

**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.

TEMPORARY RECEIVER'S FOURTH STATUS REPORT

I. INTRODUCTION

Barbara Martinez, Esq., the Court-appointed Temporary Receiver, (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 Fourth Status Report and informs the Court, 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 other parties who have appeared in this action, of her activities and expenses incurred from November 20, 2021 to date ("Reporting Period"), as well as her plans going forward. This report is one part of the Temporary Receiver's various 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 16, 2021 ("Appointment Order"). [ECF No. 43].

II. PRELIMINARY STATEMENT

Since the Third Status Report was filed, the Temporary Receiver has primarily focused on three fronts: (i) designing and implementing a claims process; (ii) furthering the investigation to identify potential third party claims for the benefit of the creditor body; and (iii) preserving, valuing and liquidating foreign assets.

The deadline for stakeholders to submit claims under the claims process set up by the Temporary Receiver was January 27, 2022. The Temporary Receiver and her counsel are in the process of reviewing the twenty-eight (28) submissions received and determining their merits, as further detailed below. Additionally, there are several concurrent proceedings—both in state and federal court—which require additional attention of the Receivership to ensure the rights of the Receivership Estate are protected.

Regarding the investigation to identify potential third party claims, the Temporary Receiver received a report from a firm engaged to assist in asset tracing and recovery and inform a litigation strategy. The report revealed, among other things, various net winners, additional bank accounts held by Receivership Estates, and gaps in financial information which the Temporary Receiver is working to fill through an ongoing subpoena process involving numerous financial institutions.

The Temporary Receiver also reached an agreement concerning the only asset identified and secured so far in the U.S., an aircraft. The sale of the aircraft should commence in the next few weeks, and prompt notice to the Court will be provided.

The investigation and pursuit of other potential assets remain ongoing. For instance, counsel for the Temporary Receiver recently identified additional assets possibly owned by the Receivership Estates in the U.S., and is currently investigating further.

On the foreign side of the Receivership, aside from the investigation, the Temporary Receiver and her counsel have had to address the many legal issues pertaining to the Receivership's foreign entities and preservation of their assets including, but not limited to: the transfer of these entities and assets to the Receivership's control; the appointment of the Temporary Receiver as these foreign entities' legal representative under Guatemalan law; the status and preservation of MDP's processing plant; the attempt to recover an aircraft seized by the Guatemalan government; the implications of a criminal investigation launched against the former legal representative of MDP; and a dispute over El Pato GT, S.A.'s ownership.

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

III. RECEIVERSHIP ESTATES

On October 6, 2021, the Court granted the Temporary Receiver's request to expand the Receivership to include JF Aircorp, Inc. [ECF No. 114].

Furthermore, as identified in the Temporary Receiver's Second and Third Status Reports, the Temporary Receiver is also in control of two Guatemalan entities, Minas del Pueblo, S.A. and Desarrollos Inmobiliarios Izabal, S.A.

The Temporary Receiver continues to search for and identify such additional entities. In fact, the Receiver has identified and is investigating numerous additional domestic entities to determine whether they may be, and should be, brought into the Receivership.

IV. PENDING LITIGATION ISSUES

a. Default Judgments Entered in this Action

The Temporary Receiver intends to promptly advise the Court of her position regarding the various motions, clerk's entries, and orders relating to default judgments in this action and ask

the Court to vacate same and forego any additional entries of default judgment. [*See* ECF Nos. 14, 16, 26, 31, 47, 62, 65, 120, 123, 127, 129, 158, 161, 162]. Specifically, CCUR and Metrocity pursued default judgments against South Aviation on the faulty premise that (i) South Aviation failed to appear and defend this action; and (ii) the Appointment Order permits such relief. But it is undisputed that the Temporary Receiver stands in the shoes of South Aviation and all entities placed under her custody and control. It is also clear that, effective as of the April 16, 2021 Appointment Order [ECF No. 43], the Temporary Receiver appeared in the action for South Aviation and all of the Receivership Estates. Furthermore, since her appointment, the Temporary Receiver has demonstrated a clear intent to participate in this action and to faithfully discharge her court-overseen fiduciary duties, for the benefit of all creditors.

The Temporary Receiver posits that default judgment is an ill-fit and unwarranted outcome in a receivership, incompatible with the claims process ordered and approved by this Court, and it inappropriately upends the cardinal purpose of a receivership, *i.e.*, to marshal and administer the estate in an orderly, court-administered manner, for the ultimate benefit of all approved creditors. This is particularly true under circumstances where a claims process is underway, the Receivership presently maintains a negative liquid asset balance, no distributions are likely for a significant period of time, and where Receivership time and expenses are best served via maximization of the estate. Importantly, the Temporary Receiver does not believe that any creditor should be prejudiced or advantaged by virtue of the defaults entered to date, and further, submits that principal liability and statutory interest must be the guideposts for proper claims management.

Hence, with good cause, the Temporary Receiver will move to vacate all prior default judgments in this pending action. The Temporary Receiver, through counsel, transmitted a letter to all relevant stakeholders on February 8, 2022, outlining various reasons that the default

judgments should be vacated and respectfully requested that relevant stakeholders agree to notify the Court that they consent to such relief. The Temporary Receiver intends to brief the Court on this issue promptly.

