

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

**WIGBERTO LUGO-MENDER as the duly
appointed Trustee in the liquidation of
EURO PACIFIC INTERNATIONAL
BANK, INC.**

Plaintiff,

vs.

**QENTA, INC.; PETER D. SCHIFF;
BRENT DE JONG; ABC INSURANCE
COMPANY; XYZ INSURANCE
COMPANY; and DEFENDANTS A and B.**

Defendants,

**EURO PACIFIC FUNDS SCC LTD.;
EURO PACIFIC SECURITIES, INC.;
EURO PACIFIC CARD SERVICES LTD.
AND GLOBAL CORPORATE STAFFING
LTD.**

Parties in Interest.

CASE NO.: **25-cv-1501**

VIOLETION OF THE COMMODITY
EXCHANGE ACT, 7 U.S.C. § 1, *et. seq.*;
VIOLETION OF THE RACKETEER
INFLUENCED AND CORRUPT
ORGANIZATIONS ACT, 18 U.S.C. §1962;
DECLARATORY JUDGMENT;
REQUEST FOR PROVISIONAL
REMEDIES PURSUANT TO THE
PUERTO RICO RULES OF CIVIL
PROCEDURE; DEMAND FOR TRIAL BY
JURY

**EMERGENCY MOTION REQUESTING HEARING FOR PROVISIONAL
REMEDIES, INCLUDING TEMPORARY RESTRAINING ORDER,
TO SECURE SATISFACTION OF JUDGMENT**

TO THE HONORABLE COURT:

COMES NOW, Wigberto Lugo-Mender, in his capacity as the duly appointed Trustee in the liquidation of **Euro Pacific International Bank, Inc.** (hereinafter “EPIB”), by and through its undersigned counsel, pursuant to Rule 64 of the Federal Rules of Civil

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Procedure and Rule 56 of the Puerto Rico Rules of Civil Procedure, and hereby respectfully moves this Honorable Court to grant provisional remedies to secure the effectiveness of any judgment that may be rendered in this action.

I. INTRODUCTION AND RELIEF REQUESTED

This motion represents, without question, one of the most significant procedural events in this case. The Trustee appears before this Court at what can only be described as a decisive “do or die” moment. Unless the Court intervenes now and grants the provisional remedies requested herein, there is a grave risk that the very assets at the heart of this litigation --approximately \$50 million in customer-owned funds, securities, and precious metals-- will be dissipated, concealed, or otherwise lost forever. Should that occur, the painstaking efforts undertaken to investigate Defendants Qenta, Inc. and Brent de Jong’s misconduct, to marshal the claims of EPIB’s customers, and to bring this action before this Honorable Court will all be for naught.

The stakes could not be higher. This case is not merely about damages to be calculated after trial. It is about protecting the property of hundreds of innocent customers whose trust was violated and whose assets remain hostage to Defendants’ unlawful control. Without immediate relief, the Trustee will be powerless to safeguard those customer-owned assets, and any ultimate judgment rendered in Plaintiff’s favor will be hollow --an empty victory incapable of delivering a meaningful result.

In addition to the provisional remedies requested, Plaintiff further seeks a Temporary Restraining Order (“TRO”) pursuant to Rule 64 of the Federal Rules of Civil Procedure. A

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TRO is necessary to immediately freeze and preserve the *status quo* pending this Court's adjudication of the requested provisional remedies. Without such urgent relief, there remains a substantial risk that Defendants will further dissipate or conceal customer-owned assets, rendering any judgment in this case unenforceable.

Accordingly, Plaintiff requests that this Court issue an order:

1. Attaching and/or garnishing all EPIB customer monies and assets, estimated at approximately \$50 million, that are currently under Defendants' control;
2. Enjoining and restraining Defendants from alienating, transferring, or otherwise disposing of any monies, assets, or interests belonging to EPIB customers;
3. Requiring Defendants to provide a full accounting of all customer assets received, transferred, or disposed of since September 2022; and,
4. Issuing a Temporary Restraining Order to preserve the *status quo* until a hearing can be held on Plaintiff's motion for provisional remedies.

