

61763

LAW OFFICES

*Lawrence D. Wasko*

*Suite 900*

*1150 Connecticut Avenue, N.W.*

*Washington, D.C. 20036*

DEPT. OF TRANSPORTATION  
DOCKET

99 AUG 19 PM 4:50

TELEPHONE (202) 862-4370  
FAX (202) 331-0599

August 19, 1999

OST-98-4291 - 13  
OST-98-4292 - 16

Mr. Donald H. Horn  
Assistant General Counsel for International Law  
Office of The General Counsel, Room 1015  
Department of Transportation  
400 Seventh Street, S.W.  
Washington, D.C. 20590

Re: Applications of Aero Continente, S.A. Dockets OST-98-4291 and OST-98-4292

Dear Mr. Horn:

This is in response to your telephone request of August 10, 1999 that Aero Continente provide certain supplementary information to its July 30, 1999 Answer to the Motion of Fine Air Services, Inc. Dr. Erick Bellido has prepared written answers to the questions I provided to him, based upon our conversation, which answers have been translated into English, copies attached hereto.

Your Question No. 1 -

Describe the nature of the proceeding involving the audit of Aero Continente? Who brought the proceeding? In what court? What were the dates of the investigation? How was it disposed?

Aero Continente's Response -

Please refer to the answer of Dr. Erick Bellido, attached hereto.

In addition to the information prepared by Dr. Bellido, Aero Continente represents as follows:

A special court was formed in Peru to deal with the well-known and documented status of Peru as a major cocaine source country. Special police and special prosecutors have been assigned to this system. Included within the network of

Donald H. Horn, Esq.  
August 19, 1999  
Page 2

agencies cooperating with the special court is the United States Drug Enforcement Administration ("DEA").

Mr. Zevallos Gonzalez is a former armed forces pilot and self-made businessman who participated in the formation of Aero Continente. In January 1995, when Mr. Zevallos Gonzalez was directly involved with Aero Continente, an anonymous letter was sent to the Lima office of the United States DEA. The letter accused Mr. Zevallos Gonzalez of various crimes and wrongdoing, including drug trafficking and money laundering. The Lima DEA Agent-in-Charge sent a letter on DEA letterhead to Peruvian authorities setting out the allegations against Mr. Zevallos Gonzalez contained in the anonymous letter. In May 1995 Mr. Zevallos Gonzalez learned of the letter and went to the DEA in Lima to answer the allegations directly. The Peruvian media obtained a copy of the DEA's letter and the anonymous letter was publicized.

The Peruvian national police, who are regularly involved in conducting criminal inquiries relating to narcotics, began an intensive investigation into Mr. Zevallos Gonzalez, the companies with which he was involved and of his family, all based upon the unsubstantiated allegations made in the anonymous letter. The Peruvian authorities asked for and received the assistance of the Lima office of the DEA to conduct an inquiry related to the financial holding of Mr. Zevallos Gonzalez and his related businesses in the United States. The scope of the inquiry included an investigation into the purchase, financing and/or lease of each of the several aircraft in the Aero Continente fleet. Mr. Zevallos Gonzalez cooperated fully with the investigation and with the American authorities, including the DEA and Customs, both in Peru and in the United States. The ultimate outcome of this in-depth financial investigation was that the acquisition of the several aircraft were deemed to be proper.

The police turned over the results of their efforts to the narcotics prosecutor. The prosecutor initially determined that there should be a criminal trial of Mr. Zevallos Gonzalez and then decided not to prosecute and finally recommended a criminal prosecution. In papers filed with the court, and in the proceedings purporting to be a "trial" the prosecutor identified as proof of Mr. Zevallos Gonzales wrongdoing the rapid growth of Aero Continente.

