

**ESTADO LIBRE ASOCIADO DE PUERTO RICO
TRIBUNAL DE PRIMERA INSTANCIA
SALA SUPERIOR DE SAN JUAN**

NATIONAL PUBLIC FINANCE
GUARANTEE CORPORATION; and MBIA
INSURANCE CORPORATION,

Plaintiffs,

v.

UBS FINANCIAL SERVICES, INC.; UBS
SECURITIES LLC; CITIGROUP GLOBAL
MARKETS INC.; GOLDMAN SACHS & CO.
LLC; J.P. MORGAN SECURITIES LLC;
MORGAN STANLEY & CO. LLC; MERRILL
LYNCH, PIERCE, FENNER & SMITH INC.;
RBC CAPITAL MARKETS LLC; and
SANTANDER SECURITIES LLC,

Defendants.

Civil No.: _____

IN RE: Damages due to Doctrina
de Actos Propios and Unilateral
Declaration of Will

COMPLAINT

TO THE HONORABLE COURT:

COMES NOW, the plaintiffs, National Public Finance Guarantee Corporation and MBIA Insurance Corporation, through their undersigned legal representation and very respectfully state, allege, and pray:

INTRODUCTION

1. Eight major banks inflicted a financial tragedy on the Commonwealth of Puerto Rico, its people, and others who relied on the banks' good faith and proper conduct in Puerto Rico's municipal bond market. For over a decade, these banks urged Puerto Rico and its government agencies to issue debt that was unsustainable on its terms. That debt bankrupted the Commonwealth and its agencies while the banks enriched themselves through massive fees.

2. Puerto Rico has suffered grave consequences as a result of the banks' acts, which have pushed the Island into a financial abyss of historic proportions. After the municipal bonds defaulted, the Commonwealth had to make drastic cuts to essential institutions and public services, including schools and hospitals, pensions, utilities, and basic infrastructure for power grids and transportation. Many citizens felt they had no job opportunities or their quality of life was so impacted that they had no choice but to abandon the Island. Puerto Rico citizens and others saw their

retirement savings and pensions, accumulated over lifetimes of hard work and sacrifice, plummet in value.

3. This lawsuit seeks to hold the banks accountable. By originating municipal bond issuances and marketing and selling the bonds, these banks held themselves out as gatekeepers of Puerto Rico's municipal bond market. Under laws designed to protect investors, the banks were required to investigate the truth of key representations made in connection with the issuance of municipal bonds and to identify and disclose any materially false or incomplete disclosures by the issuers. The Commonwealth of Puerto Rico, its people, and many others, including the plaintiff-insurers, relied on the banks to carry out that duty to investigate and to identify false or incomplete representations by the issuers—especially representations relating to the ability of the issuers to repay the debt in accordance with its terms.

4. Unlike other market participants, the banks had unique access to information about the operations and financial well-being of the government agencies issuing the bonds. It was the banks' supposed vetting of the disclosures about the bonds that assured the market that the bonds' issuers had the capacity to repay their debt in accordance with its terms. In accord with longstanding industry practice, market participants relied upon the banks' good faith and proper conduct. But the banks violated that trust.

5. For over forty years, Plaintiffs MBIA Insurance Corporation and National Public Finance Guarantee Corporation ("NPMFG") together with Financial Guaranty Insurance Company ("FGIC"), NPMFG's non-party predecessor-in-interest to certain policies at issue, ("National") have insured municipal bonds, including many issued by the Commonwealth and its agencies to fund development and infrastructure on the Island. National has always been committed to protecting its insureds and here seeks to reestablish the normal functioning of the municipal bond market with transparency and integrity. Imposing liability on the banks and ensuring that they fully meet their obligations will help restore that market and accelerate the restoration and growth of Puerto Rico's economy. This case thus provides this Court with the opportunity to help facilitate Puerto Rico's return to the capital markets and financial stability, and to escape the crisis that has so affected the welfare of the people of Puerto Rico.

6. Each defendant-bank named in this action was a lead underwriter for one or more bonds issued by the Commonwealth and its agencies, and/or was part of the group of underwriters responsible for marketing multiple series of bonds over many years. Those banks competed to win the Commonwealth and its agencies as

clients that would issue municipal bonds to raise debt capital. The winning banks were selected by the Commonwealth and its agencies to act in the lucrative roles of underwriters tasked with marketing and selling bonds to investors. The underwriter banks had unmatched access to the issuers—the Commonwealth of Puerto Rico (the “Commonwealth” or “Puerto Rico”), the Puerto Rico Electric Power Authority (“PREPA”), the Puerto Rico Highways and Transportation Authority (“PRHTA”), and the Puerto Rico Sales Tax Financing Corporation (“COFINA”)—and drew on those client relationships to encourage and enable those entities to issue billions of dollars of bonds with no regard for the risks entailed in taking on such extraordinary debt obligations. At the same time these banks were pushing huge volumes of bonds to market, they were beset by massive conflicts of interest—including the pursuit of hundreds of millions of dollars in fees from the bond issuances themselves.

7. In order to underwrite the bonds, the banks had to disseminate Official Statements (the “Official Statements”) for each of the bonds. By doing so, the banks represented they were complying with federal laws and municipal bond market customs and norms that required them to reasonably investigate the bonds’ offering materials and to notify the market if they found any of that information to be untrue or materially incomplete. The banks’ willingness to take this step assured the market that all participants—including Plaintiffs—could rely on the substance of the issuers’ disclosures. In reality, the banks did not scrutinize these materials as they assured the market that they would. Instead, they rushed to market one series of bonds after another with materially false or incomplete disclosures, hiding massive risks that destined the bonds to default.

8. To make the bonds as attractive as possible to investors—and thus to facilitate the issuance of as many bonds as possible—the banks repeatedly solicited bond insurance from bond insurers (also known as monoline insurers), including National. “Wrapping” the bonds with this insurance made them more marketable because the insurance tethered the insurers’ creditworthiness to the bonds.

9. The Official Statements disseminated by the banks were integral to the banks’ efforts to secure insurance for the bonds. For insurers to evaluate the risks involved in insuring a particular bond, the banks, as part of their solicitations, provided the insurers with draft and final Official Statements describing the bonds, including representations about the financial health of the issuing entities (and thus, fundamentally, their ability to repay the debt on its terms) and the proposed uses of the money to be raised. In doing so, the banks made to National the same false assurances they made to the Commonwealth and its people—that they had investigated

the offering materials' disclosures and had concluded the information was true and complete.

10. Relying in good faith on the banks' representations, National issued billions of dollars in irrevocable insurance policies on the bonds—allowing the issuances to move forward and the banks to collect their fees. Contrary to the banks' representations, however—and as only recently revealed—the banks chose not to investigate critical information they provided to National in the Official Statements, and that information turned out to be false. As examples, the issuers' debt service coverage ratios were overstated, their projected revenues were overstated, and they had not spent and likely would not spend their funds as represented. These false and incomplete statements hid the very real risk that the bonds would not be repaid in accordance with their terms. Had the banks investigated, as they were obligated to do, they would have learned the truth and would have been required to alert National along with other market participants.

11. The grave risks hidden by these false statements eventually materialized, with tragic consequences. When the bonds defaulted, Puerto Rico and its agencies were left without the funds necessary to provide essential services. There were drastic cuts to pensions, healthcare, utilities, and education. Funds to build and maintain roads and bridges dried up. Many public schools closed. Jobs disappeared.

12. National suffered too, paying out over \$720 million in claims payments as of July 1, 2019—obligations that it intends to continue to fully honor—thereby mitigating some of the harms that the banks caused to bondholders. For over forty years, National has insured Puerto Rico issuances, helping to finance improved facilities and services for the people of the Commonwealth. In this role, National has protected many of those who invest in Puerto Rico's bonds. Through this lawsuit, National now seeks to hold the banks accountable for their unscrupulous conduct, to impose consequences for their failure to act with transparency, integrity, and in accord with the rules of fair play, and to ensure that such conduct never happens again.

13. National brings this lawsuit in equity under *doctrina de actos propios* and the doctrine of unilateral declaration of will in order to remedy the damages caused by the banks' inequitable conduct. The legacy of the banks' unjust conduct will affect Puerto Rico for generations. The banks not only disregarded their gatekeeping role but exploited it, leading Puerto Rico straight into its current crisis. While the banks enriched themselves, they caused great damage to the Commonwealth, its people, and National. They should now bear the costs of their inequitable conduct.

* * *

14. Between 2001 and 2014, major banks—including UBS Financial Services, Inc.; UBS Securities LLC; Citigroup Global Markets Inc.; Goldman Sachs & Co. LLC; J.P. Morgan Securities LLC; Morgan Stanley & Co. LLC; Merrill Lynch, Pierce, Fenner & Smith Inc.; RBC Capital Markets LLC; and Santander Securities LLC (collectively, “Defendants”)—underwrote over \$66 billion worth of bonds issued by the Commonwealth of Puerto Rico and its instrumentalities.

