

IN THE CIRCUIT COURT FOR THE
ELEVENTH JUDICIAL CIRCUIT IN AND
FOR MIAMI-DADE COUNTY, FLORIDA

COMPLEX BUSINESS DIVISION

CASE NO. 13-038470 CA 01

FONDO DE PROTECCION SOCIAL
DE LOS DEPOSITOS BANCARIOS
f/k/a FONDO DE GARANTIA DE
DEPOSITOS Y PROTECCION BANCARIA
as liquidator/receiver and foreign representative
for BANCORO, C.A., BANCO UNIVERSAL REGIONAL,

Plaintiff,

v.

FERNANDO LAURIA, an individual,
ISABEL OSIO DE LAURIA, an individual
YERKOY TRADING CORP., a foreign corporation,
INVERSOUTH LIMITED, LTD., a foreign corporation,
MMG BANK CORPORATION, a foreign corporation,
THE BANK OF NEW YORK MELLON CORPORATION,
a Delaware corporation, DEUTSCHE BANK TRUST
COMPANY AMERICAS, a New York
corporation, CITIBANK INTERNATIONAL PLC,
a foreign corporation, and UNKNOWN PERSONS OR
ENTITIES ACTING IN CONCERT,

Defendants.

AMENDED COMPLAINT

Plaintiff, Fondo de Protección Social de los Depósitos Bancarios f/k/a Fondo de Garantía de Depósitos y Protección Bancaria, as liquidator/receiver and foreign representative for Bancoro, C.A., Banco Universal Regional (“FOGADE”), sues Fernando Lauría (“Lauría”), Isabel Lauria de Osio (“Osio”), Yerkoy Trading Corp. (“Yerkoy”), Inversouth Limited (“Inversouth”), MMG Bank Corporation (“MMG Bank”), The Bank of New York Mellon Corporation (“BNY”), Deutsche Bank Trust Company Americas (“Deutsche Bank”), Citibank

International, PLC (“Citibank”) and UNKNOWN PERSONS OR ENTITIES ACTING IN CONCERT (“Unknown Persons or Entities”) (collectively, “Defendants”), alleges:

PARTIES AND PERSONAL JURISDICTION

1. This is an action for damages in excess of \$15,000.00, excluding interest, costs, and attorney’s fees.

2. Plaintiff FOGADE is an instrumentality of the Bolivarian Republic of Venezuela with its principal place of business at Edificio Fogade, Esquina San Jacinto Parroquia Catedral Planta Alta in Caracas, Venezuela. It is the Venezuelan equivalent of the Federal Deposit Insurance Corporation in the United States. FOGADE became liquidator/receiver and foreign representative of Bancoro, C.A., Banco Universal Regional (“Bancoro”), a bank which had been organized and operated under the laws of Venezuela, after the Venezuelan Superintendent of Banks and Other Financial Institutions (the “SUDEBAN”) intervened in Bancoro’s affairs due to Bancoro’s liquidity and solvency problems. Pursuant to the Venezuelan banking laws, FOGADE commenced an administrative proceeding (subject to Venezuelan court supervision), whereby it appointed a liquidation board and named individuals to act as the individual liquidators and foreign representatives of Bancoro and the related companies that formed part of the same economic group. FOGADE was known as *Fondo de Garantía de Depósitos y Protección Bancaria* until March 2, 2011, when it was reconstituted as *Fondo de Protección Social de los Depósitos Bancarios*. Exhibit “A.”

3. FOGADE serves multiple functions in the Venezuelan banking system. First, it is the guarantor of deposits made by the public into regulated banking institutions. Second, it exercises the function of liquidator for failed banking institutions and their related/affiliated companies, in order to marshal and recover assets of the institution and its affiliates sufficient to

satisfy the depositors and the creditors of the institution in accordance with the limits and priorities of repayment established by Venezuelan law. In instances where the assets of the failed institution are insufficient to repay the public's deposits, FOGADE will make such repayment in its role as guarantor, and then as liquidator will investigate, locate and recover diverted assets (such as in this case), in order to complete the repayments to depositors and creditors as part of the liquidation of the banking institution.

4. When during the course of the liquidation FOGADE determines that violations of law have occurred, it may refer such information to the competent law enforcement authorities for their independent criminal investigation, prosecution, and/or extradition.

5. Defendant Lauría is a resident of Miami-Dade County, Florida. At all relevant times, he has acted as attorney-in-fact for Defendant Yerkoj with regard to the events giving rise to this action, exercising full control over that company.

6. Defendant Osio is a resident of Miami-Dade County, Florida. She is Defendant Lauría's wife.

7. Defendant Yerkoj is, upon information and belief, a corporation organized and existing under the laws of Panama with its principal place of business located at Calle 53E Urbanizacion Marbella, MMG Tower, Piso 16, in Panama City, Panama. Upon information and belief, Defendant Lauria owns and/or controls Defendant Yerkoj, which operates as the alter ego of Defendant Lauria.

