth more than 10 million dollars—are in Guatemala. For this reason, the Temporary Receiver has only modest updates in terms of domestic recovery.

#### **1. Aircraft - Serial Number 3064 and N-registration N28FM**

The Temporary Receiver and HV Pal Holdings, LLC ("HV Pal") continue to work closely to effectuate the commercially reasonable sale of the aircraft 1986 Bombardier Challenger Cl-601-2A12, bearing N-registration N28FM ("N28FM Aircraft"). The repairs on the N28FM Aircraft began on Monday, November 8, 2021. Due to difficulties in transporting the N28FM Aircraft to a new hangar, identifying the necessary repairs for a commercially reasonable sale, and hiring

professionals to complete such repairs, the sale of the N28FM Aircraft will likely not occur until early 2022. In the meantime, the Temporary Receiver and counsel for HV Pal are working to finalize the bidding procedures for the public auction and plan to file the necessary public sale documents soon.

2. Search for Additional Domestic Assets

R&H Restructuring, the firm the Temporary Receiver retained to assist in the tracing and recovery of assets, is continuing its review of the financial documents relating to the Receivership Estates. R&H Restructuring has recently identified additional bank accounts associated with the Receivership Estates. The final report from R&H Restructuring is expected to assist the Temporary Receiver and her counsel to identify the net winners and net losers in the fraudulent scheme alleged in the Complaint. As a result, R&H Restructuring's analysis and conclusions will likely guide the Temporary Receiver's next steps in developing a litigation strategy to recover funds.

The Temporary Receiver and her counsel continue to issue subpoenas and review the relevant records with the goal of identifying and recovering additional domestic assets.

**IV. FOREIGN RECOVERY**

The Temporary Receiver and her team have dedicated most of their time and efforts since the last status report to identify, trace, preserve and liquidate foreign assets, including the completion of outstanding tasks already described in the prior status report, such as finalizing the expert report. *See* [ECF No. 111].

Below is a detailed account of updates organized by entity.

1. Minas del Pueblo, S.A. ("MDP")

In April 2021, the Temporary Receiver and her team identified MDP as an asset of the Receivership Estates. A substantial amount of funds were transferred by the Receivership Estates

to MDP's accounts in Guatemala and presumably invested in MDP's assets and operations. A detailed factual and procedural background on this entity was provided in the Temporary Receiver's Second Status Report, [ECF No. 111].

The valuation of MDP has been completed by Broadlands Mineral Advisory Services Ltd. ("Broadlands"), after a site visit to the mine on August 16, 2021 (*see* section *a.*) below). Some equipment of MDP has been sold and as a result the Receivership has liquidated assets for a total of USD 34,000 (*see* section *b.*) below). The funds obtained from the sale of equipment are primarily being used to preserve the property and fund the independent assessment of MDP (*see* sections *a.-c.*) below), as well as to address a government investigation potentially involving MDP (*see* section *d.*) below). The Temporary Receiver is in possession of MDP's financial statements for 2020 and part of 2021 (*see* section *e.*) below). All of these legal issues involving MDP are being assessed at this time with the assistance of Legalsa, the Temporary Receiver's local counsel in Guatemala.

*a. The Assessment of the Value of MDP's Processing Plant by Broadlands.*

The Temporary Receiver, in compliance with her obligations to preserve and use reasonable efforts to determine the value of the Receivership's assets, [ECF No. 43], engaged Broadlands to prepare a report assessing the value of MDP property, in particular MDP's processing plant, ancillary facilities and stockpiled mineral ("Broadlands Report").

Messrs. Bernard Guarnera and Mark Jorgensen, the two mining experts who drafted the Broadlands Report, are eminently qualified. Mr. Guarnera is a Certified Mineral Appraiser with the International Institute of Mineral Appraisers, a qualified professional in valuations with the Mining and Metallurgical Society of America ("MMSA"), and has more than 50 years of experience in the mineral industry. Mr. Jorgensen is a qualified professional in metallurgy with

MMSA and has more than 40 years of experience in the mineral industry. The Broadlands team are independent professionals with no interest in the MDP property and no relationship to any of the parties, including the Temporary Receiver and her counsel.