15. The bonds at issue here could not have been issued on marketable terms without National’s bond insurance, known as “financial guaranty insurance” or “monoline insurance.” The bonds promised to pay investors set amounts of principal and interest. The cash to make these payments came from the issuers’ revenues. National insured the risk that an issuer might not take in enough revenue to pay the bondholders all they were owed; if there were a shortfall, National would step in and cover the difference. By guaranteeing that bondholders would be paid in full, National made the bonds very attractive to investors, and thus easy to issue and for Defendants to sell.

16. As was customary in the industry, Defendants solicited insurance for each bond by providing National with information and materials comprising an insurance application, which was supplemented up until the time of issuance. Each application included transaction documents, including draft and then final versions of offering materials that were publicly registered with the United States Securities and Exchange Commission. These materials, called “Official Statements,” included a representation that: “The Underwriters have reviewed the information in this Official Statement in accordance with, and as part of their respective responsibilities to investors under, the federal securities laws[.]” Those laws, enacted for the protection of investors, required the underwriter banks to investigate the information in the Official Statements and have a reasonable basis to believe that that information was true and complete.

17. In their solicitations, Defendants did not have to provide National with Official Statements that included certifications they had complied with federal securities laws (National is an insurer that does not purchase any security and has no securities law claim)—but they chose to do so, touting their compliance with securities laws that required them to reasonably investigate the information in the Official Statements. National placed great weight on these certifications and the represented investigations, and in good faith fully relied upon them. It had to do so, in part, because the bonds’ issuers were exempt from registration and reporting requirements under the federal securities laws, meaning little reliable information about the bonds

was otherwise publicly available. As is generally true with municipal bonds, then, the only reliable source of information was the investigation conducted by the underwriters, including Defendants.

18. Defendants knew it was custom, practice, and norm in the bond insurance industry for underwriters to provide insurers with Official Statements that the underwriters had investigated and reasonably believed to be true and complete. Because underwriters—including Defendants—had direct access to the issuers, while insurers and other market players did not, the bond insurance industry depended upon underwriters' good faith in providing insurers with vetted, accurate information about issuers and their creditworthiness. As all participants in the municipal bond market—including Defendants—well knew, this system was key to the efficient functioning of the municipal bond market and thus to the ability of government entities, like the Commonwealth, to obtain financing for public projects.

19. Through their actions and representations, Defendants assured National they would investigate the relevant Official Statements and form a reasonable belief that the statements were true and complete, and would inform National of any materially false statements or omissions. It was objectively reasonable for National in good faith to rely on Defendants' assurances that Defendants had conducted the promised investigations before the bonds were issued. Defendants' actions and representations—providing Official Statements that included assurances as to reasonableness—were designed so that National would so rely.

20. Relying in good faith on Defendants' assurances, and based on the information Defendants provided in the Official Statements regarding the financial health of the issuers, National insured over \$11 billion in debt service for Puerto Rico entities between 2001 and 2007. By their terms, these insurance policies were, and remain, irrevocable. Once National issued its insurance, it could not back out, even if it later learned that it had been given false information before it issued the policies. National in fact has not backed out—it has honored every claim on those policies and intends to continue doing so.

21. The underwriting banks, including Defendants, profited splendidly from these bond issuances, taking in hundreds of millions of dollars. Each Defendant earned large underwriting fees. Some also sold the bonds through special mutual funds, including funds that were limited to Puerto Rico residents, allowing them to make additional fees. Some also sold the issuers interest rate swaps—contracts that made the issuers responsible for paying high fixed interest rates instead of the bonds' variable rates—charging the issuers large fees to enter into the swaps and even larger

fees to exit those same swaps when interest rates plunged. Some underwriters even encouraged some issuers to issue additional bonds—also destined to default—so those issuers could obtain the funds needed to pay off those massive additional fees. Because they could collect fees regardless of whether the bonds were repaid, underwriters, including Defendants, did not care whether the bonds ultimately performed on their terms or were good investments so long as the bonds performed in the short run. Their interests were at odds with the interests of the Commonwealth, its people, and others, like National, who wanted the bonds to succeed in the long term.

22. While Defendants benefited from the bonds, nearly everyone else associated with the bonds suffered. The issuers suffered when the bonds defaulted, as they initially ran woefully short of funds necessary to provide essential services. The people of Puerto Rico suffered, as the government cut back on those services. The bondholders, many of whom were Puerto Rico residents, also suffered in the wake of defaults and as the market value of their investments plummeted. But Defendants—who, as gatekeepers, should have prevented the issuance of overly risky debt and warned the public of those risks—have, until now, faced no real consequences for their inequitable conduct.

23. Recent investigations revealed that Defendants did not investigate key statements in the materials they provided to National concerning critical metrics like debt covenants, estimated revenues, and use of proceeds. Defendants never formed a reasonable belief that those statements were true and complete—in fact, those statements were false. The representations made the bonds look less risky than they really were. Those misrepresentations, along with Defendants' equally false representations that they had conducted reasonable investigations, allowed and encouraged the Commonwealth and its agencies to pile up debt they could not repay in accordance with its terms.

24. Just like the Commonwealth, the people of the Commonwealth, and the issuers, National was let down by its good faith reliance on the underwriters, including Defendants, and has been harmed as a result.

25. Defendants' unfulfilled representations have caused National immense damage. Duped by Defendants into issuing irrevocable insurance policies, National has made over \$720 million in claims payments as of July 1, 2019, honoring its obligations to bondholders, and anticipates it will pay out hundreds of millions of dollars more. Had National known that Defendants would not investigate the statements as they represented, it never would have issued the insurance policies.

26. These extraordinary circumstances warrant application of *doctrina de actos propios* and/or the unilateral declaration of will, both of which the Supreme Court of Puerto Rico has expressly recognized as equitable claims under Puerto Rico law.

27. *Doctrina de actos propios*—which has its roots in the Roman law principle *venire contra factum proprium* and was later recognized in the Spanish jurisprudence, as well as in the jurisprudence of many other jurisdictions—is designed to protect “legitimate expectations” and “good faith” and to “prohibit[] . . . behavior that would result in an unreasonable interference with a legitimately created trust relationship, that allowed the other party to reasonably rely on the original conduct.” Thiago Luis Sombra, *The Duty of Good Faith Taken to a New Level: An Analysis of Disloyal Behavior*, 9 J. CIV. L. STUD. 28, 31 (2016). *Doctrina de actos propios* “aim[s] to raise good faith to the condition of a general principle that is autonomous, abstract, and subject to being invoked for a variety of legal relations, but with consideration of the peculiar aspects of each case.” *Id.* at 34.

28. The Puerto Rico Supreme Court adopted a broad interpretation of *doctrina de actos propios* just over forty years ago in *International General Electric v. Concrete Builders, Inc.*, 4 P.R. Offic. Trans. 1221, 1231 (P.R. 1976). The doctrine permits a claimant to recover reliance damages for an “attack upon good faith,” even where no contractual relationship exists. *Id.* at 1229.

29. The doctrine is supple and gives the Court a “wide margin of freedom,” allowing it to shape the doctrine’s application to fit the circumstances as equity so requires. LUIS DÍEZ-PICAZO PONCE DE LEÓN, *LA DOCTRINA DE LOS ACTOS PROPIOS: UN ESTUDIO CRÍTICO SOBRE LA JURISPRUDENCIA DEL TRIBUNAL SUPREMO*, 74 (Civitas Thomson Reuters (Legal) ed., 2nd ed. 2014) (hereinafter DÍEZ-PICAZO, *DOCTRINA DE ACTOS PROPIOS*).

30. “Through [*doctrina de actos propios*] application, essential interests are safeguarded to achieve an effective interaction at all levels of daily life. It is expected that the relations between the members of society are characterized by the qualities of honesty and sincerity, so that at all times we can rest upon the truthfulness of the representations or acts of others.” *O.C.S. v. Universal*, 2012 TSPR 165, 172 (P.R. Nov. 1, 2012). The doctrine builds on the “understanding that good faith requires the person to behave coherently in relation to the trust that their acts may have previously generated on others.” DÍEZ-PICAZO, *DOCTRINA ACTOS PROPIOS*, at 80. Intent is irrelevant, because “[t]he center of gravity of the rule is not in the will of its author, but in the trust generated in third parties[.]” *O.C.S.*, 2012 TSPR 165 at 173. Puerto

Rico courts readily apply this doctrine in commercial disputes, including where—as here—claims are made against banks by a plaintiff whose legitimate good faith expectations have been undermined. *E.g.*, *MMB Dev. Grp., Ltd. v. Westernbank Puerto Rico*, 762 F. Supp. 2d 356, 370 (D.P.R. 2010) (plaintiff stated claim under *doctrina de actos propios* against bank by “alleg[ing] that [the bank] represented that it would extend the closing period on the loans and eventually deliver on the promised loans to [a third-party]; that these acts and declarations of [the bank] painted to [p]laintiff an inaccurate portrait that [the bank] was willing and able to deliver on the loans; and that” the plaintiff acted in good faith and detrimental reliance on the bank’s “acts and declarations”).