8. Defendant Inversouth is, upon information and belief, a company organized and existing under the laws of the British Virgin Islands with its principal place of business located at Quomar Complex, 4th Floor, Road Town, Tortola, British Virgin Islands.

9. Upon information and belief, Defendant Lauria owns and/or controls a majority interest in Inversouth, and by extension, a controlling interest in Bancoro (prior to its intervention).

10. Defendant MMG Bank is, upon information and belief, a company organized and existing under the laws of Panama, with its principal place of business located at 10th Floor, 53E Street, Marbella, Panama, Republic of Panama, and licensed in Panama as a financial institution.

11. Defendant BNY is, upon information and belief, a company organized and existing under the laws of Delaware, with its principal place of business located at 111 Sanders Creek Parkway, East Syracuse, NY 13057, and is a licensed financial institution.

12. Defendant Deutsche Bank is, upon information and belief, a company organized and existing under the laws of New York, with its principal place of business located at 5022 Gate Parkway, Suite 200, Jacksonville, Florida, and is a licensed financial institution.

13. Defendant Citibank is, upon information and belief, a company organized and existing under the laws of the United Kingdom, with its principal place of business located at 19th Floor, Citigroup Center, Canada Square, Canary Wharf, London E14 5LB, United Kingdom, and is a licensed financial institution.

14. Defendant(s) Unknown Persons or Entities are, upon information and belief, persons and entities that acted with actual knowledge of, or willful blindness to, Defendants Lauria, Osio, Yerkoy and Inversouth's wrongful activities and have in active concert with these defendants engaged in illicit and fraudulent transfers, including but not limited to actions intended to hide the assets of Bancoro pilfered by these defendants and the interest and other income derived from the stolen bank assets.

15. Personal jurisdiction over Defendants Lauría and Osio is based on their maintaining their domicile in the State of Florida.

16. Personal jurisdiction over Defendants Yerko, Inversouth MMG Bank and Unknown Persons or Entities is founded on Section 48.193(2), Florida Statutes, because, on information and belief, they have engaged and/or are engaging in substantial, not isolated activities within the State of Florida. It is also founded on Section 48.193(1), Florida Statutes, because, upon information and belief, Defendants Yerko and Inversouth have:

- a. Operated, conducted, engaged in, or carried on a business of business venture in this state or have an office or agency in this state; and
- b. Committed a tortious act within this state.

17. Venue is proper because certain acts giving rise to FOGADE's claims occurred in Miami-Dade County, Florida and because two of the Defendants reside here. Moreover, Yerko has employed Lauria to act as its agent in Miami-Dade County, Florida.

GENERAL ALLEGATIONS

18. On October 14, 2010, pursuant to Resolution No. 521.10 published in Venezuela's Official Gazette, SUDEBAN, Venezuela's chief banking regulator, intervened in Bancoro because the latter lacked the required reserves to satisfy its financial obligations and to protect depositors' and creditors' interests. Exhibit "B." SUDEBAN intervened in order to determine whether Bancoro could be rehabilitated so that all depositor and creditor claims would be satisfied and the bank could resume ordinary operations. Under Venezuelan law, interventions of this nature constitute administrative proceedings, subject to the ultimate supervision of the Venezuelan Court.

19. On December 28, 2010, pursuant to Resolution No. 647-10 published in Venezuela's Official Gazette, the Venezuelan government ordered that Bancoro be liquidated. Exhibit "C." FOGADE liquidated Bancoro. *Id.* FOGADE now stands in the shoes of Bancoro and is authorized to take all necessary actions to recoup Bancoro's assets and liquidate its affairs.

20. Through the liquidation process, FOGADE determined that as of at least September 30, 2010 – just two weeks before Bancoro's intervention – Bancoro held positions in the following publicly traded bonds (issued by the Venezuelan government):

ISIN	Value	Description
USP97475AJ95	\$18,500,000.00	The Republic of Venezuela 7.00% U.S. Dollar-Denominated Unsecured Global Bonds Due 2038
USP97475AF73	\$188,554,000.00	The Republic of Venezuela 5.75% U.S. Dollar-Denominated Unsecured Bonds Due 2016
US922646AS37	\$110,700,000.00	The Republic of Venezuela 9.25% U.S. Dollar-Denominated Unsecured Global Bonds Due 2027
XS0444611296	\$75,000,000.00	Petrobonos Senior Unsecured Zero Coupon Bonds due 2011
XS0460546442	\$105,000,000.00	Petrobonos 4.9% Euro-Dollar Bonds due 2014
XS0460546525	\$20,000,000.00	Petrobonos 5.0% Euro-Dollar due 2015

XS0460546798	\$5,800,000.00	Petrobonos 5.125% Euro-Dollar Bonds due 2016
USP97475AP55	\$20,100,000.00	The Republic of Venezuela 8.25% Euro-Dollar Bonds due 2024

21. FOGADE learned that the bonds were unlawfully transferred to a new custodian on or about September 30, 2010.

22. The Bonds are unlawfully being held in an account at Defendant MMG Bank and/or other financial institutions, which accounts are owned and/or controlled by Defendants Yerkoj and Lauria.

