

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

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO,

Debtor.¹

PROMESA

Title III

No. 17 BK 3283-LTS

(Jointly Administered)

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

PUERTO RICO ELECTRIC POWER
AUTHORITY,

Debtor.

No. 17 BK 4780-LTS

SCIEMUS LIMITED, et al.

Plaintiffs,

-v-

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

PUERTO RICO ELECTRIC POWER
AUTHORITY; PREPA NETWORKS LLC;

Adv. Pro. No. 3:19-AP-369 LTS

¹ The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (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 ("COFINA") (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (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 ("ERS") (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority ("PBA") (Bankruptcy Case No. 19-BK-5233-LTS) (Last Four Digits of Federal Tax ID: 3801). (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

PREPA NET INTERNATIONAL WHOLESALE
TRANSPORT, INC.; COMMONWEALTH OF
PUERTO RICO; and SECRETARY OF THE
TREASURY, c/o Public Insurance Bureau,

Defendants.

**MOTION OF PUERTO RICO ELECTRIC POWER AUTHORITY PURSUANT
TO BANKRUPTCY CODE SECTION 105, PROMESA SECTION 315(a), AND
BANKRUPTCY RULE 9019 FOR ORDER APPROVING SETTLEMENT AGREEMENT
WITH CERTAIN INSURERS AND GRANTING RELATED RELIEF**

To the Honorable United States District Court Judge Laura Taylor Swain:

The Puerto Rico Electric Power Authority (“PREPA” or the “Debtor”), through the Financial Oversight and Management Board for Puerto Rico (the “FOMB” or “Oversight Board”) as PREPA’s sole Title III representative pursuant to section 315(b) of the *Puerto Rico Oversight, Management, and Economic Stability Act* (“PROMESA”) (collectively, “Defendants”), respectfully submits this motion (the “Motion”), pursuant to section 105(a) of title 11 of the United States Code (the “Bankruptcy Code”), made applicable in this Title III case by section 301(a) of PROMESA, PROMESA section 315(a), and Rule 9019 of the Federal Rules of Bankruptcy Procedure, made applicable in this Title III case by section 310 of PROMESA, requesting entry of an order, substantially in the form annexed hereto as **Exhibit A** (the “Proposed Order”), providing, among other things: (i) approval of the Final Settlement and Release Agreement (the “Settlement Agreement”)² by and between PREPA, FOMB, and the Insurers,³ a true and correct copy of which

² Unless otherwise defined herein, all capitalized terms shall have the meanings set forth in the Settlement Agreement.

³ As used herein, “Insurers” shall mean Sciemus Limited; Markel Europe; Lloyd’s Syndicates CIN 318, WRB 1967, and AGM 2488 subscribing to Policy No. B08041439OF14; Lloyd’s Syndicates MIT 3210, KLN 510, MMX 2010, CSL 1084, TMK 1880, AML 2001, and BRT 2987 subscribing to Policy No. B0804Q11263F14; Indian Harbor Insurance Company; PartnerRe Ireland Insurance dac; and Swiss National Insurance Co. Ltd. via local placement with Multinational Insurance Company (collectively the “2014-15 Insurers”); and Lloyd’s Syndicates MIT 3210, KLN 0510, MMX 2010, CSL 1084, TMK 1880, AML 2001, BRT 2987, HDU 0382, CNP 4444/CNP958, CINP 0318, WRB 1967, AMA 1200, and AGM 2488; Markel Bermuda Limited.; Indian Harbor Insurance Company; Swiss National Insurance Co. Ltd. and Aspen Syndicate 4711 via local placement with Multinational Insurance Company; and PartnerRe Ireland Insurance dac (collectively the “2015-16 Insurers”).

is attached hereto as **Exhibit B**; (ii) payment of \$3,500,000 to PREPA by the Insurers in full and complete satisfaction of the Insurers' obligations under the Policies within 30 days of entry of a final, non-appealable order granting the Motion and approving the Settlement Agreement; (iii) that no creditor of PREPA or other party served with notice of and/or with the Motion shall have any claim against Insurers or under the Policies or for any portion of the Settlement Amount; (iv) that Insurers shall not be subject to claims of any Named Insureds, Additional Insureds,⁴ loss payees, mortgagees, or any other parties served with notice of and/or with the Motion with respect to the Policies or payment of the Settlement Amount to PREPA; and (v) no third party served with notice of and/or with the Motion shall be permitted to interfere with the transfer of the Settlement Amount to PREPA or PREPA's use of the Settlement Amount.

Jurisdiction and Venue

1. The United States District Court for the District of Puerto Rico (the "Court") has subject matter jurisdiction over this matter pursuant to PROMESA section 306(a).

2. Venue is proper pursuant to PROMESA section 307(a).

3. The statutory predicate for the relief sought herein is Bankruptcy Code section 105(a), consistent with and in furtherance of PROMESA section 305, made applicable in this Title III case by PROMESA section 301(a), PROMESA section 315(a), and Rule 9019 of the Federal Rules of Bankruptcy Procedure, made applicable in this Title III case by PROMESA section 310.

Background

I. The Damage to the Costa Sur Fuel Tank and the Policies

4. The 2014-15 Insurers issued certain policies of insurance to PREPA as detailed in the Schedule of 2014-15 Insurers attached to the Settlement Agreement with a Policy period of

⁴ As used herein, "Additional Insured" shall mean "Additional Named Assured," "Additional Named Insured," and/or "Additional Insured," as used and/or defined in the Policies (defined herein).

May 15, 2014 to May 15, 2015 (the “2014-15 Policy”). The 2015-16 Insurers issued certain policies of insurance to PREPA as detailed in the Schedule of 2015-16 Insurers attached to the Settlement Agreement with a Policy period of May 15, 2015 to May 15, 2016 (the “2015-16 Policy”). The 2014-15 and 2015-16 Policies are collectively referred to herein as the “Policies.”

5. During the time period when any alleged loss or damage claimed under the Policies occurred, Insurers insured PREPA against all risks of direct physical loss or damage to the property insured as described and/or defined in the Policies pursuant to all terms, conditions, deductibles, exclusions, and endorsements contained in or attached to the Policies.

6. PREPA alleged damage to the reserve fuel oil storage tank (“Tank 1”) at the PREPA South Coast (Costa Sur) thermoelectric power plant (the “Costa Sur Plant”) in Guayanilla, Puerto Rico, which reportedly occurred during both the 2014-15 Policy period and 2015-16 Policy period, including damage reportedly occurring on or about April 17, 2015 and May 25, 2015.

7. The Policies insure PREPA for property damage to, among other things, Tank 1 at the Costa Sur Plant, subject to the Policies’ stated terms, conditions, limits, deductibles, and exclusions.

II. The Litigation

8. On June 4, 2019, Plaintiffs⁵ filed a Complaint commencing the above-captioned adversary proceeding (the “Declaratory Judgment Action”). In the Declaratory Judgment Action, Plaintiffs seek various declarations concerning the parties’ rights, duties and liabilities under the 2014-15 Policy. Plaintiffs allege that they only owe PREPA \$1,726,000 (the “Undisputed Amount”) under the 2014-15 Policy in connection with the property damage to Tank 1. Complaint ¶ 4. Through the Declaratory Judgment Action, Plaintiffs seek declarations, including that they have no further liability under the 2014-15 Policy on account of the damage to Tank 1.

⁵ Not all Insurers are Plaintiffs.

9. On March 6, 2020, Plaintiffs filed their *Second Amended Complaint for Declaratory Judgment and Interpleader* (the “Second Amended Complaint”) [ECF No. 51] in the Declaratory Judgment Action. The Second Amended Complaint added additional defendants, who the Plaintiffs, after due diligence, determined could be Additional Insureds under the 2014-15 Policy. The Second Amended Complaint also added an alternative count of interpleader to enable the Plaintiffs to interplead the funds representing the Undisputed Amount.

10. On April 30, 2020, FOMB, as PREPA’s legal representative, filed in the Declaratory Judgment Action PREPA’s Answer and Affirmative Defenses to the 2014-15 Insurers’ Second Amended Complaint, as well as PREPA’s Counterclaims against the 2014-15 Insurers and PREPA’s Third Party Claims against the 2015-16 Insurers

11. PREPA asserts it is owed substantially more under the 2014-15 Policy and has alleged an additional loss for Tank 1 under the subsequent policy – the 2015-16 Policy.

III. The Settlement Agreement

12. The Parties have engaged in negotiations and mediation in an attempt to resolve the Declaratory Judgment Action and the various claims asserted under the Policies.

13. These efforts have culminated in the Settlement Agreement, pursuant to which the Parties have agreed to fully and finally resolve any and all claims under the Policies.

14. The Settlement Agreement provides, among other things, for the payment of a settlement amount (the “Settlement Amount”) that is comprised of \$2,500,000 being paid by the 2014-15 Insurers and \$1,000,000 being paid by the 2015-16 Insurers and is calculated as net of each respective Policy’s \$2,000,000 deductible obligation, and the full amount of \$3,500,000 will be paid to PREPA as though such deductible obligations were already satisfied. Each respective Insurer’s portion of the Settlement Amount is set forth in the Schedule of 2014-15 Insurers and Schedule of 2015-16 Insurers attached to the Settlement Agreement. The Settlement Amount shall

fully satisfy any and all claims or causes of action whether known or unknown, potential or actual, by PREPA and FOMB against Insurers of any nature under the Policies (as defined in the Settlement Agreement, the “Settled Claims”).

15. The Settlement Agreement also contains certain representations and warranties of PREPA, including that to the extent any lien as to the Settled Claims exists or arises, PREPA will be solely responsible for discharging any such lien or any claim secured thereby through the PREPA Title III case, or if that matter is resolved or closed, PREPA will still bear the responsibility for discharging or otherwise satisfying any lien. To the extent there has been any valid assignment of the Settled Claims, rights under the Policies, and/or the right to receive the Settlement Amount, PREPA further represents, warrants, and acknowledges that the Settlement Agreement has been approved by any assignee, and that Insurers may pay the Settlement Amount directly to PREPA. PREPA further represents and warrants to be solely responsible for discharging through the PREPA Title III case any interest raised by any other Named Insured, Additional Insured, loss payee or mortgagee under the Policies, subject to all of its rights under PROMESA.

16. PREPA is entitled to the full benefits of the Settlement Amount: no other person or entity holds any interest in the damaged property, neither PREPA nor its insurance brokers have issued any certificates of insurance naming any other person or entity as a loss payee,⁶ and PREPA has not assigned the Policies or its claims arising from the damage to Tank 1 to any person or entity. Therefore, no person or entity other than PREPA has any right, title, or interest in any of the proceeds to be paid on account of the damage suffered by PREPA, and PREPA is entitled to the Settlement Amount free and clear of any third-party claims.

⁶ See the declarations of PREPA’s insurance brokers, Fulcro Insurance, Inc. and Willis, attached hereto as **Exhibits D** and **E**, respectively.

