

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

THE GOVERNMENT DEVELOPMENT BANK FOR
PUERTO RICO,

Applicant.

PROMESA

Title VI

No. 3:18-cv-01561-LTS

**SAN JUAN'S LIMITED NOTICE OF INTENTION TO OBJECT TO THE
GOVERNMENT DEVELOPMENT BANK'S QUALIFYING MODIFICATION AND
RESERVATION OF RIGHTS**

The Autonomous Municipality of San Juan ("San Juan"), through its undersigned counsel, respectfully states:

1. San Juan, the Government Development Bank for Puerto Rico ("GDB") and the Puerto Rico Fiscal Agency and Financial Authority ("AAFAF") continue in active negotiations to reach an agreement that will resolve their differences. To preserve its rights, however, San Juan herein submits this Limited Notice of Intention to Object to the GDB's Qualifying Modification and Reservation of Rights (the "Notice").

2. On August 10, 2018, the GDB and AAFAF (collectively, "Petitioners") filed an application (the "Application") pursuant to section 601(m)(1)(D) of the Puerto Rico Oversight, Management, and Economic Stability Act, 48 U.S.C. §§ 2101-2241 ("PROMESA") seeking approval of a Qualifying Modification (as this term is defined in the Application) for the GDB. (ECF No. 1).

3. On the same day, Petitioners filed an Emergency Motion for Setting Deadline for Parties to File Notice of Intention to Object to the Qualifying Modification for the GDB and Parties to File Standing Objections (ECF. 3), and also filed a Motion Requesting Order Approving Procedures. (ECF. No. 4).

4. Subsequently, this Court entered an order setting the deadline for parties to file a notice of objection to object to the Qualifying Modification for the GDB. (ECF No. 7). On August 28, 2018, the Court approved a stipulation extending San Juan's time to serve and file its notice of intention to object to the Qualifying Modification until August 29, 2018 at 5 p.m. (Atlantic Standard Time). (ECF No. 92).

I. FACTUAL BACKGROUND

5. On May 15, 2017, Governor Ricardo Rosselló Nevares publicly announced that the AAFAF, the GDB, and certain of the GDB's bondholders had entered into a restructuring support agreement (the "RSA") setting forth the terms of a proposed sweeping financial restructuring and ultimate liquidation of the GDB.

6. On January 26, 2017, San Juan commenced an action before this Court challenging, among other things, various matters relating to the then-proposed RSA as violative of PROMESA. *See San Juan v. GDB, et al.*, Case No. 3:17-cv-2009-LTS-JGD (D. PR.), ECF No. 1 ("San Juan RSA Litigation").

7. In September of 2017, all of Puerto Rico suffered extreme devastation due to Hurricanes Irma and Maria, which is still being felt to this day.

8. On December 1, 2017, San Juan filed an Amended Complaint for Declaratory Judgment, Damages and Injunctive Relief in the San Juan RSA Litigation. *See San Juan v. GDB, et al.*, Case No. 3:17-cv-2009-LTS-JGD (D. PR.), ECF No. 88.

9. On March 27, 2018, the GDB publically released the Fourth Amendment to the RSA, by and among GDB, AAFAF, and the Supporting Bondholders party thereto. *See* ELECTRONIC MUNICIPAL MARKET ACCESS SYSTEM (EMMA), <https://emma.msrb.org/ES1125696-ES880621-ES1281908.pdf>.

II. LIMITED NOTICE OF INTENTION TO OBJECT

10. As set forth above, San Juan and Petitioners are in active communication to reach an agreement resolving their differences. San Juan therefore files this Notice to preserve its rights to object to the Qualifying Modification and states as follows:

11. First, San Juan enjoys a lien over the monies held in trust by GDB pursuant to P.R. Act 64-1996 and the Trust Agreement between San Juan and GDB, yet San Juan is not being provided a separate voting pool, as required by PROMESA. *See San Juan v. GDB, et al.*, Case No. 3:17-cv-2009-LTS-JGD (D. PR.), ECF No. 109, at 38-39.

12. Second, while PROMESA provides the sole and exclusive means for the GDB to effectuate a restructuring of its assets and liabilities, the GDB is nonetheless relying upon P.R. Act 109-2017, as amended, to effectuate a restructuring of San Juan's Excess CAE trust funds.

III. RESERVATION OF RIGHTS

13. Nothing contained in this Notice constitutes an admission of the validity of the Qualifying Modification or a waiver of San Juan's rights.

14. Pursuant to the RSA, the closing of the Qualifying Modification is conditioned upon the execution and delivery of Definitive Documents (as defined in the RSA) and entry of the Certification Order. These documents, including any release provisions therein, may materially impact San Juan's rights. San Juan, however, has not yet seen or had an opportunity to review these documents. Accordingly, in the event that GDB does not make the Definitive Documents and the Certification Order available with ample time to review before objections to the Qualifying Modifications are due, San Juan intends to reserve its rights to object to the Qualifying Modification to the extent that the Definitive Documents and/or the Certification Order alter, limit, or otherwise impact San Juan's rights.

15. San Juan expressly reserves the right to raise objections not described herein, including but not limited to takings in violation of the Fifth Amendment to the U.S. Constitution and illegal discrimination of equally situated creditors.

16. Last, San Juan reserves the right to amend this Notice based on information revealed during the course of discovery.

WHEREFORE, San Juan respectfully requests that the Court take notice of this Notice.

RESPECTFULLY SUBMITTED,

In New York, New York this 29th day of August, 2018.

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CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that the instant document has been filed with the Court's CM/ECF System, which will simultaneously serve notice on all counsels of record to their registered e-mail addresses.

In addition, I have caused to be served copies of the foregoing Notice to be served upon the following parties by e-mail so as to be received by 5:00 p.m. (prevailing Atlantic Standard Time): (a) GDB, Minillas Government Center, Avenida de Diego, Parada 22, San Juan, PR 00907 (Attn: Belén Fornaris Alfaro); (b) AAFAF, Minillas Government Center, Avenida de Diego, Parada 22, San Juan, PR 00907 (Attn: Mohammad Yassin Mahmud); and (c) O'Melveny & Myers LLP, Times Square Tower, Seven Times Square, New York, NY 10036 (Attn: John J. Rapisardi, Esq., Suzanne Uhland, Esq., and Peter Friedman, Esq.).

In New York, New York, this 29th day of August, 2018.

RESPECTFULLY SUBMITTED,

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