23. Lauria, on behalf of Yerkoj, has confirmed that Yerkoj is holding the bonds. In fact, Lauria acknowledges and affirms that he and Yerkoj are not the lawful owners of the Bonds.

24. Lauria, on Yerkoj's behalf, has admitted Yerkoj's role as a simple custodian of the bonds and that Bancoro retains full legal and rightful ownership and title to the Bonds, with all rights and privileges associated therewith, but has refused FOGADE's demand for the return of the bonds (and any interest payments currently being paid on these bonds).

25. Instead, Lauria, on behalf of Yerkoj, and with the assistance of others including Osio, his spouse, has engaged in self help and attempted to hold the bonds hostage, demanding impermissible repayment of an insider debt to Inversouth of 340,000,000 Bolivares Fuertes (approx. US\$54,073,796.26) before Yerkoj voluntarily relinquishes custody of the Bonds. This pre-textual debt, in addition to being improperly due to an insider, was never authorized by Venezuelan banking regulators, as required by law.

26. Lauria and Yerkoj continue to claim that Inversouth is owed money, and therefore Yerkoj/Lauria refuse to relinquish custody of the bonds.

27. Yerkoj and Lauria have stated that they will continue to hold the Bonds until there is a resolution of any dispute between FOGADE/Bancoro and Inversouth.

28. Osio acted in concert with Defendant Lauria, or as an accessory after the fact, to hide, encumber, and launder the proceeds of the Bonds. She has knowingly benefited financially and economically from the laundered and stolen proceeds of the Bonds, used them to fund her lifestyle, and funneled them through and to companies owned and/or controlled by her and/or Defendant Lauria and/or other family members related to Osio and Lauria.

29. After several requests to return the Bonds failed, on November 8, 2010, FOGADE formally instructed Yerkoj and Lauria in writing to immediately transfer the Bonds to Bancoro's account with the Central Bank of Venezuela.

30. Defendants Lauria, Yerkoj, and Inversouth, collectively, still refuse to return the Bonds to Bancoro. Defendants insist on holding the bonds hostage in violation of FOGADE's lawful authority.

31. For three and a half years, Defendants' have deprived Bancoro of the benefits of its ownership interest in the Bonds, including interest payments of more than \$105 million. In fact, Defendants Lauria, Osio, Yerkoj, and Inversouth, are refusing to even disclose where the Bonds' are being held.

32. The Bancoro directors' conduct in the months leading up to the intervention, and immediately thereafter, prompted the Seventy-Third (73rd) Prosecutor's Office at the National Level, Competent on Money Laundering Matters, Financial and Economic Crimes (the "Money Laundering and Financial Crimes Prosecutor") to investigate various former directors, including

Defendant Lauria,. As a consequence of its investigation, and the evidence of bank fraud and other criminal activity, the Money Laundering and Financial Crimes Prosecutor sought a Writ of Ne Exeat against Defendant Lauria. The Twenty-Third Court of First Instance for the Criminal Judicial Division of the Metropolitan Area Judicial Circuit of Caracas, Venezuela issued the writ on October 28, 2010. On December 6, 2010, upon the Money Laundering and Financial Crimes Prosecutor's request, the Twenty-Third Court also issued an Order/Measure for Pretrial Detention for Defendant Lauria ("Arrest Warrant"). See Official Document No. 00-F73-1262-2013, issued November 14, 2013 by the Money Laundering and Financial Crimes Prosecutors Office, confirming the various legal processes (including writs and warrants) currently pending against Defendant Lauria, attached as Exhibit "D".

33. Neither the Writ nor the Arrest Warrant were executed against Defendant Lauria in Venezuela because he fled the country and is a fugitive-at-large.

34. As a result of the bank fraud charges against him, Defendant Lauria is listed in the Lexis-Nexis WorldCompliance Database. This database is one of several easily accessible databases commonly used by worldwide financial institutions as part of their compliance investigations of customers. Since 2011, WorldCompliance has listed that Defendant Lauria was charged with fraud. See Printout of WorldCompliance Information for Fernando Antonio Bartolome Del Sagrado Corazon de Lauria Romero, attached as Exhibit "E".

35. Upon information and belief, Defendant Lauria and others who assisted him, including Defendant Osio, are being investigated by various law enforcement agencies, including U.S. law enforcement agencies, for the theft of the Bonds and the laundering of the proceeds from the Bonds.

36. As a result of the current bank fraud charges, his fugitive status and related criminal history, various U.S. financial institutions have filed multiple Suspicious Activity Reports (“SARs”) with U.S. Department of the Treasury’s Financial Crimes Enforcement Network (“FinCEN”) over several years naming Defendant Lauria, regarding transactions done by him and/or Osio, and companies they control. These SARs have been filed, upon information and belief, by JP Morgan, Capital Bank, and Helm Bank, among other financial institutions.

