

Banorte has not taken funds from Mexicana and has always acted legally

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Mexico, D. F., at August 29th, 2010. Regarding Mexicana, Banorte informs that all its actions and its fiduciary's (HSBC) have been in the exercise of a legitimate right, without contravening any legal dispositions or judicial orders. Since the judge issued the new precautionary measures this past August 23, Banorte has not withdrawn funds from the Administration and Payment Trust constituted by Mexicana to guarantee the resources provided by Banorte through a loan. In consequence, Banorte did not breach at any time the precautionary measures ordered by the judge.

It is important to note that present and future collection rights from the sale of airline tickets with Mexican and US credit cards were transferred by Mexicana in a voluntary and irrevocable manner to the Administration and Payment Trust managed by HSBC since the moment the loan was granted. This is the reason why the funds do not belong to Compañía Mexicana de Aviación (CMA), but are the property of the trust.

Banorte reports that the funds deposited in the trust totaled Ps 176 million, and they were legally withdrawn by the bank on the dates and under the conditions as follows :

a) Ps 127 million, on August 3rd, from the trust's reserve fund.

b) Ps 48.7 million, between August 5th and 12th, from the airline's cash flow.

The first 127 million pesos correspond to the trust's reserve fund that was created at the time the loan was granted, to be used in the event of non-fulfillment by the borrower, which happened when Mexicana de Aviación co-obligated with the loan commitments - requested bankruptcy proceedings, thereby acknowledging its inability to meet its payment obligations. These 127 million pesos could not have been used by Mexicana as operational cash flow, since they were constituted as a reserve fund according to the contract. The acceptance of the bankruptcy proceeding by the judge was on August 4th, one day after the 127 million pesos from the trust's reserve fund were withdrawn, which is why at the time of this action there was no prohibition to withdraw them.

The other 48.7 million pesos came from the airline's cash flow that derived from the sale of airline tickets using credit cards. The funds were withdrawn also when there was no prohibition to attract them, since Mexicana de Aviación had denied the preventive measures originally requested, on the same day that they were granted by the judge. The judge accepted this refusal most likely on the grounds of being considered harmful to the assets of a third party (the Trust), thus benefitting both Click and Gama, companies different from the one declaring insolvency and which were not fundamental to ensure Mexicana's viability.

As explained previously, the trust's total of Ps 176 million were withdrawn by Banorte in full adherence to the law and always in compliance with the measures set by the judge.

The waived precautionary measures came into effect again on August 23rd, when, surprisingly, the judge decided to activate them again; an action which Banorte does not agree with for reasons previously stated. However, Banorte is respecting them completely.

Another important aspect is the fact that from August 13th to the 28th (the day on which airline operations ceased) no income was deposited into the Trust, leading to the suspicion that income from credit card sales destined for loan payments to Banorte - was illegally diverted by the company's administration, unless during that period all sales were done in cash, which is highly unlikely.

Similarly, it should be noted that Mexicana also requested a "Chapter 15" in the Courts of NY, seeking to affect Banorte's interests in the USA with steps similar to the preventive measures in Mexico, thereby trying to avoid its payment obligations. On August 18th, based on the evidence presented by the bank, the New York Federal Judge ruled to omit these measures against the Financial Institution, respecting, recognizing and leaving intact Banorte's rights in the USA.

Regarding the lawsuit apparently presented by Mexicana de Aviación against Banorte's officials and Trust managers, Banorte is fully confident that its actions were completely legitimate and in adherence to the law, defending its capital and its investors' interests, as it has always done.

K Holding has the right to declare whatever suits its interests, but it should do so without omitting the truth, and also refraining from defamations and blaming Banorte for the suspension of operations of one of country's most traditional airlines. Banorte is a financial institution that has always acted in good faith, in accordance with the law and trying to support the growth and financial viability of the company.