



Office of the Special Inspector General for
Pandemic Recovery
Office of Audits

Alert Memorandum:

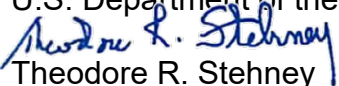
Caribbean Sun Airlines, Inc. has not Responded to the Department of the Treasury's Notice of Non-Compliance with the US Treasury Aviation Loan and Guarantee Agreement

Report Number: SIGPR-A-21-002
September 8, 2021



September 8, 2021

TO: Jacob D. Leibenluft
Chief Recovery Officer
U.S. Department of the Treasury

FROM: 
Theodore R. Stehney
Assistant Inspector General for Auditing
Special Inspector General for Pandemic Recovery (SIGPR)

SUBJECT: Alert Memorandum: Caribbean Sun Airlines, Inc. has not
Responded to the Department of the Treasury's Notice of Non-
Compliance with the US Treasury Aviation Loan and Guarantee
Agreement
Report Number: SIGPR-A-21-002

The purpose of this memorandum is to notify you that Caribbean Sun Airlines, Inc. (Caribbean Sun) has not responded to the Department of the Treasury's ("Treasury") Notice of Non-compliance with US Treasury Aviation Loan and Guarantee Agreement (the Agreement). We recommend Treasury take immediate action to address this non-compliance.

Background

Section 4003, Division A, Title IV, Subtitle A of the Coronavirus Aid, Relief, and Economic Security Act of 2020 (the "CARES Act") authorizes the Treasury to make loans, loan guarantees, and other investments to provide liquidity to eligible businesses related to losses incurred as a result of the coronavirus pandemic. Sections 4003(b)(1)-(3) appropriated \$46 billion to help stabilize the airline industry and businesses critical to maintaining national security. SIGPR is tasked to provide oversight of CARES Act programs.

On December 7, 2020, Caribbean Sun obtained a loan from the Treasury under Section 4003 for \$6,768,749. Pertinent provisions of Caribbean Sun's Loan and Guarantee Agreement ("Agreement") state:

Treasury Access. The Borrower Eligible Business and its Affiliates will provide Treasury, the Treasury Inspector General, the Special Inspector General for Pandemic Recovery, and such other entities as authorized by Treasury timely and unrestricted access to all documents, papers, or other records, including electronic records, of the Borrower related to the Loans, to enable Treasury, the Treasury Inspector General, and the Special Inspector General for Pandemic Recovery to make audits, examinations, and otherwise evaluate the Borrower's compliance with the terms of this Agreement. This right also includes timely and

reasonable access to the Borrower's and its Affiliates' personnel for the purpose of interview and discussion related to such documents. Agreement, Section 10.07.

Events of Default. If any of the following events (each, an "Event of Default") shall occur:

(e) any Credit Party shall fail to observe or perform any covenant, condition or agreement contained in this Agreement or any other Loan Document . . . and such failure shall continue unremedied for a period of thirty (30) or more days after notice thereof by the Administrative Agent or the Initial Lender to the Parent . . . then, and in every such event...and at any time thereafter during the continuance of such event, the Initial Lender may, and the Administrative Agent may, and at the request of the Required Lenders or the Initial Lender shall, by notice to the Borrower, take any or all of the following actions, at the same or different times:

(i) declare the Loans then outstanding to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and all fees and other Obligations of the Credit Parties accrued hereunder, shall become due and payable immediately, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower and the other Credit Parties....

Agreement, Section 7.01.

Specific Concern

On March 25, 2021, we issued a survey to Caribbean Sun but did not receive a response. On August 2, 2021, we issued an Alert Memorandum, notifying Treasury that Caribbean Sun was non-responsive. On August 3, 2021, Treasury issued a Notice of Non-compliance, requiring Caribbean Sun to respond to our survey within 30 days. (Appendix B).

Pursuant to Treasury's Notice of Non-compliance, issued on August 3, 2021, Caribbean Sun had until September 2, 2021, to respond to SIGPR's survey. As stated in Treasury's notice of non-compliance, failure to respond to SIGPR's survey by September 2, 2021, would constitute an "Event of Default" under Section 7.01(d) of the Agreement. An event of default would allow Treasury to pursue remedies under the Agreement, including declaring the loan immediately due and payable in whole or in part. As of the date of this report, Caribbean Sun has not responded to SIGPR's survey nor has it satisfied the loan.

Conclusion

Caribbean Sun's lack of response to Treasury's Notice of Non-compliance with the US Treasury Aviation Loan and Guarantee Agreement constitutes an "Event of Default" under Section 7.01(e).

Recommendation

The Special Inspector General for Pandemic Recovery recommends that Treasury take immediate action under the authority provided in Section 7.01 of the Agreement.

Please provide a response to this recommendation along with any proposed corrective action. Your response will be incorporated in its entirety as an addendum to this memorandum.

Compliance Statement

This audit is being conducted in accordance with generally accepted government auditing standards (GAGAS) which provides that during an audit, auditors may provide interim reports of significant matters to appropriate entity and oversight officials. Such communications alert officials to matters needing immediate attention and allows them to take corrective action before the final report is completed.

The related ongoing audit, when completed, will comply with GAGAS. The associated performance audit report that will be issued in the future will incorporate the issues discussed in this alert memorandum.

Audit Team

This audit was managed and conducted by the individuals listed below:

Michael Sinclair	Audit Manager
Reynaldo Gonzales	Auditor-In-Charge
Renata Malionek	Auditor

Appendix A – Memorandum Distribution

Chief Recovery Officer – U.S. Department of the Treasury

Office of General Counsel – U.S. Department of the Treasury

Inspector General – Special Inspector General for Pandemic Recovery

Office of General Counsel – Special Inspector General for Pandemic Recovery

Appendix B – Notice of Non-Compliance with the US Treasury Aviation Loan and Guarantee Agreement

NOTICE OF NON-COMPLIANCE - SIGPR DIRECT LOAN PROGRAM SURVEY

August 3, 2021

Subject: Notice of Non-compliance with the US Treasury Aviation Loan and Guarantee Agreement

Caribbean Sun Airlines, Inc.
6355 NW 36th Street, 100
Virginia Gardens, FL 33166

Dear Tomas Romero:

We are writing regarding the loan that the U.S. Department of the Treasury (Treasury) made to Caribbean Sun Airlines, Inc. (Caribbean Sun) under Section 4003 of the Coronavirus Aid, Relief and Economic Security Act (CARES Act).

Caribbean Sun is not currently compliant with the Loan and Guarantee Agreement, dated as of November 5, 2020 (Loan Agreement), among Caribbean Sun, Treasury, and The Bank of New York Mellon (BNYM). Pursuant to Section 10.07 of the Loan Agreement regarding Treasury Access, Caribbean Sun must provide Treasury, the Treasury Inspector General, and the Special Inspector General for Pandemic Recovery (SIGPR) timely and unrestricted access to records, documents, and personnel related to the loan. Caribbean Sun has not responded to the SIGPR survey, issued on March 25, 2021.

Caribbean Sun must cure this violation by September 2, 2021, which is 30 calendar days from the date of this letter, by submitting the survey response to SIGPR. Failure to cure this violation by September 2, 2021 will constitute an Event of Default under Section 7.01(d) of the Loan Agreement. Treasury may pursue remedies under the Loan Agreement, including declaring the Loan immediately due and payable in whole or in part.

Please contact Treasury's Office of Recovery Programs at CARESActCompliance@treasury.gov if you have any questions.

Thank you

U.S. Department of the Treasury
Office of Recovery Programs, CARES Act Compliance