These provisional remedies are not optional. They are essential to preserve the *status quo*, secure the effectiveness of any judgment that may be rendered, and prevent irreparable harm to EPIB's customers. By granting this motion, the Court will protect both the integrity of this proceeding and the rights of EPIB's customers. To deny such relief, by contrast, would invite irreparable harm, undermine the liquidation process mandated by OCIF, and effectively render this action meaningless.

This is the moment when the Court's equitable power must be exercised to its fullest extent. The Trustee respectfully submits that the time to act is now.

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II. DISCUSSION

A. Legal Standard.

Rule 64 provides that federal courts may grant every remedy available under the law of the state where the court is located to secure satisfaction of a potential judgment. This includes remedies such as attachment, garnishment, replevin, and sequestration. Rule 64 explicitly incorporates state law remedies, allowing federal courts to apply state procedural rules where federal rules are inadequate. See, Cisco Sys. Capital Corp. v. Global Hotel Mgmt., 712 F. Supp. 2d 22 (D.P.R. 2010)

In Puerto Rico, Rule 56 of the Puerto Rico Rules of Civil Procedure, 32 P.R. Laws Ann. App. V. R. 56, authorizes courts to issue provisional remedies, including attachment and garnishment, upon a motion by the claimant. In this regard, Rule 56.1 of the Puerto Rico Rules of Civil Procedure prescribes that:

In every action, before or after entering judgment, and on motion of the claimant, the court may issue any provisional order that may be necessary to secure satisfaction of the judgment. The court may grant an attachment, garnishment, prohibition to alienate, claim and delivery of personal property, receivership, an order to do or to desist from doing any specific act, or it may order any other measure it deems appropriate under the circumstances of the case. In every case in which a provisional remedy is sought, the court shall 84 Rules of Civil Procedure of Puerto Rico consider the interests of all the parties and adjudicate as substantial justice may require.

32 P.R. Laws Ann. App. V. R. 56.1.

The rule requires the movant to demonstrate entitlement to judgment, the risk of irreparable harm or frustration of judgment, and the necessity of a bond to secure damages arising from the attachment. Courts have broad discretion to issue measures deemed

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necessary to secure the effectiveness of judgments. See, Cisco Sys. Capital Corp. v. Global Hotel Mgmt., *supra*; See also, Genie Indus. v. Compresores y Equipos, 2009 U.S. Dist. LEXIS 146618 (D.P.R. 2009)

Hence, Rule 64 permits federal courts to apply Puerto Rico's Rule 56 to grant provisional remedies. The rule ensures that remedies such as attachment and garnishment are available under the circumstances and in the manner provided by Puerto Rico law. See, Cisco Sys. Capital Corp. v. Global Hotel Mgmt., *supra*; See also, Buigas v. LM Waste Servs. Corp., 2021 U.S. Dist. LEXIS 190139. This incorporation of state law remedies is essential to securing satisfaction of potential judgments in federal cases.

For a plaintiff to obtain such relief, it must demonstrate a likelihood of success on the merits. Rule 56 provides courts with flexibility to issue measures necessary to secure judgments, ensuring that the plaintiff's claims are adequately protected. See, Cisco Sys. Capital Corp. v. Global Hotel Mgmt., See also, Rio Grande Cmty. Health Ctr. v. Aremendarez, 2015 U.S. Dist. LEXIS 184381 (D.P.R. 2015)

The plaintiff must also show that there is a risk of irreparable harm, such as a significant risk of dissipation or concealment of funds, which justifies the need for attachment or garnishment to preserve the *status quo*. Genie Indus. v. Compresores y Equipos, *supra*.

Finally, Rule 56 generally mandates the posting of a bond sufficient to cover damages arising from the attachment. This ensures that the defendant is protected against wrongful attachment. Genie Indus. v. Compresores y Equipos, *supra*.

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B. Application of Law to the Instant Case.

In the instant case, Plaintiff clearly satisfies all of the criteria required for the entry of the provisional remedies sought under Rule 64 of the Federal Rules of Civil Procedure and Rule 56 of the Puerto Rico Rules of Civil Procedure.

