

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

WIGBERTO LUGO-MENDER, as Trustee for Euro
Pacific International Bank, Inc.

Plaintiff,

v.

QENTA, INC.; PETER D. SCHIFF; BRENT DE
JONG; ABC INSURANCE COMPANY; XYZ
INSURANCE COMPANY; XYZ

Defendants,

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

Parties In Interest.

CIVIL NO.: 25-cv-1501 (PAD)

**QENTA, INC. AND BRENT DE JONG’S RESPONSE TO EMERGENCY MOTION
REQUESTING HEARING FOR PROVISIONAL REMEDIES**

TO THE HONORABLE COURT:

COME NOW, defendants QENTA, INC. (“Qenta”) and MR. BRENT DE JONG (“Mr. de Jong” and collectively “Defendants”), through the undersigned attorney and respectfully allege, pray and request as follows:

INTRODUCTION

The motion is long on rhetoric and short on the substance of the elements required to obtain a prejudgment attachment under Puerto Rico and federal law.

On September 16, 2025, the Plaintiff in the captioned case filed a *Verified Complaint* asserting claims under the Racketeer Influenced and Corrupt Organizations Act (RICO), the Commodity Exchange Act (CEA), and seeking relief under Puerto Rico Rule 56 together with an

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Emergency Motion Requesting Hearing for Provisional Remedies, Including Temporary Restraining Order to Secure Satisfaction of Judgment (“Emergency Request”). [ECF No. 1]

The *Verified Complaint* and accompanying *Emergency Request* are premised on Plaintiff’s unfounded allegations that Defendants engaged in a scheme to misappropriate customer assets during the process of liquidation of Euro Pacific Bank, Inc. (“EPB”). Relying primarily on the Trustee’s declaration attached to the Complaint, Plaintiff baselessly asserts causes of action under civil RICO and the CEA and seeks extraordinary provisional remedies under Federal Rule of Civil Procedure 64 and Puerto Rico Rule of Civil Procedure 56. Specifically, Plaintiff requests broad attachment and garnishment orders, injunctions restraining the transfer of assets, and other measures equivalent to a blanket freeze of nearly fifty million dollars of EPB’s customer assets.

On September 17, 2025, Judge Delgado-Hernández entered an Order denying the *Temporary Restraining Order* (“TRO”), instructing Defendants to respond to the Emergency Request by September 26, 2025 (extended to October 3rd), and referring to Magistrate López-Soler the question whether a Rule 56.4 attachment or prohibition of transfer is warranted. [ECF No. 4]

The application for provisional remedies should be denied as Plaintiff fails to demonstrate irreparable injury, imminent dissipation of assets, likelihood of success on the merits, and that the equities favor its application, and moreover fails to offer to post a meaningful bond.

FACTUAL AND PROCEDURAL BACKGROUND

1. On June 30, 2022, the Office of the Commissioner of Financial Institutions of Puerto Rico (“OCIF”) issued a **Cease-and-Desist Order** against Euro Pacific Bank (“EPB”) for capitalization deficiencies and other regulatory concerns. In that same order, OCIF appointed Plaintiff Wigberto Lugo-Mender as Trustee-Receiver to oversee EPB’s liquidation, placing the institution under direct regulatory supervision. [See ECF. No. 1, Ex. 1]

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2. On August 9, 2022, EPB entered into a **Consent Order for Liquidation** with OCIF, thereby formally consenting to its liquidation. The Consent Order required EPB to prepare and submit a **Voluntary Liquidation Plan, subject to approval by both OCIF and the Trustee**. [See ECF. No. 1, Ex. 2]

3. Pursuant to this mandate, on September 1, 2022, EPB presented, and OCIF approved, a **Voluntary Liquidation Plan**. That plan established the framework for winding down EPB’s operations and incorporated the use of third-party agreements to facilitate liquidation. Specifically, the plan contemplated agreements with Qenta, Inc. and some of its affiliates, among others, to assume certain EBP customer liabilities, acquire EPB’s subsidiaries, and administer designated assets, all under the oversight of OCIF and the Trustee. [See ECF. No. 1, Ex. 7, § 2]

4. On September 30, 2022, EPB, its sole shareholder Peter Schiff, and Purchasers (Qenta, Inc., G-Commerce DMCC, and Responsible Gold Trading DMCC) executed the **Purchase and Assumption Agreement (“PAA”)**. Under this agreement, Qenta and its affiliates agreed to acquire specific assets and subsidiaries, and assume liabilities toward “*Eligible Customers*,” in an effort to retain such customers’ business through Purchaser’s own product offering. The PAA further provided that disputes arising under the agreement would be governed by New York law and resolved exclusively through arbitration under the Rules of the International Chamber of Commerce in New York. [See ECF. No. 1, Ex. 6, § 8.7] Thus, by September 2022 both OCIF and the Trustee had already approved a liquidation framework that safeguarded depositors and defined Qenta’s contractual role through the PAA. That framework governs the handling of customer assets and provides specific remedies for disputes. Against this backdrop, the Trustee’s present

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request for provisional remedies under Rule 56 is unnecessary, inconsistent, and legally improper as it seeks to duplicate protections that already exist under the regulatory orders and the PAA.