31. Similarly, the claim of unilateral declaration of will applies where “a person might have an obligation towards another person, as long as their intention is clear, arises from a suitable judiciary act and is not contrary to the law, the moral or the public order.” *Nationstar Mortg., LLC v. de Jesús Roldan*, No. K CD2012-2549 (908), 2014 WL 1692581 (TCA), at *5 (P.R. Cir. Mar. 31, 2014). It demands that “[o]nce the obligation is constituted,” so long as the obligation is not effectively withdrawn, “the declaring party is subject to compensate for the damages of its non-compliance.” *Id.* at *6. In effect, the unilateral declaration of will doctrine fills the gap that arises when a party makes a concrete promise with the intention that others rely on that promise.

32. The Puerto Rico Supreme Court confirmed the existence of this doctrine just over a decade ago, based on a recognition “that growth and commercial traffic justified the possibility of giving full force and effect to acts in which only one person intended to bind himself or herself—as in a unilateral declaration of intention.” *Ortiz v. P. R. Tel.*, 2004 TSPR 133 (P.R. 2004). “[T]he adoption of the unilateral declaration of intent as a source of obligation is justified based on the need of [the Commonwealth’s] order to protect the trust deposited in good faith by the one who trusts in a promise of this nature.” *Nationstar*, 2014 WL 1692581, at *6.

33. The elements of both *doctrina de actos propios* and unilateral declaration of will are satisfied here. The existence and operation of the municipal bond market depended on the trust and reliance of insurers such as National on the good faith conduct of Defendants.

34. Because this case plainly raises major issues of public importance unique to the Commonwealth, public policy supports this Court acting in equity and applying both *doctrina de actos propios* and unilateral declaration of will. *See* P.R. LAWS ANN. tit. 31, § 7 (2016) (“When there is no statute applicable to the case at issue,

the court shall decide in accordance with equity, which means that natural justice, as embodied in the general principles of jurisprudence and in accepted and established usages and customs, shall be taken into consideration.”).

35. *First*, applying *doctrina de actos propios* and the unilateral declaration of will in this case will help to rectify the unjust and inequitable situation created by Defendants. The Puerto Rico bond crisis is one of the great economic disasters of the twenty-first century. Issuers have defaulted, harming their reputations and creditworthiness, and essential services for the citizens of Puerto Rico were lost or impaired. Investors unprotected by insurance have suffered from defaults and delayed payments, while the market value of their investments has plummeted. National has mitigated the harm to issuers and insured investors, but only by suffering great harm itself—National has made over \$720 million in claims payments as of July 1, 2019 and is facing hundreds of millions of dollars more in future payments. Defendants, meanwhile, have profited substantially, pocketing hundreds of millions of dollars in fees from issuing these bonds. Absent this suit, Defendants likely will retain their gains, while those that they harmed continue to suffer. A Puerto Rico court is the proper forum to address Defendants’ inequitable conduct.

36. *Second*, applying *doctrina de actos propios* and unilateral declaration of will in this action will validate industry norms, customs, and background assumptions. The ability to rely on underwriters’ good faith is essential to the proper functioning of the municipal bond insurance market. Underwriters and municipal bond insurers do not typically enter into contracts directly; instead, insurers must rely on underwriters to present them with true and complete insurance applications because the underwriters have unique access to the issuers. Holding Defendants to account for failing to investigate whether the information they provided National was true and complete is the only way to uphold those norms.

37. *Third*, this suit presents an important opportunity to help restore the Commonwealth’s access to the debt markets, which is so necessary to the recovery of the Island. When the municipal bond market functions properly, it provides government entities like the Commonwealth and its agencies with low-cost capital and provides investors with a sound investment. Defendants’ violation of industry customs and norms have impaired this market by discouraging the participation of key entities that depend on underwriters’ good faith. This Court has the extraordinary opportunity to restore the market’s confidence by making clear that banks must either thoroughly vet the bonds they underwrite or bear the costs of failing to do so.

38. *Fourth*, although Defendants have acted inequitably, there is no apparent statutory claim available in this case. National cannot pursue contract claims because there is no contract between National and Defendants. Nor is there any relevant statutory scheme protecting National; unlike investors, National did not purchase bonds and thus has no claim under federal securities laws.

39. National could not have brought these equitable claims earlier. Its injuries took years to manifest—the first claims payments were not made until 2016, and the extent of Defendants’ inequitable conduct, contrary to good faith and equity, did not become clear until the publication of a special investigation report in August 2018, as described below.

40. In sum, Defendants through their acts assured National that they were conducting reasonable investigations regarding the terms of the bonds that National insured, and National relied on those acts in issuing its insurance. But Defendants frustrated National’s legitimate, good faith expectations by choosing not to conduct those investigations and utterly failing to ensure that they had confirmed the truthfulness and completeness of the integral materials in the insurance applications. They betrayed their role as the market’s gatekeepers. Accordingly, Defendants are now estopped from denying responsibility for the consequences of their failure to conduct the warranted investigations and must compensate National accordingly.

PARTIES

I. Plaintiffs

41. Plaintiff National Public Finance Guarantee Corporation (“NPFPG”) (formerly known as MBIA Insurance Corp. of Illinois) is a financial guaranty insurance company headquartered at 1 Manhattanville Road, Purchase, NY 10577. NPFPG is organized under the laws of the state of New York and has its principal place of business in New York. It is a wholly-owned subsidiary of non-party MBIA Inc. through an intermediary holding company, National Public Finance Guarantee Holdings, Inc. A monoline insurer, NPFPG insures municipal bonds, including tax-exempt and taxable indebtedness of U.S. political subdivisions, as well as utility districts, airports, health care institutions, higher educational facilities, student loan issuers, housing authorities, and other similar agencies and obligations issued by private entities that finance projects that serve a substantial public purpose.

42. Plaintiff MBIA Insurance Corporation (“MBIA”) is a financial guaranty insurance company headquartered at 1 Manhattanville Road, Purchase, NY 10577. MBIA is organized under the laws of the state of New York and has its principal place

of business in New York. It is a wholly-owned subsidiary of non-party MBIA Inc. MBIA insures and reinsures structured finance and international public finance obligations sold in the new-issue and secondary markets.

43. Non-party Financial Guaranty Insurance Company (“FGIC”) is a stock insurance corporation headquartered at 463 Seventh Avenue, New York, NY 10018. FGIC is organized under the laws of the state of Delaware and has its principal place of business in New York. It is a monoline insurer that issues guaranty insurance policies insuring public finance, structured finance, and other obligations.

44. Between 2001 and 2007, MBIA insured the following Puerto Rico bonds: Commonwealth of Puerto Rico, Public Improvement Refunding Bonds Series 2002A, 2003C, and 2007A; PREPA, Power Revenue Bonds, Series LL and NN; PREPA, Power Revenue Refunding Bonds, Series MM, SS, UU, and VV; PRHTA, Highway Revenue Refunding Bonds, Series AA; PRHTA, Transportation Revenue Bonds, Series J; PRHTA, Transportation Revenue Refunding Bonds, Series L and N; and COFINA Sales Tax Revenue Bonds, Series 2007A under policy numbers 36358, 40952, 503220, 38324, 42162, 39115, 46002, 494781, 496040, 409190, 437160, 46994, 492151, and 499240. NPFG assumed responsibility for these policies in 2009, pursuant to a restructuring plan through which it became a wholly-owned subsidiary of National Public Finance Guarantee Holdings, Inc., itself a wholly-owned subsidiary of MBIA Inc. NPFG is obligated to pay claims under these policies. To the extent NPFG does not pay any claim, MBIA remains obligated to pay the claims.

45. Also between 2001 and 2007, FGIC insured the following Puerto Rico bonds: PREPA, Power Revenue Bonds, Series RR; PREPA, Power Revenue Refunding Bonds, Series OO and VV; and COFINA, Sales Tax Revenue Bonds, Series 2007A under policy numbers FG05010237, FG04010536, FG07010235, and FG07010326. NPFG is FGIC’s successor-in-interest to these policies: MBIA assumed responsibility for FGIC’s interests in the policies in September 2008; it assigned those interests to NPFG in February 2009; and FGIC subsequently novated the policies directly to NPFG in September 2012.

46. For convenience, this complaint refers to NPFG, MBIA, and FGIC collectively as “National.”

II. Defendants

47. Defendant UBS Financial Services, Inc. (“UBS Financial Services”) is a broker-dealer registered with the Securities and Exchange Commission (“SEC”) and headquartered at 1200 Harbor Blvd, Weehawken, NJ 07086. UBS Financial Services

is organized under the laws of the state of Delaware and has its principal place of business in New Jersey. Formerly known as UBS PaineWebber Inc., it is a wholly-owned subsidiary of non-party UBS Americas Inc., which in turn is a wholly-owned subsidiary of non-party UBS Americas Holding LLC, which in turn is a wholly-owned subsidiary of non-party UBS AG, which in turn is a wholly-owned subsidiary of non-party UBS Group AG, the ultimate parent. UBS Financial Services has been a registered broker-dealer in Puerto Rico since September 1, 1984.