17. Further, holders of bonds issued by PREPA (the “Bonds”) pursuant to that certain trust agreement, dated as of January 1, 1974 (as amended and supplemented from time to time, the “Trust Agreement”), between PREPA and U.S. Bank National Association, as successor trustee, do not have a claim against the Insurers arising from the Insurers’ payment of the Settlement Amount to PREPA. Section 707 of the Trust Agreement provides that insurance proceeds remitted to PREPA are to be applied to the repair, replacement or reconstruction of damaged or destroyed property, and not to payment of the Bonds. In pertinent part, section 707 states:

All such policies shall be for the benefit of the Authority, shall be made payable to the Authority and shall be deposited with the Treasurer, and the Treasurer shall have the sole right to receive the proceeds of such policies and to collect and receipt for claims thereunder. The proceeds of any and all such insurance shall be deposited by the Treasurer in the name of the Authority in a Depositary.

Trust Agreement § 707.

18. PREPA will utilize the Settlement Amount to pay for expenditures in connection with its business operations in accordance with its budget as certified by the FOMB.

Relief Requested

19. By this Motion, PREPA and FOMB seek an order providing, among other things:

- (i) approval of the Settlement Agreement by and between PREPA, FOMB, and the Insurers;
- (ii) payment of \$3,500,000 to PREPA by the Insurers in full and complete satisfaction of the Insurers’ obligations under the Policies within 30 days of entry of a final, non-appealable order granting the Motion and approving the Settlement Agreement; (iii) that no creditor of PREPA or other party served with notice of and/or with the Motion shall have any claim against Insurers or under the Policies or for any portion of the Settlement Payment; (iv) that Insurers shall not be subject to claims of any Named Insureds, Additional Insureds, loss payees, mortgagees, or any other parties served with notice of and/or with the Motion with respect to the Policies or payment

of the Settlement Amount to PREPA; and (v) no third party served with notice of and/or with the Motion shall be permitted to interfere with the transfer of the Settlement Amount to PREPA or PREPA's use of the Settlement Amount.

I. Approval of the Settlement Agreement

20. Bankruptcy Code section 363, governing the use of property, does not apply to the Title III case. Defendants seek entry of the requested order pursuant to Bankruptcy Code section 105(a) to carry out PROMESA section 315(a), to prosecute PREPA's Title III case by settling PREPA's insurance claims. Moreover, to the extent, if any, required under PROMESA section 305, the Oversight Board has consented to the relief requested herein.

21. Section 105(a) of the Bankruptcy Code provides, in relevant part, that: "[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a). Here, section 105 carries out PROMESA section 315(a) authorizing the Oversight Board, among other things, to prosecute and submit filings in relation to PREPA's Title III case. Under section 105(a), the Court has expansive equitable powers to fashion any order or decree that carries out PROMESA. *See, e.g., Chinichian v. Campolongo (In re Chinichian)*, 784 F.2d 1440, 1443 (9th Cir. 1986) ("Section 105 sets out the power of the bankruptcy court to fashion orders as necessary pursuant to the purposes of the Bankruptcy Code."); *Bird v. Crown Convenience (In re NWFx, Inc.)*, 864 F.2d 588, 590 (8th Cir. 1988) ("The overriding consideration in bankruptcy . . . is that equitable principles govern."); *In re Cooper Props. Liquidating Tr., Inc.*, 61 B.R. 531, 537 (Bankr. W.D. Tenn. 1986) ("[T]he Bankruptcy Court is one of equity and as such it has a duty to protect whatever equities a debtor may have in property for the benefit of its creditors as long as that protection is implemented in a manner consistent with the bankruptcy laws.").

22. Courts have relied upon section 105 of the Bankruptcy Code to fashion injunctive relief where appropriate. *See, e.g., Texas Comptroller of Public Accounts v. Adams*, 617 B.R. 84, 90-91 (N.D. Tex. 2020); *In re Birthing Fisheries, Inc.*, 300 B.R. 489, 504 (B.A.P. 9th Cir. 2003) (“A discharge or injunction is sometimes negotiated as part of a settlement in order to prevent the bringing of actions based upon the matter which has been settled in the bankruptcy case.”) (citation omitted); *In re The Billing Resource*, No. 07-bk-52890-ASW, 2007 WL 3254835, at *27 (Bankr. N.D. Cal., Nov. 2, 2007). Here, the Proposed Order seeks certain limited injunctive relief as it relates to parties provided with notice of and/or the Motion.

23. Bankruptcy Rule 9019(a) provides a court may approve a debtor’s compromise and settlement, and the First Circuit has emphasized that “[s]tipulations of settlement are favored by the courts, and they will rarely be set aside absent fraud, collusion, mistake or other such factor[.]” *United States v. Sterling Consulting Corp. (In re Indian Motorcycle Co.)*, 289 B.R. 269, 282 (B.A.P. 1st Cir. 2003); *see also Hicks, Muse & Co. v. Brandt (In re Healthco Int’l, Inc.)*, 136 F.3d 45, 50 n.5 (1st Cir. 1998).

24. The standard courts apply for approval of settlements under Rule 9019 is deferential to the debtor’s judgment and merely requires the Court to ensure the settlement does not fall below the lowest point in the range of reasonableness in terms of benefits to the Debtor. *See City of Sanitation, LLC v. Allied Waste Serves. of Mass., LLC (In re Am. Cartage, Inc.)* 656 F.3d 82, 91-92 (1st Cir. 2011) (“The task of both the bankruptcy court and any reviewing court is to canvass the issues and see whether the settlement falls below the lowest point in the range of reasonableness . . . If a trustee chooses to accept a less munificent sum for a good reason (say, to avoid potentially costly litigation), his judgment is entitled to some deference.”) (internal citations and quotations omitted).

25. The approval of settlements is within the court's wide discretion. *See Jeremiah v. Richardson*, 148 F.3d 17, 22 (1st Cir. 1998). However, while a court should apply its own independent judgment to determine whether to approve a settlement, it should also afford deference to the judgment of the trustee or debtor in possession, or in this case the FOMB.⁷ *See In re Receivership Estate of Indian Motorcycle Mfg., Inc.*, 299 B.R. 8, 21 (D. Mass. 2003) (the court should give "substantial deference to the business judgment of a bankruptcy trustee when deciding whether to approve a settlement"); *Hill v. Burdick (In re Moorhead Corp.)*, 208 B.R. 87, 89 (B.A.P. 1st Cir. 1997) ("The [bankruptcy] judge . . . is not to substitute her judgment for that of the trustee, and the trustee's judgment is to be accorded some deference." (citation omitted)); *City Sanitation, LLC, supra v.*; *In re Healthco Int'l, Inc.*, 136 F.3d at 50 n.5. ("the bankruptcy judge . . . is not to substitute her judgment for that of the trustee, and the trustee's judgment is to be accorded some deference. Compromises are favored in bankruptcy.") (internal citations and quotations omitted). Moreover, "[i]n evaluating a Rule 9019 settlement, a bankruptcy court need not 'conduct a mini-trial to determine the probable outcome of any claims waived in the settlement.' Rather, the bankruptcy court must 'apprise [itself] of the relevant facts and law so that [it] can make an informed and intelligent decision.'" *Official Comm. of Unsecured Creditors v. Moeller (In re Age Refining, Inc.)*, 801 F. 3d 530, 541 (5th Cir. 2015) (citations omitted).

26. In determining the reasonableness of a settlement, courts in the First Circuit consider the following four factors: (i) the probability of success in the litigation being compromised; (ii) the difficulties, if any, to be encountered in the matter of collection; (iii) the complexity of the litigation involved, and the expense, inconvenience and delay attending it; and (iv) the paramount interest of the creditors and a proper deference to their reasonable views in the

⁷ The term "trustee" when used in a Bankruptcy Code section incorporated under Title III of PROMESA means the FOMB in a case under Title III. PROMESA § 301(c)(7).

premise. *Jeffrey v. Desmond*, 70 F.3d at 183, 185 (1st Cir. 1995); *see also In re Indian Motorcycle Co.*, 289 B.R. at 283; *In re Laser Realty, Inc. v. Fernandez (In re Fernandez)*, No. 04-cv-10585, 2009 Bankr. LEXIS 2846, at *9 (Bankr. D.P.R. Mar. 31, 2009); *In re C.P. del Caribe, Inc.*, 140 B.R. 320, 325 (Bankr. D.P.R. 1992).

A. Probability of Success

27. In examining the probability of success in the litigation being compromised, courts look to the legal and evidentiary obstacles to litigating the claim. *In re Healthco Int'l, Inc.*, 136 F.3d at 50; *In re Hansen*, No. 12-11907-JMD, 2017 Bankr. LEXIS 1120, at *12 (Bankr. D.N.H. Apr. 25, 2017). In addition, the probability of success is measured against the “definitive, concrete and immediate benefit” that a settlement provides against the uncertainty and delay of litigation. *See Yacovi v. Rubin & Rudman, L.L.P. (In re Yacovi)*, 411 F. App’x. 342, 346-47 (1st Cir. 2011) (citing *In re Healthco Int'l, Inc.*, 136 F.3d at 50. And, “th[e] responsibility of the bankruptcy judge . . . is not to decide the numerous questions of law and fact raised by appellants but rather to canvass the issues and see whether the settlement ‘fall[s] below the lowest point in the range of reasonableness.’” *Id.* at 51. Here, the settlement will provide PREPA an immediate payment of \$3.5 million without the delay or expense of additional litigation.

28. The Declaratory Judgement Action and additional claims asserted under the Policies are complex and fact intensive, and the results are uncertain. While PREPA believes it has good claims under the Policies, the Insurers are well-represented and raise various defenses, including the number of occurrences, the failure to timely notify Insurers of the alleged incidents regarding Tank 1, the failure to timely present a claim to Insurers, the failure to make repairs or replace Tank 1, the failure to implement appropriate mitigation efforts to prevent or minimize any further loss or damage to Tank 1, and the amounts owed under the Policies.

B. Complexity of Litigation Involved and Expense, Inconvenience and Delay Attending It

29. As set forth above, Declaratory Judgment Action and additional claims asserted under the Policies are complex and fact intensive, and the results are uncertain. Proceeding with litigation would be expensive and would divert PREPA's and FOMB's attention from other important matters. Moreover, any litigation would be lengthy and would involve substantial discovery, including numerous depositions. As such, PREPA's and FOMB's decision to avoid the costs, inconvenience, uncertainty and delay should be given substantial deference.

[C]oupled with the bankruptcy court's inquiries and findings regarding the inconvenience and expense to the estate in attending the state court action, and the fact that the compromise would provide creditors with an immediate and certain payment of a large percentage of the outstanding debt, illustrates that the bankruptcy court did not abuse its discretion in approving the compromise.

See Jeffrey, 70 F.3d at 187 (1st Cir. 1995); *Bos v. Jalbert (In re ServiSense.com, Inc.)*, No. 02-cv-11987-PBS, 2003 U.S. Dist. LEXIS 17057, at *16 (D. Mass. Sept. 26, 2003) ("When augmentation of an asset involves protracted investigation or potentially costly litigation, with no guarantee as to the outcome, the trustee must tread cautiously - and an inquiring court must accord him wide latitude should he conclude that the game is not worth the candle.") (quoting *LeBlanc v. Salem (In re Mailman Steam Carpet Cleaning Corp.)*, 212 F.3d 632 (1st Cir. 2000)); *In re Hunt*, No. 2:11-bk-58222, 2016 Bankr. LEXIS 1993, at *9 (Bankr. C.D. Cal. May 12, 2016) ("The certainty that the estate will receive funds now—as opposed to the uncertainty that the estate might obtain a recovery after protracted litigation—weighs in favor of approving the Settlement Agreement.").

