

CANADA  
PROVINCE OF QUEBEC  
DISTRICT OF MONTREAL  
COURT No.: 500-11-039418-104

SUPERIOR COURT  
Commercial Division

**IN THE MATTER OF THE JUDICIAL  
REORGANIZATION PROCEEDINGS OF:**

**COMPANÍA MEXICANA DE AVIACIÓN, S.A. DE C.V.**, a  
legal person incorporated under the laws of Mexico, having its  
head office at av. Xola 535 Col., Del Valle, Mexico D.F.,  
Mexico 03100 and a place of business at 975, Romeo-Vachon  
Street North, Suite 413, Dorval, Quebec H4Y 1H1

Debtor

– and –

**SAMSON BÉLAIR/DELOITTE & TOUCHE INC.**  
(Jean-François Nadon, CA, CIRP, responsible), having a place  
of business at 1 Place Ville Marie, Suite 3000, Montreal,  
Quebec, H3B 4T9

Information Officer

## FIRST INFORMATION OFFICER REPORT

### INTRODUCTION

1. On August 2, 2010, Compañia Mexicana De Aviacion, S.A. de C.V. (“Mexicana” or the “Company”), commenced proceedings under the Mexico’s *Ley de Concursos Mercantiles* (“Mexican Proceedings”).
2. On August 2, 2010, Maru E. Johansen (“Foreign Representative”), sought certain protections in the United States pursuant to Chapter 15 of Title 11 of the United States Bankruptcy Code (“Bankruptcy Code”). On August 3, 2010, the U.S. Bankruptcy Court granted a recognition order recognizing the Foreign Representative and the Mexican Proceedings as a foreign main proceeding pursuant to Chapter 15 of the Bankruptcy Code (“Chapter 15 Proceedings”).
3. On August 5, 2010, the Foreign Representative brought an application (the “CCAA Proceedings”) before the Canadian Court pursuant to Part IV of the *Companies Creditors Arrangement Act*, R.S.C. 195, c. C-36, as amended (“CCAA”), and obtained an order (the “Canadian Recognition Order”), which among other things: (i) recognized the Mexican Proceedings as a “foreign main proceedings”; (ii) recognized Maru E. Johansen as foreign representative as defined in section 45 of the amended CCAA; (iii) granted a stay of proceedings against the Company until November 10 2010; (iv) appointed Samson Bélair Deloitte & Touche Inc. (“Deloitte”) as Information Officer and; (v) declared an administrative charge of \$250,000. A copy of the Canadian Recognition Order is attached as Exhibit “A.”
4. Following its appointment as Information Officer, Deloitte, in accordance with Section 53 (b) of the CCAA and paragraph 26 of the Recognition Order, coordinated the publication of notice of this CCAA

Proceedings and the Mexican Proceedings in the National Post and La Presse (collectively the "Notices") on August 13 and August 20, 2010. A copy of the Notices is attached as Exhibit "B."

5. The Canadian Recognition Order requires that the Information Officer deliver a report to the Court at such times and intervals as it deems appropriate and, in any event, at least once every three months on the status of the proceedings, the foreign proceedings and such other information that the Information Officer deems to be material. This report is filed pursuant to the requirements of the Canadian Recognition Order. The Information Officer has responded to all reasonable information requests from stakeholders as described in paragraph 16 of the Canadian Recognition Order.
6. The purpose of this first report of the Information Officer (the "First Report") is to provide the Canadian Court with information concerning the following:
  - Background on Mexicana's business and global and Canadian operations;
  - Update on Mexicana's restructuring initiative to date;
  - Update on Mexican Proceedings;
  - Update on the CCAA Proceedings and Chapter 15 Proceedings; and,
  - The activities of the Information Officer since August 5, 2010.

## TERMS OF REFERENCE

7. In preparing this report, Deloitte has relied upon unaudited financial information, the Company's books and records, financial information prepared by the Company and its advisors, discussions with management of Mexicana and its representatives and advisors. In addition, Deloitte has reviewed the publicly available information filed in the Mexican Proceedings and the CCAA Proceedings. Deloitte has not audited, reviewed, or otherwise attempted to verify the accuracy or completeness of the information and, accordingly, Deloitte expresses no opinion or other form of assurance on the information contained in this report.
8. Some of the information referred to in this report may consist of or include forecasts and/or projections. An examination or review of financial forecasts and projections, as outlined in the Canadian Institute of Chartered Accountants Handbook, has not been performed. Readers are cautioned that since projections are based upon assumptions about future events and conditions that are not ascertainable, actual results will vary from the projections, even if the assumptions materialize, and the variations could be significant.
9. Deloitte has requested that Mexicana bring to its attention any significant matters that were not addressed in the course of its specific inquiries. Accordingly, this report is based solely on the information (financial or otherwise) made available to Deloitte.
10. All references to dollars in this report are in Canadian currency unless otherwise noted. Capitalized terms not defined in this First Report are defined in the Initial Order or in the Gonzales Affidavit.

