

Bond Case Briefs

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Judge Denies Puerto Rico Fiscal Board Request to Compel Certain Bond Insurer Documents.

SAN JUAN - U.S. Magistrate Judge Judith Dein has denied a request from Puerto Rico's Financial Oversight and Management Board to compel insurers of Puerto Rico Electric Power Authority bonds to provide certain documents related to their request to put the utility into receivership.

Last October, National Public Finance Guarantee Corp., Assured Guaranty Corp., Assured Guaranty Municipal Corp. and Syncora Guarantee Inc. filed a motion seeking relief from the automatic stay on litigation to allow them to have a receiver appointed for Prepa. The motion asserted that they were entitled to seek a receiver because the value of their collateral is diminishing or is being impaired by mismanagement at Prepa.

The receiver motion occurred after the First Circuit Court of Appeals had reversed a prior ruling that the insurers were not entitled to seek a lift of the stay to pursue a receiver for Prepa.

The fiscal oversight board then sought to have the insurers disclose documents reflecting the value of their collateral and documents related to the claim that their collateral has been diminishing in the Title III bankruptcy proceedings under the Puerto Rico Oversight, Management and Economic Stability Act (Promesa) and the causes of the diminution.

In addition, the fiscal board asked the insurers for information related to estimates of the amounts they expected to pay in relation to claims made on their respective Prepa bond insurance policies.

The insurers said they were willing to share documents they decided were sufficient to show the value of the collateral and documents they intended to rely on to demonstrate the collateral's value is diminishing as a result of alleged mismanagement. However, other documents such as the amounts they expected to pay on bond insurance policies, was privileged.

In a ruling Tuesday, Judge Dein said the insurers will provide, within seven days, a list to the board identifying the internal documents the insurers intend to rely on in support on the lift-stay motion, to the extent they will seek to establish the value of collateral securing bonds issued by Prepa.

By Eva Lloréns Vélez on March 6, 2019

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