

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

GOVERNMENT DEVELOPMENT BANK
FOR PUERTO RICO

Applicant.

PROMESA
Title VI

No. 18-1561

MOTION SUBMITTING EXHIBITS E AND Z TO SUPPLEMENTAL OBJECTION

TO THE HONORABLE COURT:

COMES NOW, Siemens Transportation Partnership Puerto Rico, S.E. (“Siemens”), by and through its undersigned counsel and very respectfully alleges and prays:

1. Today, the appearing party filed Siemens Transportation Partnership Puerto Rico, S.E.’s Supplemental Objection to Proposed Qualifying Modification (the “Supplemental Objection”). See Docket No. 192.

2. The Supplemental Objection made reference to Exhibits from A to CC and by inadvertence Exhibit E and Exhibit Z were not included in the filing.

3. Therefore, Siemens hereby submits Exhibit E and Exhibit Z to the Supplemental Objection, which should have been attached to the original filing.

4. In light of the above, together with this Motion Siemens is filing Exhibit E and Exhibit Z of the Supplemental Objection.

WHEREFORE Siemens respectfully requests this Honorable Court to accept the filing of Exhibit E and Exhibit Z, as if they have been originally filed with the Supplemental Objection.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 17th day of October, 2018.

It is **HEREBY CERTIFIED** that a true copy of this document has been filed with the Clerk of the Court electronically using CM/ECF system which automatically serves notification of the filing to parties of interest.

SEPULVADO MALDONADO & COURET

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s/ Lady E. Cumpiano

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FOR THE DISTRICT OF PUERTO RICO**

GOVERNMENT DEVELOPMENT BANK OF
PUERTO RICO

Applicant.

PROMESA
Title VI

No. 18-1561

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing motion was served on this 17 day of October, 2018 upon the following parties and counsel by email and/or hand delivery:

**GOVERNMENT DEVELOPMENT BANK
OF PUERTO RICO**

Minillas Government Center
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San Juan, PR 00907
Attn: Belén Fornaris Alfaro

**PUERTO RICO FISCAL AGENCY AND
FINANCIAL ADVISORY AUTHORITY**

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Peter Friedman, Esq.

/s/ Lady E. Cumpiano

Lady E. Cumpiano
USDC-PR Bar No. 211106

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

RE:	*	
	*	
GOVERNMENT DEVELOPMENT	*	PROMESA
BANK OF PUERTO RICO	*	Title VI
	*	
Applicant	*	NO.: 18-1561
	*	

DEPOSITION OF MR. JESÚS GARCÍA RIVERA

DATE : October 10, 2018

TIME : 2:08 p.m.

CLIENT : SEPULVADO, MALDONADO & COURET

ADDRESS : AON Plaza Building
304 Ponce de Leon Avenue
Suite 990
San Juan, Puerto Rico

APPEARANCES

FOR SIEMENS:

Derek Baker, Esq.

Claudia Springler, Esq.

Tatiana Alejandro Souffront, Esq.

FOR THE HIGHWAY & TRANSPORTATION AUTHORITY:

Germán Bauer Álvarez, Esq.

FOR THE P.R. FISCAL AGENCY AND FINANCIAL ADVISORY AUTHORITY:

Luis Marini Biaggi, Esq.

1 But you can ask the Accounting Department; the records
2 are there.

3 Q So you had mentioned that part of the
4 assistance could involve, or a transaction could involve
5 an escrow account, right?

6 A Yes.

7 Q And, so just for me, what's your definition of
8 an "escrow account"?

9 A Well, my definition, as you can see, in a
10 financial dictionary, or how it is at GDB? So there's a
11 difference. At GDB, an escrow account is not
12 necessarily a formal escrow.

13 Q Okay.

14 A At GDB, a deposit account, a regular deposit
15 account, and the interest-bearing account, deposit
16 account is called "an escrow" indistinctively. And
17 "deposit account," you can -- at GDB, I mean at GDB, you
18 can refer it to as "an escrow," but it doesn't mean that
19 that account has an escrow agreement, with an escrow
20 agent, with a depositor, with a beneficiary -- that is
21 not necessarily the case, because at GDB, the name
22 "escrow," is used in the States differently.

23 Many of us, of the employees, regular employees,
24 career employees, work with X accounts, like, for
25 example, that it was a deposit account, and you see

1 there, the papers of the account, it says "escrow
2 account." But it doesn't mean that that account has a
3 legal document, a legal escrow account, with the parties
4 involved in a legal escrow. Do you know what I mean?