37. Upon information and belief, Defendants Lauria, Osio, Yerkoy and/or Inversouth, have utilized a web of companies both inside and outside of the U.S., including but not limited to Carribbean Wind Corp., Davos Financial Corporation, Davos Financial Advisors, LLC, Sunset High Pines LLC, Desarrollos Defcon25 C.A., LLC, GB 1110, LLC, Inmobiliaria JPB, C.A. and others to act as intermediaries, agents and/or transferees in order to hide, encumber and launder the Bonds (and the interest payments periodically paid on the Bonds).

38. Moreover, upon information and belief, at least one U.S. financial institution, Regions Bank, closed an account controlled by Lauria and/or Osio, presumably for issues arising from their history and the multiple SARs.

39. Defendants Lauria and Osio, and their related companies, have conspired with various financial institutions in the U.S and abroad to deprive Plaintiff FOGADE of hundreds of millions of dollars.

40. All U.S. financial institutions have access to FinCEN’s database in order to conduct due diligence on banking customers and their related entities.

Financial Institution Defendants

41. Defendant BNY is, upon information and belief, the Paying Agent for interest payments on Bond US922646AS37. Defendant BNY is solely a relief defendant, for purposes of

establishing by Declaratory Judgment that FOGADE, as the liquidator/receiver and foreign representative of Bancoro, is the lawful owner of the Bonds.

42. Defendant Deutsche Bank is, upon information and belief, the Paying Agent for interest payments on Bonds USP97475AP55, USP97475AJ95, and USP97475AF73. Defendant Deutsche Bank is solely a relief defendant, for purposes of establishing by Declaratory Judgment that FOGADE, as the liquidator/receiver and foreign representative of Bancoro, is the lawful owner of the Bonds.

43. Defendant Citibank is, upon information and belief, the Paying Agent for interest payments on Bonds XS0460546442, XS0460546525, and XS0460546798. Defendant Citibank is solely a relief defendant, for purposes of establishing by Declaratory Judgment that FOGADE, as the liquidator/receiver and foreign representative of Bancoro, is the lawful owner of the Bonds.

44. As the governmental entity tasked with liquidating Bancoro and recouping its assets, FOGADE files this action in its capacity as liquidator/receiver and foreign representative for Bancoro.

45. All conditions precedent to FOGADE's filing this lawsuit in its capacity as Bancoro's liquidator/receiver and foreign representative have been fulfilled or waived.

**COUNT I – CONSTRUCTIVE FRAUD
(Against Defendant Yerkoj)**

46. FOGADE re-alleges and incorporates the allegations of paragraphs 1 through 45 as if fully set forth herein.

47. In 2010, Bancoro and Yerkoj entered into a custody agreement whereby Yerkoj would act as a custodian of the Bonds belonging to Bancoro.

48. Yerkey has recognized its fiduciary role as custodian and that the Bonds belong to Bancoro. Such recognition has occurred on at least two occasions in written form, on October 27, 2010 and November 11, 2010.

49. As the custodian holding the Bonds on Bancoro's behalf, Yerkey owed Bancoro a fiduciary or confidential duty to act in Bancoro's best interests and protect Bancoro's interests in the Bonds.

50. Yerkey has taken unconscionable advantage of Bancoro. Yerkey breached and/or abused its fiduciary or confidential duty to Bancoro by refusing to relinquish control over the Bonds, refusing to recognize Bancoro's immediate right to the Bonds' possession, holding the Bonds hostage to force Bancoro to repay a debt it no longer has, and placing Inversouth's interests over Bancoro's. Yerkey has committed these acts in Miami, Florida and Panama City, Panama between October 2010 and today.

51. Yerkey misapprehended or concealed material facts from Bancoro and/or took improper advantage of the aforementioned fiduciary relationship at Bancoro's expense. For example, since October 2010, it has used its custody of the Bonds for its own monetary gain and to enrich its purported "affiliate" Inversouth. Upon information and belief, between October 2010 and the present, in addition to misappropriating the Bonds' interest payments to itself, Yerkey has passed payments on to Inversouth. When Yerkey entered into the custody agreement in 2010, it concealed the material fact that that it had no intention of holding the Bonds for Bancoro's benefit.

52. As a result of Yerkey's breach of its fiduciary duty, Bancoro has been damaged. It has lost its right to immediate possession of the Bonds, the use of the Bonds for its own monetary benefit, and all interest payments stemming therefrom since October 2010.

53. Moreover, given the existence of bank fraud charges against Defendant Lauria, and his listing in the Lexis-Nexis WorldCompliance Database, any financial institutions that allowed Defendant Lauria to engage in any transactions relating to the bonds, including but not limited to transferring the bonds and collecting interest payments on the bonds, did so either with willful blindness to Defendant Lauria's lack of legal right to possess or control the bonds or in active concert with this fraudulent scheme.

