

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

Peaje Investments LLC,

Movants,

-against-

Hon. Alejandro Garcia Padilla, Hon. Juan C. Zaragoza Gomez,
Hon. Luis G. Cruz Batista, Hon. Carmen Villar Prado, Puerto
Rico Highways & Transportation Authority,

Respondents.

Civil No. 16-cv-02365-FAB

ASSURED GUARANTY CORP. and ASSURED
GUARANTY MUNICIPAL CORP.,

Movants,

-against-

COMMONWEALTH OF PUERTO RICO, PUERTO RICO
HIGHWAYS AND TRANSPORTATION AUTHORITY,
GOVERNMENT DEVELOPMENT BANK FOR PUERTO
RICO, ALEJANDRO GARCÍA PADILLA, CARMEN
VILLAR PRADOS, MELBA ACOSTA FEBO, JUAN C.
ZARAGOZA GÓMEZ, and JOHN DOES 1-4,

Respondents.

Civil No. 16-cv-02384-FAB

**JOINT OPPOSITION OF PEAJE AND ASSURED TO RESPONDENTS'
MOTION TO CONTINUE NOVEMBER 3, 2016 HEARING**

TO THE HONORABLE COURT:

COME NOW Peaje Investments LLC (“**Peaje**”), Assured Guaranty Corp and Assured Guaranty Municipal Corp., by and through their undersigned counsel and respectfully state and pray:

1. Peaje Investments LLC (“**Peaje**”), together with Assured Guaranty Corp. and Assured Guaranty Municipal Corp. (collectively, “**Assured**,” and together with Peaje, “**Movants**”), respectfully oppose the motions (together, the “**Motions**”)¹ of Respondents Commonwealth of Puerto Rico, Alejandro García Padilla, Juan C. Zaragoza Gómez, and Luis G. Cruz Batista (collectively, “**Respondents**”) to continue the hearing scheduled for November 3, 2016.

2. The Court should deny the Motions in their entirety. The statutorily prescribed hearing in these matters has already been continued previously, and Respondents offer no compelling reason for further delay. The parties have had ample time to prepare within the parameters established by the governing PROMESA statutory scheme and, given the ongoing expropriation of Movants’ collateral without adequate protection, further delay will only prejudice Movants. Moreover, the issues to be addressed at the November 3rd hearing are straightforward, have been fully briefed, and are fully ripe for resolution.

3. Respondents’ contention that they are without sufficient time to prepare for this hearing as a result of the Court’s limited consolidation of *Altair Global Credit Opportunities Fund (A), L.L.C. v. Garcia-Padilla, et al.*, No. 16-cv-02696-FAB (hereinafter, “*Altair*”), with these cases is without merit and based on facts previously presented, considered, and rejected by the Court in that case. Movants have been working diligently to prepare for the November 3rd hearing from the outset. As Respondents admit, these efforts have included “exchanging correspondence” and “meeting-and-conferring” about various matters concerning the hearing. (*See* Respondents’ Mot., p. 1).

¹ The Motions filed in Movants’ cases are identical in all material respects, *compare* *Peaje Investments LLC v. Garcia-Padilla, et al.*, No. 16-cv-02365-FAB, at [Docket No. 56], *with* *Assured Guaranty Corp. v. Commonwealth of Puerto Rico, et al.*, No. 16-cv-02384-FAB, at [Docket No. 46], except that the Commonwealth of Puerto Rico is not a Respondent in Peaje’s case.

4. Soon after the Court's October 14, 2016 order directing the limited consolidation of *Altair* with these cases (*see Altair*, at [Docket No. 26]), Movants had a lengthy conversation with counsel for the *Altair* movants to bring them up to speed regarding the efforts to date and to coordinate with each other regarding hearing preparations going forward. This conversation was productive. Since then, the *Altair* movants apparently have engaged with Respondents to begin discussions between those parties regarding pre-hearing matters.