C. Interests of Creditors

30. The Settlement Agreement eliminates the risks and uncertainty associated with litigation and results in a substantial payment to PREPA in connection with Tank 1 without the attendant delay of litigation. *See In re Am. Cartage, Inc.*, 656 F.3d at 93 (1st Cir. 2011) ("Finally, the bankruptcy court appropriately took into account the paramount interest of the creditors.

Settling quickly for \$12,000 allowed the trustee to distribute something to creditors. In bankruptcy, as in life, half a loaf is sometimes better than none.”).

II. Related Relief

31. The Proposed Order seeks certain findings and limited injunctive relief. The findings are rooted in: (a) the declarations identified in paragraphs 32 through 35 below that are attached hereto and incorporated herein; (b) the certificates of service and/or process regarding the Second Amended Complaint; (c) the sworn statements in the Proof of Loss executed by PREPA contemporaneously with the Settlement Agreement; and (d) the certificates of service filed or to be filed in connection with this Motion.

32. The 2014-15 Policy lists PREPA Networks, PREPA Net International Wholesale Transport, Inc., the Commonwealth of Puerto Rico, and Secretary of the Treasury c/o Public Insurance Bureau as Additional Insureds. Those parties have been added to the Declaratory Judgment Action as defendants and served with the Second Amended Complaint,⁸ except PREPA Net International Wholesale Transport, Inc., which was served but did not respond and which according to the Declaration of José A. Casillas Aponte of PREPA Networks LLC, attached hereto and incorporated herein as **Exhibit C**, “was merged out of existence when it was merged with PREPA Networks in 2012.” The 2014-15 Policy provides, however, “[a]ll third parties having a direct interest in property insured hereunder as on file with Fulcro Insurance, Inc. and/or Willis, shall automatically be Additional Named Assureds hereunder” and “Permission is granted to Fulcro Insurance, Inc. to issue Certificates of Insurance and/or Evidence of Insurance naming Additional Named Insureds, loss payees and mortgagees.” This Court allowed discovery on the question of whether other Additional Insureds have been designated by Fulcro Insurance, Inc. or

⁸ PREPA Networks, PREPA Net International Wholesale Transport, Inc., the Commonwealth of Puerto Rico, and Secretary of the Treasury c/o Public Insurance Bureau are also being served with a copy of this Motion, as provided in the Certificate of Service.

Willis (the “Brokers”) [ECF No. 64], but in lieu of subpoenas and depositions, the Brokers provided declarations that state that no other persons or entities have been designated as Additional Insureds under the Policies. Those sworn declarations are attached hereto and incorporated herein as **Exhibits D and E**.

33. With respect to loss payees, the 2014-15 Policy does not identify any loss payees, but provides that the Brokers may “issue Certificates of Insurance and/or Evidence of Insurance naming Additional Named Insureds, loss payees and mortgagees.” Through the same process used regarding Additional Insureds, the Brokers have provided declarations (**Exhibits D and E**) stating that there are no additional loss payees. Further, PREPA has represented and warranted, based upon the declarations and due diligence of the Brokers and representatives of other Additional Insureds, that there are no Additional Insureds other than those named as defendants; that there are no loss payees; that the proceeds of the 2014-15 Policy have not been assigned or mortgaged; and that all parties with any interest in the proceeds of the 2014-15 Policy have been named as defendants in the Declaratory Judgment Action and that none of those parties has made any claim to the proceeds of the 2014-15 Policy or objected to the settlement.

34. The 2015-16 Policy lists PREPA Networks, PREPA Net International Wholesale Transport, Inc., the Commonwealth of Puerto Rico, and Secretary of the Treasury c/o Public Insurance Bureau as Additional Insureds. Those parties have been added to the Declaratory Judgment Action as defendants and served with the Second Amended Complaint, except PREPA Net International Wholesale Transport, Inc., which as indicated above was served but did not respond and has “been merged out of existence.” *See Exhibit C*. The 2015-16 Policy provides however “[a]ll third parties having a direct interest in property insured hereunder as on file with Fulcro Insurance, Inc. and/or Willis, shall automatically be Additional Named Assureds hereunder” and “Permission is granted to Fulcro Insurance, Inc. to issue Certificates of Insurance and/or

Evidence of Insurance naming Additional Named Insureds, loss payees and mortgagees.” This Court allowed discovery on the question of whether other Additional Insureds have been designated by the Brokers [ECF No. 64], but in lieu of subpoenas and depositions, the Brokers provided declarations (**Exhibits D and E**) that state that no other persons or entities have been designated as Additional Insureds under the Policies.

35. With respect to loss payees, the 2015-16 Policy does not identify any loss payees, but provides that the Brokers may “issue Certificates of Insurance and/or Evidence of Insurance naming Additional Named Insureds, loss payees and mortgagees.” Through the same process used regarding Additional Insureds, the Brokers have provided declarations (**Exhibits D and E**) stating that there are no additional loss payees. Further, PREPA has represented and warranted, based upon the declarations and due diligence of the Brokers and representatives of other Additional Insureds, that there are no Additional Insureds other than those named as defendants; that there are no loss payees; that the proceeds of the 2015-16 Policy have not been assigned or mortgaged; and that all parties with any interest in the proceeds of the 2015-16 Policy have been named as defendants and that none of those parties has made any claim to the proceeds of the 2015-16 Policy or objected to the settlement.

36. All the Additional Insureds were added as Defendants to the Second Amended Complaint filed by the 2014-15 Insurers on March 6, 2020.

37. Based upon the sworn and uncontested returns of service, the Additional Insureds added as Defendants to the Second Amended Complaint have been properly served with process in this matter. *See* ECF Nos. 87-91.

38. Based upon a submitted sworn declaration, Defendants PREPA Networks, LLC and PREPA Net International Wholesale Transport, Inc. have disavowed any interest or claim to the Settlement Amount. *See* Declaration of José A. Casillas Aponte attached hereto and incorporated

herein as **Exhibit C**. Further, the Commonwealth of Puerto Rico (“Commonwealth”), on behalf of itself and the Secretary of the Treasury, has disavowed any interest or claim to the Settlement Amount.⁹

39. The Proposed Order seeks the following injunctive relief pursuant to Bankruptcy Code section 105:

No creditor of PREPA or other party in interest, in each case to the extent served with notice of and/or with the Motion shall have any claim against Insurers or under the Policies or for any portion of the Settlement Amount. Insurers shall not be subject to claims of any Named Insureds, Additional Insureds, loss payees, mortgagees, or any other parties served with notice of and/or with the Motion with respect to the Policies or payment of the Settlement Amount to PREPA in accordance with this Order

See Proposed Order ¶ 6. Based on (a) the declarations attached hereto and incorporated herein, (b) the certificates of service and/or process regarding the Second Amended Complaint, (c) the sworn statements in the Proof of Loss, and (d) the certificates of service filed or to be filed in connection with this Motion, PREPA and FOMB respectfully submit that the limited injunctive relief sought is appropriate under the circumstances as it is limited to those parties that have received actual notice of this Motion.

Notice

40. PREPA has provided notice of this Motion to (collectively, the “Notice Parties”): (i) the parties to this Adversary Proceeding; (ii) the Office of the United States Trustee for the District of Puerto Rico; (iii) the indenture trustees and/or agents, as applicable, for PREPA’s Bonds; (iv) the administrative agent(s) for lenders under that certain Credit Agreement, dated as of May 4, 2012, among PREPA, Scotiabank de Puerto Rico, and the lenders party thereto, as amended, and that certain Trade Finance Facility Agreement, dated as of July 20, 2012; (v) the statutory

⁹ Defendant the Secretary of the Treasury has not separately appeared in this action, but the Treasury of Puerto Rico is an entity that is a part of the Commonwealth and does not exist separate from the Commonwealth. Therefore, the Commonwealth’s presence in the action also represents and speaks for the Secretary of the Treasury.

unsecured claimholders' committee appointed in this Title III Case; (vi) the Office of the United States Attorney for the District of Puerto Rico; (vii) counsel to AAFAF; (viii) the Puerto Rico Department of Justice; (ix) the Additional Insureds; and (x) all parties who have requested service in the Title III Cases of PREPA and the Commonwealth.

WHEREFORE, PREPA and FOMB respectfully request that the Court enter the Proposed Order granting the relief requested in the Motion and such other and further relief as is just and proper.

This the 6th day of October, 2020.

/s/ Hermann D. Bauer

Hermann D. Bauer

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

<div>In re:</div> <div>THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO,</div> <div>as representative of</div> <div>THE COMMONWEALTH OF PUERTO RICO,</div> <div>Debtor.¹</div>	<div>PROMESA Title III</div> <div>No. 17 BK 3283-LTS</div> <div>(Jointly Administered)</div>
<div>In re:</div> <div>THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO,</div> <div>as representative of</div> <div>PUERTO RICO ELECTRIC POWER AUTHORITY,</div> <div>Debtor.</div>	<div>No. 17 BK 4780-LTS</div>
<div>SCIEMUS LIMITED, et al.</div> <div>Plaintiffs,</div> <div>-v-</div>	<div>Adv. Pro. No. 3:19-AP-369 LTS</div>

¹ The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (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 ("COFINA") (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (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 ("ERS") (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority ("PBA") (Bankruptcy Case No. 19-BK-5233-LTS) (Last Four Digits of Federal Tax ID: 3801). (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO
RICO,

as representative of

PUERTO RICO ELECTRIC POWER
AUTHORITY; PREPA NETWORKS LLC;
PREPA NET INTERNATIONAL WHOLESALE
TRANSPORT, INC.; COMMONWEALTH OF
PUERTO RICO; and SECRETARY OF THE
TREASURY, c/o Public Insurance Bureau,

Defendants.

