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March 4, 2026

VIA CM/ECF

Hon. Paul G. Gardephe  
Thurgood Marshall United States Courthouse  
40 Foley Square  
New York, NY 10007

Re: *The Bank of N.Y. Mellon*<sup>1</sup> v. *TV Azteca, S.A.B. de C.V.*, No. 22 Civ. 8164

Dear Judge Gardephe:

We represent the Trustee. We write to inform the Court that, in a press release issued last Thursday, February 26, TV Azteca announced that its shareholders had approved filing a commercial insolvency proceeding in Mexico known as a *concurso mercantil*.<sup>2</sup> TV Azteca's press release is attached as Exhibit A, and a certified translation is attached as Exhibit B.<sup>3</sup> Defendants did not mention this announcement in their filings with the Court on Friday, February 27. *See* Dkts. 226, 227.

Even if TV Azteca files a *concurso mercantil*, that would not stay this litigation as to TV Azteca. *See In re Fairfield Sentry, Ltd.*, 714 F.3d 127, 133 (2d Cir. 2013) (automatic stay granted only "upon recognition of a foreign main proceeding" in a Chapter 15 proceeding); *cf.* 11 U.S.C. § 1520(a)(1). There is also no indication that any Defendants other than TV Azteca will seek bankruptcy protection, whether in Mexico or elsewhere. This case should therefore proceed unless a stay is properly obtained under U.S. law.

However, TV Azteca's announcement raises serious concerns, including (i) the Company's position with respect to this litigation and its possible forum shopping; (ii) the Court's anti-suit injunction, which prohibits TV Azteca from "continuing to prosecute or initiating any claims related to the Indenture in Mexico," Dkt. 97 at 39; Ex. C; and (iii) the risk that TV Azteca's insolvency could result in Defendants' assets being stripped to frustrate any forthcoming judgment

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<sup>1</sup> Per the full caption, "The Bank of New York Mellon, solely in its capacity as Trustee for the TV Azteca, S.A.B. de C.V. 8.25% Senior Notes Due 2024."

<sup>2</sup> To date, we do not have any information that TV Azteca has actually filed a *concurso mercantil*.

<sup>3</sup> Exhibits refer to those attached to the declaration of Justin M. Ellis filed contemporaneously with this submission.

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on the unpaid Notes.<sup>4</sup> The Trustee's counsel attempted to meet and confer with Defendants' counsel about these issues, but Defendants' counsel refused.

The Trustee respectfully requests an in-person conference at the Court's earliest convenience. At that conference, the Trustee requests that the parties discuss, among other things, the requirement of Defendants' continuing compliance with the injunction and any necessary interim relief, the Trustee's pending requests to file for summary judgment, and the progress the parties have made towards completion of this litigation toward a final judgment on the defaulted Notes.<sup>5</sup>

Meanwhile, this action is proceeding. The Trustee recently requested a pre-motion conference regarding summary judgment and has previously sought summary judgment against the guarantor Defendants. Dkts. 153, 223. The parties are actively engaged in document discovery and related discussions, and Judge Moses will hold a hearing on March 16 to address several discovery issues.

For the foregoing reasons, we respectfully request that the Court schedule an in-person conference as soon as possible.

Respectfully submitted,

/s/ Justin M. Ellis

Justin M. Ellis

CC: All counsel of record (via CM/ECF)

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<sup>4</sup> Defendants have refused to produce financial statements, either through discovery or under their contractual obligations to produce statements annually to the Trustee. *See* Indenture § 3.18(a); Ex. D at 15-16 (Defendants' refusal to produce statements in discovery); Ex. E (Defendants' refusal to produce statements under the Indenture). Defendants have also refused to submit financial statements to Mexico's securities regulator. *See* Dkt. 162. And Defendants have previously paid other debts in preference to the Notes. On the same day TV Azteca announced it would default on the Notes, it announced it would repay structurally subordinate local-currency debt early. *See* Ex. F (press release).

<sup>5</sup> TV Azteca's press release also contains misleading statements. TV Azteca describes its default on the Notes and this litigation as a "responsible process . . . to reorganize its financial commitments, including its foreign-currency debt." Ex. B at 3. And TV Azteca also states that it has "prioritized dialogue to reach a fair agreement" with beneficial owners. *Id.* In fact, the Company has not participated in substantive settlement discussions since 2023.