WHEREFORE, Plaintiff FOGADE, as Bancoro's liquidator/receiver and foreign representative, demands judgment against Defendant Yerkoj for compensatory damages, interest as allowed by law, and any additional relief this Court deems just and proper.

**COUNT II – CONVERSION
(Against Defendants Yerkoj, Lauria, Osio, & Inversouth)**

54. FOGADE re-alleges and incorporates the allegations of paragraphs 1 through 45 as if fully set forth herein.

55. Yerkoj obtained possession and control of the Bonds pursuant to an agreement with Bancoro.

56. Bancoro has an immediate possessory right to the Bonds. Its right to immediate possession is not subject to any conditions precedent or restrictions.

57. Defendants, acting in concert and as agents of each other, have deprived Bancoro of its possessory right to the Bonds, as well as Bancoro's interest in the benefits generated from ownership of the Bonds, by refusing to relinquish the Bonds upon Bancoro's request. In fact, Defendants refuse to even inform Bancoro where the Bonds are being held, much less transfer interest payments to Bancoro.

58. Despite Bancoro's repeated protests and demands, Defendants have continuously refused to recognize Bancoro's immediate possessory interest and to return the Bonds to Bancoro.

59. As a result of Defendants' conduct, Bancoro has been damaged.

WHEREFORE, Plaintiffs FOGADE, as Bancoro's liquidator/receiver and foreign representative, demands judgment against Defendants Yerkoj, Lauria, Osio, and Inversouth, for compensatory damages, interest as allowed by law, and any additional relief this Court deems just and proper.

**COUNT III – TORTIOUS INTERFERENCE WITH AN
ADVANTAGEOUS BUSINESS RELATIONSHIP
(Against Defendants Yerkoj, Lauria & Inversouth)**

60. FOGADE re-alleges and incorporates the allegations of paragraphs 1 through 45 as if fully set forth herein.

61. Bancoro had a business relationship with the issuer of the Bonds, the Venezuelan government.

62. Defendants knew of Bancoro's relationship with the Venezuelan government.

63. Defendants intentionally and without justification interfered with the relationship between Bancoro and the Venezuelan government.

64. Due to Defendants' interference, the Venezuelan government has breached its relationship with Bancoro. The Venezuelan government has not paid any interest payments to Bancoro, but rather the interest payments have been diverted by Defendants Yerkoj, Lauria and Inversouth.

65. As a result of Defendants' conduct, Bancoro has been damaged.

WHEREFORE, Plaintiff FOGADE, as Bancoro's liquidator/receiver and foreign representative, demands judgment against Defendants Yerkoj, Lauria and Inversouth for compensatory damages, interest as allowed by law, and any additional relief this Court deems just and proper.

**COUNT IV – TORTIOUS INTERFERNECE WITH
A CONTRACTUAL RELATIONSHIP
(Against Defendants Yerkoj, Lauria, and Inversouth)**

66. FOGADE re-alleges and incorporates the allegations of paragraphs 1 through 45 as if fully set forth herein.

67. Bancoro had a business relationship with the Venezuelan government under which Bancoro had legal rights.

68. Defendants intentionally and without justification interfered with that relationship.

69. Due to Defendants' interference, the Venezuelan government has breached its relationship with Bancoro. The Venezuelan government has not paid any interest payments to Bancoro, but rather the interest payments have been diverted by Defendants Yerkoj, Lauria and Inversouth.

70. As a result of Defendants' conduct, Bancoro has been damaged.

WHEREFORE, Plaintiff FOGADE, as Bancoro's liquidator/receiver and foreign representative, demands judgment against Defendants Yerkoj, Lauria and Inversouth for compensatory damages, interest as allowed by law, and any additional relief this Court deems just and proper.

**COUNT V – BREACH OF FIDUCIARY DUTY
(Against Defendant Yerkoj)**

71. FOGADE re-alleges and incorporates the allegations of paragraphs 1 through 45 as if fully set forth herein.

72. Bancoro and Yerkoj entered into an agreement whereby Yerkoj would act as a custodian of the Bonds belonging to Bancoro.

73. Yerkoj has recognized its fiduciary role as custodian and that the Bonds belong to Bancoro.

74. As the custodian holding the Bonds on Bancoro's behalf, Yerkoj owed Bancoro a fiduciary duty.

75. Yerkoj breached its fiduciary duty to Bancoro by refusing to relinquish control over the Bonds, refusing to recognize Bancoro's immediate right to the Bonds' possession, holding the Bonds hostage to force Bancoro to repay a debt it no longer has, and placing Inversouth's interests over Bancoro's.

76. As a result of Yerkoj's breach of its fiduciary duty, Bancoro has been damaged.

WHEREFORE, Plaintiff FOGADE, as Bancoro's liquidator/receiver and foreign representative, demands judgment against Defendant Yerkoj for compensatory damages, interest as allowed by law, and any other relief this Court deems just and appropriate.