**[PROPOSED] ORDER GRANTING MOTION OF PUERTO RICO ELECTRIC POWER
AUTHORITY PURSUANT TO BANKRUPTCY CODE SECTION 105, PROMESA
SECTION 315(a), AND BANKRUPTCY RULE 9019 FOR ORDER APPROVING
SETTLEMENT AGREEMENT WITH CERTAIN INSURERS AND GRANTING
RELATED RELIEF**

Upon consideration of: (i) the *Motion of Puerto Rico Electric Power Authority Pursuant to Bankruptcy Code Section 105, PROMESA section 315(a), and Bankruptcy Rule 9019 For Order Approving Settlement Agreement With Certain Insurers and Granting Related Relief* (the “Motion”),² filed by the Financial Oversight and Management Board for Puerto Rico (the “FOMB”), as sole Title III representative of the Puerto Rico Electric Power Authority (“PREPA”) in this Title III case pursuant to section 315(b) of the Puerto Rico Oversight, Management, and Economic Stability Act (“PROMESA”), 48 U.S.C. §§ 2101-2241; (ii) the objections to the Motion, if any; and (iii) the arguments of counsel made, and the evidence proffered or adduced, at the hearing on the Motion or submitted in advance of the hearing on the Motion; and after due deliberation thereon; and good and sufficient cause appearing therefor, it hereby is:

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

FOUND AND DETERMINED THAT:³

A. This Court has subject matter jurisdiction over this matter pursuant to section 306(a) of PROMESA.

B. Venue in this district is proper pursuant to section 307(a) of PROMESA.

C. The relief requested in the Motion, the payment to PREPA of \$3,500,000 in full and complete settlement of PREPA's insurance claims ("Settlement Amount") which arose out of a deflection and collapse of a storage tank roof ("Tank Roof Claim") as well as release of any other claims which did arise during the pendency of the insurance policies ("Policies")⁴ or which could have arisen, is in the best interests of PREPA, its creditors, Insurers,⁵ and any other parties in interest.

D. The 2014-15 Policy lists PREPA Networks, PREPA Net International Wholesale Transport, Inc., the Commonwealth of Puerto Rico, and Secretary of the Treasury c/o Public Insurance Bureau as Additional Insureds.⁶ Those parties have been added to the suit as defendants and served Plaintiffs' Second Amended Complaint, except PREPA Net International Wholesale

³ Findings of fact shall be construed as conclusions of law and conclusions of law shall be construed as findings of fact when appropriate. *See* Fed. R. Bankr. P. 7052.

⁴ "Policies" shall mean Policy numbers B0804Q11263F14, B080414390F14, PRO0043871, B0804Q14310F14, F550936, and B0804Q11098F14, each with a Policy period of May 15, 2014 to May 14, 2015 (the "2014-15 Policy"), and Policy numbers B0804Q11098F15, F550936, B0804Q14390F15, B0804Q11263F15, PRO004387101, B0804Q17103F15, and B0804Q14310F15, each with a Policy period of May 15, 2015 to May 15, 2016 (the "2015-16 Policy").

⁵ As used herein, "Insurers" shall mean Sciemus Limited; Markel Europe; Lloyd's Syndicates MSP 318, WRB 1967, and AGM 2488 subscribing to Policy No. B0804Q11263F14; Lloyd's Syndicates MIT 3210, KLN 510, MMX 2010, CSL 1084, TMK 1880, AML 2001, and BRT 2987 subscribing to Policy No. B080414390F14; Indian Harbor Insurance Company; PartnerRe Ireland Insurance dac; and Swiss National Insurance Co. Ltd. via local placement with Multinational Insurance Company (collectively, "2014-15 Insurers"); and Lloyd's Syndicates MIT 3210, KLN 0510, MMX 2010, CSL 1084, TMK 1880, AML 2001, BRT 2987, HDU 0382, CNP 4444/CNP958, MSP 0318, WRB 1967, AMA 1200, and AGM 2488; Markel Bermuda Limited.; Indian Harbor Insurance Company; Swiss National Insurance Company and Aspen Syndicate 4711 via local placement with Multinational Insurance Company; and PartnerRe Ireland Insurance dac (collectively the "2015-16 Insurers" and together with the 2014-15 Insurers, the "Insurers").

⁶ As used herein, "Additional Insured" shall mean "Additional Named Assured," "Additional Named Insured," and/or "Additional Insured," as used and/or defined in the Policies.

Transport, Inc., which was served with process, but did not respond. José A. Casillas Aponte, of PREPA Networks, LLC gave a declaration stating, among other things, that PREPA Net International Wholesale Transport, Inc. “was merged out of existence when it was merged with PREPA networks in 2012.” The 2014-15 Policy provides, however, “[a]ll third parties having a direct interest in property insured hereunder as on file with Fulcro Insurance, Inc. and/or Willis, shall automatically be Additional Named Assureds hereunder” and “Permission is granted to Fulcro Insurance, Inc. to issue Certificates of Insurance and/or Evidence of Insurance naming Additional Named Insureds, loss payees and mortgagees.” This Court allowed discovery on the question of whether other Additional Insureds have been designated by Fulcro Insurance, Inc. and Willis (the “Brokers”), but in lieu of subpoenas and depositions, the Brokers provided declarations that state no other persons or entities have been designated as Additional Insureds under the Policies. Those sworn declarations were submitted in support of the Motion. With respect to loss payees, the 2014-15 Policy does not identify any loss payees, but provides that the Broker may “issue Certificates of Insurance and/or Evidence of Insurance naming Additional Named Insureds, loss payees and mortgagees.” Through the same process used regarding Additional Insureds, the Brokers have provided declarations stating that there are no additional loss payees. Further, PREPA has represented and warranted, based upon the declarations and due diligence of the Brokers and representatives of other Additional Insureds, that there are no Additional Insureds other than those named as defendants; that there are no loss payees; that the proceeds of the 2014-15 Policy have not been assigned or mortgaged; and that all parties with any interest in the proceeds of the 2014-15 Policy have been named as defendants and that none of those parties has made any claim to the proceeds of the 2014-15 Policy or objected to the settlement or the Motion.

E. The 2015-16 Policy lists PREPA Networks, PREPA Net International Wholesale Transport, Inc., the Commonwealth of Puerto Rico, and Secretary of the Treasury c/o Public Insurance Bureau as Additional Insureds. Those parties have been added to the suit as defendants and served with the Second Amended Complaint, except PREPA Net International Wholesale Transport, Inc., which as stated above was served but did not respond and it has been advised that PREPA Net International Wholesale Transport, Inc. has been merged out of existence. The 2015-16 Policy provides however, “[a]ll third parties having a direct interest in property insured hereunder as on file with Fulcro Insurance, Inc. and/or Willis, shall automatically be Additional Named Assureds hereunder” and “Permission is granted to Fulcro Insurance, Inc. to issue Certificates of Insurance and/or Evidence of Insurance naming Additional Named Insureds, loss payees and mortgagees.” This Court allowed discovery on the question of whether other Additional Insureds have been designated by the Brokers, but in lieu of subpoenas and depositions, the Brokers provided declarations that state that no other persons or entities have been designated as Additional Insureds under the Policies. Those sworn declarations were submitted in support of the Motion. With respect to loss payees, the 2015-16 Policy does not identify any loss payees, but provides that the Brokers may “issue Certificates of Insurance and/or Evidence of Insurance naming Additional Named Insureds, loss payees and mortgagees.” Through the same process used regarding Additional Insureds, the Brokers have provided declarations stating that there are no additional loss payees. Further, PREPA has represented and warranted, based upon the declarations and due diligence of the Brokers and representatives of other Additional Insureds, that there are no Additional Insureds other than those named as defendants; that there are no loss payees; that the proceeds of the 2015-16 Policy have not been assigned or mortgaged; and that all parties with any interest in the proceeds of the 2015-16 Policy have been named as defendants and

that none of those parties has made any claim to the proceeds of the 2015-16 Policy or objected to the settlement or the Motion.

F. All the Additional Insureds were added as Defendants to the Second Amended Complaint filed by the 2014-15 Insurers on March 6, 2020.

G. Based upon the sworn and uncontested returns of service, the Additional Insureds added as Defendants to the Second Amended Complaint have been properly served with process in this matter.

H. Based upon a submitted sworn declaration, Defendants PREPA Networks, LLC and PREPA Net International Wholesale Transport, Inc. have disavowed any interest or claim to the Settlement Amount. Further, the Commonwealth of Puerto Rico (“Commonwealth”), on behalf of itself and the Secretary of the Treasury, has disavowed any interest or claim to the Settlement Amount.⁷

I. Based upon the Certificates of Service filed in connection with the Motion, FOMB and PREPA provided adequate and appropriate notice of the Motion under the circumstances to (i) the parties to this Adversary Proceeding; (ii) the Office of the United States Trustee for the District of Puerto Rico; (iii) the indenture trustees and/or agents, as applicable, for PREPA’s Bonds; (iv) the administrative agent(s) for lenders under that certain Credit Agreement, dated as of May 4, 2012, among PREPA, Scotiabank de Puerto Rico, and the lenders party thereto, as amended, and that certain Trade Finance Facility Agreement, dated as of July 20, 2012; (v) the statutory unsecured claimholders’ committee appointed in this Title III Case; (vi) the Office of the United States Attorney for the District of Puerto Rico; (vii) counsel to AAFAF; (viii) the Puerto

⁷ Defendant the Secretary of the Treasury has not separately appeared in this action, but the Treasury of Puerto Rico is an entity that is a part of the Commonwealth and does not exist separate from the Commonwealth. Therefore, the Commonwealth’s presence in the action also represents and speaks for the Secretary of the Treasury.

Rico Department of Justice; (ix) the Additional Insureds; and (x) all parties who have requested service in the Title III Cases of PREPA and the Commonwealth. No other or further notice of the Settlement Agreement or Motion is required. Such parties served with notice of the Motion have been provided adequate and appropriate notice of the Settlement Agreement and Motion and afforded an opportunity to be heard with respect to the Motion, any potential claim to the Settlement Amount, and all other relief otherwise requested therein.

J. PREPA is the only insured under the Policies who has claimed a right to the Settlement Amount. PREPA has directed the Insurers to pay PREPA the sum of \$3,500,000 on account of the Tank Roof Claim.

K. As per the Settlement Agreement, payment of the Settlement Amount of \$3,500,000 to PREPA shall satisfy all of the Insurers' obligations under the Policies.

THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED THAT:

1. The Motion is GRANTED as set forth herein.
2. The Settlement Agreement, in the form attached to the Motion as **Exhibit B**, is approved in its entirety. The failure to specifically describe or include in this Order any particular provision of the Settlement Agreement shall not diminish or impair the effectiveness of any such provision.
3. With the consent of the FOMB, to the extent, if any, required pursuant to PROMESA section 305, PREPA is authorized (i) to execute, deliver, implement and fully perform any and all obligations, instruments, documents, and papers provided for by the Settlement Agreement, and (ii) to take any and all actions reasonably necessary or appropriate to consummate, complete, execute and implement the Settlement Agreement.

4. This Order and the Settlement Agreement constitute and evidence the valid and binding obligations of the Parties thereto.

5. Insurers shall pay the Settlement Amount of \$3,500,000 to PREPA under the Policies within 30 days of a final order granting the Motion and approving the Settlement Agreement becoming non-appealable.

6. No creditor of PREPA or other party in interest, in each case to the extent served with notice of and/or with the Motion, shall have any claim against Insurers under the Policies or for any portion of the Settlement Amount. Insurers shall not be subject to claims of any Named Insureds, Additional Insureds, loss payees, mortgagees, or any other parties served with notice of and/or with the Motion with respect to the Policies or payment of the Settlement Amount to PREPA in accordance with this Order.

7. Except as expressly stated herein, this Order shall not be interpreted to limit any party's rights and, for the avoidance of doubt, shall not be interpreted to prejudice the rights and interests of holders and/or insurers of PREPA's power revenue bonds. All rights of such parties to take any actions necessary to protect their rights with respect to any action outside the scope of this Order or with respect to any agreement with creditors shall be preserved.