V. DOMESTIC RECOVERY

Since the Third Status Report was filed on November 19, 2021, [ECF No. 142], the Temporary Receiver and her team have continued their investigation and focused on designing a litigation strategy, furthering the investigation, and identifying additional assets.

1. Assets within the Receivership's Control

a. Aircraft - Serial Number 3064 and N-registration N28FM

The Temporary Receiver and HV Pal Holdings, LLC ("HV Pal") are close to effectuating 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 will conclude in the few weeks. 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 occur in March 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 in short order.

2. Search for Additional Domestic Assets

R&H Restructuring ("R&H"), the firm the Temporary Receiver retained to assist in the tracing and recovery of assets, has concluded its review of financial documents relating to the Receivership Estates. R&H's reporting helps inform the Temporary Receiver and her counsel's investigative efforts to identify, among other things, the net winners and net losers in the fraudulent scheme alleged in the Complaint. Using the R&H report as a guide, the Temporary Receiver has

conducted exhaustive searches of thousands of documents with the goal of identifying potential domestic assets and persons of interest. Additionally, last month—and leveraging information provided by the R&H report—the Temporary Receiver issued several subpoenas to financial institutions that maintained accounts for Receivership Estates. The Temporary Receiver is currently awaiting responses from those financial institutions, which are expected to assist the Temporary Receiver in further developing a litigation strategy to recover funds.

The investigation has revealed at least two additional potential assets for the receivership. The Temporary Receiver is investigating whether these assets may be brought into the estate.

3. Ongoing Investigation

a. Document Review/Witness Interviews

The Temporary Receiver’s investigation remains ongoing. Significant investigative efforts include reviewing documents pertaining to the Receivership Estate and conducting interviews of persons of interest. Indeed, over the past several months, the Temporary Receiver obtained over 70,000 documents and communications, from multiple sources, including South Aviation’s computer servers, South Aviation’s prior counsel, and responses to multiple subpoena requests. After narrowing the documents—and using preliminary findings obtained from R&H—the Temporary Receiver and her counsel engaged in numerous, exhaustive searches, including entity-by-entity searches, searches based on individuals, and searches based on assets (*e.g.*, the “N” numbers and/or serial numbers of aircraft). From these searches, the Temporary Receiver and her counsel continue to strategize the issuance of subpoenas and the taking of interviews and, likely, depositions. Regarding the latter, the Temporary Receiver and her counsel have identified numerous persons of interest and are taking steps to locate and speak with relevant individuals. The Temporary Receiver and her counsel have conducted some interviews already, which were

beneficial and have additional interviews scheduled to further the investigation. As the investigation and these discussions progress and the Temporary Receiver obtains more information, the cadence of these efforts is expected to increase.

4. Forensic Analysis from R&H Restructuring

During this Reporting Period, R&H provided the Temporary Receiver with their forensic analysis as to the cash flows between Receivership Estates, relevant stakeholders, and any other relevant individuals or entities.

The R&H's report takes into consideration the frequency of transactions, withdrawals, deposits, evidence of additional bank accounts, and identity of the potential net winners to dissect the scheme relating to the purported aircraft purchase agreements.

Notably, and as confirmed by R&H, the funds in the relevant bank accounts were dissipated prior to the Temporary Receiver's appointment.

The report continues to assist the ongoing investigation to identify net winners, net losers, potential third party litigation, and determine the merits of the claims process.

5. Subpoenas

The R&H report revealed additional bank accounts held by Receivership Estates as well as gaps in the financial information previously provided. As a result, the Temporary Receiver issued several subpoenas to various financial institutions and awaits complete responses to further analyze and supplement the R&H report and the Temporary Receiver's own investigation. Additionally, the Temporary Receiver is considering intermediary bank discovery but—due to the cost and expense of such an exercise—the Temporary Receiver will make that determination once complete responses to known bank accounts are provided and fully examined.

VI. FOREIGN RECOVERY

The Temporary Receiver and her team continue to make efforts to identify, preserve and sell assets in Guatemala. Below is an account of updates organized by entity, which detailed factual and procedural background was provided in the Temporary Receiver’s First 30-Day Report. *See* [ECF No. 52].

1. Minas del Pueblo, S.A. (“MDP”)

During the Reporting Period, the Temporary Receiver sold a small asset belonging to MDP (*see* section *a.*) below). The funds obtained from this and past sales of equipment are primarily being used to preserve the property (*see* sections *a.-b.*) below). Legal issues involving MDP have cropped up or continue to persist (*see* section *c.*) below), all of which are being assessed at this time with the assistance of Legalsa, the Temporary Receiver’s local counsel in Guatemala. The latest priority is rectifying MDP’s tax liabilities in order to continue operating in Guatemala (*see* section *d.*) below). A new episode involving the safety of the professionals assisting the Receivership in Guatemala ensued, but the incident was addressed and is now under control (*see* section *e.*) below).

a. Liquidation of MDP’s Assets.

On December 23, 2021, the Temporary Receiver and her team sold a truck belonging to MDP for USD 10,000. The details of the vehicle are below:

Brand	Model	Series	Year	Price (USD)
International LT02 PIPA	8600	1HSHXAHR8	2005	\$10,000

At present, the Temporary Receiver and her team have yet to sell both a cement and block maker, which were originally believed to have belonged to Desarrollos Inmobiliarios Izabal, S.A. but instead belong to MDP, as the Temporary Receiver and her team confirmed during the

Reporting Period.