5. Under the oversight of the Trustee and OCIF, a process was designed whereby EPB customers were given a choice between receiving cash from the official liquidation process being run by the Trustee ("opt out" customers) or transferring their claims to Qenta and becoming invested in Qenta's products ("opt in" customers). Qenta offers gold-backed financial products, and so the potential to "opt in" was attractive to some customers. On the other hand, customers who did not want to become Qenta customers and wished to have their assets liquidated would make claims in the liquidation process being overseen by the Trustee. Qenta worked together with the Trustee for years to reconcile each class of assets and the corresponding liabilities, only taking temporary control over some of those assets in preparation for the migration (originally thought to be a simpler, shorter process) to then offer customers access to its own products.

6. On February 11, 2025, the Trustee issued a *Preservation of Evidence Letter* to Qenta, Schiff, and others demanding the preservation of all documents and communications related to EPB's liquidation in anticipation of possible litigation. The Trustee's own actions, particularly this hold notice, undermines its current claim of urgency or irreparable harm, confirming that he anticipated litigation at least seven months before seeking extraordinary remedies. [Exhibit 1]

7. On July 11, 2025, after nearly three years of working hand in hand with the Trustee to facilitate the liquidation proceedings, and after partial performance under the PAA, Qenta formally notified the Trustee of its intention to terminate the PAA citing impossibility of performance, frustration of purpose, and breach of good faith by the Trustee, noting that regulatory and operational obstacles prevented completion of the migration of opt in customers to Qenta.

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("Termination Notice") [ECF. No. 1, Ex. 4]. As part of the termination, Qenta offered to **return all assets received**, subject to deductions for termination costs, while retaining certain subsidiaries as provided in the agreement (and to facilitate the liquidation) and declining to pay the remaining purchase price since final closing never occurred. [See ECF No. 1, Ex. 4]

8. On July 21, 2025, codefendant and EBP's sole shareholder, Peter Schiff, acknowledged receipt and consented to Qenta's Termination Notice, thereby making the termination mutual under Section 6.1(a) of the PAA. Schiff's response expressly denied any breach on the part of the Seller, emphasized that Qenta was required to return the assets under its custody, and confirmed that the termination was by mutual agreement. [Exhibit 2]

9. On the same day, the Trustee issued his own response, rejecting Qenta's proposal. The Trustee insisted that the relevant customers (opt in) assets and liabilities remained with Qenta, objected to any liquidation of customer property, and demanded the assets be returned by Qenta to each opt in customer through **individual negotiations**. [Exhibit 3]

10. The Trustee's rejection of Qenta's termination proposal reflects disagreement over the manner in which contractual obligations under the PAA should be performed. Such issues are properly addressed within the **contractual and arbitral framework of the PAA**, not through provisional remedies under Rule 56.

11. Accordingly, any disputes between Plaintiff and Defendants are **contractual in nature**, subject to the arbitration clause and repayment mechanisms of the PAA. They do not constitute grounds for the extraordinary prejudgment remedies contemplated by Rule 56.

LEGAL STANDARDS AND APPLICATION

I. Rule 64 and Puerto Rico Rule 56

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Federal Rule of Civil Procedure 64 incorporates state-law remedies to secure satisfaction of a potential judgment. In Puerto Rico, Rule 56 of the Rules of Civil Procedure governs attachment, garnishment, and injunctions. The First Circuit has long recognized that Puerto Rico is the “functional equivalent of a state” for purposes of Rule 64. *See HMG Prop. Investors, Inc. v. Parque Indus. Río Cañas, Inc.*, 847 F.2d 908, 913 (1st Cir. 1988).

Rule 56 of the Puerto Rico Civil Procedure Rules requires a movant seeking attachment, garnishment, or injunction to establish three elements: (1) likelihood of success on the merits, (2) risk of irreparable harm such as asset dissipation, and (3) the posting of a bond to protect against wrongful attachment. 32 P.R. Laws Ann. App V. R.56.

Courts in this District have consistently required strict compliance with Rule 56, demanding authentic documentary proof and concrete evidence of irreparable harm. *See Cisco Sys. Capital Corp. v. Global Hotel Mgmt., Inc.*, 712 F. Supp. 2d 22, 27 (D.P.R. 2010) (attachment approved only where plaintiff produced notarized promissory note and guaranty); *Anglada v. Chiffert*, 2024 WL 4948680, at 3–4 (D.P.R. Dec. 3, 2024) (denying relief where plaintiff relied on conclusory assertions without documentary evidence); *Rivera Molina v. Casa La Roca, LLC*, 2021 WL 1760108, at 3–4 (D.P.R. May 3, 2021) (provisional remedies require notice, hearing, and bond; *ex parte* relief only with authentic proof of debt or proprietary interest); *MMJ BioPharma Cultivation Inc. v. Bondi*, 2025 WL 949233, at 2 (D.R.I. Mar. 28, 2025) (injunctive relief denied for failure to show irreparable harm).