8. No party served with notice of and/or with the Motion shall interfere with the transfer of the Settlement Amount to PREPA or PREPA's use of the Settlement Amount at its discretion.

9. Immediately upon entry by the Court of this Order, PREPA is authorized to take all actions, and to execute all documents, necessary or appropriate, to effectuate the relief granted herein.

10. The Court shall retain jurisdiction to hear and determine all matters arising from or related to this Order or the Settlement Agreement.

Dated: _____

HON. LAURA TAYLOR SWAIN
United States District Judge

EXHIBIT B

FINAL SETTLEMENT AND RELEASE AGREEMENT

This is a Final Settlement and Release Agreement by and between PREPA (defined below), FOMB (defined below), and Insurers.¹

WITNESSETH THAT:

WHEREAS, (utilizing the defined and capitalized terms above and below), PREPA procured the Policies from Insurers, and

WHEREAS, the Policies insure PREPA for all risks of physical loss or damage to, among other things, Tank 1 at the Costa Sur Plant in Guayanilla, Puerto Rico (as defined in the Sworn Statement in Proof of Loss), subject to the Policies' stated terms, conditions, limits, deductibles, and exclusions, and

WHEREAS, on June 30, 2016, The Financial Oversight and Management Board for Puerto Rico (the "FOMB") was established under section 101(b)(1) of Puerto Rico Oversight, Management, and Economic Stability Act ("PROMESA") (48 U.S.C. § 2121(b)(1)) as an entity within the government of the Commonwealth of Puerto Rico, and

WHEREAS, on September 30, 2016, the FOMB designated the Commonwealth of Puerto Rico (the "Commonwealth") as a "Covered Territory" and PREPA as a "covered territorial instrumentality" under PROMESA section 101(d), and

WHEREAS, on May 3, 2017, the FOMB filed a voluntary petition for relief for the Commonwealth pursuant to PROMESA section 304(a) (48 U.S.C. § 2164(a)), commencing the Commonwealth's case under Title III of PROMESA, Case No. 17 BK 3283-LTS, pending in the United States District Court for the District of Puerto Rico ("Commonwealth Title III Case"), and

WHEREAS, on July 2, 2017, the FOMB filed a voluntary petition for relief for PREPA pursuant to PROMESA section 304(a) (48 U.S.C. § 2164(a)), commencing PREPA's case under Title III of PROMESA, Case No. 17 BK 4780-LTS, pending in the United States District Court for the District of Puerto Rico ("PREPA Title III Case"), and

WHEREAS, on March 6, 2020, the 2014-15 Insurers filed their Second Amended Complaint for Declaratory Judgment and Interpleader in their adversary proceeding, Adv. Pro. No. 3:19-AP-369-LTS, pending in the United States District Court for the District of Puerto Rico (the "Court"), regarding the Policies and PREPA's claims under same (the "Declaratory Judgment Action"), and

¹ The 2014-15 Insurers and 2015-16 Insurers, as defined below, are collectively referred to herein as "Insurers." Insurers, PREPA, and FOMB are collectively referred to herein as the "Parties."

WHEREAS, on April 30, 2020, FOMB, as PREPA's legal representative, filed in the Declaratory Judgment Action PREPA's Answer and Affirmative Defenses to the 2014-15 Insurers' Second Amended Complaint, as well as PREPA's Counterclaims against the 2014-15 Insurers and PREPA's Third Party Claims against the 2015-16 Insurers, and

WHEREAS, the Parties wish to fully compromise and settle any and all disputes and claims arising out of or related to the Settled Claims (as defined below) which were submitted under the Policies or which could have been submitted in connection with the alleged damage to Tank 1;

NOW THEREFORE, in full consideration of the foregoing and of the agreements herein contained and intending to be legally bound, the Parties agree as follows:

A. Definitions:

1. "Agreement" shall mean this Final Settlement and Release Agreement.
2. "2014-15 Insurers" shall mean and include Sciemus Limited; Markel Europe; Lloyd's Syndicates CIN 318, WRB 1967, and AGM 2488 subscribing to Policy No. B080414390F14; Lloyd's Syndicates MIT 3210, KLN 510, MMX 2010, CSL 1084, TMK 1880, AML 2001, and BRT 2987 subscribing to Policy No. B0804Q11263F14; Indian Harbor Insurance Company; PartnerRe Ireland Insurance dac; Swiss National Insurance Co. Ltd., Ironshore Insurance Ltd. (Bermuda), and Multinational Insurance Company, and their present and former officers, directors, employees, partners, limited partners, shareholders, owners, members, names, reinsurers, subsidiaries, affiliates, successors, predecessors, parents, sister or related companies or entities of any nature, attorneys, managing agents, claims handlers, consultants, adjusters, accountants or advisors, and any other entity that has been acquired by, merged into, or combined with the aforementioned insuring entities and their past or present subsidiaries, affiliates, successors and assigns.
3. "2015-16 Insurers" shall mean and include Lloyd's Syndicates CNP 4444, CNP 958, CIN 318, WRB 1967, and AMA 1200 subscribing to Policy No. B0804Q14390F15; Markel Bermuda Limited; Lloyd's Syndicates MIT 3210, HDU 382, KLN 510, CSL 1084, MMX 2010, TMK 1880, AML 2001, and BRT 2987 subscribing to Policy No. B0804Q11263F15; Indian Harbor Insurance Company; PartnerRe Ireland Insurance dac; Swiss National Insurance Co. Ltd.; Aspen Syndicate 4711, Lloyd's Syndicate AGM 2488 subscribing to Policy No. B0804Q17103F15, Ironshore Insurance Ltd. (Bermuda), and Multinational Insurance Company, and their present and former officers, directors, employees, partners, limited partners, shareholders, owners, members, names, reinsurers, subsidiaries, affiliates, successors, predecessors, parents, sister or related companies or entities of any nature, attorneys, managing agents, claims handlers, consultants, adjusters, accountants or advisors, and any other entity that has been acquired by, merged into, or combined with the aforementioned insuring entities and their past or present subsidiaries, affiliates, successors and assigns.

4. "PREPA" shall mean the Puerto Rico Electric Power Authority, and its present and former officers, directors, attorneys, employees, assigns, subsidiaries, parents, successors and predecessors, as well as any person or entity that claims to be an insured or in any way insured through PREPA, directly or indirectly, by the Policies, to the extent that Puerto Rico Electric Power Authority, and its present and former officers, directors, attorneys, employees, assigns, subsidiaries, parents, successors and predecessors have the ability, authority, or power to release Settled Claims on their behalf.

5. "FOMB" shall mean the Financial Oversight and Management Board for Puerto Rico as the representative of the Commonwealth and PREPA pursuant to section 315(b) of PROMESA.

6. "Parties" or "Party," as appropriate, shall mean Insurers, PREPA, and/or FOMB.

7. "Person" shall mean an individual, corporation, limited liability company, partnership, association, trust, any other legal entity or organization, and any state, federal or local government or any government or quasi-governmental body or policy subdivision or any agency, department, board or instrumentality thereof.

8. "Policies" shall collectively mean the insurance policies issued by the 2014-15 Insurers to PREPA as detailed in the attached Schedule of 2014-15 Insurers with a Policy period of May 15, 2014 to May 15, 2015 (the "2014-15 Policy") and the 2015-16 Insurers to PREPA as detailed in the attached Schedule of 2015-16 Insurers with a Policy period of May 15, 2015 to May 15, 2016 (the "2015-16 Policy").

9. "Settled Claims" shall mean any and all claims or causes of action whether known or unknown, potential or actual, by PREPA and/or FOMB against Insurers under the Policies, including any property damage claims, repair/replacement claims, sue and labor claims, protection of property claims, extra expense claims, expediting expense claims, pre-judgment interest, post-judgment interest, professional fees, and all other claims, suits, debts, damages (consequential, extra-contractual, exemplary or punitive), attorneys' fees, expenses, statutory fees, penalties, appraisers' fees, auditors' fees, consultants' fees, and/or demands in law or in equity, whether presently known or unknown, asserted or unasserted, whether sounding in tort or in contract or arising under the statutes or administrative regulations of any jurisdiction with respect to any and all past, existing, potential, present or future claims of any type whatsoever or the payment of the Settlement Amount that PREPA or FOMB ever had, now has, or hereafter may have, fully and finally, against Insurers; including any and all claims:

Arising out of or related to any act, omission, representation, or conduct of any sort by Insurers in connection with any alleged damage claimed to have taken place during the 2014-15 or 2015-16 Policy periods or the payment of the Settlement Amount for which PREPA and/or FOMB could seek compensatory, exemplary, extra-contractual, punitive, statutory or other damages or relief, based on alleged breach of contract, bad faith, breach of the duty of good faith and fair dealing, unfair

claim practices, unfair trade practices, deceptive trade practices, any alleged improper act or failure to act in connection with the underwriting, investigation, handling, adjustment or settlement relating to any alleged damage claimed to have taken place during the 2014-15 or 2015-16 Policy periods or the payment of the Settlement Amount, other alleged misconduct or other extra-contractual claims relating to any alleged damage claimed to have taken place during the 2014-15 or 2015-16 Policy periods or the payment of the Settlement Amount, or any obligations arguably arising under any common laws, statutes or administrative regulations of any jurisdiction in any way related to the Policies arising out of or relating to any act, omission, representation, or conduct of any sort in connection with any alleged damage claimed to have taken place during the Policies' periods or the payment of the Settlement Amount, whether or not those claims are now known or unknown, currently exist or subsequently accrue, for any act, omission, representation or conduct of Insurers in connection with the Policies.

With respect to the Settled Claims, it is the Parties' intention to reserve no rights or benefits whatsoever under or in connection with PREPA's and FOMB's claims against Insurers for coverage or benefits under the Policies, in connection with Insurers' claims against PREPA and FOMB raised in the Declaratory Judgment Action, or in connection with the payment of the Settlement Amount, or otherwise in connection with or with respect to any past, present or future claims in any way related to any alleged damage claimed to have taken place during the Policies' periods, or the payment of the Settlement Amount, and to assure each other their respective full and complete peace and freedom from such claims and from all assertions of rights in connection with such claims under the Policies, in the Declaratory Judgment Action, or in connection with the Settlement Amount or any other insurance policy issued by Insurers to PREPA from May 15, 2014 through May 15, 2016 related to the Settled Claims or the payment of the Settlement Amount. It is the Parties' intention for the Settled Claims to settle and extinguish any and all claims PREPA and FOMB ever had, now have, or hereafter may have under the Policies, but to also encompass and extinguish any and all claims any party who receives notice of this Agreement, pursuant to Paragraph E.2. herein, ever had, now have, or hereafter may have under the Policies, to the same extent as any claim of PREPA and/or FOMB. It is also the Parties' intention for the Settled Claims to include release of certain claims, and only those claims, brought by Insurers against PREPA and FOMB in the Declaratory Judgment Action, including for the payment of proceeds under the Policies to PREPA, Interpleader, or regarding the number of occurrences or PREPA's failure to notify and/or present a claim, failure to preserve/mitigate, and failure to repair the tank that is the subject of the Declaratory Judgment Action. The Parties include the identified claims of the Insurers solely to remove any doubt as to complete resolution of the Declaratory Judgment Action and the claims therein.