Broadlands visited the mine on August 16, 2021, to inspect the processing plant, ancillary facilities and to sample the mineral stockpiled on site.

The Broadlands Report was prepared in accordance with the standards prescribed by the International Mineral Valuation Committee, and it has been filed under seal at [ECF No. 133].

With this information, the Temporary Receiver and her team will use reasonable efforts to protect the asset and plan to make best efforts to liquidate it in the shortest time possible. Selling this asset, however, will be a time intensive effort from the Temporary Receiver and her team.

*b. Liquidation of MDP's Assets.*

Since the Second Status Report was filed, the Temporary Receiver has liquidated MDP's assets in the amount of USD 34,000. All proceeds received have been used to preserve assets in Guatemala as addressed below.

In particular, on September 30, 2021, the Temporary Receiver and H&K sold five vehicles for USD 34,000.

<b>Brand</b>	<b>Model</b>	<b>Series</b>	<b>Year</b>	<b>Price (USD)</b>
Ford HT02	9000	1FDXR90W8C	1986	5,000
Mack HT17	Vision CXN612	1M1AO2Y56N	2006	12,000
Mack HT14	Vision CXN612	1M1AK02Y96	2006	12,000
Moto Honda	TRX420			2,500
Moto Honda	TRX421			2,500

At present, the Temporary Receiver and her team have yet to sell a truck which belongs to MDP. The Temporary Receiver and her team have identified a potential buyer and expect to sell the truck in the coming days. This asset, like the others, may be sold without compromising the value of MDP as a whole.

*i. The Storage of Assets*

All the assets that belonged to MDP and have been sold by the Temporary Receiver and her team, together with the truck identified in the section above and the block maker and cement maker which belong to DII (*see* section 2.a.) below), had been stored at a nearby property for months when the Temporary Receiver was appointed in April 2021. The entity which was safeguarding the assets (“Landlord”) was using some of them in exchange for storing all of them safely under a previous verbal agreement the Landlord had reached with MDP. When the first excavator was sold to a third party in July 2021, *see* Second Status Report [ECF No. 111], p. 8, the Landlord attempted to obstruct the buyer’s retrieval of the purchased vehicles alleging that the Landlord was a creditor of MDP and needed to collect on its debt before any other asset could be removed from the property. The Landlord agreed to allow the buyer onto the property to pick up the purchased vehicle after extensive efforts from the Temporary Receiver and her team.

After all the excavators were sold (and the Landlord had no assets that it could use for its own benefit), the Landlord requested the Temporary Receiver remove all the assets from the property within a short amount of time or pay a monthly rent of USD 5,000 for storing the assets at the property. The Temporary Receiver rejected the Landlord’s terms, redoubled efforts to sell MDP’s remaining assets stored at the Landlord’s property, and started looking for alternatives to store the assets at a reasonable price.

After a few weeks, the Temporary Receiver engaged a transportation service to remove the remaining assets from the Landlord's property, mainly, a truck (with no engine), a Rometa block maker and a cement maker. The Receivership incurred USD 2,200 for this transportation service. At present, MDP's remaining assets are being housed at a different location for a small, reasonable monthly fee of USD 850.

*c. Maintenance and Care Expenses for MDP.*

Every week, the Receivership incurs costs to operate and maintain MDP. The amount needed to maintain MDP's lights on includes: diesel to run the mine's electricity generator; gasoline; security expenses; providing the few former employees who remain on site with funds to cover their basic necessities given the mine's remote location; and incidental expenditures, such as machine maintenance. In addition, this weekly expense includes payment and reimbursement for Jeffrey Bremermann, the Temporary Receiver's consultant who assists the Receivership in preserving the asset.