In this case, the Trustee relies solely on his declaration and generalized assertions of risk, without producing notarized instruments or authentic evidence of dissipation, misappropriation, or fraud by Defendants. His own *Preservation of Evidence Letter* of February 11, 2025, [Exhibit 1]

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shows he anticipated litigation months in advance and ordered records preserved, undercutting his sense of urgency and undermining any claim of imminent harm. Likewise, the *Termination Letter* and Peter Schiff’s acknowledgment demonstrate that Defendants offered to return all assets under the PAA, confirming the contractual dispute on *how best* to marshal the assets, and not about missing or dissipated funds.

The Trustee has also failed to demonstrate likelihood of success on the merits. Plaintiff rests on conclusory allegations of misappropriation and fraud, unsupported by competent evidence, yet seeks sweeping remedies under RICO and the CEA. Courts in this District and the First Circuit have made clear that provisional remedies cannot be based on speculation or unsupported accusations. *See Cisco Sys. Capital Corp. v. Global Hotel Mgmt., Inc.*, 712 F. Supp. 2d 22, 27 (D.P.R. 2010) (authentic proof of liquid, due obligation required); *Esso Standard Oil Co. (P.R.) v. Monroig-Zayas*, 445 F.3d 13, 18 (1st Cir. 2006) (likelihood of success and irreparable harm are indispensable; speculative claims insufficient).

Under Rule 64 and Puerto Rico Rule 56, the Trustee has not carried his evidentiary burden.

What is more, the substantive claims in the Complaint are hopelessly deficient, which reinforces the point that Plaintiff cannot establish a likelihood of success in them.¹

Starting with Count I (violation of CEA), there is no basis for proceeding under the CEA. The only private rights of action under the CEA available against persons who (like Qenta and de Jong) are not “registered entities” or “registered futures associations” arise from (1) “trading

¹ Defendants will be moving to dismiss all Counts in the Complaint pursuant to Rule 12(b)(6) at the time for responding to the Complaint. Without extension, the 21-day response time under Rule 12 lands on October 15 because Defendants were served on September 24.

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advice” dispensed *by the defendant to the plaintiff* “for a fee”, and (2) transactions *by the plaintiff* in *contracts for future delivery of commodities* (futures contracts) and related derivative contracts (such as options and swaps) regulated by the CEA and the Commodity Futures Trading Commission. 7 U.S.C. §§ 25(a)(1), 25(a)(2). *See, e.g., Braman v. CME Group, Inc.*, 149 F. Supp. 3d 874 (N.D. Ill. 2015).

These requirements are extremely specific and circumscribed and they do not apply here. Neither Qenta or de Jong gave anyone paid “trading advice”, and the allegations in the Complaint are geared entirely at transactions in “gold and silver” as direct *commodities*, not as underliers of futures and other derivative contracts (ECF No. 1 ¶ 53). On top of that, the only proper plaintiff in a private action under the CA, *i.e.* the only party with standing, is the party directly harmed by the alleged conduct. *E.g., Gamma Traders – I LLC v. Merrill Lynch Commodities, Inc.*, 41 F.4th 71, 77-78 (2d Cir. 2022) (“CEA plaintiffs must establish that they were personally harmed by the defendant’s fraudulent trading activity”); *see also Harry v. Total Gas & Power N. Am., Inc.*, 889 F.3d 104, 111-12 (2d Cir. 2018). On the Trustee’s allegations, however, the parties supposedly harmed by Qenta’s conduct are not the Trustee or even EPB, but rather *certain EPB customers* (those who agreed to let Qenta satisfy their claims *outside of* the Trustee’s liquidation of EPB). *E.g.*, ECF No. 1 ¶¶ 30, 43. The Trustee has no authority to act for customers, only for the bank. Count I is likely to be dismissed.

Counts II and III allege violations of RICO. The Complaint wholly fails to allege an enterprise, claiming only that “Defendant Qenta and Brent de Jong formed an association-in-fact enterprise.” But the Complaint also alleges that Defendants “conducted or participated in the conduct of” the enterprise and that they “engaged in a pattern of racketeering activity.” ECF No.

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1 P 62-66. These allegations are a classic violation of the distinctness requirement – the alleged RICO “enterprise” must be *distinct from* those alleged to conduct the enterprise’s affairs. *Cedric Kushner Promotions, Ltd. v. King*, 533 U.S. 158, 161 (2001) (a RICO plaintiff “must allege . . . the existence of two distinct entities: (1) a ‘person’; and (2) an ‘enterprise’ that,” unlike the Trustee’s allegations here, “is not simply the same ‘person’ referred to by a different name”).

