

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

LEX CLAIMS, LLC, *et al.*,

Plaintiffs,

v.

ALEJANDRO GARCÍA PADILLA, *et al.*,

Defendants.

Case No. 3:16-cv-02374 (FAB)

**JOINDER OF THE BANK OF NEW YORK MELLON,
AS TRUSTEE, TO NOTICE OF AUTOMATIC STAY**

TO THE HONORABLE COURT:

The Bank of New York Mellon (the “Trustee”), as trustee, through its undersigned counsel, hereby joins (this “Joinder”) in the *Notice of Automatic Stay* [Doc. No. 84] (the “Stay Notice”), filed by Hon. Alejandro García Padilla, Hon. Juan C. Zaragoza Gómez, and Hon. Luis Cruz Batista (the “Officer Defendants”), pursuant to which the Officer Defendants assert that the *Second Amended Complaint* [Doc. No. 78] is stayed by the Puerto Rico Oversight, Management, and Economic Stability Act (“PROMESA”), 48 U.S.C. § 2101 *et seq.*, and in support hereof, respectfully represents as follows:

BACKGROUND

1. The Trustee serves as trustee under the Amended and Restated Sales Tax Revenue Bond Resolution (as amended and supplemented, the “Resolution”), adopted on July 13, 2007, by the Puerto Rico Sales Tax Financing Corporation (“COFINA”), pursuant to which COFINA issued several series of sales tax revenue bonds (the “COFINA Bonds”). *See Plaintiffs’ Opposition to COFINA Bondholders’ Motion for Leave to Intervene*, Doc. No. 87, Ex. B., at 66.

2. The COFINA Bonds are payable from and secured by a statutory lien on the proceeds of a sales tax (the “Pledged Sales Tax”) imposed by the Commonwealth of Puerto Rico (the “Commonwealth”). See Doc. No. 87, Ex. B., at 44, 60-61. The Pledged Sales Tax is deposited in a fund held by or on behalf of COFINA and remitted to the Trustee on a regular basis for payment of the principal of and interest on, and other amounts due in connection with, the COFINA Bonds. See generally Doc. No. 87, Ex. B.

3. The Plaintiffs commenced the above-captioned action (this “Action”) on July 20, 2016, by filing their original complaint against the Governor and other Officer Defendants seeking to invalidate Executive Order 2016-30 (the “Executive Order”) as violative of PROMESA. Doc. No. 1.

4. The Plaintiffs’ Second Amended Complaint (i) named the Commonwealth, COFINA, COFINA’s Executive Director, and the Trustee as additional defendants and (ii) added twelve new causes of action, including three causes of action (Counts 2, 3, and 12) relating to COFINA (the “COFINA Counts”). Through the COFINA Counts, the Plaintiffs seek to interfere with the statutory transfer of the Pledged Sales Tax to the Trustee and thereby deprive the Trustee of its liens and security interests. See generally Doc. No. 87, Ex. B.

5. On November 7, 2016, the Officer Defendants filed the Stay Notice, asserting that all claims in the Second Amended Complaint, including the COFINA Counts, are stayed by sections 405(b)(1) and (b)(3)-(6) of PROMESA. Doc. No. 84. Alternatively, the Officer Defendants requested that the Court stay the piecemeal litigation and disposition of Counts 1-3 and 12 of the Second Amended Complaint in the exercise of its discretion. Id.

6. By order dated November 16, 2016, the Court is treating the Stay Notice as a motion to stay this Action. Doc. No. 103.

7. A stay of the COFINA Counts is supported by several of the proposed intervenors in this Action. See Doc. Nos. 50, 55, and 62.

JOINDER

8. By this Joinder, the Trustee respectfully requests that the Court enter an order finding that the COFINA Counts are stayed in their entirety pursuant to sections 405(b)(1) and (b)(3)-(6) of PROMESA or, alternatively, staying the piecemeal litigation and disposition of Counts 1-3 and 12 of the Second Amended Complaint in the exercise of the Court's discretion. In support of this request, the Trustee joins in the Stay Notice and incorporates by reference the factual and legal arguments contained therein. Doc. No. 84.

WHEREFORE, the Trustee respectfully requests that the Court enter an order

- (i) finding that the COFINA Counts are stayed in their entirety by sections 405(b)(1) and (b)(3)-(6) of PROMESA or, alternatively, staying the piecemeal litigation and disposition of Counts 1-3 and 12 of the Second Amended Complaint in the exercise of the Court's discretion, and
- (ii) granting such other and further relief as may be just and proper.

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Dated: November 30, 2016

Respectfully submitted,

/s/ Lee Sepulvado Ramos

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*Counsel for The Bank of New York Mellon,
as Trustee*

CERTIFICATE OF SERVICE

It is hereby certified that on this same date this document has been electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all attorneys of record.

Dated: November 30, 2016

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