## BACKGROUND

### *Summary of key elements of the Mexican Proceedings*

11. Included in the application material for the Canadian Recognition Order was the affidavit of Jalme René Guerra Gonzalez, a counsel for Mexicana, dated August 5, 2010 (the "Gonzalez Affidavit"). The Gonzalez

Affidavit contains a high-level summary of the Mexican Proceedings as detailed in the following paragraphs:

- Once a formal commencement order is issued by the Mexico Court, restrictions are imposed on the rights and interest of various parties, including creditors, lien holders and equity groups.
- Under the Mexican Proceedings, the Mexico Court will designate a conciliador (“Conciliador”). The Conciliador is responsible for mediating and negotiating between the debtor and its creditors, and is also responsible for proposing a reorganization plan. In addition, the Conciliador is empowered to (i) accept or reject executor contracts (ii) take on additional debt; and (iii) permit the sale of post petition assets outside the ordinary course of business.
- A reorganization plan must be submitted within one year. If within that time, a reorganization plan has not been proposed, the debtor will be directed by the court to enter into liquidation proceedings.
- The Mexican Business Reorganization Act provides for special rules applicable to entities operating Public Services under a concession title, such as Mexicana. The authority granting the concession title will have the sole power and discretion to propose the appointment, removal and substitution of the Conciliador and will supervise its activities. In the case of Mexicana, the authority that granted the concession title was the Mexican Ministry of Transport and Communications (the “SCT”), therefore, they are the administrative authorities that are participating in the Mexican Proceedings.
- Under the Mexican Proceedings, a reorganization plan must be approved by Recognized Creditors representing over 50% of the sum of the recognized amount of all of the regular Recognized Creditors. Recognized Creditors shall mean those creditors recognized as such by the debt recognition, ranking and preference judgment.
- Any reorganization plan must be on notice to the SCT, who may exercise a veto power during the five days time frame beginning the day after the agreement is submitted to the judge.

#### *Mexicana’s Company Overview*

12. Mexicana was founded in 1921. It is the airline with the fourth longest tradition of airline services in the world. Mexicana is the airline with the most extensive international coverage from Mexico and the leading transportation company between Mexico and the United States of America.
13. Mexicana serves more than 39 airports located in nine countries over three continents. In 2009, Mexicana carried just over 11 million passengers using a fleet of some 110 aircrafts for revenues above \$2 billion. Mexicana employed more than 5,300 employees worldwide. From its operation hub at the Benito Juarez International Airport in Mexico city, Mexicana flew to approximately 65 domestic and international destinations including, the United States, Canada, Central America, South America and Europe before the suspension of its flights.
14. Before the transaction described in further detail in paragraph 20 of this report, Mexicana was owned (99.81%) by Nuevo Grupo Aeronautico, S.A. de C.V. (“Grupo Nuevo”), which is a privately-owned company, and by Aeropuertos y Terrenos, S.A. de C.V. (0.16%).
15. Mexicana is an obligor under the terms of a Credit Agreement with Banco Mercantil del Norte, S.A., dated as of April 17, 2008, pursuant to which Mexicana and affiliated non-debtor companies have approximately US\$123 million of indebtedness. Mexicana’s total liabilities are estimated at \$US1.2 billion, whereas the value of its assets, globally, is currently estimated at US\$783M.

***Mexicana's Canadian operations***

16. Mexicana operates internationally on a consolidated basis from Mexico and its decision center is based in Mexico City. There are no stand-alone Canadian operations, and all Canadian operations are fully integrated into Mexicana's global network.
17. Mexicana conducts business in Canada from the Vancouver International Airport, Toronto Pearson International Airport, Calgary International Airport and Montreal Pierre Elliot Trudeau International Airport. At the beginning of the Canadian Proceedings, there were approximately 20 employees in Canada, none of whom are unionized. At the moment of writing this report, the number of employees in Canada has been reduced to five. As per Mexicana's management, the employees temporarily laid off have not been paid any severance or vacation since Mexicana plans to recall these employees when operations will eventually resume. The employees that are still working for Mexicana in Canada have been paid on a regular basis according to Mexicana's management.

**MEXICANA'S RESTRUCTURING INITIATIVES**

18. On August 28, 2010, Mexicana announced the suspension of its flight services due to its lack of liquidities.
19. Mexicana's goal is to restructure its affairs to withstand economic fluctuations by generating profits without overly relying on future traffic demand. Mexicana announced the following restructuring initiatives with the objective of substantially reducing its cost structure:
  - Reduce the size of operations, including the return of numerous aircrafts to their lessors;
  - Withdraw from several regions and discontinue services on several routes. Mexicana's objective is to resume operations with only 21 aircrafts and 21 routes. This represents less than fifty percent of its original size before the commencement of the restructuring process. All routes in Canada are anticipated to be maintained by Mexicana;
  - Reduce labor costs by renegotiating new collective agreements with the pilots and flight attendant unions (collectively the "Unions") that would include cuts of approximately 40% in wages and fringe benefits;
  - Reduce the number of airline's pilots and flight attendants by approximately 40%.