The Complaint also fails to allege a pattern of racketeering activity. Plaintiff was required to allege at least two statutory predicates for RICO. 18 U.S.C. § 1961(5). It has alleged none. Plaintiff vaguely alleges “financial institution fraud,” without citing a statute. ECF No. 1 ¶ 70. To the extent Plaintiff is referring to 18 U.S.C. § 1344 (the federal statute that pertains to fraud on or involving the assets of a financial institution), Plaintiff fails to identify any “financial institution” within the scope of the statute. The definition of a “financial institution” for purposes of 18 U.S.C. § 1344 is contained in 18 U.S.C. § 20, and EPB does not come within any of the defined categories, nearly all of which are limited to various forms of federally regulated banks.²

Plaintiff similarly alleges “wire fraud” without citing any statute (ECF No. 1 ¶¶ 68-69). To the extent Plaintiff is referring to federal wire fraud under 18 U.S.C. § 1343, Plaintiff fails to allege, as required, specific false statements that Plaintiff used to “obtain [] money or property,” 18 U.S.C. § 1343. *See, e.g., Kousisis v. United States*, 145 S. Ct. 1382, 1390 (2025) (“A defendant commits federal wire fraud . . . only if he both engaged in deception and had money or property as an object of his fraud.” (internal quotation marks omitted)). On the contrary, Plaintiff’s allegations are trained

² The provision of 18 U.S.C. § 20 that ostensibly comes closest is “a **branch** or **agency** of a foreign bank (as such terms are defined in [12 U.S.C. § 3101].” This provision is not satisfied, however, because, separate and apart from whether EPB was a “foreign bank” (which is far from clear), the “agency” or “branch” in question must be in one of the fifty U.S. States or the District of Columbia. 12 U.S.C. § 3101(1), (3), (7), (10). EPB is not alleged to have had and did not have any branch or office in any U.S. state or in the District of Columbia, eliminating any jurisdictional predicate for the application of 18 U.S.C. § 1344.

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mainly at a *contractual* dispute over the reconciliation of customer balances and liabilities under the PAA, *not at a fraudulent scheme*. E.g., ECF No. 1-1 ¶ 16 (Trustee’s admission that Qenta’s alleged “*failure to execute the [PAA] terms*” is central to EPB’s claims” (emphasis added)).

Finally, the Trustee cannot satisfy RICO standing. *See* 18 U.S.C. § 1964(c) (civil RICO claims can be brought only by a “person injured in his business or property by reason” of the RICO violation). Here, the Complaint states that “the Trustee and [opt-in] EPB customers suffered injury,” ECF No. 1 ¶ 73; *see also id.* ¶¶ 43, 86, but the Trustee surely suffered no injury himself, and the Trustee speaks for EPB, not the opt-in customers specifically, and therefore cannot establish standing by raising the alleged injury of these non-parties not before the Court.

Count IV seeks a Declaration under the Declaratory Judgment Act (DJA), 28 U.S.C. § 2201, but the DJA provides a *remedy*, not a substantive underlying cause of action, and the Trustee does not identify any statutory or common-law right that could give rise to the Declaration it seeks. At bottom the Trustee is complaining about Qenta’s performance or alleged lack of performance under the PAA, and therefore a New York arbitration, not this Court, is the proper forum in which to present that dispute. *See* Section II below.

Count V seeks *provisional remedies*, not final relief – and so by definition this is not a claim on the “merits” for purposes of the requirement, in seeking provisional remedies, to show a likelihood of success on the merits. In any event, the request for provisional remedies fails for all the reasons discussed in this response.

II. The PAA’s Forum-Selection and Arbitration Clause

The PAA chooses New York law (both substantive and procedural) and expressly provides that “[a]ll disputes arising out of or in connection with this Agreement shall be” submitted to

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arbitration in New York under the rules of the International Chamber of Commerce. [ECF No. 1, Ex. 6, § 8.7]. This is a broad mandatory arbitration and forum-selection clause. Federal courts consistently hold that such clauses are valid and enforceable. *See M/S Bremen v. Zapata Off-Shore Co.*, 407 U.S. 1, 10 (1972) (forum-selection clauses are “prima facie valid” and enforceable unless shown unreasonable); *Rivera v. Centro Medico de Turabo, Inc.*, 575 F.3d 10, 17–18 (1st Cir. 2009) (mandatory clauses must be enforced; distinction between permissive and exclusive language); *Xiao Wei Yang Catering Linkage in Inner Mongolia Co. v. Inner Mongolia Xiao Wei Yang USA, Inc.*, 150 F. Supp. 3d 71, 80 (D. Mass. 2015) (enforcement is the rule; resisting party bears a “heavy burden”); *Claudio–De León v. Sistema Universitario Ana G. Méndez*, 775 F.3d 41, 48 (1st Cir. 2014) (burden rests squarely on party resisting enforcement).

The Trustee has not attempted to meet that burden. Indeed, he acknowledges that Qenta’s alleged “failure to execute the [PAA] terms is central to EPB’s claims,” ECF No. 1-1 ¶ 16. Yet he seeks to bypass the arbitration clause by invoking Rule 56 remedies in this Court. This approach disregards the parties’ binding contractual commitment and federal policy strongly favoring arbitration and forum-selection agreements. Because the PAA mandates arbitration in New York, disputes arising out of or in connection with the agreement belong in that forum, not before this Court. Provisional remedies under Rule 56 would improperly override a valid arbitration agreement— further showing that Plaintiff cannot establish likelihood of success on the merits.