**COUNT VI – AIDING AND ABETTING BREACH OF FIDUCIARY DUTY
(Against Defendants Lauria and MMG Bank)**

77. FOGADE re-alleges and incorporates the allegations of paragraphs 1 through 45 as if fully set forth herein.

78. Bancoro and Yerkey entered into an agreement whereby Yerkey would act as a custodian of the Bonds belonging to Bancoro.

79. Yerkey has recognized its fiduciary role as custodian and that the Bonds belong to Bancoro.

80. As the custodian holding the Bonds on Bancoro's behalf, Yerkey owed Bancoro a fiduciary duty.

81. Yerkey and/or Lauria are customers of MMG Bank, and upon information and belief, the Bonds are on deposit at MMG Bank.

82. As part of generally accepted banking practice and internal compliance procedures, MMG Bank was required to conduct due diligence on its customer, Yerkey and/or Lauria. Such due diligence involved, but is not limited to, completing "Know Your Customer" checklists, running the Customer and all beneficial owners of the account through databases to determine information about the customer, and inquiring as to the source of funds.

83. As part of its source of funds inquiry, MMG Bank would necessarily have been given a copy of the Custody Agreement which gave Yerkey possession of the bonds (on Bancoro's behalf). As such, MMG Bank knew or should have known of the fiduciary relationship between Yerkey/Lauria and Bancoro.

84. Lauria as agent for Yerkey had actual knowledge of the fiduciary relationship between Yerkey and Bancoro.

85. Moreover, for transactions of the amount of the Bonds, additional inquiry would have been appropriate.

86. Even a cursory examination of the various databases routinely consulted by banks as part of their compliance procedures, including e.g., Lexis-Nexis' WorldCompliance database, would have revealed that Lauria was being criminally investigated by the Venezuelan authorities for fraud relating to Bancoro and the Bonds.

87. Notwithstanding, MMG Bank either ignored the information, or was willfully blind to it, such that it permitted Yerkoj and/or Lauria to engage in transactions relating to the Bonds – including depositing the Bonds, accepting interest payments on the Bonds, and transferring the fruits of such interests payments to accounts of persons other than Bancoro, the lawful owner of the Bonds.

88. Allowing such transactions constituted a failure by MMG Bank to adhere to the customary and accepted standard of care of financial institutions. Further, as a result of these atypical and irregular banking practices, in violation of banking laws, regulations and internal procedures, MMG Bank (with its substantial assistance and/or tacit encouragement of the wrongdoing) allowed Yerkoj and/or Lauria to continue to perpetrate the fraud, breach their fiduciary duty, and otherwise deprive FOFADE, as Bancoro's liquidator/receiver and foreign representative from the lawful possession of the Bonds and benefits derived therefrom.

89. Upon information and belief, MMG Bank received substantial fees from the transactions in the Bonds.

90. As a result of MMG Bank's aiding and abetting in Yerkoj's breach of its fiduciary duty, Bancoro has been damaged.

WHEREFORE, Plaintiff FOGADE, as Bancoro's liquidator/receiver and foreign representative, demands judgment against Defendants MMG Bank and Lauria for compensatory damages, disgorgement of fees it received from the illicit transactions, interest as allowed by law, and any other relief this Court deems just and appropriate.

**COUNT VII – ACCOUNTING
(Against Defendants Yerkoj, Lauria, Osio, and Inversouth)**

91. FOGADE re-alleges and incorporates the allegations of paragraphs 1 through 45 as if fully set forth herein.

92. Defendant Yerkoj and Bancoro entered into custody agreement whereby Yerkoj agreed to hold the Bonds on Bancoro's behalf.

93. Defendants Lauria, Inversouth, and Osio conspired with Yerkoj to hold the Bonds hostage and not return them to Bancoro, thereby depriving Bancoro of its interests in the Bonds and all monetary benefits from their ownership.

94. Upon information and belief, Yerkoj has unlawfully usurped FOGADE's monetary benefits for its own benefit and transferred portions thereof to Lauria, Osio, and Inversouth.

95. In fact, Defendants Lauria and Osio have hidden, encumbered, and laundered the proceeds of the Bonds in order to shield them from FOGADE. Osio and Lauria have knowingly benefited financially and economically from the laundered and stolen proceeds of the Bonds, used them to fund their lavish lifestyle, and funneled them through and to companies owned and/or controlled by them.

96. FOGADE has been unable to obtain a definite final amount of the monetary benefits Defendants have obtained by holding the Bonds hostage.

97. Because of the amount and type of monetary benefits that are in dispute, the time period over which they have accrued and which has passed since Yerkoj obtained control over the Bonds, as well as the lack of adequate written records, Bancoro's remedy at law is inadequate and will not be as expeditious as it is in equity.

WHEREFORE, Plaintiff FOGADE, as Bancoro's liquidator/receiver and foreign representative, requests judgment against Defendants Yerkoj, Lauria, Osio, and Inversouth for an accounting, and such other and further relief as this Court may deem just and proper.