5 Q Yeah.

6 A At GDB, that's the case. Always. Before me,
7 before generations. That was the case.

8 So, if you're asking me the understanding of an
9 escrow account, if I go to a dictionary, you can see a
10 different definition, definitely.

11 But at GDB that's the -- GDB can refer to a regular
12 IBA account as "an escrow."

13 Q What do you mean, "an IBA account"?

14 A "Interest-bearing Account."

15 Q Okay.

16 A Or "Non-Interest-bearing Account."

17 Q Both, which one?

18 A No, deposit accounts.

19 Q No, but you said "IBA." So...

20 A "Interest-bearing Accounts."

21 Q Right, okay.

22 A Or -- and this may sound kind of funny -- but
23 "Interest-bearing Account that doesn't accrue interest."

24 Q Okay. So, IBA means "interest-bearing
25 account," but it could--

1 A It could earn interest or not, accruing
2 interest or not.

3 Q Okay.

4 A And for those accounts, if you see documents,
5 internal documents at GDB, you can see that they revert
6 to an escrow, as it is an escrow account.

7 Q Mhm.

8 A But, in fact, there is no escrow established
9 per se.

10 Q Okay.

11 A It's an account, just an account. And that
12 was the case -- not in my area -- but in all the areas,
13 will have the same thing.

14 Q So what if... so when an account was
15 established as "an escrow account," was there segregated
16 funds in it?

17 A Well, if the intention was to segregate the
18 funds, and to establish a legal formal escrow, first the
19 authorizing resolution from the board should state that.

20 Q The resolution from where?

21 A From the board of directors.

22 Q The board of directors--

23 A In GDB. Okay, let me explain. In GDB, all
24 the transactions must be approved by the board of
25 directors. No employee at GDB can lend money, establish

1 A Who was the president?

2 Q Correct.

3 A At GDB.

4 Q Yes.

5 A The president of GDB in 2010 was Mr. Carlos
6 García Rodríguez.

7 Q Okay. And he is presently with the--

8 A With the board.

9 Q With the Oversight Board.

10 A With the Oversight--

11 Q Okay. I'm just... right, okay.

12 A And he's one of the seven members.

13 Q Sure. Yeah. In 2010, how many executive vice
14 presidents were there, at the GDB?

15 A Who was?

16 Q How many?

17 A How many? How many what?

18 Q How many executive vice presidents were there?

19 A How many vice presidents--

20 Q Executive--

21 A Executive vice presidents were there? I
22 remember our executive, it was Fernando Batlle. That's
23 the name I remember, because he was the executive vice
24 president that oversees the financial area; financial or
25 financing area. Fernando Batlle.

1 BY MR. BAKER:

2 Q And, again, it references, right -- the second
3 line below the redaction -- right? -- so you see it's a
4 line that starts with "president," do you see that?

5 A Below redacted?

6 Q Correct.

7 A It says, "Pursuant to final settlement
8 agreement, as approved by the president, or the EVP."

9 Q Of financing and treasury.

10 A And treasury, yes.

11 Q Who is that?

12 A Well, financing was Mr. Battle.

13 Q Okay.

14 A And, as I mentioned before, maybe he had
15 another -- he had another "hat." And that's probably
16 the case, but my recollection of him is that he was our
17 boss at the financing area.

18 Q So he was the executive vice president of
19 financing.

20 A Yeah, but maybe he had another "hat."

21 Q Okay. So here is what I just want to
22 understand. And, again, I'm not trying to trick you,
23 I'm just trying to understand.

24 A No, no, I understand that. The only point I
25 need to highlight here is this: I am trying to

EXHIBIT Z

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

In re:
THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO
RICO,
as a representative of
THE COMMONWEALTH OF PUERTO
RICO, et al.
Debtors.

PROMESA
Title III
No. 17 BK 3283-LTS
(Jointly Administered)

In re:
THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO
RICO,
as a representative of
PUERTO RICO HIGHWAYS AND
TRANSPORTATION AUTHORITY,
Debtor.

PROMESA
Title III
No. 17 BK 3567-LTS

**DEPOSITION OF
MR. JOSÉ SANTIAGO RAMOS**

DATE : January 30, 2018
TIME : 9:00 a.m.
PLACE : **LAW OFFICE OF SEPULVEDA & MALDONADO**
304 Ponce de León Ave.
Suite 990
Hato Rey, PR



1 Q There is no replacement. Okay.

2 As you know, this deposition concerns a bank
3 account that we believe is still open at the bank, and
4 some moneys are in dispute. You're familiar with the
5 bank account, correct?