III. The Complaint Does Not State a Basis for Provisional Remedies Against Defendant Brent de Jong

Plaintiff’s complaint fails to allege wrongful conduct by co-defendant Mr. de Jong **in his personal capacity**. Neither the pleadings nor the Trustee’s declaration attribute to him any act of misappropriation, dissipation, or fraud that could justify provisional remedies under Federal Rule

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64 or PR Rule 56. The First Circuit has made it clear that extraordinary remedies require a prima facie showing of liability tied to the specific defendant. *See Esso Standard Oil Co. (P.R.) v. Monroig-Zayas*, 445 F.3d 13, 18 (1st Cir. 2006) (likelihood of success on the merits is the sine qua non for injunctive relief) *HMG Prop. Investors, Inc. v. Parque Indus. Río Cañas, Inc.*, 847 F.2d 908, 913–14 (1st Cir. 1988) (remedies must be the least onerous necessary to secure judgment). The Trustee has not attempted to make such a showing as to Mr. de Jong individually.

Because Plaintiff has not pleaded or supported any claims directed at Mr. de Jong’s personal conduct, the unfounded sweeping remedies requested cannot lawfully extend to him.

Accordingly, the Court should deny Plaintiff’s request for provisional remedies as to Defendant Brent de Jong.

IV. Failure to post bond

Rules 56.3 and 56.4 make the posting of a bond a **mandatory prerequisite** to any provisional remedy, serving as a due process safeguard against wrongful attachment. The rule provides only three narrow exceptions: (1) authentic notarized documents showing a liquid, due, and payable debt; (2) insolvency with statutory fee exemption plus a strong showing of success and risk of frustration; or (3) post-judgment relief—none of which applies here. 32 L.P.R.A. App. V, R. 56.3-56.4.

Plaintiff concedes that Rule 56 requires a bond but asks this Court to waive the requirement based on “unique circumstances,” claiming the assets belong to EPB customers and that a bond would deplete estate resources. Plaintiff cites no authority for such a waiver, and unsupported appeals to equity cannot override the rule’s explicit mandate.

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Courts in this District have consistently and strictly enforced Rule 56.3. *See *Rivera Molina v. Casa La Roca LLC*, 2021 WL 1760108, at 3–4 (D.P.R. May 3, 2021) (bond, notice, and hearing are integral safeguards; ex parte relief requires authentic documentary proof); *Vera-Vélez v. Díaz-Sánchez*, 2009 WL 2929337, at 1–2 (D.P.R. Sept. 8, 2009) (bond indispensable absent narrow exceptions; bondless remedies unconstitutional); *Becker v. McDermott*, 2022 WL 22258450, at 4–6 (D.P.R. May 31, 2022) (imposing \$10,000 bond where contract not notarized, despite prima facie showing). See also *Connecticut v. Doeher*, 501 U.S. 1, 18 (1991) (prejudgment attachment without safeguards, including security, violates due process).

In the captioned case, Plaintiff has offered no notarized instruments, is not an exempt insolvent litigant, and proceeds pre-judgment. Relying only on unsupported equitable arguments, the Trustee has failed to satisfy Rule 56.3 and therefore is not entitled to relief under Rule 56.4. The Emergency Request therefore must be denied.

CONCLUSION AND REQUESTED RELIEF

The Trustee's *Verified Complaint* and declaration fail to satisfy Rule 64 and Puerto Rico Rule 56. To obtain extraordinary provisional remedies, Plaintiff must show likelihood of success on the merits, irreparable harm, and post bond. *See Cisco Sys. Capital Corp. v. Global Hotel Mgmt., Inc.*, 712 F. Supp. 2d 22, 27 (D.P.R. 2010); *Esso Standard Oil Co. (P.R.) v. Monroig-Zayas*, 445 F.3d 13, 18 (1st Cir. 2006). Plaintiff has done none of these.

The record confirms no irreparable harm. Plaintiff issued a *Preservation of Evidence Letter* on February 11, 2025, anticipating litigation against Qenta, requiring preservation of documents and then waiting seven months before filing this action, contradicting its claim of urgency. If the Trustee genuinely feared dissipation of customer funds, it would have acted promptly. Instead, it

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continued to work with Qenta in the reconciliation of assets and liabilities for nearly three years and then remained idle for months after threatening litigation. This history undermines any assertion that assets are missing or at imminent risk.

Likewise, the *Termination Letter* of July 11, 2025, and Peter Schiff’s acknowledgment of July 21, 2025, show that Qenta offered to return all assets under the PAA. Trustee’s July 21st response rejecting Qenta’s proposal and mandating Qenta to negotiate the return of the assets with customers individually illustrates that the Trustee was not under the impression that the assets were dissipated. It also showed disagreement regarding the manner of return. Beyond the fact that the Trustee offers no explanation for what changed between July 21 (when the Trustee sought to wash its hands of “opt in” customers) and September 16 (when the Trustee filed this action claiming a supposed emergency), such disputes fall within the contractual and arbitral framework of the PAA, not within Rule 56.

