

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

In re:

THE FINANCIAL OVERSIGHT AND  
MANAGEMENT BOARD FOR PUERTO  
RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO,  
*et al.*,

Debtors.<sup>1</sup>

PROMESA  
Title III

No. 17 BK 3283-LTS

(Jointly Administered)

ACP MASTER, LTD., *et al.*,

Plaintiffs,

v.

THE COMMONWEALTH OF PUERTO RICO,  
*et al.*,

Defendants.

Adv. Proc. No. 17-189  
in 17 BK 3283-LTS

**INFORMATIVE MOTION REQUESTING THAT THE COURT GRANT  
THE OFFICIAL COMMITTEE OF RETIRED EMPLOYEES OF THE  
COMMONWEALTH OF PUERTO RICO INTERVENOR STATUS AS  
AGREED IN THE JOINT STATUS REPORT FILED ON OCTOBER 9, 2017**

The Official Committee of Retired Employees of the Commonwealth of Puerto Rico (the

<sup>1</sup> The Debtors in these jointly-administered PROMESA Title III Cases, along with each Debtor's respective Title III Case number listed as a bankruptcy case number due to software limitations and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are: (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (Bankruptcy Case No. 17 BK 3284) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); and (v) Puerto Rico Electric and Power Authority (Bankruptcy Case No. 17 BK 4780) (Last Four Digits of Federal Tax ID: 3747) (Title III case numbers are listed as bankruptcy case numbers due to software limitations).

“**Retiree Committee**”) files this *Informative Motion Requesting That The Court Grant The Official Committee Of Retired Employees Of The Commonwealth of Puerto Rico Intervenor Status As Agreed In The Joint Status Report Filed On October 9, 2017* (the “**Motion**”) and states as follows:

1. On August 4, 2017, prior to the deadline by which the named defendants to this Adversary Proceeding were required to answer or otherwise plead with respect to the Complaint, the Retiree Committee filed its *Motion Of Official Committee Of Retired Employees Of The Commonwealth Of Puerto Rico For Leave To Intervene Under Bankruptcy Rule 7024* (the “**Motion to Intervene**”) in which it attached as Exhibit A, the *Motion Of Official Committee Of Retired Employees Of The Commonwealth Of Puerto Rico To Dismiss The Complaint Under Bankruptcy Rule 7012* (the “**Proposed Motion to Dismiss**”). [Adv. Dkt. Nos. 23, 23-1.]

2. The Motion to Intervene was originally scheduled for hearing on October 4, 2017. The Plaintiffs, certain GO bondholders (the “**GO Bondholders**”), and Defendant, the Financial and Oversight Management Board for the Commonwealth of Puerto Rico (the “**FOMB**”), each filed objections to the Motion to Intervene on September 19, 2017. [Adv. Dkt. Nos. 48, 51.] The Retiree Committee’s deadline to file a reply in support of the Motion to Intervene was September 26, 2017. Two significant events happened after the Retiree Committee filed the Motion to Intervene but before the scheduled reply date and hearing. *First*, on October 20, 2017, Hurricane Maria hit Puerto Rico, wreaking devastation across the Island and causing an indefinite continuance of the October 4 hearing and related deadlines. *Second*, two days later, on September 22, 2017, the First Circuit issued its opinion in which it held that § 1109(b) of the Bankruptcy Code provides statutory committees appointed pursuant to 11 U.S.C. §§ 1102 and 1103, like the

Retiree Committee, with a statutory right to intervene. *See Assured Guar. Corp. v. Fin. Oversight & Mgmt. Bd. for Puerto Rico*, 872 F.3d 57, 63 (1st Cir. 2017).

3. In response to the Court's requests regarding the October 4, 2017 hearing, the Retiree Committee indicated that it was willing to defer intervention but only if the adversary proceeding would be stayed. [Case No. 17-3283, Dkt. 1364 at ¶ 5.] On October 5, 2017, this Court ordered the parties to submit a Joint Status Report with respect to the Motion to Intervene. [Adv. Dkt. No. 59.] On October 9, 2017, the Retiree Committee, the ERS Bondholders, and the FOMB submitted a Joint Status Report in which *all parties agreed that the Retiree Committee should be permitted to intervene in this Adversary Proceeding* and for the most part agreed to the scope of the intervention. [Adv. Dkt. No. 63.] The primary open issue was whether the Retiree Committee should be permitted to ask questions at any depositions or at any evidentiary hearing. The parties agreed that the Court could rule based on the arguments set forth in the Joint Status Report.

4. Since the parties filed the Joint Status Report, this Court entered Orders setting a hearing on the motion to dismiss filed by the FOMB for December 5, 2017, and setting certain deadlines for objections to that motion and replies in support of the motion. [Adv. Dkt. Nos. 64, 69.] Because the Retiree Committee's Motion to Intervene is still pending, the Retiree Committee has not filed its Proposed Motion to Dismiss, in which the Retiree Committee makes arguments in addition to those asserted by the FOMB in its motion to dismiss.

5. In light of the parties' agreement that the Retiree Committee should be permitted to intervene and the fact that this adversary proceeding is moving forward quickly, the Retiree Committee respectfully requests entry of an Order confirming its intervenor status. This will allow the Retiree Committee to participate meaningfully in the briefing schedule set forth on the

FOMB's motion to dismiss, and also to file the Proposed Motion to Dismiss so that it may be heard along with the FOMB's motion to dismiss at the December 5 hearing. To the extent that this Court wishes to reserve judgment on the question of whether the Retiree Committee may ask questions at depositions or evidentiary hearings, pending the ruling on a motion to dismiss, that is acceptable to the Retiree Committee.

WHEREFORE, the Retiree Committee respectfully requests entry of an Order granting its Motion to Intervene and granting whatever other relief this Court deems appropriate and just.

October 24, 2017

Respectfully submitted,

/s/ Robert Gordon

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