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Proskauer Obtains Critical Victories in the First Circuit Defending First PROMESA Plan of Adjustment Restructuring over $18 Billion of Puerto Rico's $74 Billion Bond Debt and Initiating Fiscal Recovery

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New York, March 9, 2021 – Proskauer, a leading international law firm, today announced that in four related appeals producing two opinions, the United States Court of Appeals for the First Circuit recently rejected all challenges and affirmed the confirmation of a historic, $18 billion comprehensive plan proposed by our client, the Financial Oversight and Management Board for Puerto Rico, to restructure the debts of the Puerto Rico Sales Tax Financing Corporation (COFINA).

The plan was the product of years of negotiation and litigation, received overwhelming support from every class of creditors (including institutional investors and individual retail bondholders), and restructured nearly 25% of Puerto Rico's aggregate publicly funded debt, making it a critical component of Puerto Rico's fiscal-recovery efforts. The plan also settled a long-standing, colossal dispute between COFINA and the Commonwealth over ownership of certain tax revenues.

The First Circuit dismissed as equitably moot all appeals of the order confirming COFINA's plan of adjustment, reasoning it would be impracticable and inequitable to unwind the substantially consummated and complex plan. The Court explained that, having failed to seek a stay, the challengers allowed the plan to be implemented to a point where it would be inequitable to unwind because the relief sought would require the Court to rescind billions of dollars of COFINA bonds issued under the plan, invalidate tens of thousands of trades made on those bonds and payments made thereunder, restore previously cancelled COFINA bonds, disgorge billions of dollars of distributions to creditors, and order the parties to revisit various litigation settlements that paved the way for the plan's confirmation. Such relief would cripple the Commonwealth's recovery efforts and harm innocent third parties who traded the new COFINA bonds in reliance on the plan and received interest payments. As the First Circuit made clear, the equitable-mootness doctrine exists precisely to avoid such a result.

The Proskauer team included bankruptcy partners Martin J. Bienenstock (argued appeal), Jeffrey W. Levitan, and Brian S. Rosen, litigation partners Timothy W. Mungovan, Mark D. Harris, Michael A. Firestein, Lary Alan Rappaport, and John E. Roberts, litigation associates Lucas Kowalczyk, Shiloh Rainwater, and Adam L. Deming, and senior litigation paralegal Angelo Monforte.

Related Professionals

- **Martin J. Bienenstock**
- **Brian S. Rosen**
- **Timothy W. Mungovan**
  Chairman of the Firm
- **Mark D. Harris**
  Partner
- **Michael A. Firestein**
  Partner
- **Lary Alan Rappaport**
- **John E. Roberts**
  Partner

- **Lucas Kowalczyk**
  Senior Counsel
- **Adam L. Deming**
  Senior Counsel