48. Defendant UBS Securities LLC (“UBS Securities”) is an SEC-registered broker-dealer headquartered at 1285 Avenue of the Americas, New York, NY 10019. UBS Securities is organized under the laws of the state of Delaware and has its principal place of business in New York. Formerly known as UBS Investment Bank, it is a subsidiary of non-party UBS Americas Inc., which in turn is a wholly-owned subsidiary of non-party UBS Americas Holding LLC, which in turn is a wholly-owned subsidiary of non-party UBS AG, which in turn is a wholly-owned subsidiary of non-party UBS Group AG, the ultimate parent. UBS Securities has been a registered broker-dealer in Puerto Rico since June 4, 1992.

49. UBS Financial Services and UBS Securities (collectively, the “UBS Defendants”) underwrote Commonwealth of Puerto Rico, Public Improvement Refunding Bonds, Series 2002A, 2003C, and 2007A; PRHTA, Highway Revenue Refunding Bonds, Series AA; PRHTA, Transportation Revenue Bonds Series J; PRHTA, Transportation Revenue Refunding Bonds Series L and N; PREPA, Power Revenue Bonds Series LL, NN, and RR; PREPA, Power Revenue Refunding Bonds Series MM, OO, SS, UU, and VV; and COFINA, Sales Tax Revenue Bonds, Series 2007A. National insured these bonds under policy numbers 36358, 38324, 39115, 409190, 40952, 42162, 437160, 46002, 46994, 492151, 494781, 496040, 499240, 503220, FG04010536, FG05010237, FG07010235, and FG07010326. UBS Financial Services acted as lead underwriter for Commonwealth of Puerto Rico, Public Improvement Refunding Bonds, 2002A and PREPA, Power Revenue Refunding Bonds, Series VV. UBS Securities acted as lead underwriter for Commonwealth of Puerto Rico, Public Improvement Refunding Bonds Series, 2007A and PRHTA, Revenue Refunding bonds, Series L.

50. Defendant Citigroup Global Markets Inc. (“Citigroup Global Markets”) is an SEC-registered broker-dealer headquartered at 388 Greenwich Street, New York, NY 10013. Citigroup Global Markets is organized under the laws of the state of New York and has its principal place of business in New York. It is an indirect wholly-owned subsidiary of non-party Citigroup Global Markets Holdings Inc., which

in turn is a wholly-owned subsidiary of non-party Citigroup Inc. Citigroup Global Markets has been a registered broker-dealer in Puerto Rico since September 1, 1984.

51. Citigroup Global Markets underwrote Commonwealth of Puerto Rico, Public Improvement Refunding Bonds, Series 2003C and 2007A; PRHTA, Highway Revenue Refunding Bonds, Series AA; PRHTA, Transportation Revenue Bonds, Series J; PRHTA, Transportation Revenue Refunding Bonds, Series L and N; PREPA, Power Revenue Bonds, Series NN and RR; PREPA, Power Revenue Refunding Bonds, Series OO, SS, UU, and VV; and COFINA, Sales Tax Revenue Bonds, Series 2007A. National insured these bonds under policy numbers 409190, 40952, 42162, 437160, 46002, 46994, 492151, 494781, 496040, 499240, 503220, FG04010536, FG05010237, FG07010235, and FG07010326. Citigroup Global Markets acted as lead underwriter for the following bonds: PRHTA, Highway Revenue Refunding Bonds, Series AA; PRHTA, Transportation Revenue Bonds, Series J; and PRHTA, Transportation Revenue Refunding Bonds, Series L and N.

52. In 1998, Citigroup, Inc. became the successor by merger to Salomon Smith Barney; in 2003, Salomon Smith Barney was renamed Citigroup Global Markets. Before being renamed, Salomon Smith Barney underwrote Commonwealth of Puerto Rico, Public Improvement Refunding Bonds, Series 2002A; PREPA, Power Revenue Bonds, Series LL; and PREPA, Power Revenue Refunding Bonds, Series MM. National insured these bonds under policy numbers 36358, 38324, and 39115.

53. Defendant Goldman Sachs & Co. LLC (“Goldman Sachs LLC”) is an SEC-registered broker-dealer headquartered at 200 West Street, New York, NY 10282. Goldman Sachs LLC is organized under the laws of the state of New York and has its principal place of business in New York. Goldman Sachs LLC is a subsidiary of non-party Goldman Sachs Group, Inc. (“Goldman Sachs”), which, subject to certain exceptions, has guaranteed the payment obligations of Goldman Sachs LLC. Formerly known as Goldman Sachs & Co., in April 2017, it converted from a limited partnership to a limited liability company. Its activities include investment banking, institutional client services, investing and lending, and investment management. Goldman Sachs LLC is the primary U.S. broker-dealer of non-party Goldman Sachs and has been a registered broker-dealer in Puerto Rico since September 1, 1984.

54. Goldman Sachs LLC underwrote Commonwealth of Puerto Rico, Public Improvement Refunding Bonds, Series 2002A, 2003C, and 2007A; PRHTA, Highway Revenue Refunding Bonds, Series AA; PRHTA, Transportation Revenue Bonds, Series J; PRHTA, Transportation Revenue Refunding Bonds, Series L and N; PREPA, Power Revenue Bonds, Series LL, NN, and RR; PREPA, Power Revenue Refunding

Bonds, Series MM, OO, SS, UU, and VV; and COFINA, Sales Tax Revenue Bonds, Series 2007A. National insured these bonds under policy numbers 36358, 38324, 39115, 409190, 40952, 42162, 437160, 46002, 46994, 492151, 494781, 496040, 499240, 503220, FG04010536, FG05010237, FG07010235, and FG07010326. Goldman Sachs LLC acted as lead underwriter for PRHTA, Transportation Revenue Refunding Bonds, Series N; Commonwealth of Puerto Rico, Public Improvement Refunding Bonds, 2003C; PREPA, Power Revenue Bonds, Series LL, MM, and NN; and COFINA, Sales Tax Revenue Bonds, Series 2007A.

55. Defendant J.P. Morgan Securities LLC (“J.P. Morgan Securities”), formerly known as J.P. Morgan Securities, Inc., is an SEC-registered broker-dealer headquartered at 277 Park Avenue, New York, NY 10172. J.P. Morgan Securities is organized under the laws of the state of Delaware and has its principal place of business in New York. In 2010, it was converted from a corporation into a limited liability company. J.P. Morgan Securities is the principal U.S. broker-dealer subsidiary of non-party JPMorgan Chase & Co. J.P. Morgan Securities has been a registered broker-dealer in Puerto Rico since September 1, 1984. In 2008, Bear Stearns & Co., Inc. merged with JPMorgan Chase & Co., becoming a wholly-owned subsidiary of JPMorgan Chase & Co.

56. J.P. Morgan Securities and/or Bear Stearns & Co., Inc. underwrote Commonwealth of Puerto Rico Public Improvement Refunding Bonds 2002A, 2003C, and 2007A; PRHTA, Highway Revenue Refunding Bonds, Series AA; PRHTA, Transportation Revenue Bonds, Series J; PRHTA, Transportation Revenue Refunding Bonds, Series L and N; PREPA, Power Revenue Bonds, Series LL, NN, and RR; PREPA, Power Revenue Refunding Bonds, Series MM, OO, SS, UU, and VV; and COFINA, Sales Tax Revenue Bonds, Series 2007A. National insured these bonds under policy numbers 36358, 38324, 39115, 409190, 40952, 42162, 437160, 46002, 46994, 492151, 494781, 496040, 499240, 503220, FG04010536, FG05010237, FG07010235, and FG07010326. J.P. Morgan Securities acted as lead underwriter for PREPA, Power Revenue Bonds, Series OO, RR, SS, and UU.

57. Defendant Morgan Stanley & Co. LLC (“Morgan Stanley LLC”) is an SEC-registered broker-dealer headquartered at 1585 Broadway, New York, NY 10036. Morgan Stanley LLC is organized under the laws of the state of Delaware and has its principal place of business in New York. It is a wholly-owned subsidiary of non-party Morgan Stanley Domestic Holdings, Inc., which in turn is a wholly-owned subsidiary of non-party Morgan Stanley Capital Management, LLC, which in turn is a wholly-owned subsidiary of non-party Morgan Stanley, the ultimate parent.

Morgan Stanley LLC engages in securities underwriting and distribution and financial advisory services. It is a primary U.S. broker-dealer of non-party Morgan Stanley and has been a registered broker-dealer in Puerto Rico since November 8, 1985.