Mr. Bremermann's oversight is critical to preserving MDP and, importantly, he is familiar with MDP's past operations and former personnel due to his prior involvement before the Temporary Receiver was appointed. During the Reporting Period the Receivership has incurred operating and maintenance expenses of around USD 79,465.

<b>Description</b>	<b>Amount (USD)</b>	<b>Date the Expense Was Incurred (On or About)</b>	<b>Date Receivership Reimbursed J. Bremermann</b>
Operating and maintenance expenses for the week of August 30.	6,634	August 31	September 8
Operating and maintenance expenses for the week of September 6.	6,621	September 7	September 20
Operating and maintenance expenses for the week of September 13.	6,621	September 14	September 20

Operating and maintenance expenses for the week of September 20.	6,621	September 21	October 7
Operating and maintenance expenses for the week of September 27.	6,621	September 28	October 7
Operating and maintenance expenses for the week of October 4.	6,621	October 5	October 27
Operating and maintenance expenses for the week of October 11.	6,621	October 12	October 27
Operating and maintenance expenses for the week of October 18.	6,621	October 19	November 16
Operating and maintenance expenses for the week of October 25.	6,621	October 26	Reimbursement pending
Operating and maintenance expenses for the week of November 1.	6,621	November 2	Reimbursement pending
Operating and maintenance expenses for the week of November 8.	6,621	November 8	Reimbursement pending
Operating and maintenance expenses for the week of November 15.	6,621	November 16	Reimbursement pending
<b>Total</b>	<b>79,465</b>		

In addition, on October 27, 2021, the Temporary Receiver approved an additional expense of USD 1,130 that was incurred in relation to a search warrant executed on the MDP property by the Guatemalan prosecutor's office (*see* section *d.*) below).

On that same day, the Temporary Receiver finally paid emergency expenses in the amount of USD 2,750.00 related to a landslide event that occurred in August. *See* Temporary Receiver's Second Status Report [ECF No. 111].

*d. Other Legal Issues Involving MDP.*

A criminal proceeding involving an incident that purportedly occurred in 2020 at the mine of El Pato GT, S.A.<sup>1</sup> in Guatemala is ongoing (“El Pato Criminal Case”). Upon information and belief, the Guatemala Attorney’s Office (*Ministerio Público*), Division of Environmental Crimes, alleges that gold was illegally extracted from the property of El Pato GT, S.A. and it may have been taken to the property of MDP for processing. Over the Reporting Period, the Temporary Receiver has continued to learn about this proceeding with a twofold goal: (i) confirming whether or not MDP is a party to this proceeding; and (ii) determining what could and should be done to shield MDP and its assets from liability arising from this criminal proceeding.

On November 11, 2021, the Temporary Receiver received confirmation in writing from the appropriate Guatemalan authorities that as of October 27, 2021, MDP is not a party to any criminal proceedings in Guatemala, including the El Pato Criminal Case.

On the same date, however, the Temporary Receiver also learned that that the Ministry of Energy and Mines of Guatemala has recently filed a new complaint against MDP. The details of this new complaint are unknown at this time, and the Temporary Receiver is already investigating the information.

On October 1, 2021, the Guatemala Attorney’s Office executed a search warrant at La Meca Mine, property of MDP. The Temporary Receiver, through her counsel in Guatemala, Legalsa, engaged a local attorney to provide assistance to MDP and the Temporary Receiver in order to protect the company’s assets and due process rights.

Local counsel explained that the search warrant was related to the El Pato Criminal Case. The Temporary Receiver is in possession of a copy of the search warrant and the minutes of the

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<sup>1</sup> See section on El Pato GT, S.A. below, 3.).

execution of the search warrant. The goal of the warrant was to locate mining materials, rocks and documents involving the incident that allegedly occurred at the El Pato GT, S.A. property in 2020 and is the object of the El Pato Criminal Case. The Guatemala Attorney's Office believes that evidence of illegal mining could be found at MDP's property. More than 20 officers from the Guatemala Attorney's Office executed the search warrant. They took rock samples that did not appear to be from MDP's mine. Although the Guatemalan officials did not take any original documentary evidence, they did take pictures of some documents they found at MDP's property. No assets belonging to MDP were seized or forfeited.