Yesterday, February 9, 2022, the Temporary Receiver and her team received an offer from a Guatemalan construction company to purchase the cement and block makers. After considering it with her counsel, the Temporary Receiver accepted the offer subject to certain conditions, among other things, that the cement and block makers be sold “as is” without any guarantee from the Receivership as to their status and condition, after providing the potential buyer the opportunity to examine the assets. The potential buyer has not confirmed its acceptance of the Temporary Receiver’s conditions at the time of the filing of this report. If the cement and block makers are not sold to this entity, efforts to sell the assets will resume.

This offer was the result of the Temporary Receiver’s counsel’s and foreign consultant’s consistent efforts to identify potential buyers for this industrial equipment, including the compilation of previously stated values of the machinery, documents establishing its legal and operating status, documents showing the machinery was duly imported into Guatemala from Spain, current images of the equipment, and the presentation of these materials to potential purchasers directly and through several brokers.

The size, price, and nature of the machinery, as well as dealing with foreign purchasers, have presented challenges to speedy liquidation, though this remains a priority. As an example of the difficulties associated with selling the cement and block makers, a meeting with a potential buyer was scheduled for December 29, 2021, and fell through when the Temporary Receiver’s team requested the buyer’s full contact details and personal and tax identification information.

Currently, the Temporary Receiver’s team is exploring the viability of leasing MDP’s processing plant to a third party in Guatemala. Leasing the plant would help in the financing of the preservation of the asset until it is ultimately liquidated.

b. Maintenance and Care Expenses for MDP.

Every week, the Receivership incurs costs to operate and maintain MDP. The amount needed to maintain MDP's ordinary operations includes: monetary contributions to ensure the premises are secure—paid to, for example, an engineer, security personnel, and manager; diesel to run the mine's electricity generator; gasoline; providing the persons assisting to preserve the asset with basic necessities given the mine's remote location; and incidental expenditures, such as machine maintenance. In addition, this weekly expense includes a fee to Jeffrey Bremermann, the Temporary Receiver's foreign consultant, of USD 2,430 for delivering the monetary contributions, diesel and gasoline every week to MDP's premises; his handling of the dialogue with the local communities; keeping the Temporary Receiver and her team informed of any developments related to MDP; and generally assisting with the preservation of the asset. Mr. Bremermann's oversight has been and continues to be critical to preserving and running MDP, and, importantly, he is familiar with MDP's operations due to his prior involvement before the institution of this Receivership.

From October 25, 2021, to the date of this report, the Receivership has incurred operating and maintenance expenses in connection with MDP's processing plant of around USD 88,023.

Description	Amount (USD)	Date the Expense Was Incurred (On or About)	Date Receivership Reimbursed J. Bremermann
Operating and maintenance expenses for the week of October 25.	6,771	October 26	December 8
Operating and maintenance expenses for the week of November 1.	6,771	November 2	December 8
Operating and maintenance expenses for the week of November 8.	6,771	November 9	December 8
Operating and maintenance expenses for the week of November 15.	6,771	November 16	December 8

Operating and maintenance expenses for the week of November 22.	6,771	November 23	December 8
Operating and maintenance expenses for the week of November 29.	6,771	November 30	January 12
Operating and maintenance expenses for the week of December 6.	6,771	December 7	Reimbursement pending
Operating and maintenance expenses for the week of December 13.	6,771	December 14	Reimbursement pending
Operating and maintenance expenses for the week of December 20.	6,771	December 21	Reimbursement pending
Operating and maintenance expenses for the week of December 27.	6,771	December 28	Reimbursement pending
Operating and maintenance expenses for the week of January 3.	6,771	January 4	Reimbursement pending
Operating and maintenance expenses for the week of January 10.	6,771	January 11	Reimbursement pending
Operating and maintenance expenses for the week of January 17.	6,771	January 18	Reimbursement pending
Total	88,023		

On or around December 8, 2021, and January 12, 2022, the Temporary Receiver authorized and/or disbursed weekly payments of USD 6,771, for the weeks between October 25 and November 29, 2021. These payments for the months of October and November of 2021 consist of the ordinary business and maintenance costs described above. Although MDP has incurred weekly expenses since December 7, 2021, the Receivership has been unable to reimburse Jeffrey Bremermann for lack of funds.

During the Reporting Period, Mr. Bremermann notified the Temporary Receiver and her team of the necessity to increase his weekly fee by USD 150 (from USD 2,280 to USD 2,430) due to heightened security concerns. The Temporary Receiver approved this modest increase based on

accounts of new, third-party interest in MDP assets and, as a result of this, MDP's employees having to redouble their efforts and risk their safety to preserve MDP property.

Due to the incident involving Mr. Bremermann's and his family's safety that occurred on January 24, 2022,¹ monetary contributions to MDP were suspended. The Temporary Receiver plans to resume these monetary contributions in the upcoming days in view of the recent developments at MDP addressed below.

c. Other Legal Issues Involving MDP.

Over the Reporting Period, the Temporary Receiver and her foreign and domestic counsel have been busy attending to various legal issues abroad.