5. While Respondents complain that the parties in *Peaje* and *Assured* have already begun "meeting-and-conferring about potential exhibits, potential stipulations, and potential witness testimony" (*see* Respondents' Mot., p. 1), they fail to mention that the *Altair* movants were included on counsel's recent email among all of the parties circulating drafts of potential stipulations of fact, an exhibit list, and certain witness designations. There is little else for the *Altair* movants to do to catch up at this point and approximately two weeks remain for the parties to complete the pre-hearing matters necessary for an efficient hearing.

6. Moreover, there are not sufficient changed circumstances to warrant reconsideration of the Court's October 14th order directing limited consolidation of *Altair* with Movants' cases. Although Respondents cite the Oversight Board's potential desire to participate at the November 3rd hearing, to date there has been no such attempt by that board and no reason to delay the hearing which is required by PROMESA.² Even if the Oversight Board were to desire intervention, it would have ample time to seek such intervention before the November 3rd hearing. In other lift stay cases pending before the Court, the Oversight Board itself only asked for an extension until October 21, 2016 to decide whether to intervene

² "**PROMESA**" refers to the Puerto Rico Oversight, Management, and Economic Stability Act, Pub. L. 114-187.

in those matters. *See, e.g., Brigade Leveraged Capital Structures Fund Ltd. v. Garcia-Padilla, et al.*, No. 16-cv-1610-FAB, at [Docket No. 126]. If the Oversight Board wishes to intervene in this matter, it can make its desire known with similar dispatch.

7. With respect to Respondents' contention that they lack sufficient time to prepare for the *Altair* portion of the hearing because of the unfinished briefing schedule in that case and the presence of an additional party there, the Court was aware of these considerations when it entered its October 14th order directing limited consolidation. The Court should not revisit this decision, particularly in light of the parties' recent progress on pre-hearing matters.

8. The principal issue in common to be decided at the hearing is whether there is "cause" to lift the PROMESA stay in each of the respective cases. The parties are able through counsel to point out such differences as may be germane to their respective cases and can do so efficiently at the scheduled single hearing.

9. Equitable considerations also favor denial of these last minute Motions. Peaje's and Assured's cases are fully briefed and have been pending since July 18 and 21, 2016, respectively—*i.e.*, about 3 months. Additionally, scheduling of the November 3rd hearing was delayed in the first instance "[d]ue to the Court's heavy criminal calendar...[,]" *see Peaje*, at [Docket No. 52]; *Assured*, at [Docket No. 44], and that hearing date was set weeks ago.

10. Although Movants naturally are aware of and appreciate the Court's calendar in scheduling the November 3rd hearing, Movants have acted expeditiously in filing and prosecuting their motions for relief from the PROMESA stay for a vitally important set of reasons. The bonds that Movants hold or insure are limited recourse obligations, meaning

that Movants ordinarily can only look to certain defined collateral for repayment. Every day that Respondents continue to expropriate that collateral without adequate protection, Movants suffer irreparable harm. Movants are entitled to expeditious judicial review of the circumstances to determine whether the PROMESA stay should be lifted. And as the Court is aware, PROMESA itself imposes certain time limits with respect to consideration of whether “cause” exists to lift the stay, indicating that Congress was acutely cognizant of the need to resolve these issues on an expedited basis to avoid irreparable harm to creditors and their property.

11. Movants believe that all parties have ample time to complete the necessary pre-hearing matters before November 3rd. In the unlikely event that the Court finds that Respondents should be afforded more time to prepare for matters raised in *Altair*, Movants respectfully request that the Court hear Movants’ cases on November 3rd and only continue the *Altair* portion of the hearing. Otherwise, Movants would suffer prejudice as a result of the delay.

WHEREFORE, Movants respectfully request that the Court (i) deny Respondents’ Motions in their entirety or, alternatively, hear these cases on November 3rd and continue the *Altair* case only, and (ii) grant such other and further relief to Movants as is just and proper.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 20th day of October 2016.

I HEREBY CERTIFY that in accordance, on this same date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system. Parties may access this filing through the Court’s system.

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