Plaintiff’s allegations of conspiracy and misappropriation are unfounded and rest entirely on speculation. Plaintiff provides no evidence of actual dissipation, no valuation of assets, and no proof of collusion between Schiff and Qenta. As the First Circuit has made clear, provisional remedies cannot be based on conjecture. *See Anglada v. Chiffert*, 2024 WL 4948680, at 3–4 (D.P.R. Dec. 3, 2024); *Rivera Molina v. Casa La Roca, LLC*, 2021 WL 1760108, at 3–4 (D.P.R. May 3, 2021).

Imposing an attachment or asset freeze would also frustrate Qenta’s ongoing negotiations with customers, the mechanism the Trustee himself demanded in his response to the *Termination Letter*, contravening the principle of the balance of equities, which Rule 56 requires the Court to

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consider. *See HMG Prop. Investors, Inc. v. Parque Indus. Río Cañas, Inc.*, 847 F.2d 908, 913–14 (1st Cir. 1988) (remedies must be the least onerous necessary to secure judgment).

Finally, the Trustee makes no allegations against co-defendant Mr. de Jong in his personal capacity. Provisional remedies cannot be extended against an individual absent specific claims or proof of personal liability.

For these reasons (lack of proof under Rule 56, existence of contractual and arbitral remedies under the PAA, absence of irreparable harm, failure to show likelihood of success on the merits, and failure to post bond) Plaintiff's Emergency Request must be denied in its entirety.

WHEREFORE, Defendants respectfully request that this Honorable Court deny Plaintiff's Emergency Motion for Provisional Remedies in its entirety, together with such other and further relief as the Court deems just and proper.

I HEREBY CERTIFY that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will notify case participants.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 3rd day of October 2025.

PIRILLO LAW, LLC.
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(787) 957-3077

/s/ Jose E. Nassar-Veglio
Jose E. Nassar-Veglio
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February 11, 2025

VIA ELECTRONIC MAIL bahdebing@yahoo.com; carlos.garduno@genta.com; mark.underwood@genta.com

Mr. Peter D. Schiff
Director and Shareholder
Euro Pacific Int'l Bank, Inc.

Mark Underwood
Head of Compliance
Qenta Inc.

Carlos Garduno, Esq.
General Counsel
Quenta, Inc.

Re: Demand for preservation of evidence.

Dear Messrs. Schiff, Underwood and Garduno:

We write to you on behalf of Wigberto Lugo-Mender, in his capacity as trustee appointed by the Office of the Commissioner of Financial Institutions of Puerto Rico (“OCIF” in its Spanish acronym), in connection with the ongoing liquidation proceeding of Euro Pacific Bank (hereinafter “EBP”), as ordered by OCIF. It has come to our attention that a potential dispute has arisen in connection with the referenced liquidation process and, as such, various records, documents, and/or communications in your possession may be of critical relevance to any potential judicial or administrative proceedings that may materialize from such dispute. Accordingly, this letter serves as a formal demand for the preservation of all evidence related to the liquidation process.

In anticipation of any potential administrative and/or judicial proceeding, you are hereby placed on notice of your obligation to preserve all relevant evidence, whether in hard copy or electronic form, including but not limited to:

- (i) all Electronically Stored Information (“ESI”) generated and/or stored on any and all computers, servers, cloud storage accounts, and cellular telephones owned, used, or controlled by you and/or any official(s) of the corporation or its subsidiaries;



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- (ii) all ESI stored on any and all electronic storage media of any type, including but not limited to hard drives, solid-state drives (“SSDs”), USB drives, external storage devices, computer disks, CD-ROMs, DVDs, flash drives, memory cards, backup tapes, network-attached storage (“NAS”), and online or cloud-based backup services (such as Google Drive, OneDrive, Dropbox, iCloud, or similar services);
- (iii) all emails (including web-based and enterprise email systems); all instant messages, SMS text messages, multimedia messages (MMS), and encrypted messaging app communications (such as WhatsApp, Signal, Telegram, or similar platforms);
- (iv) all social media communications (including posts, direct messages, comments, and metadata from platforms such as Facebook, Twitter/X, Instagram, LinkedIn, TikTok, or any other social networking site); all audio data, including but not limited to voicemail, call recordings, tape/audio recordings, and voice memos; all video recordings, surveillance footage, or live-streamed content; and,
- (v) all photographs and image files, including metadata; all documents, notes, drafts, spreadsheets, logs, databases, system files, structured and unstructured data, or any other electronically stored information (ESI) in any format; and any other documentary material of any nature stored, transmitted, or accessed through any electronic device, digital platform, or Internet-based account.

Failure to preserve these materials may result in legal sanctions, adverse inference instructions, or other judicial remedies. You are further instructed to suspend any routine document destruction policies and to prevent the alteration, deletion, or disposal of any relevant records.

Please confirm in writing within ten (10) days of receipt of this letter that you will comply with this demand and forward a copy of this letter to any and all people and entities with custodial responsibilities for the items referred to herein. Should you have any questions, please direct them to our office immediately.