58. Morgan Stanley LLC underwrote Commonwealth of Puerto Rico, Public Improvement Refunding Bonds, Series 2002A, 2003C, and 2007A; PRHTA, Highway Revenue Refunding Bonds, Series AA; PRHTA, Transportation Revenue Bonds, Series J; PRHTA, Transportation Revenue Refunding Bonds, Series L and N; PREPA, Power Revenue Bonds, Series LL, NN, and RR; PREPA, Power Revenue Refunding Bonds, Series MM, OO, SS, UU, and VV; and COFINA, Sales Tax Revenue Bonds, Series 2007A. National insured these bonds under policy numbers 36358, 38324, 39115, 409190, 40952, 42162, 437160, 46002, 46994, 492151, 494781, 496040, 499240, 503220, FG04010536, FG05010237, FG07010235, and FG07010326. Morgan Stanley LLC acted as lead underwriter for PREPA Revenue bonds Series RR and SS, and Commonwealth of Puerto Rico, Public Improvement Refunding Bonds, Series 2003C.

59. Defendant Merrill Lynch, Pierce, Fenner & Smith Incorporated (“Merrill Lynch”) is an SEC-registered broker-dealer headquartered at One Bryant Park, New York, NY 10036. Merrill Lynch is organized under the laws of the state of Delaware and has its principal place of business in New York. It operates as a subsidiary of non-party BAC North America Holding Company, which in turn operates as a subsidiary of non-party NB Holdings Corporation, which in turn operates as a subsidiary of non-party Bank of America Corporation, the ultimate parent. Merrill Lynch is the primary U.S. broker-dealer of non-party Bank of America. It has been a registered broker-dealer in Puerto Rico since September 1, 1984 and maintains an office in Puerto Rico located at 15 Second Street, Suite 210, Guaynabo, PR 00968.

60. Merrill Lynch underwrote Commonwealth of Puerto Rico, Public Improvement Refunding Bonds, Series 2002A, 2003C, and 2007A; PRHTA, Highway Revenue Refunding Bonds, Series AA; PRHTA, Transportation Revenue Bonds Series J; PRHTA, Transportation Revenue Refunding Bonds, Series L and N; PREPA, Power Revenue Bonds, Series LL, NN, and RR; PREPA, Power Revenue Refunding Bonds, Series MM, OO, SS, UU, and VV; and COFINA, Sales Tax Revenue Bonds, Series 2007A. National insured these bonds under policy numbers 36358, 38324, 39115, 409190, 40952, 42162, 437160, 46002, 46994, 492151, 494781, 496040, 499240, 503220, FG04010536, FG05010237, FG07010235, and FG07010326.

61. In 2010, Merrill Lynch became the successor by merger to Banc of America Securities LLC (“Banc of America Securities”). Banc of America Securities

underwrote Commonwealth of Puerto Rico, Public Improvement Refunding Bonds, Series 2002A, 2003C, and 2007A; PRHTA, Highway Revenue Refunding Bonds, Series AA; PRHTA, Transportation Revenue Bonds, Series J; PRHTA, Transportation Revenue Refunding Bonds, Series L and N; PREPA, Power Revenue Bonds, Series LL, NN, and RR; PREPA, Power Revenue Refunding Bonds, Series MM, OO, SS, UU, and VV; and COFINA, Sales Tax Revenue Bonds, Series 2007A. National insured these bonds under policy numbers 36358, 38324, 39115, 409190, 40952, 42162, 437160, 46002, 46994, 492151, 494781, 496040, 499240, 503220, FG04010536, FG05010237, FG07010235, and FG07010326.

62. In 2009, Merrill Lynch became the successor by merger to Banc of America Investment Services, Inc., which had previously acquired LaSalle Financial Services, Inc., formerly known as ABN AMRO Financial Services, Inc. (“ABN AMRO”). ABN AMRO underwrote Commonwealth of Puerto Rico, Public Improvement Refunding Bonds, Series 2002A; PREPA, Power Revenue Bonds, Series LL; and PREPA, Power Revenue Refunding Bonds, Series MM. National insured these bonds under policy numbers 36358, 38324, and 39115.

63. Defendant RBC Capital Markets LLC (“RBC Capital Markets”) is an SEC-registered broker-dealer headquartered at 200 Vesey Street, New York, NY 10281. RBC Capital Markets is organized under the laws of the state of Minnesota and has its principal place of business in New York. It is a subsidiary of non-party RBC USA Holdco Corporation, which in turn is a subsidiary of non-party RBC US Group Holdings LLC, which in turn is a subsidiary of non-party Royal Bank of Canada, the ultimate parent. In February 2008, RBC Capital Markets changed its name from RBC Dain Rauscher Inc. to RBC Capital Markets Corporation. In November 2010, the company converted from a corporation to a limited liability company. RBC Capital Markets has been a registered broker-dealer in Puerto Rico since May 16, 1997.

64. RBC Capital Markets underwrote PRHTA, Transportation Revenue Refunding Bonds, Series N; PREPA, Power Revenue Refunding Bonds, Series UU and VV; COFINA, Sales Tax Revenue Bonds, Series 2007A; and Commonwealth of Puerto Rico, Public Improvement Refunding Bonds, Series 2007A. National insured these bonds under policy numbers 492151, 494781, 496040, 499240, 503220, FG07010235, and FG07010326. RBC Capital Markets acted as lead underwriter for PRHTA, Transportation Revenue Refunding Bonds, Series N.

65. Defendant Santander Securities LLC (“Santander Securities”) is an SEC-registered broker-dealer headquartered at 2 Morrissey Boulevard, Dorchester,

MA 02125. Santander Securities is organized under the laws of Puerto Rico and, during the relevant period, had its principal place of business in Puerto Rico. It operates as a subsidiary of non-party Santander Holdings USA, Inc., which in turn is a subsidiary of non-party Banco Santander, S.A. In 2011, Santander Securities converted from a corporation to a limited liability company, without any change in control or ownership. Santander Securities has been a registered broker-dealer in Puerto Rico since December 3, 1996.

66. Santander Securities underwrote PRHTA, Transportation Revenue Refunding Bonds, Series N; PREPA, Power Revenue Refunding Bonds, Series UU and VV; COFINA, Sales Tax Revenue Bonds, Series 2007A; and Commonwealth of Puerto Rico, Public Improvement Refunding Bonds, Series 2007A. National insured these bonds under policy numbers 492151, 494781, 496040, 499240, 503220, FG07010235, and FG07010326.

JURISDICTION

67. This Court has personal jurisdiction over each Defendant.

I. General Jurisdiction

68. This Court has general jurisdiction over each Defendant because of each Defendant's ongoing and continuous contacts with Puerto Rico.

69. Defendant UBS Financial Services is a registered broker-dealer in Puerto Rico. UBS Financial Services regularly and systematically conducts brokerage business in Puerto Rico, including by underwriting multiple bonds issued by the Commonwealth and its agencies and instrumentalities.

70. Defendant UBS Securities is a registered broker-dealer in Puerto Rico. UBS Securities regularly and systematically conducts brokerage business in Puerto Rico, including by underwriting multiple bonds issued by the Commonwealth and its agencies and instrumentalities.

71. Defendant Citigroup Global Markets is a registered broker-dealer in Puerto Rico. Citigroup Global Markets regularly and systematically conducts brokerage business in Puerto Rico, including by underwriting multiple bonds issued by the Commonwealth and its agencies and instrumentalities. Further, Citigroup Global Markets serves as a consultant to the Financial Oversight and Management Board for Puerto Rico ("FOMB"), which was created pursuant to the Puerto Rico Oversight, Management, and Economic Stability Act of 2016 ("PROMESA") to assist Puerto Rico in restructuring its debts. Specifically, in 2017, the FOMB, on behalf of Puerto Rico and certain of its instrumentalities—including PREPA, PRHTA, and COFINA—filed

petitions under Title III of PROMESA seeking to restructure their debts (the “Title III Proceedings”). Citigroup Global Markets serves as a consultant to the FOMB in those Title III Proceedings and is the lead investment adviser for the restructuring and privatization of PREPA.

72. Defendant Goldman Sachs LLC is a registered broker-dealer in Puerto Rico. Goldman Sachs LLC regularly and systematically conducts brokerage business in Puerto Rico, including by underwriting multiple bonds issued by the Commonwealth and its agencies and instrumentalities. Goldman Sachs LLC participates in joint ventures with Puerto Rico entities, such as Autopistas Metropolitanas de Puerto Rico, LLC, that manages public toll roads in Puerto Rico.

73. Defendant J.P. Morgan Securities is a registered broker-dealer in Puerto Rico. J.P. Morgan Securities regularly and systematically conducts brokerage business in Puerto Rico, including by underwriting and selling multiple bonds issued by the Commonwealth and its agencies and instrumentalities. J.P. Morgan Securities maintains physical offices in Puerto Rico from which it conducted its broker-dealer business.