10. "Settlement Amount" shall mean the amount of \$3,500,000, which is being paid in respect of the Settled Claims. The Settlement Amount is comprised of \$2,500,000 being paid by the 2014-15 Insurers and \$1,000,000 being paid by the 2015-16 Insurers and is calculated as net of each respective Policy's deductible obligation and the full amount of \$3,500,000 will be paid to PREPA as though such deductible obligations were already satisfied. Each respective Insurer's portion of

the Settlement Amount is set forth in the attached Schedule of 2014-15 Insurers and Schedule of 2015-16 Insurers. Insurers' obligations under this Agreement are several and are not joint, meaning each Insurer is only obligated to pay its own part of the Settlement Amount—in the amount and as set forth in the attached Schedules of 2014-15 and 2015-16 Insurers—in accordance with each Insurer's respective insurance contract or several subscription to the 2014-15 and/or 2015-16 Policy. Further, Insurers' counsel is executing this Agreement on behalf of each Insurer, individually, which is consistent with and not in derogation of the individual obligations of each Insurer, which remains several.

B. In consideration of the agreements contained herein:

1. PREPA and FOMB agree, upon receipt of the Settlement Amount by PREPA, to release, remise, covenant not to sue, and forever discharge Insurers irrevocably, unconditionally, fully, finally and forever from and against the Settled Claims.

C. In consideration of the agreements contained herein:

1. PREPA represents, warrants, and acknowledges that to the extent any lien exists or arises in the future as to the Settled Claims, PREPA will be solely responsible for discharging any such lien through the PREPA Title III case, or if that matter is resolved or closed, PREPA will still bear the responsibility for discharging or otherwise satisfying any lien. To the extent there has been any valid assignment of the Settled Claims, rights under the Policies, and/or the right to receive the Settlement Amount, PREPA further represents, warrants, and acknowledges that this Agreement has been approved by any assignee, and that Insurers may pay the Settlement Amount directly to PREPA.

2. Each Party represents, warrants, and acknowledges that, after conducting a reasonable inquiry, it is aware of no other open claims under the Policies issued by the 2014-15 Insurers and the 2015-16 Insurers.

3. PREPA represents, warrants, and acknowledges that to the extent any other Named Insured, Additional Insured², loss payee, and/or mortgagee³ has or may have in the future any interest, legal or otherwise, in the Settlement Amount, PREPA will be solely responsible for discharging any such interest through the PREPA Title III case, or if that matter is resolved or closed, PREPA will still bear the responsibility for discharging or otherwise satisfying any such interest. PREPA and FOMB further represent, warrant, and acknowledge that Insurers may pay the Settlement Amount directly to PREPA, regardless of the existence of any other Named Insured, Additional Insured, loss payee, and/or mortgagee.

² As used herein, "Additional Insured" shall mean "Additional Named Assured," "Additional Named Insured," and/or "Additional Insured," as used and/or defined in the Policies.

³ The terms "Named Insured," "loss payee," and "mortgagee" are used and defined herein in the same manner and hold the same meaning as in the Policies.

4. Each Party represents, warrants, and acknowledges that this Agreement has been fully explained to it, it is represented by counsel, and it understands all of the implications thereof.
5. PREPA and FOMB represent and warrant that the Settlement Amount is reasonable and represents a good faith compromise of the disputed Settled Claims.
6. In making this Agreement, each Party had the opportunity to investigate the Settled Claims that are the subject of this Agreement, and that to the extent this Agreement is made prior to completion of the investigation or upon information that is or may not be complete, each Party does so intentionally and voluntarily in order to resolve the Settled Claims at this time.
7. PREPA represents that it is presently duly and properly authorized to receive payment of the Settlement Amount, and PREPA and FOMB further warrant and represent that payment by Insurers to PREPA is intended to forever extinguish any rights or claims that any Person, loss payee, mortgagee, assignee, Named Insured, and/or Additional Insured receiving notice of this Agreement may have under the Policies and/or with respect to any proceeds or payments made thereunder in regard to the Settled Claims.
8. Hereafter, Insurers shall be forever free of liability for the Settled Claims as if any alleged damage or loss under the Policies had never occurred or otherwise come into existence.
9. PREPA represents and warrants that all statements in the Sworn Proof of Loss are true and correct.

D. In consideration of the agreements contained herein, Insurers agree to:

1. Pay the Settlement Amount to PREPA according to the following schedule:
 - a) Within 30 days of entry of a final, non-appealable order approving the Agreement in a form acceptable to the Insurers, the 2014-15 Insurers will pay \$2,500,000 and the 2015-16 Insurers will pay \$1,000,000.

All payments referenced herein will be made by company check or wire transfer as directed by PREPA. Each Insurer's respective portions of the payments are as set forth in the attached and incorporated Schedule of 2014-15 Insurers and Schedule of 2015-16 Insurers.

No further monies or remuneration of any type beyond the Settlement Amount will be paid by Insurers relating to the Settled Claims.

E. In consideration of the agreements contained herein, the Parties agree that:

1. This Agreement is a compromise between the Parties and shall not be construed as an admission of any Party concerning coverage under the Policies or any other policy of insurance or reinsurance

contract, nor shall this Agreement or any provision hereof be construed as a waiver, modification or retraction of any positions of any Party with respect to the interpretation and application of the Policies or any other policies of insurance or reinsurance contracts that have been taken, are being taken, or may be taken in the future by any of the Parties. Further, this Agreement shall not be construed as an admission by any Party that any loss or damage was or was not suffered during the Policies' applicable periods.

2. PREPA and FOMB shall file a motion seeking approval of this Agreement and related relief (the "Motion"), which incorporates and attaches this Agreement, in both the Commonwealth and PREPA Title III Cases and PREPA will provide notice thereof to all creditors and parties in interest on the master service list in both cases, utilizing Prime Clerk's notice service for all parties registered for electronic service of process and by United States, first class mail, to any party that is not registered for electronic service.

3. Because the purpose of this Agreement is to permanently preclude any action or further action by PREPA, FOMB, and/or any other party receiving notice pursuant to Paragraph E.2 of this Agreement, or any of their agents, assigns or representatives of any capacity, related to the Settled Claims against Insurers under the Policies or otherwise, the Parties agree, covenant, and warrant that should it develop that there are any errors or mistakes, whether legal or factual, and whether mutual or unilateral, that cause this Agreement to be defective, or that cause the release of Insurers to be defective or less than full and complete, then the Parties agree to execute any and all instruments and do any and all things necessary to effectuate a valid Agreement as set forth above. Except as provided by Paragraph E.4., if any portion of this Agreement is declared to be invalid or unenforceable (except para. – requiring payment by Insurers to PREPA or para. B.1 providing release), such portion shall be deemed severed from this Agreement, and the remaining parts shall remain in full force and effect as if the invalid or unenforceable portion has not been part of this Agreement.

4. The terms and conditions of this Agreement are subject in all respects to approval by the Court in the Commonwealth and PREPA Title III Cases pursuant to the Motion. In the event the Court denies the requested relief and/or does not approve the Agreement in its entirety and/or does not enter a final, non-appealable Order approving the Agreement and granting related relief in a form acceptable to Insurers that incorporates the terms and conditions of this Agreement, then the Parties shall meet and confer in good faith in an effort to propose an Order acceptable to the Court. If the Parties are unable to agree or unable to fashion an Order acceptable to the Court, at Insurers' option and/or discretion, either (i) as of such date, the Parties shall be returned to the *status quo ante* prior to their entry into this Agreement, and this Agreement shall terminate and shall be deemed null and void without any continuing force or effect whatsoever, or (ii) the Agreement shall remain in full force and effect.

5. Within 30 days of full payment of the Settlement Amount, the Parties shall jointly cause the Declaratory Judgment Action, including PREPA's Counterclaim and Third Party Claims, to be dismissed with prejudice, with each side to bear their own costs.

6. This Agreement may be executed in counterparts and the signature pages may be executed and exchanged electronically. The text of the Agreement, together with accurate electronic copies of the Parties' signatures, shall have the force and effect of an original between the Parties. This instrument contains the entire agreement between the Parties, the terms of which are contractual and not mere recitals.

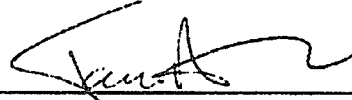
7. The Parties acknowledge and agree that Insurers' payment of the Settlement Amount is a compromise between the Parties, and that the adjustment and settlement of the Settled Claims, and the execution of this Agreement, shall have no precedential or binding effect with respect to the construction of any policy of insurance or reinsurance contract issued or to be issued by Insurers. The payment described above is for the compromise of disputed claims and it is agreed that by entering into this Agreement, the Parties intend to avoid further expenses related to the Declaratory Judgment Action, the Policies, any adjustments, and to buy complete peace with respect to the Settled Claims.

8. This Agreement is a jointly drafted product of arms-length negotiations between the Parties, and they agree that it shall be so construed. As such, neither Party will claim that any ambiguity in this Agreement shall be construed against the other Party.

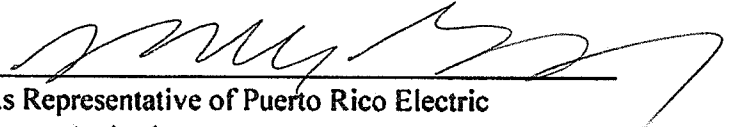
9. No change or modification of this Agreement shall be valid unless it is made in writing and signed by the Parties.

10. PREPA, FOMB, and Insurers each represent and warrant that the signatories to this Agreement have the authority to execute it on behalf of and to bind PREPA, FOMB, and Insurers respectively.

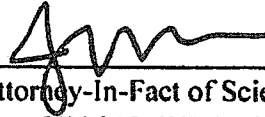
IN WITNESS WHEREOF, the parties have executed this Agreement by a duly authorized representative this 6th day of October, 2020.