The case was then turned over to a judge of the drug court. The financial development and operation of Aero Continente was deemed to be at issue. A team of accountants

Donald H. Horn, Esq.  
August 19, 1999  
Page 3

was appointed to obtain the pertinent financial records of Aero Continente and to conduct a financial analysis of the company. The accountants determined that the financial records of Aero Continente demonstrated that the company was funded properly and was being run in a manner consistent with the standards of the industry. The report of the accountants as translated has been provided by Aero Continente to the Department in Dockets OST-98-4291 and OST-98-4292 and is set forth in its Reply dated September 2, 1998, see Attachment A.

Aero Continente notes that the DEA consistently has maintained that they have not been involved in an independent investigation of Mr. Zevallos Gonzalez or companies with which he has been involved. According to the Lima Agent-in-Charge, his office merely acted upon the request of Peruvian authorities on an ad hoc basis. Mr. Zevallos Gonzalez filed Freedom of Information Act requests and was able to obtain two key documents, one dated September 26, 1995 and the other May 10, 1997, which state that no evidence of drug trafficking and/or money laundering had been found. These documents have been supplied to the Department in the Aero Continente Reply, supra, see Attachment D.

Your Question No. 2 -

Information concerning the Special Drug Tribunal referred to in the El Comercio article of December 10, 1997 which implicates Aero Continente. You requested all information about F. Zevallos and Aero Continente and whether the Special Drug Tribunal constituted a court of the Republic of Peru. You requested that Aero Continente review the El Comercio article and respond accordingly.

Aero Continente's Response -

Please refer to the Answer of Dr. Bellido attached hereto.

Aero Continente also states as follows:

A trial before a three-judge panel began in June, 1997. There were over one hundred defendants on trial. Each witness called to testify concerning Mr. Zevallos Gonzalez swore that he possessed no information about Mr. Zevallos Gonzalez. There has been no evidence offered which ties Mr. Zevallos Gonzalez to the drug trafficking organization which is being tried in the case. Effectively Mr. Zevallos Gonzalez has been compelled to prove his innocence. He must gather evidence,

Donald H. Horn, Esq.  
August 19, 1999  
Page 4

discover testimony and present his case to prove he is not guilty. Aero Continente finds itself in a similar position before the Department at this time.

Your Question No. 3 -

In connection with the Sworn Statement of Erick Martin Bellido Stein, you requested information about Attorney Bellido's background and who he represents - Aero Continente? The Zevallos family?

Aero Continente's Response -

Dr. Erick Bellido is a respected member of the Peru Bar who received his early education in Argentina and his legal training in Peru as set forth in the Curriculum Vitae attached hereto. (In Spanish, no translation available.) Dr. Bellido has extensive governmental experience and has worked as a legal advisor for the Ministry of the Interior, State Attorney's Office for Drug Trafficking as well as an official in the Ministry of Transportation, Communication, Housing and Construction the General Bureau of Air Transportation and as Head Official in Charge of International Operations Permits. Dr. Bellido has been Legal Advisor to Aero Continente since May, 1998.

Your Question No. 4 -

Were any of the current officers and directors of Aero Continente in the same or similar positions during the period of time that Fernando Zevallos was involved with Aero Continente?

Aero Continente's Response -

Yes.

Please refer to Dr. Bellido's answer attached hereto listing the Directors of Aero Continente during the administration of Mr. Zevallos as at September 23, 1996 as well as the current Board of Directors.

Aero Continente also calls your attention to the detailed information provided to the Department taken from the company's corporate records concerning the termination of Mr. Fernando Zevallos' relationship with Aero Continente and the changes in the Board of Directors and company officers set out

Donald H. Horn, Esq.  
August 19, 1999  
Page 5

in its Reply, supra, see Attachment B.

Aero Continente sincerely hopes that you will find the information supplied herewith and the evidence of record in the record of the Aero Continente applications to be fully responsive to your inquiries and that your office will now be able to process Aero Continente's applications which have now been pending for more than one year.

Respectfully submitted,

Aero Continente, S.A.



By: Lawrence D. Wasko  
Its Attorney

Attachments

cc: Docket Section