74. Defendant Morgan Stanley LLC is a registered broker-dealer in Puerto Rico. Morgan Stanley LLC regularly and systematically conducts brokerage business in Puerto Rico, including by underwriting multiple bonds issued by the Commonwealth and its agencies and instrumentalities, and has clients in Puerto Rico. Morgan Stanley LLC maintained physical offices in Puerto Rico from which it conducted its broker-dealer business.

75. Defendant Merrill Lynch is a registered broker-dealer in Puerto Rico. Merrill Lynch regularly and systematically conducts brokerage business in Puerto Rico, including by underwriting multiple bonds issued by the Commonwealth and its agencies and instrumentalities. Merrill Lynch maintains physical offices in Puerto Rico from which it conducted its broker-dealer business.

76. Defendant RBC Capital Markets is a registered broker-dealer in Puerto Rico. RBC Capital Markets regularly and systematically conducts brokerage business in Puerto Rico, including by underwriting multiple bonds issued by the Commonwealth and its agencies and instrumentalities. Through its Tax Credit Equity Group, RBC Capital Markets manages investment funds that focus, in part, on properties in Puerto Rico.

77. Defendant Santander Securities is incorporated in Puerto Rico and has its principal place of business in Puerto Rico. Santander Securities is a registered broker-dealer in Puerto Rico. Santander Securities regularly and systematically

conducts brokerage business in Puerto Rico, including by underwriting multiple bonds issued by the Commonwealth and its agencies and instrumentalities. Santander Securities maintains physical offices in Puerto Rico from which it conducted its broker-dealer business.

II. Specific Jurisdiction

78. The Court has specific jurisdiction over each Defendant under the procedural system, as each Defendant directly or through its agents transacted business in Puerto Rico, and National's claims arise out of and relate to those transactions.

79. National's claims and injuries arise out of its insurance for bonds issued in Puerto Rico by the Commonwealth, PREPA, COFINA, and PRHTA. Each bond was underwritten by Defendants, who transacted business in Puerto Rico either personally or through their agents with the Commonwealth, PREPA, COFINA, and/or PRHTA. Defendants procured insurance from National for each bond issuance on behalf of the Commonwealth, PREPA, COFINA, and/or PRHTA.

80. Each Defendant directly or through its agents directed communications—including by telephone, letter, fax, and e-mail—into Puerto Rico that directly relate to National's claims, including communications relating to National's bond insurance.

81. The insurance policies that Defendants induced National to enter were signed in Puerto Rico.

82. As underwriters, Defendants purchased the bonds issued by the Commonwealth, PREPA, COFINA, and/or PRHTA. They then sold those bonds to, among others, persons located in the Commonwealth, including Puerto Rico citizens. The Commonwealth, PREPA, COFINA, and PRHTA paid the Defendants large fees for doing so.

83. On information and belief, each Defendant had meetings in Puerto Rico relating to the issuances, including to pitch deals. According to a former branch manager of an affiliate of Defendant UBS Securities: "All the major banks in New York [came] to Puerto Rico on a regular basis to pitch deals. . . . They make commissions. They make fees. This is kind of like a moneymaking machine. As long as there are transactions coming and going, they're making a ton of money." Laura Sullivan, *How Puerto Rico's Debt Created a Perfect Storm before the Storm*, NPR (May 2, 2018), <https://www.npr.org/2018/05/02/607032585/how-puerto-ricos-debt-created-a-perfect-storm-before-the-storm>. As an example, Defendant Citigroup Global Markets had at

least one meeting in Puerto Rico with National regarding the issuance of insurance for PREPA.

84. The exercise of jurisdiction is reasonable. This forum has a substantial interest in adjudicating this dispute, which concerns uniquely Puerto Rico causes of action—including claims under Puerto Rico Civil Code § 7—and concerns facts relating to the issuance of billions of dollars in Puerto Rico bonds. Defendants are well-capitalized and continue to do business here; they will not be burdened by appearing in this court. No other forum has as substantial of an interest in adjudicating this dispute and all claims are capable of resolution here.

VENUE

85. Venue is proper in San Juan pursuant to P.R. LAWS ANN. tit. 32 App. V R. 3.5. Defendants Santander Securities, J.P. Morgan Securities, Morgan Stanley LLC, and Merrill Lynch have a physical presence in San Juan. Further, many of the acts and transactions alleged herein occurred in substantial part in San Juan. The bonds were issued in San Juan and sold to persons in San Juan. The insurance policies issued by National were signed in San Juan. Relevant communications—including through meetings and by telephone, fax, e-mail, and letter—also occurred in San Juan.

FACTUAL ALLEGATIONS

I. The Municipal Bond Market

86. A municipal bond is a debt security, under which the bond’s issuer owes the bond’s holders a debt and must pay them interest, usually at fixed intervals, and must repay the principal by a later maturity date. Municipal bonds may be issued by state, local, territorial, or commonwealth governments or by one of their agencies. Such bonds are typically used to finance public projects like roads, schools, housing, or public utilities.

87. The market for municipal bonds is not heavily regulated. “[M]unicipal issuers are exempt from regulation by the SEC with limited exceptions.” MSRB Regulatory Notice 2017-18, at 2 (Sept. 13, 2017), <http://www.msrb.org/~media/Files/Regulatory-Notices/Announcements/2017-18.ashx>. Issuances of municipal bonds are “exempt from federal securities registration and reporting requirements that apply to other securities being offered to the public.” SEC, *Investor Bulletin: The Municipal Securities Market* 1, (Feb. 12, 2018), https://www.sec.gov/oiea/investor-alerts-and-bulletins/ib_munibondsmarket. Thus, any public disclosures about the bonds that the

issuer chooses to make are purely voluntary. *See* Municipal Securities Disclosure, Exchange Act Release No. 26100 (Sept. 22, 1988).

A. Municipal Bond Underwriters

88. A municipal bond issuer (in this case, all governmental instrumentalities) hires an underwriter—often a bank—to market and sell the bonds. Among other things, the underwriter typically participates in drafting Official Statements that describe the bonds and are publicly filed with the SEC. The underwriter buys the bonds from the issuer, prices the bonds, and then resells them to investors in a primary offering.

89. While each bond issuance typically has multiple underwriters, many issuances have at least one “lead underwriter” that takes the lead in (among other things) pricing the bonds, involving other underwriters in the issuance, allocating the amount of bonds to be sold among co-underwriters, coordinating amongst the underwriters, and procuring bond insurance. Each issuance relevant here had at least one lead underwriter responsible for selling more bonds than the rest of the underwriting team and was entitled to receive larger fees.

90. If an issuer decides to make public disclosures about its bonds, the SEC requires the underwriters to vet those disclosures and ensure, through a reasonable investigation, that they are true and complete. As the SEC has explained, “investors in the municipal markets rely on the reputation of the underwriters participating in an offering in deciding whether to invest.” Disclosure, Release No. 26100, at *6. Accordingly, the SEC adopted SEC’s Exchange Act Rule 15c2-12 (“Rule 15c2-12”) to “stimulate greater scrutiny by underwriters of the representations made by issuers and the circumstances surrounding the offering.” *Id.* Underwriters bear this burden because they are sophisticated “securities professionals” with experience in bond issuances that typically is far greater than that of the municipal issuers. *Id.*

91. Rule 15c2-12 makes it “unlawful” for a bank to “act as an underwriter in a primary offering of municipal securities” of over \$1 million unless, among other things, it “obtain[s] and review[s] an Official Statement” that contains key information about the issuance. 17 C.F.R. § 240.15c2-12. Underwriters put their names on the front covers of these Official Statements, thus attaching their reputations as well. Draft Official Statements may exclude certain information relating to the pricing, interest rates and yields for the bonds, but otherwise usually contain the same information as the final versions.

92. As the SEC has explained in guidance interpreting Rule 15c2-12: “by participating in an offering, an underwriter makes an implied recommendation about the securities. This recommendation implies that the underwriter has a reasonable basis for belief in truthfulness and completeness of the key representations contained in the [O]fficial [S]tatement.” Municipal Securities Disclosure, Exchange Act Release No. 26985, at *2 (June 28, 1989). Thus, the underwriter must pursuant to Rule 15c2-12 perform a “reasonable investigation” to develop “a reasonable basis for belief in the truthfulness and completeness of the key representations made in any disclosure documents [i.e., the Official Statements] used in the offerings.” Disclosure, Release No. 26100, at *20. To conduct a reasonable investigation, an underwriter must also examine the truth and completeness of statements made by the same issuer in past issuances: “An underwriter’s obligation to have a reasonable basis to believe that the key representations in a final [O]fficial [S]tatement are true and accurate extends to an issuer’s representations concerning past compliance with disclosure obligations.” U.S. SEC. AND EXCH. COMM’N., *Municipalities Continuing Disclosure Cooperation Initiative*, <https://www.sec.gov/divisions/enforce/municipalities-continuing-disclosure-cooperation-initiative.shtml> (last modified Nov. 13, 2014).

