

Comity for Consolidation: Chapter 15 Debtor Trades Chapter 11 for Brazilian RJ Proceeding

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A Cayman debtor can spend ten months in chapter 11 protecting its U.S. assets, then switch to chapter 15 to enforce a foreign plan.^[1] On September 28, 2026, the Bankruptcy Court for the Southern District of Texas recognized the Brazilian *recuperação judicial* (“RJ Proceeding”) of Ambipar Emergency Response (“AER”) as a foreign main proceeding and suspended AER’s parallel chapter 11 case.^[2]

AER and its affiliates (the “Group”), founded in 1995, are a global leader in recycling, waste management, and emergency response.^[3] In October 2025, the Group filed the RJ Proceeding to stay creditor actions while it negotiated a financial restructuring.^[4] The same day, AER filed for chapter 11 in the United States (the “Chapter 11”) to obtain parallel U.S. relief.^[5] On October 30, 2025, the Brazilian court substantively consolidated certain Group entities, including AER and its publicly traded parent.^[6] In July 2026, AER signed a restructuring support agreement (“RSA”) with noteholders holding about 54% of the claims against it.^[7] It then filed chapter 15 cases (the “Chapter 15”) to replace the Chapter 11, give U.S. effect to the Brazilian stay, and ultimately enforce an RJ Plan.^[8] Its goal was to restructure through a Brazilian plan under the RSA, enforce it in the United States, and suspend and later dismiss the Chapter 11.^[9]

AER sought recognition of the RJ Proceeding as a “foreign main proceeding” in the Chapter 15 and suspension of its Chapter 11. A group of Brazilian financial creditors (the “Objecting Parties”) invoked chapter 15’s public policy exception, which lets a court refuse action that “would be manifestly contrary to the public policy of the United States.”^[10] Calling AER’s recognition and suspension request “unlike any previous chapter 15 case,” they argued that AER breached its fiduciary duties as debtor-in-possession in the Chapter 11 by executing the RSA to favor certain noteholders and its controlling shareholder.^[11] In their view, AER had benefitted from the Chapter 11 for ten months and now was using chapter 15 and the Brazilian consolidation order to do what chapter 11 would not allow.

The court rejected every argument. It held that the public policy exception is narrow and reserved for “exceptional circumstances concerning matters of fundamental importance for the United States.”^[12] Consolidating AER with its parent and affiliates was not manifestly contrary to U.S. policy, because the Bankruptcy Code itself permits it.^[13] Even if United States law has different requirements for substantive consolidation, those differences alone do not mean that Brazilian law is manifestly contrary to United States law.^[14]

The fiduciary duty argument failed too.^[15] The court found no evidence supporting a breach. Among other things, the RSA had board approval and an independent director’s support.^[16] In any event, the court found that challenges to the RSA and the RJ Plan were premature, because the plan was not final, not confirmed in Brazil, and not yet before it for enforcement.^[17] The court therefore granted AER’s Chapter 15 recognition, but without prejudice to the Objecting Parties’ right to oppose any later request to recognize and enforce a Brazilian plan.^[18]

The Objecting Parties also argued that AER’s center of main interests (“COMI”) was in the Cayman Islands, not Brazil.^[19] The court disagreed. AER’s Cayman registered office created a presumption, but little more. AER had no Cayman operations, employees, or assets. The Court also applied the Fifth Circuit’s *Ran* test under which COMI must be “ascertainable by third parties.”^[20] Looking to the public information investors rely on, the court found that AER’s own offering memoranda placed its business, management, and insolvency risk in Brazil.^[21] Those disclosures, together with AER’s Brazilian headquarters, principal economic activity in Brazil, and its “nerve center” located in Brazil, outweighed its New York governing law, NYSE listing, Houston operations, and months in chapter 11.^[22]

Key Takeaway

Ambipar makes chapter 15 a viable exit from a parallel chapter 11 case commenced to protect U.S. assets and operations from creditor action. The public policy exception to chapter 15 relief remains narrow and will rarely block recognition, even of a foreign order consolidating publicly traded companies. Absent appeal, the real fight shifts to plan confirmation in the RJ Proceeding and enforcement in the chapter 15 case. The case also confirms that COMI in the Fifth Circuit turns on what a company says about itself: public disclosures such as offering memoranda, risk factors, and SEC filings can rebut the presumption created by a Cayman registered office.

[1] Chapter 11 of the U.S. Bankruptcy Code provides for court-supervised reorganization of a debtor's debts and affairs, while Chapter 15 governs recognition of foreign insolvency proceedings and cooperation between U.S. and foreign courts in cross-border insolvency cases.

[2] *In re Ambipar Emergency Response*, Ch. 11 Case No. 26-90709, 2026 WL 2924527 (Bankr. S.D. Tex. Sep. 28, 2026).

[3] *Motion for (I) Recognition of Foreign Main Proceeding, (II) Recognition of Foreign Representative and (III) Related Relief Under Chapter 15 of the Bankruptcy Code* [Dkt. No. 2] Ch. 11 Case No. 26-90709, 2–3 (Bankr. S.D. Tex. Sep. 28, 2026) (“Recognition Mot.”).

[4] *Ambipar Emergency Response*, 2026 WL 2924527, at *4.

[5] *Id.* at *5.

[6] Recognition Mot. at 15.

[7] *Ambipar Emergency Response*, 2026 WL 2924527, at *5.

[8] *Id.* at *5–6.

[9] Recognition Mot. at 4.

[10] 11 U.S.C. § 1506.

[11] *Ambipar Emergency Response*, 2026 WL 2924527, at *14.

[12] *Id.* at *13 (quoting *Lavie v. Ran (In re Ran)*, 607 F.3d 1017, 1021 (5th Cir. 2010)) (noting that “Courts often focus on whether the foreign proceeding is procedurally unfair and whether the foreign proceeding would ‘severely impinge the value and import’ of a U.S. statutory or constitutional right” (cleaned up)).

[13] *Id.* at *14.

[14] *Id.*

[15] *Id.*

[16] *Id.*

[17] *Id.*

[18] *Id.* at *15.

[19] *Id.* at *9.

[20] *Lavie v. Ran (In re Ran)*, 607 F.3d 1017, 1025 (5th Cir. 2010).

[21] *Ambipar Emergency Response*, 2026 WL 2924527, at *9.

[\[22\]](#) *Id.* at *2 & n.20, *11.

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