Cordially,



Eyck O. Lugo

C: Wigberto Lugo-Mender, Esq., CPA

Brent De Jong

Qenta Inc.
777 Post Oak Blvd. #430
Houston, TX 77056
Email: Brent.dejong@qenta.com

CC: Eyck O. Lugo, Esq.
Edge Legal Strategies, PSC
252 Ponce de León Ave.
12 Ramirez Silva St., Esq. Las Acacias
Manatí, PR 00680
Email: elugo@edgelegal.com

Re: Demand for Return of Customer Assets Held by Qenta Inc.

Dear Mr. De Jong,

I am writing as the sole shareholder of Euro Pacific Intl. Bank, Inc. (“EPB”) in response to your letter dated July 11, 2025, notifying the termination of the Purchase and Assumption Agreement (“P&A Agreement”) dated September 30, 2022, between Qenta Inc., G-Commerce DMCC, Responsible Gold Trading DMCC, EPB, and myself, and the subsequent response from the Receiver’s counsel, Eyck O. Lugo, dated July 21, 2025.

While pursuant to (Section 6.1a) I acknowledged and accepted your termination of the P&A Agreement by email on July 20, 2025 and agree with the Receiver that Qenta cannot on its own accord sell or liquidate the customer-owned assets held in its custody, I respectfully disagree with the Receiver’s position that Qenta should retain custody of those assets and independently manage the associated liabilities to EPB’s customers. Instead, I demand the immediate return of all customer assets to EPB for safekeeping as part of the ongoing liquidation process, particularly in light of the reported financial difficulties of Qenta and its subsidiary, G-Commerce DMCC.

The P&A Agreement (Section 2.1(a)) contemplated the transfer of EPB’s assets, including cash, precious metals, securities, and subsidiary shares, to Qenta and its affiliates, along with the assumption of liabilities to Eligible

Customers, upon final Closing. Your termination notice confirms that final Closing never occurred due to alleged third-party complications, asset-split deadlocks, and lack of final regulatory approval from the Office of the Commissioner of Financial Institutions (OCFI) (Termination Notice, Page 1, Section 1). As a result, Qenta never acquired ownership of the assets, valued at approximately \$50 million when initially transferred, but approximately \$80 million at the current appreciated market values.

I concur with the Receiver's assertion that Qenta, as a custodian, is prohibited from selling or disposing of these customer-owned assets without individual customer instructions (Receiver's Letter, Page 2) and remitting 100% of the proceeds to customers. However, I respectfully disagree with the Receiver's directive that Qenta retain custody and independently manage these assets and liabilities. This position is untenable for several reasons:

- **Termination of the P&A Agreement:** The termination of the P&A Agreement (Section 6.1(b) and (c)) voids Qenta's obligation to assume customer liabilities and manage accounts (Section 2.1(a)). Retaining custody without a binding agreement places an improper burden on Qenta and risks mismanagement, particularly given reports that G-Commerce DMCC's is in the process of dissolution and Qenta's inability to handle customer accounts.
- **Financial Instability:** The dissolution of G-Commerce DMCC, the designated assuming institution, and Qenta's reported financial difficulties raise significant concerns about your ability to safeguard customer assets. The Liquidation Plan (Page 2, Section II) mandates that the Receiver ensure the proper disposition of customer assets, which I believe cannot be achieved by delegating custody to a financially distressed entity.
- **Lack of infrastructure:** Based on reliable information and belief, Qenta currently lacks the capacity to manage the customer's assets and liabilities due to its lack of infrastructure, resources, and personal. This makes the return of those assets to the bank imperative, so that the receiver can management them as well as the corresponding customer liabilities.
- **Appreciation of Assets:** Your attempt to retain for Qenta all of the appreciated value of customer's assets since Sept. 30th 2022 raises concerns as to your intention to honor your fiduciary duty to

customers and that you might attempt to unjustly enrich Qenta at their expense.

- **EPB's Responsibility:** As the Receiver's letter acknowledges, the assets are customer-owned, and EPB retains legal title pending proper distribution (Liquidation Plan, Page 3, Section III(2)(a)). The Receiver's decision not to demand the immediate return of these assets undermines EPB's ability to fulfill its obligations under the Liquidation Plan and Consent Order to discharge customer liabilities (Page 2, Section II).

Given these circumstances, I demand that Qenta immediately return all customer assets in its custody, including but not limited to cash, precious metals, securities, and related records, to EPB or a designated account under the Receiver's control. This return is necessary to ensure that EPB, through the Receiver, can safeguard these assets and manage customer liabilities as part of the liquidation process, as mandated by the Liquidation Plan and OCIF. The reported dissolution of G-Commerce DMCC and Qenta's financial challenges heighten the urgency of this demand to protect customer interests. I respectfully urge the Receiver to reconsider the current approach and support this demand to ensure alignment with the Liquidation Plan.