93. In short, underwriters are the market’s gatekeepers. They “help address the informational asymmetries between investors and companies by verifying the credibility of contractual representations,” including “the accuracy of financial statements” and “the risk profile of bonds.” Stavros Gadinis & Colby Mangels, *Collaborative Gatekeepers*, 73 WASH. & LEE L. REV. 797, 802 (2016).

94. When underwriters do their jobs properly, they can protect issuers from issuing debt that is likely to default. Disclosure, Release No. 26100. Critically, if an underwriter finds that bond disclosures are materially false or incomplete, it can help the issuer correct the disclosure or simply refuse to participate in the offering—signaling to the market that something is wrong. *See* Gadinis, 73 WASH. & LEE L. REV. at 810. Investors and others that rely upon this information must be able to assess if the issuer is likely to be able to repay the bonds it issues on the disclosed terms—an assessment that they can conduct only if the information disclosed is truthful and complete.

B. Municipal Bond Insurance

95. In order to facilitate the marketing and sale of the bonds and make them more attractive to investors, municipal bond issuers may, as in this case, engage a bond insurer—also known as a monoline insurer—to provide financial guaranty

insurance. In exchange for a premium, the bond insurer guarantees that it will pay interest or principal to holders of some of or all the bonds if the issuer defaults. By “wrapping” its own credit rating and ability to pay claims around the bonds, the bond insurer increases the creditworthiness, and hence the marketability, of the bonds. Without bond insurance, an underwriter might not be able to market a bond at the desired price—or at any price, depending on the creditworthiness of the issuer.

96. Typically, an underwriter solicits municipal bond insurance from an insurer on behalf of an issuer. But the underwriter and the insurer do not enter into a contract, and the underwriter does not act as the issuer’s agent; the insurance contract is between the insurer and the issuer (or an entity acting on the issuer’s behalf, like an insurance agent).

97. Per well-established industry norms, the underwriter submits an “insurance application” to the insurer to solicit bond insurance for an issuer. Unlike applications for personal forms of insurance (like fire, car, or homeowner’s), there is no standard insurance form; instead, the application for municipal insurance is a bundle of documents describing the issuer and the bonds, including draft Official Statements, three years of audited financial statements, and draft legal documents describing the issuance. The underwriter continuously supplements the application with updated draft Official Statements, ultimately submitting the final version.

98. By submitting Official Statements to an insurer, an underwriter assures the insurer that it will conduct a reasonable investigation into the truth and completeness of those statements, and that the underwriter will have a reasonable basis to believe those statements are materially true and complete. The underwriter is not required to send the insurer these materials, or to certify to the insurer that it will comply with federal securities laws. After the underwriter voluntarily provides those materials, however, the insurer is entitled to rely in good faith on the fact that the underwriter will conduct the investigations required by law.

99. The underwriters’ assurances are critical because underwriters have special access to the issuers—including to their financial information—that insurers and other market participants do not. To decide whether to issue insurance, a bond insurer must depend on information provided by the underwriter and on the underwriter’s assurances that it has vetted that information. *See* Gadinis, 73 WASH. & LEE L. REV. at 809. As the SEC observed, bond insurers must “rely upon disclosure concerning the primary obligor” (i.e., the issuer) and the “reasonable investigation [by the underwriter] of the accuracy and completeness of key representations concerning the primary obligor.” Disclosure, Release No. 26985, at *22.

100. Typically, once a monoline insurer issues bond insurance, that insurance cannot be canceled—the insurer must pay claims, even if it issued the policy based on information that turns out to have been materially false or incomplete. The insurer cannot bring claims against the underwriters under the securities laws, because it did not purchase the bonds, but rather insured them. The insurer also cannot bring contract claims against an underwriter, as the two never enter into a contract.

101. It is vital that underwriters' disclosures and assurances to bond insurers be true and complete. If an underwriter fails to conduct the promised review and allows bonds to come to market based on false or incomplete information, that failure can—and in this case did—cause catastrophic damage to the issuer, the insurer, and the market.

II. Defendants Underwrote the Bonds and Benefited Immensely from Doing So

102. Between 2001 and 2014, the Commonwealth and its instrumentalities and agencies—including PREPA, PRHTA, and COFINA—issued bonds totaling approximately \$66,469,538,131 in principal value at issuance. Sixteen of those bonds are at issue here:

- a) Power Revenue Bonds, Series LL
- b) Power Revenue Refunding Bonds, Series MM
- c) Power Revenue Bonds, Series NN
- d) Power Revenue Refunding Bonds, Series OO
- e) Power Revenue Bonds, Series RR
- f) Power Revenue Refunding Bonds, Series SS
- g) Power Revenue Refunding Bonds, Series UU
- h) Power Revenue Refunding Bonds, Series VV
- i) Public Improvement Refunding Bonds, Series 2002A
- j) Public Improvement Bonds, Series 2003C
- k) Public Improvement Refunding Bonds, Series 2007A
- l) Highway Revenue Refunding Bonds, Series AA
- m) Transportation Revenue Bonds, Series J
- n) Transportation Revenue Refunding Bonds, Series L
- o) Transportation Revenue Refunding Bonds, Series N
- p) Sales Tax Revenue Bonds, Series 2007A

103. As a result of the bond issuances, Defendants profited substantially from underwriting these bonds in multiple ways.

104. *First*, affiliates of some underwriters, including a Puerto Rico-based affiliate of the UBS Defendants, acted as financial advisors to the issuers and charged the issuers fees for advising that they issue the bonds. Special Investigation Report at 557-58 [the Special Investigation Report is described *infra* ¶¶ 130-133]. This advice was self-interested and allowed those affiliates to profit from the issuance of the bonds by obtaining millions of dollars from their self-interested advice.

105. *Second*, the issuers paid Defendants to bring the issuances to market through an “underwriter spread”—the difference between the price Defendants paid the issuer for the bonds and the price at which Defendants offered the bonds to investors. Typically, the underwriter spread was a percentage of the issuance’s overall value and had three components, all paid to Defendants from the proceeds of the bond sale: (a) the takedown, paid to the underwriters for selling the securities (usually the largest component of the spread); (b) management fees, paid to the lead underwriter for taking a lead role in the issuance; and (c) expenses, paid to the underwriters for executing the issuance, including the costs of the underwriter’s counsel’s fees, investor road shows, and technical aspects of issuances.

106. As a result of the underwriter spread, Defendants made many millions of dollars in underwriter spread. Between 2000 and 2013, underwriters—including Defendants—were paid an estimated “\$880 million” in management fees alone. Bill Faries, Martin Z. Braun & Michelle Kaske, *How Wall Street Fed Puerto Rico’s \$70 Billion Debt Binge*, BLOOMBERG NEWS (Oct. 22, 2013), <https://www.bloomberg.com/news/articles/2013-10-22/how-wall-street-fed-puerto-rico-s-70-billion-borrowing-binge>.

107. Defendants were able to increase the size of their underwriter spread by obtaining bond insurance from National. Without that insurance, it is likely that the issuers would not have been able to issue as many bonds or would have had to sell them at much lower prices. By successfully soliciting National’s insurance, Defendants increased the size and price of each bond issuance, which in turn increased Defendants’ profits.

108. *Third*, underwriters like the UBS Defendants and Defendant Santander Securities sold bonds through Puerto Rico Closed-End Funds (“Local CEFs”) managed by their affiliates, reaping additional benefits. Local CEFs were mutual funds with publicly traded shares, exempt from certain federal regulations on disclosures, leverage, and trading with affiliates. Special Investigation Report at 340-43. Local CEFs, which were sold exclusively to Puerto Rico residents, were popular because they were “triple-tax exempt” from federal, state, and local taxes. *Id.* at 340. By

selling bonds this way, these Defendants earned fees for managing the Local CEFs, additional fees for advising the Local CEFs, and sales commissions for selling shares in the Local CEFs. *Id.* at 357. These revenues were massive. For example, advisory and administrative fees, as well as primary and secondary market sales commission associated with Local CEFs, contributed to half of the annual revenues of certain UBS-affiliates between 2004 and 2008. In 2008 alone, one affiliate’s Local CEF business generated \$94.5 million in revenues. *Id.* at 359. UBS-affiliated brokers made a three percent commission on the sales of Local CEF shares and received additional compensation based on amounts drawn from customers’ lines of credit. *Id.* at 368.

109. *Fourth*, many underwriters earned interest rate swap management and termination fees on the bonds they underwrote. An interest rate swap is a contract in which two parties exchange one stream of interest payments for another. Typically, the issuer of a fixed-rate bond will “swap” the interest payments it would receive from that bond in exchange for variable interest payments from the swap provider. The issuer pays the swap provider a fee for issuing the swap and, if the swap is terminated, may have to pay the provider a termination fee. *Id.* at 22, 418-19, 431.