As part of the Temporary Receiver's efforts to shield MDP from liability arising from the El Pato Criminal Case, the Temporary Receiver is investigating, with Legalsa's assistance, to what extent MDP may have been a victim in the El Pato Criminal Case.

*e. MDP's Accounting.*

The Temporary Receiver has obtained MDP's financial statements for 2020 and as of March 16, 2021, prepared by RSM Guatemala. RSM has stated that, as of March 16, 2021, the accounting of MDP is up to date, with the years 2020 and 2021 correctly registered and reconciled in accordance with the Generally Accepted Accounting Principles in Guatemala and compatible with the tax obligations of the country.

In addition, RSM Guatemala determined that MDP could likely recover a significant amount of tax credits due to its prior tax payments.

*f. Repatriating Money.*

MDP's bank accounts in Guatemala are closed or frozen. As a result, repatriating money from those bank accounts in Guatemala to the U.S. would not be possible. In order to collect on the potential sale of large assets of MDP for the benefit of the Receivership Estates, it would be

necessary to either unblock MDP's bank accounts in Guatemala or open a new account that would be used to receive payment and send the remaining funds to the U.S.

The Temporary Receiver and her team will continue to work with local legal counsel to find a solution.

2. Desarrollos Inmobiliarios Izabal, S.A. ("DII")

In relation to DII, the Temporary Receiver received word that an individual was attempting to sell lots of land adjacent to those owned by DII in Puerto Barrios, Guatemala. As a result, Legalsa researched the legal status of this land and the Temporary Receiver's rights in relation to it. Legalsa determined that any activity on the adjacent lots should not infringe upon the boundaries of DII. Other issues are still being explored.

The Temporary Receiver and her counsel have initiated the process of locating potential buyers for the DII assets. The process will be slow until the Receivership receives additional funding from selling assets or through other avenues. An important step towards effectuating a sale is making sure that DII's tax liabilities are current. To that end, the Temporary Receiver has contracted with Accountax, a reputable accounting firm in Guatemala.

*a. Sale of DII's Assets.*

The Temporary Receiver has identified at least four assets which belong to DII and may be sold to third parties, namely, a cement maker, a block maker, a piece of land and the blueprint of a luxury apartment condominium that was to be built in Puerto Barrios, Guatemala.

The Temporary Receiver and her team plan to try to sell the cement maker and block maker first and, with those funds, fund the effort to sell the piece of land and the blueprint. The Temporary Receiver's team is confident that these two pieces of machinery can be sold to further fund operations in Guatemala.

3. El Pato GT, S.A. (“El Pato”)

As reported previously, El Pato continues to be considered an asset of the Receivership. Goldex Resources Corporation (“Goldex”), a publicly traded Canadian firm, claims ownership over the asset.

Over the Reporting Period, Temporary Receiver’s counsel has exchanged verbal and written communications with Goldex’s counsel to assess the basis and viability of Goldex’s claim. The effort is still ongoing.

Also, the Temporary Receiver and her counsel met in person in Miami with one of the two shareholders of El Pato that the Temporary Receiver identified right after she was appointed. The purpose of the meeting was to learn more about how the transfer of shares was effectuated. This is part of the Temporary Receiver’s effort to assess the nature of and claims over the asset.

4. Aircraft Located in Guatemala

Upon further investigation and discussion with Legalsa, the Temporary Receiver and H&K have determined that the 195AZ aircraft seized by the Guatemala Attorney’s Office in April 2021 is not within the scope of the Receivership. Instead, the 195AZ aircraft is owned by Aircraft Guaranty Corp. Trustee, an affiliate of Wright Brothers Aircraft Title, Inc.

5. Legalsa’s Legal Assistance in Guatemala

The Temporary Receiver’s team is currently working with Legalsa in most of the legal issues addressed above. As of July 31, 2021, Legalsa has incurred a total of USD 15,862 in legal fees. Legalsa has not received payment yet.