Continuing from the last status report, [ECF No. 142], MDP remains a party to twelve (12) civil litigations, mostly involving claims from former employees for past wages. There is nothing further to report on these claims.

i. El Pato Criminal Case

The Third Status Report, [ECF No. 142], described a criminal proceeding involving an incident that purportedly occurred in 2020 at the mine of El Pato GT, S.A. ("El Pato") in Guatemala ("El Pato Criminal Case"). In that same filing, the Temporary Receiver was able to confirm that MDP had not been indicted, accused or made party to this criminal proceeding. [*Id.*]. Since then, a hearing was scheduled to take place on January 10, 2022, involving Vinicio Perez, Karin Landaverry, and Ivan Morales as individuals accused in the El Pato Criminal Case. The hearing was rescheduled for today, February 10, 2022. Mr. Perez is a former employee of MDP, and he has been involved in its care and maintenance in support of the Receivership. When the Temporary

¹ See section e.) below.

Receiver and her team learned that he was accused in the El Pato Criminal Case, Mr. Perez was removed from the team that supports the Receivership's efforts to preserve MDP in Guatemala.

ii. Cease and Desist Letters

Around December 2021, the Temporary Receiver and her team learned that an individual named Ivan Morales was in contact with the communities living around MDP, as well as had entered the property, with the goal of hindering the Receivership's efforts to protect the asset. Mr. Morales is MDP's former legal representative and business partner of Federico Machado.

On December 21, 2021, counsel for the Temporary Receiver sent a letter to Ivan Morales in response to his attempts to violate the Appointment Order. The letter demanded that Mr. Morales refrain from interacting with third parties on behalf of MDP or in relationship with the entity, accessing the property of MDP, and obstructing, damaging, or acting against the interests of MDP unlawfully or in violation of the Appointment Order. The letter also requested that Mr. Morales turn over any documents or assets that rightfully belong to MDP. The letter also demanded that Mr. Morales make immediate payment of the amount he currently owes MDP. Based on MDP's most recent financial statements, Mr. Morales owes MDP a sum of GTQ 45,698,225.06 (around USD 6,000,000). Finally, in the letter, Mr. Morales was informed that any property acquired using MDP's or South Aviation's funds needs to be turned in immediately to the Temporary Receiver pursuant to the Appointment Order.

On January 10, 2022, an attorney from a law firm in Guatemala contacted counsel for the Temporary Receiver purporting to represent Mr. Morales in connection with the letter sent on December 21, 2021. The attorney stated that he would respond to the December letter. On February 1, 2022, counsel for the Temporary Receiver called the attorney to inquire about the response letter. The attorney replied that he did not represent Mr. Morales and any further correspondence

to Mr. Morales should be addressed directly to him. On February 2, 2022, counsel for the Temporary Receiver sent another letter to Mr. Morales soliciting a response to the December 21, 2021 letter and reiterating the demands therein. As of this filing, the Temporary Receiver and her counsel have not heard from Mr. Morales.

The Temporary Receiver and her team have also sent letters to other Guatemalan individuals who had a past relationship with MDP to let them know that the asset is now owned by the Temporary Receiver and covered by the Appointment Order.

d. Tax Issue.

MDP has not filed its tax forms since April of 2021. As a result, the Guatemalan tax authority has issued fines against MDP for a total of USD 3,600 as of January 31, 2022. MDP will continue to be fined until the mandatory forms are filed and its current tax liabilities are satisfied. H&K has identified a qualified Guatemalan accountant—one with the requisite experience and familiarity with the entity—and is in the process of negotiating a payment plan. Because of the current balance in the Receivership's account (*see* section *VII.1.*) below), H&K has been unable to engage this accountant or make payment of MDP's fines.

e. Threats Against the Temporary Receiver's Foreign Consultant.

On January 24, 2022, Jeffrey Bremermann received threats to his life and the safety of his family through a Guatemalan attorney who claimed to be a friend of his family. Mr. Bremermann was shown a video of himself visiting MDP and information on his family. He was told that unless he turned in all the documents and information he has in his possession on MDP and resigns from his position as Temporary Receiver's foreign consultant, he and his family would be hurt. He was also told that he should not visit MDP again.

The Temporary Receiver's team immediately sought and obtained legal advice in connection with the threats. Mr. Bremermann engaged his own attorney who provided legal advice which was in line with the advice received by the Temporary Receiver. The Temporary Receiver and her team instructed Mr. Bremermann not to send additional funds or access the property of MDP until the situation got resolved. As a result, no funds have been sent to MDP since January 24, 2022.

On January 25, 2022, the communities who live in the MDP area sent a letter to the Temporary Receiver and her team where they confirmed their support to and appreciation for MDP.

On January 26, 2022, counsel for the Temporary Receiver called the person who relayed the threats—although he refused to speak with us.

On January 27, 2022, counsel for the Temporary Receiver spoke with the communities who live in the MDP area in a Zoom meeting, and requested their cooperation. The communities confirmed they are not behind the threats and they would continue to cooperate with the Receivership.

On January 28, 2022, the Temporary Receiver's team informed the creditors of this development, among other things, in a Zoom meeting.

On February 2, 2022, counsel for the Temporary Receiver sent correspondence to the person who relayed the threats.

On February 3, 2022, counsel for the Temporary Receiver had a new Zoom meeting with the communities who live in the MDP area. The Alta Verapaz police and the mayor of Tucurú (the town where MDP is located) attended the meeting showing support to the Receivership.