**COUNT VIII – CIVIL CONSPIRACY
(Against Defendants Yerkoj, Lauria, Osio, and Inversouth)**

98. FOGADE re-alleges and incorporates the allegations of paragraphs 1 through 45 as if fully set forth herein.

99. Defendants Yerkoj, Lauria, Osio, and Inversouth conspired to misappropriate Bancoro's interest in the Bonds and all benefits arising from Bancoro's ownership of them.

100. Defendants Yerkoj, Lauria, Osio, and Inversouth have committed an unlawful act or committed a lawful act through unlawful means.

101. Defendants Yerkoj, Lauria, Osio, and Inversouth have performed overt acts in furtherance of the conspiracy, including but not limited to, refusing to relinquish the Bonds to Bancoro, hiding the Bonds' location from Bancoro, secreting the interest payments for their own benefit, encumbering the Bonds, and laundering the proceeds of the Bonds to shield them from FOGADE.

102. The purpose of the conspiracy was to commit a tort or civil wrong – *i.e.*, to misappropriate Bancoro's ownership interest in the Bonds and all monetary benefits stemming from that ownership interest.

103. Moreover, given the existence of bank fraud charges against Defendant Lauria, and his listing in the Lexis-Nexis WorldCompliance Database, any financial institutions that allowed Defendant Lauria to engage in any transactions relating to the bonds, including but not limited to transferring the bonds and collecting interest payments on the bonds, did so either with willful blindness to Defendant Lauria's lack of legal right to possess or control the bonds or in active concert with this fraudulent scheme.

104. As a result of Defendants' Yerkoj, Lauria, and Inversouth actions, Bancoro has been damaged.

WHEREFORE, Plaintiff FOGADE, as Bancoro's liquidator/receiver and foreign representative, demands judgment against Defendants Yerkoj, Lauria, Osio, and Inversouth for compensatory damages, interest as allowed by law, and any other relief this Court deems just and appropriate.

**COUNT IX – REPLEVIN
(Against Defendants Yerkoj, Lauria, Osio, and Inversouth)**

105. FOGADE re-alleges and incorporates the allegations of paragraphs 1 through 45 as if fully set forth herein.

106. FOGADE seeks the recovery of personal property under the control of Defendants.

107. The description of the property, the Bonds, and the value of the property are found in paragraph 18 above.

108. Bancoro is entitled to possession of the property due to its ownership interest in the Bonds, which Defendants have recognized.

109. To Bancoro's best knowledge, information, and belief, the property is located in the possession of Yerkoj under the direction of Inversouth and Lauria. Bancoro/FOGADE

are unable to be more specific, as Defendants have refused to even keep Bancoro/FOGADE informed as to where their Bonds have been deposited.

110. Defendants Yerkoj, Lauria, Osio, and Inversouth are wrongfully detaining the Bonds. Defendants came into possession of the Bonds through the custody agreement between Bancoro and Yerkoj, which Yerkoj – in conspiracy with Inversouth, Osio, and Lauria – has used as a vehicle to misappropriate and secrete the Bonds from Bancoro.

111. To FOGADE/Bancoro’s best knowledge, information, and belief, Defendants Yerkoj, Lauria, Osio, and Inversouth detain the property as a self-help mechanism to force Bancoro/FOGADE to repay some capital contributions that have already been deemed repaid by the competent Venezuelan banking authority.

112. The Bonds have not been taken for any tax, assessment, or fine pursuant to law.

113. The Bonds have not been taken under an execution or attachment against Bancoro’s property.

114. As a result of Defendants Yerkoj, Lauria, Osio, and Inversouth’ conduct, Bancoro has been damaged.

WHEREFORE, Plaintiff FOGADE, as Bancoro’s liquidator/receiver and foreign representative, demands judgment against Defendants Yerkoj, Lauria, Osio, and Inversouth for immediate possession of the Bonds and damages.

**COUNT X – DECLARATORY RELIEF
(Against All Defendants)**

115. FOGADE re-alleges and incorporates the allegations of paragraphs 1 through 45 as if fully set forth herein.

116. This is an action for a declaration that FOGADE, as the liquidator/receiver and foreign representative of Bancoro has an immediate right to possession of the Bonds, subject to no conditions whatsoever, due to Bancoro's absolute, unconditional ownership interest in the Bonds, and is further entitled to all profits and benefits derived from such ownership, including but not limited to receipt of periodic interest payments, and ultimately payment of principal, upon maturity of the Bonds.

117. There is a bona fide, actual, present practical need for the declaration.

118. The declaration sought deals with a present, ascertained or ascertainable state of facts or present controversy as to a state of facts.

119. An immunity, power, privilege or right of Bancoro depends on the facts or the law that applies to the facts.

120. FOGADE/Bancoro, on one side, and Defendants, on the other, have an actual, present, adverse and antagonistic interest in the subject matter of the declaration.