**V. RECEIVERSHIP’S ACCOUNTING**

The Temporary Receiver is authorized by the Court to “[t]ake any action which . . . could have been taken by the officers, directors, employees, partners, representatives, and agents of South Aviation with respect to maintaining its ordinary operations” and “need not obtain Court

approval prior to the disbursement of South Aviation’s funds for expenses in the ordinary course of the administration and management of South Aviation, including the maintenance of its assets.” [ECF No. 43], ¶¶ 7.E, 45. The Temporary Receiver must “use reasonable efforts to determine the . . . value of all property interests of South Aviation . . .” [*Id.*], ¶ 8.A. This is because, among other reasons, the Order on Plaintiffs’ Verified Amended Expedited Motion for Appointment of Temporary Receiver, [ECF No. 43], also instructs the Temporary Receiver to “take such action *as necessary and appropriate* for the preservation of property of South Aviation or to prevent the dissipation or concealment of property of South Aviation.” [*Id.*], ¶ 8.G (emphasis added).

Below is a summary of expenses incurred in the course of the administration and maintenance of South Aviation over the Reporting Period, as well as asset sales used to fund these efforts. Additionally, the chart includes expenses related to preserving assets and the determination of their value, that is, payments to Broadlands for their site visit in August 2021 which was necessary to prepare the Broadlands Report. To date, the Temporary Receiver and her team have only used money attained through the sale of these assets—detailed in the Temporary Receiver’s Second Status Report, [ECF No. 111], and in the preceding section—to operate the Receivership Estates.

Lastly, the accounting below records a fee for the wire of USD 15,000 to the H&K trust account. These funds remain held in escrow.

<b>Date</b>	<b>Source of Funds/Reason for Disbursement</b>	<b>Funds Received</b>	<b>Funds Disbursed</b>	<b>Funds Balance</b>
2-Sept-21	Payment to Broadlands Mineral Advisory Services related to site visit in August 2021.		13,024.00	64,505.80
9-Sept-21	Reimbursement to J. Bremermann, MDP’s weekly expenses, week of 8/30/21		6,634.00	57,871.80
	Accrued interest on account	8.33		57,880.13
20-Sept-21	Reimbursement to J. Bremermann, MDP’s weekly expenses, week of 9/6/21		6,621.00	51,259.13
20-Sept-21	Reimbursement to J. Bremermann, MDP’s weekly expenses, week of 9/13/21		6,621.00	44,638.13

7-Oct-21	Reimbursement to J. Bremermann, MDP's weekly expenses, week of 9/20/21		6,621.00	38,017.13
7-Oct-21	Reimbursement to J. Bremermann, MDP's weekly expenses, week of 9/27/21		6,621.00	31,396.13
	Sale of MDP trucks, pickups, and motor vehicles	34,000.00		65,396.13
	Beneficial currency rate applied in the wire from Guatemala trust account to H&K trust account	219.00		65,615.13
	Wire fee for transfer to H&K trust account		40.00	65,575.13
27-Oct-21	Emergency Expense – Landslide event on 8/21/2021		2,750.00	62,825.13
27-Oct-21	Emergency Expense – Police search warrant on 10/1/21		1,130.00	61,695.13
27-Oct-21	Reimbursement to J. Bremermann, MDP's weekly expenses, week of 10/4/21		6,621.00	55,074.13
27-Oct-21	Reimbursement to J. Bremermann, MDP's weekly expenses, week of 10/11/21		6,621.00	48,453.13
19-Nov-21	Reimbursement to J. Bremermann, MDP's weekly expenses, week of 10/18/21		6,621.00	41,832.13
<b>Total:</b>				<b>41,832.13</b>

#### 1. Cash on Hand

The current balance of the account is USD 41,832.13.

