

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

In re:

Comair Limited (In Business Rescue),

Debtor in a Foreign Proceeding.¹

Chapter 15

Case No. 21-10298 (JLG)

Related Docket Nos. 10

**ORDER GRANTING RECOGNITION AND RELIEF IN AID OF A FOREIGN
MAIN PROCEEDING PURSUANT TO SECTIONS 1504, 1509, 1515, 1517, 1520, 1521, AND
1524 UNDER CHAPTER 15 OF THE BANKRUPTCY CODE**

Upon consideration of the *Verified Petition for Recognition of Foreign Main Proceeding and for Related Relief Under Chapter 15 of the Bankruptcy Code, and Memorandum of Law In Support Thereof* (“**Verified Petition**”² and with the Official Form Petition, the “**Petition**”) filed by Shaun Collyer and Richard A. Ferguson, in their capacities as the duly appointed business rescue practitioners (“**Petitioners**”) of Comair Limited (In Business Rescue) (“**Comair**”), a company in business rescue (“**South African Proceeding**”) under Chapter 6 of the South African Companies Act No. 71 of 2008; and upon the hearing on the Petition (“**Hearing**”) and the Court’s review and consideration of the Petition and the Declarations of Shaun Collyer, Nastascha Harduth and John A. Pintarelli submitted in support of the Petition; and appropriate and timely notice of the filing of the Petition and the Hearing thereon having been given by Petitioners pursuant to section 1514 of the Bankruptcy Code; and such notice having been adequate and sufficient for all purposes; and no other or further notice being necessary or required; and no objections or other responses having been

¹ The Debtor’s company registration number is 1967/006783/06. The Debtor’s registered business address is 1 Marignane Drive, Bonaero Park, Kempton Park, Gauteng 1619.

² Capitalized terms used but not otherwise defined herein shall have the meanings given to them in the Verified Petition.

filed; and all interested parties having had an opportunity to be heard at the Hearing; and after due deliberation and sufficient cause appearing therefore, the Court hereby finds and concludes:

- A. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334.
- B. Venue of this proceeding is proper in this judicial district pursuant to 28 U.S.C. § 1410 because Comair has assets within this District.
- C. This matter is a core proceeding under 28 U.S.C. § 157(b)(2)(P).
- D. The Court may enter a final order consistent with Article III of the United States Constitution.
- E. Adequate and sufficient notice of the filing of the Petition was given by the Petitioners.
- F. No objections or responses have been filed that have not been overruled, withdrawn or otherwise resolved.
- G. Petitioners are the “foreign representatives” of Comair within the meaning of 11 U.S.C. § 101(24).
- H. This case was properly commenced pursuant to 11 U.S.C. §§ 1504, 1509 and 1515.
- I. Petitioners have satisfied the requirements of 11 U.S.C. § 1515 and Bankruptcy Rule 1007(a)(4).
- J. The South African Proceeding is a foreign proceeding within the meaning of 11 U.S.C. § 101(23).
- K. The South African Proceeding is entitled to recognition by this Court pursuant to 11 U.S.C. § 1517.
- L. The South African Proceeding is pending in South Africa, the country where Comair’s center of main interests is located, and therefore is a foreign main proceeding pursuant

to 11 U.S.C. § 1502(4) and is entitled to recognition as a foreign main proceeding pursuant to 11 U.S.C. § 1517(b)(1).

M. Petitioners are entitled to all of the relief afforded under 11 U.S.C. § 1520 and the additional relief requested and provided herein pursuant to 11 U.S.C. § 1521.

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The Petition is **GRANTED**.
2. The South African Proceeding is hereby recognized as a foreign main proceeding pursuant to 11 U.S.C. § 1517(a) and (b)(1).
3. The relief and protection afforded under 11 U.S.C. § 1520 is hereby granted, including the application of the automatic stay under section 362 of the Bankruptcy Code to Comair and its property in the territorial jurisdiction of the United States; *provided*, that nothing herein modifies or limits the exceptions to the automatic stay that are set forth in section 362 or elsewhere in the Bankruptcy Code.
4. Pursuant to 11 U.S.C. § 1521(a)(7), the provisions of 11 U.S.C. § 365 are applicable to this chapter 15 case.
5. Pursuant to 11 U.S.C. § 1524, Petitioners may intervene in any proceeding in a State or Federal court in the United States in which Comair is a party.
6. Petitioners are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order.
7. Nothing in this order shall or shall be deemed to limit, modify, or otherwise impair The Boeing Company's or its affiliates' rights, including the right of setoff and/or recoupment, if any, with respect to any claims asserted against them by or on behalf of Comair, which rights are expressly preserved; *provided that*, nothing herein shall be construed as a waiver or modification

of the automatic stay set forth in section 362 of the Bankruptcy Code.

8. The Petitioners are authorized to operate the business of Comair that is the subject of the South African Proceeding and may exercise the powers of a trustee under and to the extent provided by 11 U.S.C. §§ 1520 and 1521.

9. The administration or realization of all or part of the assets of Comair within the territorial jurisdiction of the United States of America is hereby entrusted to the Foreign Representatives and the Foreign Representatives are hereby established as the exclusive representatives of Comair in the United States of America.

10. This Court shall retain jurisdiction with respect to the enforcement, amendment or modification of this Order, any request for additional relief or any adversary proceeding brought in and through this chapter 15 case, and any request by an entity for relief from the provisions of this Order, for cause shown, that is properly commenced and within the jurisdiction of this Court.

11. Notwithstanding Bankruptcy Rule 7062, made applicable to this chapter 15 case by Bankruptcy Rule 1018, the terms and conditions of this Order shall be effective and enforceable immediately upon its entry, and this Order shall become final and appealable.

Dated: April 13, 2021
New York, New York

/s/ James L. Garrity, Jr.

HONORABLE JAMES L. GARRITY, JR.
UNITED STATES BANKRUPTCY JUDGE