121. All persons with an adverse and antagonistic interest are before the court.

122. The declaration Bancoro seeks does not amount to mere legal advice.

WHEREFORE, Plaintiff FOGADE, as Bancoro's liquidator/receiver and foreign representative, requests that this Court enter judgment declaring that, as the duly appointed liquidator/receiver and foreign representative of Bancoro, FOGADE (1) has succeeded to all rights, benefits and privileges of Bancoro with respect to the Bonds, (2) has the right to obtain immediate possession of, or direct the transfer of, the Bonds, (3) has the right to all information about the account or accounts in which such bonds reposed and/or through which they were transferred or where they presently exist, as well as all proceeds therefrom, and (4) has the right to all information with respect to any transferee and present holders of the Bonds or their

proceeds.

**COUNT XI – DECLARATORY RELIEF
(Against Inversouth)**

123. FOGADE re-alleges and incorporates the allegations of paragraphs 1 through 45 as if fully set forth herein.

124. This is an action for a declaration that whatever debt Bancoro owed to Inversouth has been eliminated and that Bancoro currently owes no debt to Inversouth.

125. There is a bona fide, actual, present practical need for the declaration.

126. The declaration sought deals with a present, ascertained or ascertainable state of facts or present controversy as to a state of facts.

127. An immunity, power, privilege or right of Bancoro depends on the facts or the law that applies to the facts.

128. FOGADE/Bancoro, on one side, and Inversouth, on the other, have an actual, present, adverse and antagonistic interest in the subject matter of the declaration.

129. All persons with an adverse and antagonistic interest are before the court.

130. The declaration Bancoro seeks does not amount to mere legal advice.

WHEREFORE, Plaintiff FOGADE, as Bancoro's liquidator/receiver and foreign representative, requests that this Court enter judgment declaring that whatever debt Bancoro owed to Inversouth has been eliminated and that Bancoro currently owes no debt to Inversouth.

**COUNT XII – UNJUST ENRICHMENT
(Against Defendants Yerkoy, Lauria, & Osio)**

131. FOGADE re-alleges and incorporates the allegations of paragraphs 1 through 45 as if fully set forth herein.

132. Defendants Yerkoy, Lauria, and Osio received a benefit from their access to the

Bonds, as well as their receipt and use of the interest payments on the Bonds.

133. Defendants Yerkey, Lauria, and Osio knew of that benefit. They retained and accepted the benefit.

134. Under the circumstances, it would be inequitable for them to retain the benefit without paying for it.

135. To date, they have not adequately compensated FOGADE for their ability to access the Bonds and all benefits derived therefrom.

136. Equity and good conscience require full restitution of the interest payments received and the Bonds themselves.

WHEREFORE, Plaintiff FOGADE, as Bancoro's liquidator/receiver and foreign representative, demands judgment against Defendants Yerkey, Lauria, and Osio for compensatory damages, interest as allowed by law, and any other relief this Court deems just and appropriate.

COUNT XIII – CONSTRUCTIVE TRUST

137. FOGADE re-alleges and incorporates the allegations of paragraphs 1 through 45 as if fully set forth herein.

138. FOGADE, as Bancoro's liquidator/receiver and foreign representative, stands in the shoes of Bancoro.

139. Lauria and Yerkey made an express promise to Bancoro that they would hold the Bonds for the benefit of Bancoro, and that upon demand the Bonds would be transferred back to Bancoro (or post liquidation to FOGADE). Similarly, all profits and issue from the Bonds in the form of interest payments, principal payments and otherwise, were likewise to be held for the benefit of Bancoro and transferred upon request.

140. In reliance upon the express promises made by Lauria and Yerkoj, Bancoro transferred the Bonds to Lauria and Yerkoj's custody.

141. Lauria maintained a confidential relationship with Bancoro as an officer, director and the principal of Inversouth, the majority shareholder of, Bancoro.

142. Lauria and Yerkoj have, despite demand, refused to return the Bonds to FOGADE/Bancoro, and have retained all benefits derived from the Bonds in the form of interest payments, principal payments and otherwise.

143. As a result, Lauria and Yerkoj have been unjustly enriched.

144. FOGADE is without an adequate remedy at law and will suffer irreparable harm if Defendants are permitted to retain, dispose of and/or dissipate their interest in the Bonds without accounting to FOGADE.

WHEREFORE, Plaintiff FOGADE, as Bancoro's liquidator/receiver and foreign representative, demands equitable relief including, without limitation: preliminary and permanent injunctive relief preventing the transfer or disposition of the Bonds and any benefits paid or derived therefrom, and the imposition of a constructive trust over the Bonds and any benefits paid or derived therefrom, and such further relief deemed just and appropriate by the Court.

JURY TRIAL DEMAND

Plaintiff Fondo de Protección Social de los Depósitos Bancarios f/k/a Fondo de Garantía de Depósitos y Protección Bancaria, as liquidator/receiver and foreign representative for Bancoro, C.A., Banco Universal Regional, hereby demands a trial by jury on all issues so triable.

DATE: January 15, 2014

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