### VI. CONCURRENT PROCEEDINGS

#### 1. Bankruptcy Proceeding Update

As set forth previously, on April 19, 2021, the Plaintiffs and Metrocity Intervenor filed an involuntary chapter 7 bankruptcy petition with respect to Wright Brothers Aircraft Title, Inc. (“WBAT”), commencing Case 21-10994 (the “WBAT Bankruptcy”) before the United States Bankruptcy Court of the Western District of Oklahoma (the “Bankruptcy Court”). See WBAT ECF 1.<sup>2</sup> WBAT is the Escrow Agent detailed in the underlying Complaint as part of the alleged Ponzi scheme. Through counsel, the Temporary Receiver entered a Notice of Appearance in the WBAT

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<sup>2</sup> For ease of reference, docket entries on the WBAT Bankruptcy will be referred to herein as “WBAT ECF.”

Bankruptcy on July 28, 2021. WBAT ECF 48. The order for relief was entered on August 20, 2021, and Douglas Gould, panel trustee for the Western District of Oklahoma, was appointed as the chapter 7 trustee (the “WBAT Trustee”). *See* WBAT ECF 73, 75.

In accordance with the Bankruptcy Court’s Local Rules, the Temporary Receiver has retained Andrew Turner of Conner & Winters LLP as local counsel with respect to the WBAT Bankruptcy. His services for the Receivership include attendance at various hearings and consulting the Receivership, and keeping the Temporary Receiver and her counsel apprised of any material developments in the WBAT Bankruptcy.

The WBAT Trustee requested and obtained Bankruptcy Court approval to retain certain professionals, including special litigation counsel, and an accountant (collectively, the “WBAT Estate Professionals”), in order to assist the WBAT Trustee in his efforts to administer the WBAT estate. WBAT ECF 85, 87, 106, 142.

On September 21, 2021, the WBAT Trustee filed a Motion for Order Authorizing Trustee to Obtain Unsecured Credit Allowable as an Administrative Expense, Notice of Opportunity for Hearing and Notice of Hearing, if Necessary, which was subsequently granted by the Bankruptcy Court on October 6, 2021, by its Order Authorizing Trustee to Obtain Unsecured Credit Allowable as an Administrative Expense (the “Financing Order”). WBAT ECF 109, 140. Through the Financing Order, the Bankruptcy Court approved a Lending Agreement reached between the WBAT Trustee and a group of creditor constituents,<sup>3</sup> pursuant to which the creditor group has agreed to act as lender to provide unsecured credit in the amount of USD 250,000 to cover professional fees incurred in the administration of the WBAT Estate, subject to an interest rate of

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<sup>3</sup> Specifically, Bayside Support Services, LLC, CCURH, Chemtov Mortgage Group Corp., Edidin Partners, LLC, Metrocity Intervenor, Moncler Motors, LLC, and Rusty 115 Corp.

5% and in exchange for an allowed administrative expense claim in that amount pursuant to 11 U.S.C. § 364. Given the uncertainty of whether assets of the Debtor could be used to pay professional fees, the proposed lending arrangement provides liquidity to the estate, on terms the Bankruptcy Court found to be “fair, just, and reasonable under the circumstances,” and at a time when the WBAT Trustee represented alternate sources of funding could not be located.

On November 12, 2021, the WBAT Trustee filed a notice indicating that a dividend to creditors could potentially be made, and directing creditors to file proofs of claim by February 10, 2021. WBAT ECF 150, 151.

The telephonic meeting of creditors pursuant to 11 U.S.C. § 341 was initially scheduled to take place on September 28, 2021, but was continued first to October 26, 2021 and subsequently to November 17, 2021, to allow the WBAT Trustee and the WBAT Estate Professionals to fully assemble and file WBAT’s Schedules and Statement of Financial Affairs. WBAT’s Schedules and Statement of Financial Affairs were filed on November 15, 2021, and while the WBAT Trustee and the WBAT Estate Professionals’ investigation into WBAT’s assets, affairs, and liabilities remains on going, the Schedules currently reflect that WBAT’s interests in certain crime insurance policies issued by Those Underwriters at Lloyd’s, London and Companies may be the primary asset of the estate.<sup>4</sup> WBAT ECF 153. Counsel for the Temporary Receiver attended and participated telephonically in the continued WBAT creditors’ meeting.