**UPDATE ON MEXICAN PROCEEDINGS**

20. Mexicana informed the Information Officer on August 21, 2010 that a group of investors, Tenedora K ("Tenedora"), acquired, for a symbolic amount, 95% of Grupo Nuevo shares. Tenedora's objective was to negotiate new collective agreements with the Unions and presents a restructuring plan to Mexicana's creditors.
21. On August 25, 2010, Tenedora proposed a restructuring plan to the Mexico's Labor Minister. The restructuring plan, which included laying off approximately 75% of Mexicana's flight attendants was not supported by Mexico's Labor Minister. Soon after, Tenedora announced that they were pulling out of the Mexicana restructuring process. It is unclear if the acquisition of the Grupo Nuevo shares by Tenedora will be maintained, since the restructuring plan proposed by Tenedora was not supported by Mexico's Labor Minister and that the Mexican Court is currently reviewing the transaction.

22. As mentioned earlier, on August 28, 2010, Mexicana announced the suspension of its flight services due to its lack of liquidity. Although Mexicana indicated that they would like to, ideally, resume operations in early December 2010, it is presently unclear if the Company will have the financial means to do so.
23. On September 6, 2010, the Mexican Court confirmed the Mexico's Ley de Concursos Mercantiles proceedings.
24. On September 6, 2010, Mr. Gerardo Badin Cherit was appointed Conciliador to oversee the business operations and the reorganization process of Mexicana. His appointment was approved by the Mexican Court.
25. On September 6, 2010, the Mexican Court approved the appointment of Mr. Javier Christlieb Morales as administrator of Mexicana in replacement of Alejandro Rodriguez following the refusal by the Mexico's Labor Minister to support Tenedora's restructuring plan.
26. The administrator and the Conciliador, with the assistance of the Mexican government, have since, among other things, been seeking potential investors in order to present a reorganization plan and raise new financing.
27. On October 8, 2010, IXE Group Financiero, a group that demonstrated interest into investing into Mexicana, announced publicly that it would not be participating in the restructuring of Mexicana.
28. Mexicana has indicated to the Information Officer that there were still interested investors who were trying, with the assistance of the Mexican government, to negotiate new collective agreements with the Unions and to present an acceptable reorganization plan that would allow the Company to refinance its operations and resume its operations.
29. On or before October 21, 2010, Mexicana obtained the approval from the Mexican Court authorizing a process for creditors to prove their claims. Therefore, on October 22, 2010, the Information Officer sent out a credit recognition form and instructions to all known creditors of Mexicana in Canada. In order to be recognized, this form must be received by the Conciliador's office by no later than 5:00 P.M. (Mexico City time) on December 4, 2010. A copy of the credit recognition form is attached as Exhibit "C".
30. Mexicana has informed the Information Officer that it is presently reimbursing ticket holders of Mexicana's cancelled flights ("Ticket Holders"). The Company was not able to provide the Information Officer with actual numbers concerning the reimbursement process, but indicated that they expect that all Ticket Holders should be reimbursed directly by Mexicana or, as explained later in this report, through the proposed agreement with the International Air Transportation Association ("IATA"). The Information Officer has not received any complaints from Canadian Tickets Holders and is not involved in the reimbursement process.

## **UPDATE ON CCAA PROCEEDINGS AND CHAPTER 15 PROCEEDINGS**

### ***CCAA PROCEEDINGS***

31. Since August 5, 2010, Mexicana has been negotiating a reimbursement agreement with IATA. IATA is an international industry trade group of airlines with the objectives to represent, lead and serve the airline industry. IATA holds reserve funds for each airline company that operates internationally. Mexicana informed the Information Officer that when the Mexican Proceedings started, IATA held approximately US\$13M of cash on Mexicana's behalf. Mexicana has informed the Information Officer that an agreement has been reached with IATA on August 17, 2010 with respect to the process that will be put in place to process and reimburse Ticket Holders claims with these funds. Should there be any excess amount, it would be remitted to Mexicana. This Court is presently seized with IATA's motion to approve the agreement referred to above.