6 A Yes.

7 Q Was that bank account something that fell
8 within your responsibility while you were CFO for the
9 bank?

10 A Yes.

11 Q When was the first time that any issues
12 related to this bank account were brought to your
13 attention?

14 A I believe it was a meeting at some point in
15 March, 2017. We met with a representative from Siemens,
16 and he made us aware of the bank account, and the
17 different documents that they had in their power.

18 Q Do you remember the name of that person from
19 Siemens?

20 A It was Mr. Josué— it's Menéndez or Meléndez.

21 Q I think I've seen this name.

22 A Yes.

23 Q He was with Siemens Puerto Rico, correct?

24 A I believe so. I believe so.

25 Q What was the purpose of that meeting?



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1 A Due to the fact that there was a new
2 administration on the GDB, he just wanted to make us
3 aware of the account, and the status of the account.

4 Q And who— was anybody at the meeting besides
5 yourself and Josué?

6 A It was Mr. Christian Sobrino. He is the
7 president of GDB.

8 Q Got it. Is he still the president of GDB?

9 A Yes.

10 Q Who initiated the meeting?

11 A It was Siemens.

12 Q Siemens. Did Josué tell you why he was
13 asking for a meeting?

14 A No.

15 Q What did you discuss at the meeting?

16 A We discussed the account, the purpose of the
17 account, and he did bring some— the underlying documents
18 for us to have in record, in case we didn't have them on
19 file.

20 Q Before that time, had you had any exposure
21 or knowledge of this account?

22 A We were in the middle of due-diligence for
23 the fiscal plan, so— we had definitely seen it, but we
24 hadn't really explored into it at that time.

25 Q What did Josué say at the meeting?



1 A Generally, that they'd been talking to GDB
2 on prior occasions before our administration, and he
3 just wanted to make us aware of the account, the
4 existence of the account.

5 Q Did you discuss whether the account was an
6 escrow account?

7 A We had not discussed that.

8 Q How long did the meeting last?

9 A I don't recall. It was brief, but I don't
10 recall.

11 Q Was anything decided at the meeting?

12 A No. Actually, what we mentioned was: we
13 just came in, we're in the middle of due-diligence
14 process, and we would take into account what he was
15 mentioning.

16 Q Did you, personally, have any follow-up with
17 Josué about the account?

18 A Not until several months afterwards.

19 Q And was that— when I say "you", I mean you,
20 not GDB. Did you have any further direct contact with
21 him?

22 A No. Like I said, until a second meeting we
23 had back in June— I believe.

24 Q Okay. Did you attend that meeting too?

25 A Yes.



1 2017. May 15, 2017, if I'm not mistaken.

2 The first amendment was in or around October
3 20th, 2017, and the third amendment was in or around
4 December 20th, 2017.

5 Q And, if you recall, in what context is the
6 account that's in issue here discussed in the original
7 RSA?

8 A In one of the schedules we— the GDB details
9 all of the assets that we have, that serve as collateral
10 for the RSA, and all of the claims or the deposits that
11 are subject to the RSA.

12 Q I think you know that it it's Siemens'
13 position that these funds were being held in escrow.
14 Are there any other accounts listed in the RSA which
15 also have any sort of escrow denomination associated
16 with them?

17 A Yes.

18 Q Is it the bank's position that all funds
19 that may be subject to an escrow account are subject to
20 the same characterization under the RSA?

21 A Yes.

22 Q The October 20th—

23 A I'm sorry. I've got to clear something very
24 quickly before.

25 Q Yes, sure.



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1 A I don't recall. I don't believe so.

2 Q What's your understanding of what an escrow
3 account is?

4 A For the bank's position, it's an account
5 with funds that are deposited that are earmarked for a
6 specific purpose.

7 Q How do you know if the funds are earmarked
8 for a specific purpose?

9 A Well, usually— in this case, the account
10 description, basically, says escrow for Siemens. In
11 other cases, in the municipal, we do have— in the— the
12 credit files, they read what— the specific construction
13 projects and whatnot. That's how we know.

14 Q So, if the file says that it's an escrow
15 account, you know that it's an escrow account?

16 A The it's earmarked for a specific purpose,
17 yes.

18 Q Okay.

19 Were the funds in this account earmarked for
20 paying Siemens?

21 A We believe so, yes.

22 Q Okay.

23 But, even though the funds were earmarked
24 for paying Siemens, you believe the bank doesn't need to
25 pay Siemens?



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1 THE DEPONENT:

2 A First, we would have to seek approval from
3 our Board of Directors. Right now no disbursements are
4 being approved; and, if the funds are subject to the
5 restructuring support agreement, and it's a material
6 amount, then we would have to verify with all different
7 creditors for GDB.