On February 8, 2022, the communities who live in the MDP area sent a new letter to the Temporary Receiver and her team. In this letter they emphasized their support to MDP, their commitment to maintaining MDP and its assets secured, and confirmed they will assist in maintaining Mr. Bremermann safe when he returns to MDP.

Guatemalan law enforcement has been made aware of this incident and they are conducting an investigation. The Temporary Receiver and her team are confident that the communities support MDP and consider that the incident is now under control. As a result, the Temporary Receiver and her team plan to resume sending funds, gasoline and diesel to the site as soon as possible.

2. Desarrollos Inmobiliarios Izabal, S.A. (“DII”)

As disclosed in the Temporary Receiver’s Third Status Report, [ECF No. 142], the Temporary Receiver and her counsel are working towards selling the DII blueprint and real property and trying to fund that effort through the sale of other assets. An important step towards effectuating a sale is making sure that DII’s tax liabilities are current.

a. Development Project.

Counsel for the Temporary Receiver have taken preliminary measures to facilitate the sale of the piece of land and the blueprint of a luxury apartment condominium that was to be built in Puerto Barrios, Guatemala. The development project named Torre Manatí was designed by Studio Domus, a prominent architecture and interior design firm in Guatemala. Counsel for the Temporary Receiver have contacted Studio Domus to seek their cooperation in a sale of the project, but the studio has declined to help because of Mr. Machado’s connection to the criminal proceeding taking place in Texas.

Additionally, counsel for the Temporary Receiver have requested and received several documents involving the license applications and permits involving Torre Manatí from Paula

Machado, sister of Mr. Machado. These documents will be useful in the Temporary Receiver's efforts to sell the project.

b. Tax Issue.

Until January of 2022, DII had retained Accountax, a Guatemalan accounting firm, to maintain DII up to date in its tax obligations. Counsel for the Temporary Receiver had previously asked Accountax to continue to file DII's tax forms for a monthly fee of USD 560 (inclusive of taxes). However, since the institution of the Receivership, DII has been illiquid and unable to pay any of these monthly invoices. The Receivership now owes Accountax USD 5,040 for its tax services to DII from April to December 2021. On January 31, 2022, Accountax sent the Temporary Receiver a letter resigning as tax accountants for DII and demanding payment of USD 5,040. Because DII may be fined beginning in February of 2022 if it does not conform with Guatemalan tax regulations, the Temporary Receiver is currently assessing which alternatives, if any, it has. This includes asking Accountax to reassess its decision if the Receivership can effectuate partial payment of Accountax's fees in the coming weeks with the funds obtained from other asset sales.

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. During the Reporting Period Counsel for the Temporary Receiver has had three conference calls with Michael G. Gaffney, Goldex's U.S. lawyer, in order to investigate this claim.

Goldex claims that, in August 2016, El Pato was incorporated on behalf of Goldex by Jose Miguel Gutierrez Anzueto, an attorney in Guatemala engaged by Goldex. The initial incorporators were Goldex's nominees, Fernando Enrique Cobar Olavarrueth and Mario de Alacoque Lopez Vasquez, who is an office assistant in the law office of Francisco Alejandro Quinonez Midence,

another Goldex attorney in Guatemala. Goldex also claims that, shortly after its formation, on August 29, 2016, both incorporators transferred the shares of stock of El Pato to Goldex and to James Ravannack—by endorsement dated August 29, 2016, on the stock certificates. While Goldex claims that the original certificates are held by its local counsel in Guatemala, neither Goldex in Canada nor Goldex’s attorney in the U.S. have the original certificates. They have also been unable to confirm who specifically has them.

The Temporary Receiver has a sale and purchase agreement entered on November 19, 2020, under which two individuals, F.O. and M.V. transferred their shares in El Pato to two other persons F.O. and M.V. are willing to transfer the shares to the Receivership if asked to do so.

The Temporary Receiver and her counsel continue their investigation to determine whether Goldex’s title claim is viable. They are still waiting to receive several documents from Goldex, including copies of the original stock certificates and an affidavit from Fernando Enrique Cobar Olavarrueth (the second founding shareholder of El Pato). The Temporary Receiver and her team hope to complete their investigation of Goldex’s claim by the next status report.

4. Legalsa’s Legal Assistance in Guatemala

The Temporary Receiver’s team is currently working with Legalsa in most of the legal issues addressed above to determine the best course of action. As of December 15, 2021, Legalsa has incurred a total of USD 18,418.00 in legal fees. Legalsa has not received payment yet.

VII. 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 Appointment Order 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.

Below is a summary of expenses incurred in the course of administration and maintenance of South Aviation, as well as an asset sale used to fund these efforts. To date, the Temporary Receiver and her team have only used money attained through the sale of assets—detailed in the Temporary Receiver’s Second Status Report, [ECF No. 111], Third Status Report, [ECF No. 142], and in the preceding section—to operate the Receivership Estates.

Lastly, the accounting below records a wire transfer from the H&K trust account, which amount was held in escrow for the Receivership.