32. On August 20, 2010, Air Canada obtained an Order from the Superior Court to repossess two of its four aircrafts under leasing agreements with Mexicana. Two aircrafts were remitted to Air Canada following this Court Order that was not contested by Mexicana.
33. NAV Canada provides air traffic control, flight information, weather briefings, aeronautical information services, airport advisory services and electronic aids to navigation. NAV Canada required and obtained a deposit from Mexicana before the commencement of the CCAA Proceedings Mexicana informed the Information Officer that at the beginning of the procedures, this deposit was approximately \$271K. After payment of Nav Canada's fees for the month of August 2010, in the amount of approximately \$98K, the deposit was reduced to approximately \$173K. Since Mexicana is presently not operating its routes, the Company has negotiated a reimbursement of the deposit to NAV Canada in the amount of approximately \$73K, which was received by Mexicana on October 29, 2010.
34. The Information Officer has requested confirmation from Mexicana that the Company's suppliers in Canada had, in fact, been paid in the ordinary course since commencement of the CCAA Proceedings. The Company has indicated to the Information Officer that it has accumulated approximately \$1.1 million of post-filing debt ("Post filing debt") since August 5, 2010, representing approximately 66 suppliers, including some of the Information Officer's and Mexicana's Canadian legal advisors' professional fees.
35. The Information Officer has requested from the Company, on several occasions that it be provided with a cash flow of Mexicana's operations. The Company has been unable to provide this information to the Information Officer. Therefore, it is difficult for the Information Officer to establish if the Company will have sufficient liquidities to survive in the next few weeks and pay its Post filing debt. As per our discussions with the Foreign Representative, it is critical that Mexicana urgently resolves its cash flow situation.
36. There are no claims in process in the CCAA Proceedings as all claims are being administered through the Mexican Proceedings.

#### **CHAPTER 15 PROCEEDINGS**

37. The Information Officer has nothing further to report with respect to the US proceedings at this time.

#### **ACTIVITIES OF THE INFORMATION OFFICER**

38. Since the date of the Canadian Recognition Order, the Information Officer's activities have included:
  - Reviewing the draft materials for the CCAA Proceedings and communicating with Mexicana's Canadian counsel Borden Ladner Gervais ("BLG") regarding same;
  - Preparing for the hearing requesting the Canadian Recognition Order;
  - Posting a copy of the Court-filed documents in these CCAA Proceedings to the Information Officer's website at <http://www.deloitte.com/ca/mexicana-airlines>;
  - Coordinating publication of the CCAA Proceedings and Mexican Proceedings in the national edition of The National Post and La Presse on August 13 and August 20, 2010, as required by section 53(b) of the CCAA and paragraph 26 of the Canadian Recognition Order;
  - Various discussions and correspondence with BLG;

- Responding to inquiries of Mexicana's stakeholders since August 5, 2010;
- Preparing and mailing the credit recognition package;
- The Information Officer did not receive any requests by stakeholders' counsel to be added to the service list;
- Participating in conference calls with management of the Company, BLG, the Foreign Representative and the Company's management and advisors to discuss matters relevant to the Mexican Proceedings and CCAA Proceedings; and,
- Preparing the First Report and communicating with BLG regarding the same.

## CONCLUSION

39. Mexicana is presently confronted with a critical liquidity crisis. Since the Company was not able to provide the Information Officer with any financial information it is unclear how long the Company will be able to survive without some kind of temporary financing or transaction.
40. Any potential investor who is trying, with the assistance of the Mexican government, to negotiate new collective agreements with the Unions and to present an acceptable reorganization plan, will have to act quickly if they want to be able to conclude a successful restructuring process.
41. The Information Officer was informed that the Mexican government has been highly involved in the Company's restructuring process as Mexicana operates under a government concession title to provide public transportation services. However, according to Mexicana, the Mexican government has already announced that it will not participate financially in the restructuring of Mexicana's affairs.
42. Mexicana's management informed the Information Officer that the request for an extension of delay on or before November 11, 2010 will highly depend on the ongoing negotiations with potential investors and the Unions. The Information Officer will file a supplemental report to the Court on or before November 11, 2010, should there be any material developments until then.

The Information Officer respectfully submit to the Court, this, its First Report.

DATED AT MONTREAL, this 5<sup>th</sup> day  
of November, 2010.

SAMSON BÉLAIR/DELOITTE & TOUCHE INC.  
In its capacity as Information Officer of Compañia Mexicana De Aviación, S.A. de C.V.

Per:



Pierre Laporte, CA, CIRP  
Partner



Jean-François Nadon, CA, CIRP  
Partner



SUPERIOR COURT  
(Commercial Division)  
DISTRICT OF MONTREAL  
No.: 500-11-

**IN THE MATTER OF THE JUDICIAL  
REORGANIZATION PROCEEDINGS OF:**

**COMPANIA MEXICANA DE AVIACION, S.A.  
DE C.V.**

Insolvent Debtor

and

**MARU E. JOHANSEN**

Foreign Representative/Petitioner

And

**SAMSON BELAIR DELOITTE & TOUCHE**

Information Officer

**EXHIBIT R-3**

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