The Temporary Receiver anticipates that further information regarding the assets and liabilities of the WBAT estate, and potential sources of recovery for creditors of WBAT, will be available and included in the next status report.

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<sup>4</sup> Schedule A/B identified the following policies in which WBAT has an interest: (i) Crime Insurance Policy, Policy No. B1230FC05174A20; (ii) First Excess Policy, Policy No. B1230FC05174B20; and (iii) Second Excess Policy, Policy No. B1230FC05174C20.

## VII. PRIORITIES

### 1. Sale / Liquidation of Assets

As explained above, the Temporary Receiver and her team continue to make efforts to sell assets in Guatemala.

### 2. Claims Process

The Temporary Receiver is preparing to file the Temporary Receiver's Motion to Approve the Proposed Noticing and Claims Process (the "Claims Process Motion") in the coming weeks, as has been communicated to the parties to this proceeding, which includes and seeks Court approval of the proposed Legal Notice of Claims Administration Process, and Proof of Claim and Release Form (together, the "Claims Package"). In the Claims Process Motion, the Temporary Receiver will lay out the proposed procedure for noticing of the claims process, submission of claims (including the required supporting information and/or documentation to support such claims). Upon Court approval, the Temporary Receiver will disseminate the Legal Notice of Claims Administration Process, and Proof of Claim and Release Form (collectively, the "Claims Package") by email to all known email addresses as contained in South Aviation's business records and as provided by the putative creditors and parties in interest, and their counsel, as applicable, that have contacted the Temporary Receiver since her appointment. Additionally, to the extent that any additional parties believe they may be an eligible claimant, after Court approval of the Claims Process Motion, parties may request a Claims Package by email sent to [SouthAviationReceivership@hkllaw.com](mailto:SouthAviationReceivership@hkllaw.com) (please include the subject line: "Request for Claims Package").

As set forth below, upon Court approval, the Temporary Receiver will also make the Claims Package available for download on the Receivership Website

(<https://www.hklaw.com/en/general-pages/receiverships-and-class-actions/south-aviation-inc-receivership>).

As will be set forth in the Claims Process Motion, the Temporary Receiver anticipates filing and seeking approval of a distribution plan at a later date, after sufficient assets have been recovered and/or liquidated to warrant a distribution.

*a. Website.*

The Temporary Receiver has created a website in order to provide a publicly accessible, centralized location for information about the Receivership and material updates on the status of this proceeding and the Temporary Receiver's efforts, which is accessible at: <https://www.hklaw.com/en/general-pages/receiverships-and-class-actions/south-aviation-inc-receivership> (the "Receivership Website").

The Receivership Website contains general information about the Receivership and copies of key filings. The Temporary Receiver intends to continually update the website as events unfold, and, as set forth in greater detail below, will make the documents that comprise the Claims Package (as defined below) available for download on the Receivership Website.

## **VIII. LITIGATION FUNDING**

To date, the Receivership remains underfunded. All the proceeds received from the sale of assets have been used to protect and preserve the assets identified, particularly in Guatemala.

Third party funding is among the options the Temporary Receiver and her team are working on to try to fund the Receivership. The Temporary Receiver and her team have identified a few interested litigation funders, whose interest was largely contingent upon the liquidity of the Receivership Estates and the conclusions in the Broadlands Report.

Upon receipt of the Broadlands Report, the Temporary Receiver and her counsel have recently reinitiated the discussions with potential litigation funders. Prior to entering into any litigation funding commitment, the Temporary Receiver will seek the Court's approval.

Dated: November 19, 2021

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 19<sup>th</sup> day of November, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system. I also certify that the foregoing document is being served on this day on counsel identified on the attached Service List via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

*Sydney B. Alexander* \_\_\_\_\_  
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