Date	Source of Funds/Reason for Disbursement	Funds Received	Funds Disbursed	Funds Balance
8-Dec-21	Reimbursement to J. Bremermann, MDP’s weekly expenses, week of 10/25/21		6,771.00	20,061.13
8-Dec-21	Reimbursement to J. Bremermann, MDP’s weekly expenses, week of 11/1/21		6,771.00	13,290.13
8-Dec-21	Reimbursement to J. Bremermann, MDP’s weekly expenses, week of 11/8/21		6,771.00	6,519.13
8-Dec-21	Reimbursement to J. Bremermann, MDP’s weekly expenses, week of 11/15/21		6,771.00	-251.87
8-Dec-21	Sale of MDP truck	10,051.41		9,799.54
29-Dec-21	Wire transfer from H&K trust account	6,766.00		16,565.54
3-Jan-22	Reimbursement to J. Bremermann, MDP’s weekly expenses, week of 11/22/21		6,771.00	9,794.54
	Reimbursement to J. Bremermann, MDP’s weekly expenses, week of 11/29/21		6,771.00	3,023.54
Total:				3,023.54

1. Cash on Hand

The current balance of the account is USD 3,023.54.

2. Debt Incurred in Guatemala

The chart below depicts unpaid expenses incurred by the Receivership in Guatemala. All of the following expenses were necessary to ensure the safety and preservation of assets (for example, storage and its monthly rent); for MDP's operating expenses (*see* section *VI.1.b.*) above); and for complying with Guatemalan law regarding tax filings (*see* section *VI.2.b.*) above). Because of the low balance in the Receivership's account, none of these expenses have been paid yet and instead remain due and owing.

Description	Amount (USD / GTQ)	Date the Expense Was Incurred (On or About)
Accountax bill for DII tax services in April.	USD \$560.00	April 2021
Accountax bill for DII tax services in May.	USD \$560.00	May 2021
Accountax bill for DII tax services in June.	USD \$560.00	June 2021
Accountax bill for DII tax services in July.	USD \$560.00	July 2021
Accountax bill for DII tax services in August.	USD \$560.00	August 2021
Accountax bill for DII tax services in September.	USD \$560.00	September 2021
Mi Bodega storage unit for September.	GTQ 425.65	September 10, 2021
Accountax bill for DII tax services in October.	USD \$560.00	October 2021
Storage of large MDP assets for October.	GTQ 5,000.00	October 2021
Mi Bodega storage unit for October.	GTQ 1,895.00	October 11, 2021
Accountax bill for DII tax services in November.	USD \$560.00	November 2021
Storage of large MDP assets for November.	GTQ 5,000.00	November 2021

Mi Bodega storage unit for November.	GTQ 1,895.00	November 10, 2021
Accountax bill for DII tax services in December.	USD \$560.00	December 2021
Storage of large MDP assets for December.	GTQ 5,000.00	December 2021
Mi Bodega storage unit for December.	GTQ 1,895.00	December 6, 2021
MDP operating and maintenance expenses for the week of December 6.	USD 6,771.00	December 7, 2021
MDP operating and maintenance expenses for the week of December 13.	USD 6,771.00	December 14, 2021
MDP operating and maintenance expenses for the week of December 20.	USD 6,771.00	December 21, 2021
MDP operating and maintenance expenses for the week of December 27.	USD 6,771.00	December 28, 2021
Storage of large MDP assets for January.	GTQ 5,000.00	January 2022
MDP operating and maintenance expenses for the week of January 3.	USD 6,771.00	January 4, 2022
MDP operating and maintenance expenses for the week of January 10.	USD 6,771.00	January 11, 2022
Mi Bodega storage unit for January.	GTQ 1,895.00	January 12, 2022
MDP operating and maintenance expenses for the week of January 17.	USD 6,771.00	January 18, 2022
Storage of large MDP assets for February.	GTQ 5,000.00	February 2022
Mi Bodega storage unit for February.	GTQ 1,895.00	February 2022
Total	USD 52,437.00 and GTQ 34,900.65	---

In sum, the total debt includes the sums of USD 52,437.00 and GTQ 34,900.65.

VIII. CONCURRENT PROCEEDINGS

The Receivership is just one of numerous pending actions involving many of the same players and the same core set of facts in this pending action. In addition to this action, the known actions premised on the same core set of facts, or some related or factual subset thereof, which we have summarized below:

- *United States v. Mercer-Erwin, Machado et al.*; In the United States District Court for the Eastern District of Texas, Sherman Division, 4:20-CR-212 (the “Texas Criminal Proceeding”)
- *In re Wright Brothers Aircraft Title, Inc.*, In the Western District of Oklahoma; 5:21-BK-10994 (the “WBAT Bankruptcy”)
- Various lawsuits pending in Florida state court by certain Chemtov investors against their respective LLCs and Chemtov Mortgage Group Corp. (the “Chemtov Investor Litigation”):
 - *Cinnamon Investments, LTD. et al. v. CMG777ESCROW4 LLC et al.*, No. 2021-007240-CA-01(Fla. 11th Cir. Ct. June 7, 2021), lead case which consolidates following lawsuits:
 - *Daniel Benoliel v. CMG 777Escrow3 LLC*, No. 2021-007305-CA-01
 - *Breton Investments, LLC. et al. v. CMG DHC8ESCROW7 LLC et al.*, No. 2021-007242-CA-01
 - *Breton Investments, LLC. et al. v. CMG 777ESCROW5 LLC et al.*, No. 2021-007241-CA-01
 - *Kolb, et al., v. Chemtov Mortgage Group Corp, et al.*, No. 2021-011992-CA-01 (Fla. 11th Cir. Ct. May 17, 2021)
- *In Re: Assignment for Benefit of Creditors of Miami Perfume Junction, Inc., To: Leslie S. Osborne*, Case No. 2020-012763-CA-44, (Fla. 11th Cir Ct. June 23, 2021).
- Eleventh Circuit Court of Appeals No. 22-10304-A, appealing *CCUR Aviation Finance LLC, et al. v. Machado, et al*, Case No. 21-cv-60462-BB, the District Court’s December 27, 2021 Order, [ECF No. 154], adopting Magistrate Judge’s Report and Recommendation, [ECF No. 146], on the Temporary Receiver’s First Fee Application for Reasonable Fees and Incurred Costs from April 16, 2021 through June 30, 2021, [ECF No. 89].