As Representative of the Financial Oversight and
Management Board for Puerto Rico



As Representative of Puerto Rico Electric
Power Authority



As Attorney-In-Fact of Sciemus Limited; Markel
Europe; CIN 318; WRB 1967; AGM 2488; MIT
3210; KLN 510; MMX 2010; CSL 1084; TMK
1880; AML 2001; BRT 2987; Indian Harbor
Insurance Company; Ironshore Insurance Ltd.;
PartnerRe Ireland Insurance dac; Swiss National
Insurance Co. Ltd.; CNP 4444; CNP 958; Markel
Bermuda Limited; AMA 1200; HDU 382; and
Aspen Syndicate 4711

SCHEDULE OF 2014-15 INSURERS			
Insurers	Policy/Slip Number	%	Payment in USD
Sciemus Limited	B080414390F14	10.0000%	\$250,000.00
Markel Europe	B080414390F14	3.0000%	\$75,000.00
CIN 318	B080414390F14	2.0000%	\$50,000.00
WRB 1967	B080414390F14	3.5000%	\$87,500.00
AGM 2488	B080414390F14	4.0000%	\$100,000.00
MIT 3210	B0804Q11263F14	3.1169%	\$77,922.50
KLN 510	B0804Q11263F14	3.8961%	\$97,402.50
MMX 2010	B0804Q11263F14	3.8961%	\$97,402.50
CSL 1084	B0804Q11263F14	6.2337%	\$155,842.50
TMK 1880	B0804Q11263F14	3.1169%	\$77,922.50
AML 2001	B0804Q11263F14	5.8442%	\$146,105.00
BRT 2987	B0804Q11263F14	3.8961%	\$97,402.50
Indian Harbor Insurance Company	PRO0043871	20.0000%	\$500,000.00
Ironshore Insurance Ltd.	B0804Q14310F14	10.0000%	\$250,000.00
PartnerRe Ireland Insurance dac	F550936	5.0000%	\$125,000.00
Swiss National Insurance Co. Ltd.	B0804Q11098F14	<u>12.5000%</u>	<u>\$312,500.00</u>
TOTAL		100.00%	\$2,500,000.00

SCHEDULE OF 2015-16 INSURERS			
Insurers	Policy/Slip Number	%	Payment in USD
CNP 4444 (80%) / CNP 958 (20%)	B0804Q14390F15	5.0000%	\$50,000.00
CIN 318	B0804Q14390F15	1.6667%	\$16,667.00
WRB 1967	B0804Q14390F15	2.9167%	\$29,167.00
Markel Bermuda Limited	B0804Q14390F15	2.5000%	\$25,000.00
AMA 1200	B0804Q14390F15	2.0833%	\$20,833.00
MIT 3210	B0804Q11263F15	3.7975%	\$37,975.00
HDU 382	B0804Q11263F15	3.7975%	\$37,975.00
KLN 510	B0804Q11263F15	5.0000%	\$50,000.00
CSL 1084	B0804Q11263F15	6.0758%	\$60,758.00
MMX 2010	B0804Q11263F15	3.7975%	\$37,975.00
TMK 1880	B0804Q11263F15	3.0380%	\$30,380.00
AML 2001	B0804Q11263F15	5.6962%	\$56,962.00
BRT 2987	B0804Q11263F15	3.7975%	\$37,975.00
Indian Harbor Insurance Company	PRO004387101	15.0000%	\$150,000.00
AGM 2488	B0804Q17103F15	3.3333%	\$33,333.00
PartnerRe Ireland Insurance dac	F550936	10.0000%	\$100,000.00
Swiss National Insurance Co. Ltd.	B0804Q11098F15	10.0000%	\$100,000.00
Aspen Syndicate 4711	B0804Q11098F15	2.5000%	\$25,000.00
Ironshore Insurance Ltd.	B080414310F15	10.0000%	\$100,000.00
Total		100.0000%	\$1,000,000.00

EXHIBIT C

**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.	PROMESA Title III Case No. 17-BK-3283-LTS (Jointly Administered)
In re: THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO, as representative of PUERTO RICO ELECTRIC POWER AUTHORITY, Debtor.	Case No. 17-BK-4780-LTS This Court Filing Relates Only to PREPA and Shall Only Be Filed in PREPA's Title III Case (Case No. 17-BK-4780-LTS)
SCIEMUS LIMITED, ET AL., Plaintiffs/Counter-Defendants, v. THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO, as representative of PUERTO RICO ELECTRIC POWER AUTHORITY, Defendants/Counterclaim-Plaintiff.	Adv. Pro. No. 3:19-AP-369-LTS DECLARATORY JUDGMENT ACTION
SCIEMUS LIMITED, ET AL., Plaintiffs, v. PREPA NETWORKS, LLC, PREPA NET INTERNATIONAL WHOLESALE TRANSPORT, INC., COMMONWEALTH OF PUERTO RICO, and	

SECRETARY OF THE TREASURY, c/o Public
Insurance Bureau,

Defendants.

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

PUERTO RICO ELECTRIC POWER AUTHORITY,

Third Party Plaintiff,

v.

ASPEN INSURANCE, as representative for Lloyd's
Syndicates 2623, 623, 3902, 1084, 2010 and 1301; and
LLYOD'S SYNDICATES CNP 4444 and AMA
SYNDICATE

Third Party Defendants.

**DECLARATION ON BEHALF OF AND AS CORPORATE REPRESENTATIVE OF
PREPA NETWORKS LLC**

I, José A. Casillas Aponte, declare as follows pursuant to 28 U.S.C. § 1746:

1. My name is José A. Casillas Aponte. I am over the age of 21 years, and I am fully competent to make this Declaration. I am the Managing Director of PREPA Networks LLC ("PREPA Networks").

2. I am giving this Declaration on personal knowledge and as a corporate representative of PREPA Networks, with full authority to make this declaration on behalf of PREPA Networks.

3. I, on behalf of PREPA Networks, have reviewed the Second Amended Complaint filed in this action ("Complaint"). I have also reviewed the records that are the subject of this Declaration and/or have spoken to all current employees of PREPA Networks with knowledge of

the records. This Declaration is made based upon information known or reasonably available to PREPA Networks.

4. Based on information provided to me, I understand that on June 3, 2019, Insurers Sciemus Limited; Markel Europe; Lloyd's Syndicates MSP 318, WRB 1967, and AGM 2488 subscribing to Policy No. B0804Q11263F14; Lloyd's Syndicates MIT 3210, KLN 510, MMX 2010, CSL 1084, TMK 1880, AML 2001, and BRT 2987 subscribing to Policy No. B080414390F14; Indian Harbor Insurance Company; PartnerRe Ireland Insurance dac; and Swiss National Insurance Co. Ltd. via local placement with Multinational Insurance Company (collectively, "2014-15 Insurers") brought an action for Declaratory Judgment against Puerto Rico Electric Power Authority ("PREPA") arising from damage to a reserve fuel oil storage tank at the PREPA South Coast (Costa Sur) thermoelectric power plant in Guayanilla, Puerto Rico ("PREPA's Claim").¹ The 2014-15 Insurers subscribed to a commercial property insurance policy issued to PREPA for the policy period May 15, 2014 – May 2015 (the "2014-15 Policy"). PREPA Networks and PREPA Net International Wholesale Transport Inc. are listed as additional insureds under the 2014-15 Policy.

5. The 2014-15 Insurers subsequently served PREPA Networks, in connection with this action, and served PREPA Net International Wholesale Transport Inc.

6. I also understand that on April 30, 2020, PREPA filed an Answer and Counterclaim to the 2014-15 Insurers' Complaint, in which PREPA brought counterclaims against the 2014-15 Insurers, and also brought additional claims under a separate commercial property insurance property policy issued to PREPA for the policy period May 15, 2015 – May 15, 2016 (the "2015-

¹ Ironshore Insurance Ltd. is also an insurer on the 2014-15 Policy; however, it is not a party to the referenced litigation.

16 Policy”), to which the following insurers subscribe: Lloyd’s Syndicates MIT 3210, KLN 0510, MMX 2010, CSL 1084, TMK 1880, AML 2001, BRT 2987, HDU 0382, CNP 4444/CNP958, MSP 0318, WRB 1967, AMA 1200, and AGM 2488; Markel Bermuda Limited; Indian Harbor Insurance Company; Swiss National Insurance Company and Aspen Syndicate 4711 via local placement with Multinational Insurance Company; and PartnerRe Ireland Insurance dac (collectively the “2015-16 Insurers”² and together with the 2014-15 Insurers, the “Insurers”).³

7. PREPA Networks and PREPA Net International Wholesale Transport Inc. are listed as additional insureds under the 2015-16 Policy.

8. PREPA Net International Wholesale Transport Inc. was merged out of existence when it was merged with PREPA Networks in 2012.

9. PREPA Networks has no claims under the 2014-15 Policy or the 2015-16 Policy, and as such, PREPA Net International Wholesale Transport Inc. likewise has no claims under the 2014-15 Policy or the 2015-16 Policy.

10. PREPA Networks claims no right to payment of the policy proceeds for PREPA’s Claim.


11. PREPA Networks does not seek coverage from the Insurers for damages to the reserve fuel oil storage tank at the PREPA South Coast (Costa Sur) thermoelectric power plant.

² Some of the 2014-15 Insurers are also 2015-16 Insurers.

³ Ironshore Insurance Ltd. is also an insurer on the 2015-16 Policy and should be included in the defined term “Insurers”; however, it is not a party to the referenced litigation. Insurers on the 2015-16 Policy have been identified to the best of the parties’ ability. Regardless of the identity of the Insurers on the two Policies or if an Insurer identified in paragraphs 4 or 6 above is in error, PREPA Networks nor PREPA Net International Wholesale Transport Inc. have any claims under either the 2014-15 Policy or the 2015-16 Policy.

Pursuant to 28 U.S.C. § 1746, I further declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct.

Executed on this 21st day of September, 2020.



José D. Casillas Aponte, on behalf of and as
corporate representative of PREPA Networks LLC.

EXHIBIT D

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

In re Commonwealth of Puerto Rico, et al.)	Case No. 3:17-BK-3283 (LTS)
Debtor)	
)	Chapter PROMESA Title III
)	Re: 3:17-BK-4780 (LTS)
Sciemus Limited, et al.)	
Plaintiffs)	
)	
v.)	Adv. Proc. No. 3:19-AP-369-LTS
)	
Puerto Rico Electric Power Authority, et al.)	
Defendants)	

**DECLARATION OF [NAME] ON BEHALF OF AND AS
CORPORATE REPRESENTATIVE OF FULCRO INSURANCE, INC.**

I, Ramon A. Perez Blanco, declare as follows pursuant to 28 U.S.C. § 1746:

1) My name is Ramon A. Perez Blanco. I am over the age 21 years, and I am fully competent to make this Declaration. I am President at Fulcro Insurance, Inc. ("Fulcro").

2) I am giving this Declaration on personal knowledge and as a corporate representative of Fulcro, with full authority to make this declaration on behalf of Fulcro.

3) I, on behalf of Fulcro, have reviewed the records that are the subject of this Declaration and/or have spoken to all current employees of Fulcro with knowledge of the records. This Declaration is made based upon information known or reasonably available to Fulcro.

4) Fulcro provided insurance brokerage services to Puerto Rico Electric Power Authority ("PREPA") for the May 15, 2014 to May 15, 2015 policy year regarding the coverage issued to PREPA by Plaintiffs (the "Policy").

5) Fulcro has agreed to search its records for documents described in the following insurance Policy language:

22. ADDITIONAL NAMED ASSURED, LOSS PAYEES AND MORTGAGEES

All third parties having a direct interest in property insured hereunder as on file with Fulcro Insurance, Inc. and/or Willis, shall automatically be Additional Named Assureds hereunder.

All other third parties including, but not limited to, loss payees and mortgagees who have an interest in property insured hereunder as on file with Fulcro Insurance, Inc. and/or Willis shall be automatically named as loss payees, and loss if any under this Policy shall be adjusted and payable in accordance with General Condition 3. and payable to the above loss payees as their interests may appear.