8 **BY ATTY. ANDREW SOVEN:**

9 Q What do you mean verify with different
10 creditors?

11 A Well, right now the RSA indicates that we
12 cannot materially affect the bank's liquidity or assets-
13 again, the fact that these funds are not segregated.
14 They form part of our cash, that would materially
15 affect, of course, the whole transaction of the RSA,
16 and- we would have to verify.

17 Q So, in plain English, you are saying that
18 GDB's other creditors will have to approve the
19 disbursement of the funds to Siemens?

20 A No. I did not say approve.

21 Q True.

22 A Validate and verify.

23 Q So, how would- is there a process set up for
24 that to occur?

25 A Not necessarily. Legal counsel speaks to



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1 legal counsel.

2 Q So legal counsel for the bank would speak to
3 legal counsel for the other creditors and see if they
4 verify- validate? Which word did you use? Verify, or
5 validate?

6 A Verify- consult.

7 Q Consult. So, if there is a consultation
8 between GDB and counsel for the other creditors, and
9 there was an agreement, the funds could be distributed?
10 ATTY. ORESTE RAMOS:

11 Objection to form.

12 THE DEPONENT:

13 A If the liquidity allows, the bank liquidity
14 allows, and the Board of Directors approves, and we can
15 say it's an essential service, then yes, we could
16 disburse.

17 **BY ATTY. ANDREW SOVEN:**

18 Q Okay.

19 And is that per the terms of the RSA?

20 A That's- there are different executive orders
21 that limit the disbursement for the bank, signed by the
22 Governor- I believe- and also the RSA.

23 Q Do you know if there is a particular
24 executive order that would apply to this type of
25 account?



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1 A There are- there are several-

2 Q I'm just asking if you know.

3 A I don't want to say that- I think it's
4 executive order 14 and 10, 2016, but I really want to
5 verify that.

6 Q Okay. Of 2016?

7 A Yes.

8 Q Okay. I probably asked you this before.
9 Have you spoken to Mr. Vizcarrondo since he left the
10 bank?

11 A No, I have not.

12 Q So, putting aside the municipal accounts
13 that you mentioned a little while ago, does GDB have
14 other accounts where funds are being held in escrow?

15 A I believe that we do have other accounts
16 that there are specific funds earmarked for specific
17 purposes.

18 Q Does the bank- you know what a DDA account
19 is?

20 A Yes.

21 Q This account at issue is a DDA account,
22 correct?

23 A It was a- yes.

24 Q Does the bank, for those other escrow
25 arrangements, does the bank also use DDA accounts?



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1 Q So these funds were never used that way?

2 ATTY. ORESTE RAMOS:

3 Objection to form.

4 THE DEPONENT:

5 A Not necessarily. There is one thing that we
6 recognize the bank- accounting-wise the 13 Million are
7 still there, but we just don't have the liquidity to
8 back those funds. That's why the bank is closing,
9 right? So-

10 **BY ATTY. ANDREW SOVEN:**

11 Q At what point in time- why then did the
12 executive orders affect the bank's abilities to release
13 these funds if at any point in time the bank could have,
14 essentially, used these funds for general operating
15 expenses?

16 A They were limited for not only general
17 operating expenses- you know, the bank continued to
18 work- but they were also limited to essential services.
19 So, at some point any disbursement that we made had to
20 be certified as an essential service.

21 Q Is any of that information disclosed to a
22 customer such as HTA or Siemens?

23 A I believe it was disclosed to Siemens in
24 that email that I mentioned; because it was posted- it
25 has always been posted in the GDB website, and- yes.



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1 that opportunity it's part of the— sorry for the word,
2 but— the process, the Title 6 process.

3 Q Okay. I want to make sure that I
4 distinguish it. There is one process, which is the
5 bank's process, and another process is the RSA?

6 A There is one process for disbursements,
7 which are tied to the executive orders that I mentioned
8 before, and then there is the whole Title 6 process for
9 the RSA and the completion of the bank transaction.

10 Q To date, Siemens hasn't had an opportunity
11 to weigh in on the RSA?

12 A Well, Siemens— for that account, at the time
13 that— when it becomes necessary to be presented before
14 the judge. At some point during the whole Title 6
15 process there's going to be a hearing, or whatnot— I'm
16 not fully conversant on that process, but there's going
17 to be a whole process, and I believe it's going to be
18 HTA, because they are title holders to that account.

19 Q Right. Who signed the RSA?

20 A It's, in majority, bond holders— which is
21 the— Well, GDB, again, certain depositors have already
22 signed it.

23 Q Do you know if HTA signed it?

24 A No, I don't believe they have signed it.
25 Actually, no, they haven't signed it.



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