1. WBAT 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 1.² 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 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.

Since the filing of the Temporary Receiver’s Third Status Report, the WBAT Trustee sought and obtained Bankruptcy Court approval to retain special counsel to assist in the investigation, analysis, and potential prosecution of matters related to certain Lloyd’s of London insurance policies held by the Debtor. *See* WBAT ECF 164, 165.

The bar date for submission of non-governmental claims in February 10, 2022. The Temporary Receiver has filed a proof of claim for WBAT’s liability to South Aviation, alleging damages in the approximate amount of \$400,000,000.

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.

2. Texas Criminal Proceeding

Based on a review of the docket, the last entry was made on December 10, 2022, ordering the dismissal of Defendant Michael Assad Marcos (“Marcos”). Prior to the December 10, 2022 and not involving the dismissal of Marcos, the last entry was made on August 31, 2021. [ECF No. 254, Order Granting Motion to Dismiss Against Certain Forfeiture as to Debra Lynn Mercer-Erwin, Kayleigh Moffett, Guillermo Garcia Mendez, Federico Andres Machado,

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

Carlos Rocha Villaurrutia, Alban Gerardo Azofeifa-Chacon, Aaron Bello-Millan, Michael Assad Marcos].

The Temporary Receiver contacted the Assistant United States Attorneys in the proceeding for additional updates, to which they responded there were none. The Temporary Receiver is aware that Mr. Machado was arrested and is pending extradition in Argentina.

3. Eleventh Circuit Appeal

On January 26, 2021, Putative Creditors Rusty 115 Corp., Hopop Corp., Davidpop Corp., Rustypop Corp., Darusty Corp., Moncler Motors LLC, BOE 25014 LLC, BOE 30868 LLC, BOE 30874 LLC, BOE 30875 LLC, BOE 34432 LLC, Dash 4542 LLC, Dash 4554 LLC, Dash 4555 LLC, Chemtov Mortgage Group Corp., CMG 777 Excrow3 LLC, CMG 777 Escrow4 LLC, CMG 777 Escrow5 LLC, CMG DHC8 Escrow 7 LLC, and Bryn and Associates, P.A. (the “Putative Creditors”) appealed to the United States Court of Appeals for the Eleventh Circuit from the district court’s December 27, 2021 Order Adopting the Magistrate Judge’s Report and Recommendation, [ECF Nos. 154, 146]. *See* [ECF 163]. The Putative Creditors’ initial brief is due on March 8, 2022. The Temporary Receiver and her counsel are already working to counter the Putative Creditors’ anticipated points and arguments. What is already known is that this action by putative creditors, and the efforts that will be required to address it, will be costly to the Receivership Estate—in terms of time, legal expense, and the commitment of staff to these efforts rather than investigative and other efforts.

Before filing their notice of appeal, the Putative Creditors opposed the Temporary Receiver’s First Application for Fees, [ECF No. 92], objected to the Magistrate Judge’s Report and Recommendation granting the First Fee Application in part, [ECF No. 153], and opposed the Temporary Receiver’s Second Interim Application for Fees, [ECF No. 147]. All of these motions

and objections required the Temporary Receiver to prepare and/or file responsive pleadings. *See* [ECF Nos. 105, 151]. To date, counsel has spent numerous amount of hours responding to the various objections to the fee applications, which this Court found to be meritless.³

3. Florida State Court Actions

a. *Chemtov Investor Litigation*

As outlined above, the Temporary Receiver is monitoring several pending cases involving CMG 777Escrow3 LLC, CMG 777Escrow4 LLC, CMG 777Escrow5 LLC, CMG DHC8Escrow7 LLC, and Chemtov Mortgage Group Corp. (“Chemtov Entities”)—who have appeared in this action as objectors to the Temporary Receiver’s various fee applications, as well as self-identified claimants and purported victims against the Receivership Estates. Particularly, the cause of actions against the Chemtov Entities appear to arise from the Ponzi scheme alleged in this action. These entities, with the exception of the Chemtov Mortgage Group Corp., submitted a Claims Package in the Claims Process, and therefore, this litigation speaks directly to the merits of their claims.

b. *Lawsuit Including JF Aircorp*

During the Reporting Period, the Temporary Receiver learned of a default judgment entered in Florida state court on September 10, 2021, against Receivership Entity JF Aircorp. That action, filed in June 2021 (shortly after the Temporary Receiver's appointment, but prior to expansion of the Receivership to include JF Aircorp, which was ordered by the Court on October 6, 2021), sought to recover approximately \$730,000 in allegedly fraudulently transferred funds

³ Despite identifying themselves as a “Putative Creditors” in the pleadings throughout this litigation, Chemtov Mortgage Group Corp., along with Moncler Motors LLC, and Bryn and Associates, P.A., among the objecting parties, did not file a Claims Package by the submission deadline. The Temporary Receiver received a Claims Package from the remaining parties.

misappropriated by the owners and operators of an entity named Miami Perfume Junction, Inc. (“MPJ”) to JF Aircorp, apparently for the purchase of a Gulfstream bearing tail number N546MG.