First, Plaintiff has demonstrated a strong likelihood of success on the merits. The *Verified Complaint* sets forth in detail how Defendants engaged in a fraudulent scheme to misappropriate approximately \$50 million in customer assets belonging to EPIB’s “opt-in” clients. These assets include \$25.46 million in client-designated precious metals, \$5.87 million in mutual fund positions, and \$18.67 million in other funds and securities. Defendants’ wrongful retention and concealment of these customer-owned assets, coupled with their obstruction of the Trustee’s ability to communicate with customers, establishes a *prima facie* case of liability and supports the entry of provisional remedies to preserve the *status quo* until final judgment.

Second, Plaintiff has established the risk of irreparable harm and frustration of judgment. These risks justify not only attachment and garnishment but also the entry of a TRO. Defendants’ ongoing control of critical account data, combined with their history of concealment and dissipation of customer assets, including the disappearance of approximately \$18.5 million in customer-owned gold, demonstrates the immediate danger of further loss absent emergency injunctive relief. The TRO is thus necessary to freeze Defendants’ actions until the Court can conduct a full hearing. Without provisional relief, there exists a substantial risk that Defendants will dissipate, conceal, or otherwise place

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beyond the reach of the Court customer-owned assets that must ultimately be returned to those entitled to them under the OCIF liquidation plan. Courts applying Rule 56 have consistently recognized that the imminent threat of asset dissipation constitutes precisely the type of irreparable harm that justifies attachment, garnishment, and injunctive relief. See, generally, Genie Indus. v. Compresores y Equipos, *supra*.

Third, the requested remedies --attachment/garnishment, injunction against transfers, and a full accounting-- are narrowly tailored to secure the effectiveness of any eventual judgment and to prevent further obstruction of the liquidation process mandated by OCIF. By ordering Defendants to preserve and account for these assets, the Court ensures that customer claims may be properly resolved and that ultimate resolution of this case will not be frustrated by Defendants' misconduct.

Finally, while Rule 56 generally requires the posting of a bond, this case presents unique circumstances warranting either an exemption from that requirement or the imposition of only a nominal bond. The relief requested does not seek to restrain or seize Defendants' legitimately owned property; rather, it seeks to protect assets that belong to EPIB's customers and which Defendants are wrongfully withholding. The Trustee, acting in his fiduciary capacity, seeks only to preserve those customer-owned assets for their rightful beneficiaries. Requiring the posting of a substantial bond under these circumstances would be inequitable, would unnecessarily deplete estate resources, and would undermine the very purpose of the OCIF liquidation process. Courts applying Rule 56 have discretion to adjust

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the bond requirement “as substantial justice may require,” and here, equity strongly favors either waiving the bond altogether or setting only a nominal amount.

Accordingly, Plaintiff respectfully sustains that has met all the criteria for provisional relief, and the Court should grant the requested remedies to ensure the preservation and proper administration of customer-owned assets.

III. CONCLUSION

At this critical juncture, the Court’s intervention is the only means of ensuring that this case achieves a meaningful outcome. The Defendants’ unlawful conduct has placed at risk tens of millions of dollars in customer-owned assets, the very core of the Trustee’s mandate and the subject of this litigation. Without provisional remedies, those assets may be lost forever, leaving the customers and this proceeding without any effective relief.

Rule 64 of the Federal Rules of Civil Procedure and Rule 56 of the Puerto Rico Rules of Civil Procedure provide the authority and discretion for the Court to act decisively. Plaintiff has met every requirement for the entry of attachment, garnishment, injunctive relief, and an accounting of these assets. The preservation of these customer assets is essential to ensuring that the OCIF liquidation process has substance and that this litigation produces a result that can actually be enforced.

For these reasons, the Trustee respectfully urges the Court to: (i) issue a Temporary Restraining Order to preserve the *status quo*; (ii) schedule a prompt hearing to adjudicate Plaintiff’s request for provisional remedies; and, (iii) grant all such remedies as requested,

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including attachment, garnishment, injunctive relief, and an accounting, in order to safeguard the assets of EPIB's customers.

WHEREFORE, in view of the instant motion, the Trustee respectfully requests that this Honorable Court grant the requested TRO and schedule a hearing to adjudicate the request for provisional remedies set forth herein, with whatever other relief it deems just and proper.

WE HEREBY CERTIFY: that on this date, we electronically filed the foregoing motion with the Clerk of the Court using the CM/ECF system that will send notification of such filing to all attorneys of record registered in the use of the CM/ECF system.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico this 16th day of September 2025

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