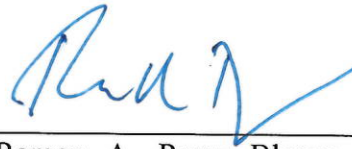
Permission is granted to Fulcro Insurance, Inc. to issue Certificates of Insurance and/or Evidence of Insurance naming Additional Named Insureds, loss payees and mortgagees. Such Certificates and/or Evidences may contain waivers or rights of subrogation.

6) After a diligent and thorough search, done as if Fulcro had been properly served with a subpoena, and consistent with the legal responsibilities attendant to receipt of such subpoena, Fulcro is in possession of no responsive documents, and states that no such records of any entities with a direct interest in PREPA's insured property exist "on file" with Fulcro; Fulcro issued no Certificates of Insurance or Evidence of Insurance for the Policy; and Fulcro is aware of no entities who are loss payees, mortgagees, or additional insureds except those identified in the Policy, which are limited to PREPA Networks, LLC, PREPA Net International Wholesale Transport, Inc., Commonwealth of Puerto Rico, and Secretary of the Treasury, c/o Public Insurance Bureau.

Q.A.B. 7) Fulcro has consulted with all current employees of Fulcro who might have knowledge regarding matters stated in this Declaration.

Pursuant to 28 U.S.C. § 1746, I further declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct.

Executed on this 18 day of May 2020.

A handwritten signature in blue ink, appearing to read 'Ramon A. Perez Blanco', with a long horizontal stroke extending to the right.

Ramon A. Perez Blanco, on behalf of and as
corporate representative of Fulcro Insurance, Inc.

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

<p>In re:</p> <p>THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO,</p> <p>as representative of</p> <p>THE COMMONWEALTH OF PUERTO RICO, et al.,</p> <p>Debtors.</p>	<p>PROMESA Title III</p> <p>Case No. 17-BK-3283-LTS (Jointly Administered)</p>
<p>In re:</p> <p>THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO,</p> <p>as representative of</p> <p>PUERTO RICO ELECTRIC POWER AUTHORITY,</p> <p>Debtor.</p>	<p>Case No. 17-BK-4780-LTS</p> <p>This Court Filing Relates Only to PREPA and Shall Only Be Filed in PREPA's Title III Case (Case No. 17-BK-4780-LTS)</p>
<p>SCIEMUS LIMITED; MARKEL EUROPE; LLOYD'S SYNDICATES MSP 318, WRB 1967, AND AGM 2488 SUBSCRIBING TO POLICY NO. B0804Q11263F14; LLOYD'S SYNDICATES MIT 3210, KLN 510, MMX 2010, CSL 1084, TMK 1880, AML 2001, AND BRT 2987 SUBSCRIBING TO POLICY NO. B080414390F14; INDIAN HARBOR INSURANCE COMPANY; PARTNERRE IRELAND INSURANCE DAC; and SWISS NATIONAL INSURANCE CO. LTD.,</p> <p>Plaintiffs,</p> <p>v.</p> <p>THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO,</p> <p>as representative of</p> <p>PUERTO RICO ELECTRIC POWER AUTHORITY, PREPA NETWORKS, LLC, PREPA NET INTERNATIONAL WHOLESALE TRANSPORT, INC., COMMONWEALTH OF PUERTO RICO, and</p>	<p>Adv. Pro. No. 3:19-AP-369-LTS</p> <p>DECLARATORY JUDGMENT ACTION</p>

SECRETARY OF THE TREASURY, c/o Public
Insurance Bureau,

Defendants.

**DECLARATION OF RAMON A. PEREZ BLANCO ON BEHALF OF AND AS
CORPORATE REPRESENTATIVE OF FULCRO INSURANCE, INC.**

TERRITORY OF PUERTO RICO

I, Ramon A. Perez, declare as follows pursuant to 28 U.S.C. § 1746:

1) My name is Ramon A. Perez Blanco. I am over the age of 21 years, and I am fully competent to make this Declaration. I am the President at Fulcro Insurance, Inc. (“Fulcro”).

2) I am giving this Declaration on personal knowledge and as a corporate representative of Fulcro, with full authority to make this Declaration on behalf of Fulcro.

3) I, on behalf of Fulcro, have reviewed the records that are the subject of this Declaration and/or have spoken to all current employees of Fulcro with knowledge of the records. This Declaration is made based upon information known or reasonably available to Fulcro.

4) Fulcro provided insurance brokerage services to Puerto Rico Electric Power Authority (“PREPA”) for the May 15, 2015 to May 15, 2016 policy year regarding the coverage issued to PREPA by Plaintiffs (the “Policy”).

5) Fulcro has agreed to search its records for documents described in the following insurance Policy language:

22. ADDITIONAL NAMED ASSURED, LOSS PAYEES AND MORTGAGEES

All third parties having a direct interest in property insured hereunder as on file with Fulcro Insurance, Inc. and/or Willis, shall automatically be Additional Named Assureds hereunder.

All other third parties including, but not limited to, loss payees and mortgagees who have an interest in property insured hereunder as on file with Fulcro Insurance, Inc. and/or Willis shall be automatically named as loss payees, and loss if any under this Policy shall be adjusted and payable in accordance with

General Condition 3. and payable to the above loss payees as their interests may appear.


Permission is granted to Fulcro Insurance, Inc. to issue Certificates of Insurance and/or Evidence of Insurance naming Additional Named Insureds, loss payees and mortgagees. Such Certificates and/or Evidences may contain waivers or rights of subrogation.

6) After a diligent and thorough search, done as if Fulcro had been properly served with a subpoena, and consistent with the legal responsibilities attendant to receipt of such subpoena, Fulcro is in possession of no responsive documents, and states that no such records of any entities with a direct interest in PREPA's insured property exist "on file" with Fulcro; Fulcro issued no Certificates of Insurance or Evidence of Insurance for the Policy; and Fulcro is aware of no entities who are loss payees, mortgagees, or additional insureds except those identified in the Policy, which are limited to PREPA Networks, LLC, PREPA Net International Wholesale Transport, Inc., Commonwealth of Puerto Rico, and Secretary of the Treasury, c/o Public Insurance Bureau.

7) Fulcro has consulted with all current employees of Fulcro who might have knowledge regarding matters stated in this Declaration.

Pursuant to 28 U.S.C. § 1746, I further declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct.

Executed on this 21st day of July, 2020.



Ramon A. Perez Blanco, on behalf of and as
corporate representative of Fulcro Insurance, Inc.

EXHIBIT E

STATEMENT OF ANDREW LAVARELLO

I ANDREW LAVARELLO state, to the best of my knowledge and belief, the following:

1. Willis Limited ("Willis") provided insurance brokerage services on the instructions of Global Insurance Agency Inc and Eastern America Insurance Agency for the benefit of Puerto Rico Electric Power Authority ("PREPA") for the policy years 15 May 2014 to 15 May 2015 and 15 May 2015 to 15 May 2016 regarding the All Risks of Direct Physical Loss or Damage including Machinery Breakdown and Boiler Explosion insurance coverage issued to PREPA (such coverage being referred to as the "Policies").
2. I have carried out a reasonable search by looking (using appropriate word searches where necessary) in the places specified in the Appendix and spoken to Nicole Roe, being the other current employee of Willis who may have knowledge of the Policies, for documents relevant to the identification of named assureds, loss payees and mortgagees in connection with the following insurance Policies language:

22. ADDITIONAL NAMED ASSURED, LOSS PAYEES AND MORTGAGEES

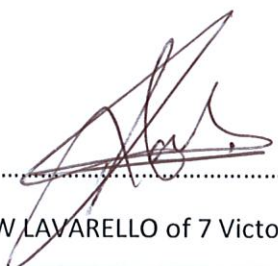
All third parties having a direct interest in property insured hereunder as on file with Fulcro Insurance, Inc. and/or Willis, shall automatically be Additional Named Assureds hereunder.

All other third parties including, but not limited to, loss payees and mortgagees who have an interest in property insured hereunder as on file with Fulcro Insurance, Inc. and/or Willis shall be automatically named as loss payees, and loss if any under this Policy shall be adjusted and payable in accordance with General Condition 3. and payable to the above loss payees as their interests may appear.

Permission is granted to Fulcro Insurance, Inc. to issue Certificates of Insurance and/or Evidence of Insurance naming Additional Named Insureds, loss payees and mortgagees. Such Certificates and/or Evidences may contain waivers or rights of subrogation.

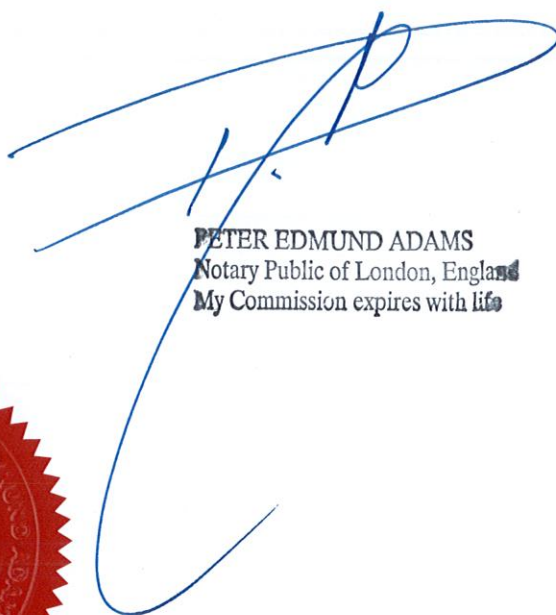
3. Following the above enquiries, I have been unable to locate any documents which record any entities with a direct interest in PREPA's insured property or any Certificates of Insurance or Evidences of Insurance for the Policies. I am therefore not aware of any entities who are loss payees, mortgagees, or additional insureds except those identified in the Policies, which are limited to PREPA Networks, LLC, PREPA Net International Wholesale Transport, Inc., Commonwealth of Puerto Rico, and Secretary of the Treasury, c/o Public Insurance Bureau.
4. I have not made any enquiries of Fulcro Insurance Inc in these respects.

5. I state under the Perjury Act 1911 that the foregoing is true to the best of my knowledge and belief.

Signed:  Date: 7th Aug 2020

ANDREW LAVARELLO of 7 Victoria Mansion, Queens Club Gardens, London W14 9TG

Subscribed and declared at London, England, this 7th August 2020, by Andrew Alfred Lavarello,
holder of current British passport number 535480735, before me:


PETER EDMUND ADAMS
Notary Public of London, England
My Commission expires with life



Appendix

- Hard copy files containing confirmation of cover sent to Global Insurance Agency and Eastern America Assurance Agency held for PREPA for the policy years 15 May 2014 to 15 May 2015 and 15 May 2015 to 15 May 2016
- Relevant folder in Willis' e-filing system for PREPA for the policy years 15 May 2014 to 15 May 2015 and 15 May 2015 to 15 May 2016
- Relevant folder within the L Drive in Willis' document management system for PREPA for the policy years 15 May 2014 to 15 May 2015 and 15 May 2015 to 15 May 2016
- Relevant folder within the Eclipse policy placement and administration system for the Policies