The Temporary Receiver’s team obtained and reviewed the docket for the default judgment action, styled *In Re: Assignment for Benefit of Creditors of Miami Perfume Junction, Inc., To: Leslie S. Osborne*, Case No. 2020-012763-CA-44, in the Circuit Court of the 11th Judicial Circuit in and for Miami-Dade, Florida (“Default Action”), communicated with counsel for the Assignee of MPJ and ensured her awareness of the process and deadlines for participating in the Receivership's approved Claims Process. In addition, the Temporary Receiver’s team researched existing records and publicly available information to understand the nature of the underlying claims against JF Aircorp and the relevant facts relating to aircraft N546MG.

While the Temporary Receiver has not completed the assessment of her legal and equitable rights to aircraft N546MG, she has researched and identified certain facts pertaining to the relationship between MPJ and JFAircorp. It appears the aircraft was involved in, and title to it transferred, during the period of the underlying scheme.

The Temporary Receiver’s team also determined that the aircraft was transferred in December 2021 by the Chapter 7 bankruptcy trustee (“Trustee”) for the estate of Coast Financial, Inc., in an involuntary bankruptcy proceeding initiated on July 8, 2021 and styled *In re Coast Financial, Inc. a/k/a Coastal Financial, Inc.*, Case No. 21-16685-AJC, in the U.S. Bankruptcy Court for the Southern District of Florida, Miami Division. (“Coast Bankruptcy”). The Coast Bankruptcy Trustee sold the aircraft for \$325,000 in a private sale to BizAv Support, LLC on or around December 29, 2021. BizAv's registered agent appears also to have served as registered agent for Aircharters Worldwide, an active Florida company first incorporated by Machado in 2013.

IX. PRIORITIES

1. Sale /Liquidation of Foreign Assets

The Temporary Receiver and her team plan to engage in efforts to sell the processing plant owned by MDP and the plots of land and blueprint owned by DII as soon as the Receivership has some funding to support these efforts.

For now, the Receivership is focused on selling MDP's cement and block makers and preserving MDP and DII's assets.

2. Claims Process Review

The submission deadline for the Legal Notice of Claims Administration Process, and Proof of Claim (together, the "Claims Package") was on January 27, 2022. Twenty-eight entities submitted a Claims Package. The aggregate total losses alleged against the Receivership Estates is over \$349,000,000.

The Temporary Receiver, through the assistance of counsel, will review and determine the merits of the claims submitted. During the review process, the Temporary Receiver expects that she will need to request additional documents from those putative creditors and requests their cooperation if necessary.

Thereafter, the Temporary Receiver anticipates filing and seeking approval of a distribution plan, after sufficient assets are recovered and/or liquidated to warrant a distribution.

3. 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 identifying possible funding options for the Receivership. The Temporary Receiver and her team have had discussions with a few interested litigation funders. Recently, the Temporary Receiver

received one term sheet offering funding for the receivership and expects to receive a second term sheet soon. After receipt and consideration of all offers, the Temporary Receiver plans to confer with all relevant stakeholders, parties, and their counsel before presenting them to the Court for consideration.

4. Litigation Strategy

As described above, the Temporary Receiver is in the process of ongoing investigative efforts to understand the full scope (to the extent that is possible) of the underlying scheme in order to trace and recover assets for creditors. Assets, of course, include items such as aircraft or other real or personal property owned by Receivership Entities. Assets also include legal claims the Temporary Receiver may advance in order to recover value for the Estate. These claims may take the form of (i) leveraging existing powers to expand the Receivership over other entities; and (ii) pursuing legal and equitable causes of action against third parties including, but not limited to, net winners, fraudulent transferees, contract counterparties, nominal defendants who were unjustly enriched, insurers and financial institutions who enabled the scheme to exist and proceed.

In analyzing her options for litigating claims by the Estate, the Temporary Receiver is carefully considering not just the relevant legal and evidentiary requirements, but also the investment of her and her team's time, staffing, and financial resources, and the likelihood and actual value of success for Estate creditors.

The Temporary Receiver underscores the importance of conducting and completing a thorough investigation in order to make an informed determination—and recommendations to the Court—about which entities to bring into the Receivership and which third parties to pursue in litigation, and under what theories. The Temporary Receiver is considering a variety of legal theories for potential third party claims, including fraudulent transfer, fraud, conversion, unjust

enrichment, embezzlement, breach of contract, breach of fiduciary duty, and negligence. Necessarily, ongoing efforts to obtain key information through interviews, depositions, subpoenas and voluntary production are a critical condition precedent to any well-pleaded claim the Temporary Receiver may bring. The Temporary Receiver is working closely with her counsel to examine the results of the R&H report, the more than 70,000 documents already obtained and reviewed, and information incoming from issued and forthcoming subpoenas and voluntary sources.

Dated: February 10, 2022

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of February, 2022, 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 _____
Sydney B. Alexander

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