

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

Brigade Leveraged Capital Structures Fund Ltd.,
Brigade Distressed Value Master Fund Ltd.,
Tasman Fund LP, Claren Road Credit Master
Fund, Ltd., Claren Road Credit Opportunities
Master Fund, Ltd., Fir Tree Value Master Fund,
L.P., Fir Tree Capital Opportunity Master Fund,
L.P., Fir Tree Special Opportunities Fund IV, LP,
Fir Tree Special Opportunities Fund V, LP, Fore
Multi Strategy Master Fund, Ltd., Sola Ltd, Ultra
Master Ltd, Solus Opportunities Fund 5 LP,

Plaintiffs,

- against -

Alejandro J. García Padilla, in his official
capacity as Governor of Puerto Rico; Juan C.
Zaragoza Gómez, in his official capacity as
Secretary of the Puerto Rico Department of the
Treasury, and John Doe, in his/her official
capacity as receiver for the Government
Development Bank for Puerto Rico,

Defendants.

CIVIL NO. 16-01610 (FAB)

**PLAINTIFFS' RESPONSE TO THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD'S OPPOSITION TO PLAINTIFFS' MOTIONS TO
LIFT THE AUTOMATIC STAY**

TO THE HONORABLE COURT:

COME NOW Plaintiffs, by and through their undersigned counsel, and very respectfully state and pray as follows:

Plaintiffs welcome the Financial Oversight and Management Board's ("Oversight Board") ongoing efforts to reopen a dialogue between the Commonwealth¹ and its creditors and to establish the transparent financial reporting and preservation of legal and contractual rights that will make a productive dialogue possible. Plaintiffs respectfully disagree, however, with the Oversight Board's assertion that an ongoing stay of this litigation will best realize those goals.

To the contrary, the record before the Court demonstrates that adjudication of the pending motions for summary judgment will advance, not frustrate, the Oversight Board's goals by resolving a key legal uncertainty that is hindering negotiations.² While the Oversight Board argues that lifting the stay would divert the attention of the Commonwealth and the Oversight Board from the development of fiscal plans and negotiations (Opp'n at 11),³ it adduces no fact or logic to support this assertion. The record before the Court shows that addressing the motions for summary judgment would not meaningfully divert the Commonwealth or the Oversight Board's attention. The Oversight Board also contends that negotiations would remain possible even if the pending constitutional issues are not resolved (Opp'n at 12-13), but fails to rebut the straightforward conclusion that resolving these issues at the outset would facilitate negotiations and the Oversight Board's work. Finally, although the Oversight Board argues that the

¹ Capitalized terms not defined herein have the meaning assigned to them in Plaintiffs' Motion for a Determination that the PROMESA Stay Does Not Stay Pls.' Constitutional Claims, or, in the Alternative, for Relief from the Stay, Dkt. No. 71.

² Plaintiffs do not object to the Oversight Board's intervention for the purpose of expressing its view on the pending motions for relief from the stay. Plaintiffs reserve all rights regarding the proper interpretation of Section 212 of the Puerto Rico Oversight, Management and Economic Stability Act ("PROMESA"). See 48 U.S.C. § 2152.

³ "Opp'n" refers to the Oversight Board's Opposition to Plaintiffs' Motions to Lift the Automatic Stay, Dkt. No. 137, Ex. A.

“monetary harm” caused by the Moratorium Act can simply be redressed in the future (Opp’n at 13), it offers no reason why limited resources would not be better spent resolving this issue now rather than trying to undo the damage that further delay will cause.⁴

Should this Court nonetheless conclude that the stay should remain in place—for 30 days or shorter—Plaintiffs agree with the Oversight Board that an ongoing stay must be conditioned on the Commonwealth maintaining the status quo and not taking additional steps to prejudice creditors based on the unconstitutional provisions of the Moratorium Act. Plaintiffs therefore support the Oversight Board’s request that, if the stay is to remain in place, the stay be conditioned on the Commonwealth’s accounting for transfers to and from GDB since April 6, 2016, producing information on a rolling basis to the Oversight Board and completing that production on the timetable that the Oversight Board has established, and developing a protocol whereby that information can be shared with creditors including Plaintiffs. In addition, to preserve the status quo with respect to GDB, the stay should remain in place only if the Commonwealth will agree that it will not attempt to place GDB into receivership or to create a bridge bank under the provisions of Sections 301, 302, and 401 of the Moratorium Act.

⁴ The Oversight Board, like the Commonwealth, admits—as it must—that the standard for relief from the stay is “cause.” (Opp’n at 12.) The Oversight Board’s argument that Plaintiffs have not shown “irreparable” harm is therefore irrelevant.

RESPECTFULLY SUBMITTED,

Dated: October 28, 2016
San Juan, Puerto Rico

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CERTIFICATE OF ELECTRONIC FILING AND SERVICE

I hereby certify that on October 28, 2016, I caused to be electronically filed the Plaintiffs' Response to the Financial Oversight and Management Board's Opposition to Plaintiffs' Motions to Lift the Automatic Stay using the CM/ECF system, which will send notification of such filing to all counsel of record.

Dated: October 28, 2016
San Juan, Puerto Rico

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