Furthermore, I want to reiterate my objection to Qenta's termination notice proposing to liquidate the assets and return to the bank only what it would have been received had the positions been liquidated at their receipt values on Sept 30, 2022, rather than their highly appreciated current values, net of a termination amount (Termination Notice, Page 3, Section 3). I urge Qenta to comply with this proposal by promptly coordinating with the Receiver to effectuate the return of all assets, without deductions, to EPB. Any attempt to retain any portion of these assets, or otherwise dispose of them, would violate Qenta's custodial duties and expose Qenta to liability for conversion or breach of fiduciary duty under the P&A Agreement (Section 7.1(b)) and applicable laws.

I respectfully request that Qenta confirm in writing, within five (5) business days of this letter, its commitment to the immediate and unconditional return of all transferred assets to EPB. I am copying the Receiver's counsel, Eyck O. Lugo, to ensure transparency and again urge the Receiver to join in this effort to protect EPB's customers, especially since his letter of July 21st specifically reserves "all legal and equitable rights

regarding the return and disposition of assets held by Qenta.” Should Qenta fail to comply, I reserve all my rights to pursue all legal and regulatory remedies to protect customer assets, including coordination with OCIF and other relevant authorities.

Thank you for your prompt attention to this matter. I am available to discuss the logistics of asset return personally to ensure a swift and orderly process.

Sincerely,

Peter D. Schiff
Sole Shareholder, Euro Pacific Intl. Bank, Inc.

CC:

Eyck O. Lugo, Esq. (elugo@edgelegal.com)
Carlos Garduno (Carlos.garduno@genta.com)
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July 21, 2025

BY EMAIL carlos.garduno@genta.com

Mr. Bret de Jong
c/o Mr. Carlos Garduño
Quenta, Inc.
Responsible Gold Trading, DMCC

RE: Notice of Termination of Purchase and Assumption Agreement (hereinafter the “Agreement”).

Dear Mr. De Jong:

We acknowledge receipt of your letter dated July 11, 2025, titled “Notice of Termination of Purchase and Assumption Agreement,” which outlines Qenta Inc. and Responsible Gold Trading DMCC’s formal notification of the termination of the Agreement executed on September 30, 2022, in connection with the acquisition of assets and customer relationships from Euro Pacific International Bank, Inc. (hereinafter “EPB” or “the Bank”),

As counsel to the duly appointed Trustee for the liquidation of EPB, please be advised that my client has at all times exercised its role in strict compliance with the August 9, 2022, OCIF consent order, the subsequently approved liquidation plan, and all regulatory requirements imposed by the Puerto Rico Office of the Commissioner of Financial Institutions (“OCIF” in its Spanish acronym).

The Trustee rejects any suggestion or implication that he has breached his fiduciary duties in administering the liquidation of EPB or in the migration process of account holders to Qenta. The trustee has diligently executed his mandate, including preserving and seeking the optimal disposition of all customer assets in accordance with the OCIF orders and the relevant liquidation plans. The Trustee has also acted consistently in the best interests of all EPB account holders, without partiality, and always subject to the oversight and direction of OCIF.

Please be advised that the Trustee will continue with EPB liquidation process, undeterred by the termination notice received from Qentas, nor has any change or modification in the liquidation process being pursued by the trustee has been adopted or approved by OCIF.



Notwithstanding the foregoing, your letter communicates Qenta's intention to liquidate assets, including precious metals and securities, received from EPB's customers in connection with the Purchase and Assumption Agreement. My client must object emphatically to any such proposal.

The assets in question are customer-owned assets. Consequently, the disposition of these assets must be subject to individual negotiation and direction from the respective account holders. The Trustee sustains that Qenta, having accepted custody or control of these assets with knowledge of this fact, cannot liquidate or otherwise dispose of such assets except strictly in accordance with instructions from the underlying customers and any applicable regulatory directives. Hence, Qenta is required to hold and manage all precious metals and securities in their received form, pending express instructions from the respective customers.

To be clear: our client firmly believes that no liquidation, transfer, or return of such assets or their value shall be undertaken without the written, individualized direction from each relevant customer. The Trustee will promptly advise EPB's customers of this development and direct them to Qentas in connection thereto.

Furthermore, your announced intent to cancel Qenta's acquisition of the different subsidiaries once owned by EPB is not only unwarranted but most likely illegal. As you know, all these entities are separate legal entities, domiciled in jurisdictions outside Puerto Rico and to which none were ever part of the Joint Order of Liquidation executed by OCIF. If Qenta decides to liquidate these entities, it will need to do so in accordance to the laws and regulations detailed in their corporate charters and/or applicable jurisdiction.

The Trustee remains committed to working in good faith with all counterparties, strictly within the boundaries of his mandate and regulatory obligations.

The Trustee expressly reserves all rights, claims, and remedies in connection with the Agreement, the termination, and all underlying or related conduct and transactions, including but not limited to all legal and equitable rights regarding the return and disposition of assets held by Qentas.

Cordially,

s/Eyck O. Lugo
Eyck O. Lugo

C: Javier Micheo, Esq. (j.micheo@dmrpr.com)
Ismael Torres, Esq. (ismaeltorres2002@yahoo.com)
Wigberto Lugo-Mender, Esq. (wigberto@lugomender.com)
Adriana Vega, Esq.