110. Underwriters, including Defendants Morgan Stanley LLC, Merrill Lynch, UBS Defendants, J.P. Morgan Securities, and Goldman Sachs LLC, sold interest rate swaps to the Commonwealth, COFINA, and/or PREPA. *See* Complaint at 5-8, *The Official Committee of Unsecured Creditors of Puerto Rico v. Barclays Capital*, Case No. 19-00281, ECF 1 (Bankr. D.P.R. May 2, 2019); Special Investigation Report at 421, 432-33. These Defendants promoted the swaps as protecting these issuers against rising interest rates—which Defendants said would continue to rise—by swapping the bonds’ variable interest rates for fixed interest rates. When the U.S. financial crisis began in 2007, however, variable interest rates plummeted, but the issuers still had to make high fixed-rate interest payments to Defendants.

111. By 2009, the issuers had to terminate the swaps because they could not afford them—collectively, Puerto Rico bond issuers owed \$1.32 billion in swap termination fees, more than 14% of the Commonwealth’s annual budget and 17% of its actual revenues. Special Investigation Report at 413-14. The issuers ultimately paid over one billion dollars in such fees, including hundreds of millions of dollars to several Defendants. One estimate puts the total fees paid by the issuers to underwriters, including Defendants, at \$1.6 billion. Saqib Bhatti & Carrie Sloan, ReFund America Project, *Scooping and Tossing Puerto Rico’s Future*, 1 (Aug. 31, 2016), <https://www.scribd.com/document/322588236/Scooping-and-Tossing-Puerto-Rico-s-Future#page=1&fullscreen=1>.

112. *Finally*, underwriters, including Defendants, induced issuers facing large termination fees to issue additional bonds to pay down those fees. Collectively, the Commonwealth, PREPA, and COFINA raised in excess of \$800 million in new debt to pay swap termination fees they owed on old debt—including fees they owed to several Defendants, such as Defendants Morgan Stanley LLC, UBS Defendants, Citigroup Global Markets, J.P. Morgan Securities, Goldman Sachs LLC, and Merrill Lynch. Special Investigation Report at 432-33. Defendants benefited from these deals, which generated revenue associated with the fees and the new bonds. Certain Defendants—including Santander Securities, J.P. Morgan Securities, Morgan Stanley LLC, and Goldman Sachs LLC—also earned additional fees by underwriting the new bonds. *See, e.g., Commonwealth of Puerto Rico, Official Statement for General Obligations Bonds of 2014, Series A, 24-25 (2014).*

113. As a result, Defendants had significant incentives to encourage the issuers to issue more and more debt—and practically no incentive to ensure that the bonds could perform in the long run. The issuances were so lucrative for the Defendants that they were incentivized to gloss over information indicative of default risks so that they could push the bonds to market. The prospect of insurance—which put insurers on the hook for any default—further incentivized Defendants to gloss over those risks since the insurers, and not the underwriters, would bear the risk. Defendants’ interests conflicted with those of the issuers, bond insurers like National, the bondholders, and the people of Puerto Rico, who depended on the essential services that the issuers provide.

III. To Induce National to Insure The Bonds, Defendants Assured National They Had A Reasonable Basis to Believe The Bonds’ Official Statements Were True and Complete

114. From 2001 to 2007, Defendants solicited and induced National to insure the timely payment of interest and principal payments, when due, on the bonds issued by the Commonwealth, PREPA, PRHTA, and COFINA, totaling approximately \$11,465,305,000 of debt service. For each issuance, and regardless of issuer, Defendants acted the same way: They submitted insurance applications, which they continuously supplemented, including draft and final Official Statements that had their names on the front cover.

115. Although Defendants purportedly did not explicitly guarantee that representations in the Official Statements were true and complete, Defendants could and did assure National that they had reasonably investigated those statements and had a reasonable basis to believe they were true and complete. Each Official

Statement stated: “The Underwriters have reviewed the information in this Official Statement in accordance with, and as part of their respective responsibilities to investors under, the federal securities laws as applied to the facts and circumstances of the transaction, but the Underwriters do not guarantee the accuracy or completeness of such information.” *E.g.*, PREPA, *Official Statement for Power Revenue Bonds, Series NN* (2003).

116. As an integral step in soliciting National to provide bond insurance, Defendants submitted these Official Statements to National in draft and final form. In submitting the draft statements, Defendants touted their compliance with the securities laws, acted as though they were abiding by municipal bond industry custom and norms, and so assured National that they would perform a “reasonable investigation” to develop “a reasonable basis for belief in the truthfulness and completeness of the key representations made in any disclosure documents used in the offerings.” Disclosure, Release No. 26100. In submitting final Official Statements, Defendants assured National that they had completed that investigation and now reasonably believed that the statements were true and complete. Defendants intended that National would rely on these assurances—which it did.

IV. Relying on Defendants’ Assurances, National Issued Insurance for the Bonds That Could Not be Revoked

117. Upon information and belief, Defendants are experienced municipal bond underwriters that have underwritten at least hundreds, if not thousands, of municipal bond issuances outside of Puerto Rico. Where Defendants have sought insurance for municipal offerings, they have in the past done so by submitting Official Statements to insurers, which have relied upon their reasonable investigations in making insurance decisions in accordance with municipal industry custom and norms.

118. In deciding whether to insure the bonds, consistent with industry custom and norms, National had to rely on information submitted by Defendants, who had access to the issuers’ financial information. It was objectively reasonable for National to do so. It was especially reasonable for National to rely on the specific information that Defendants presented and had purportedly vetted, as National could not reasonably verify that information on its own—publicly-available information about the Commonwealth was “notoriously unreliable[.]” John Dizard, *Puerto Rico’s Number-Crunching Frustrates Even the Best Minds*, FIN. TIMES (Mar. 15, 2019), <https://www.ft.com/content/132a4e75-9016-3757-9f4d-08baf3c7a798>.

119. Based on the information provided by Defendants, and on Defendants' assurances that they had reasonably investigated those statements, National entered into agreements with the issuers to insure the bonds. These agreements allowed National to opt out before the bond was issued if there were material adverse changes to the draft or final Official Statements or if National became aware of materially false statements or omissions in the application. If National did not opt out before the bonds were issued, the insurance policy it issued would be irrevocable.

120. National reviewed the draft and final Official Statements. It focused on assessing the likelihood of default, examining how the issuer was spending and would spend its funds; the issuer's debt ratios; the issuer's revenues, debts, and appropriations; and, if the issuance was secured by the issuer's revenues, the conditions of the facilities that would generate the revenue and whether the issuer would spend funds to maintain or improve them.

121. Based on the information in the applications—and because Defendants never notified National that any of the statements were untrue or incomplete—National issued irrevocable insurance policies for the bonds at issue. Because National's insurance was irrevocable, National's long-term interests were fully aligned with those of the Commonwealth, PREPA, PRHTA, COFINA, and the people of Puerto Rico—none wanted the bonds to default.

V. The Issuers Default and National Honors Its Insurance Policies, Making Claims Payments Starting in 2016

122. Eventually, the bonds that underwriters, including Defendants, pushed to market bankrupted the Commonwealth.

123. By 2015, Puerto Rico had a debt of approximately \$72 billion—reportedly about “15 times the median bond debt of the 50 states” and far more than any of those states. Mary Williams Walsh, *The Bonds That Broke Puerto Rico*, N.Y. TIMES (June 30, 2015), <https://www.nytimes.com/2015/07/01/business/dealbook/the-bonds-that-broke-puerto-rico.html>. These debts caused a financial crisis. The Commonwealth reportedly had “lock[ed] up more and more of its resources to secure more and more bonds,” which, “over the long term ... left less and less money to provide essential government services,” such as “policing, staffing the public schools and providing clean water.” *Id.*

124. The Governor of Puerto Rico declared the island's debt “not payable.” Michael Corkery & Mary Williams Walsh, *Puerto Rico's Governor Says Island's Debts Are 'Not Payable'*, N.Y. TIMES (June 28, 2015), <https://www.nytimes.com/2015/06/29/business/dealbook/puerto-ricos-governor-says-islands-debts->

are-not-payable.html. Shortly thereafter, Puerto Rico issuers began defaulting. These defaults devastated the people of Puerto Rico, especially retail investors, many of whom were “conservative” and had invested heavily at the time of each issuance because they thought the bonds were safe. For example, a UBS Defendants’ affiliate disclosed “nearly \$3 billion in losses to Local CEF investors.” Special Investigation Report at 340. Many investors in the immediate term had their retirement savings severely diminished or fully wiped out. The defaults also harmed all of Puerto Rico’s citizens in myriad ways. Due to the staggering financial crisis and loss of access to the municipal bond market, the Commonwealth closed essential institutions, including schools and hospitals; limited funding to important social services, such as healthcare and infrastructure; and reduced maintenance of power grids and transportation networks. *See id.* at 48; Thomas Health & Tory Newmyer, *Puerto Rico, with \$73 billion in Debt, Forced Toward Bankruptcy*, WASH. POST (May 3, 2017), https://www.washingtonpost.com/business/economy/puerto-rico-with-73-billion-in-debt-forced-toward-bankruptcy/2017/05/03/92e39d76-3020-11e7-9534-00e4656c22aa_story.html?noredirect=on&utm_term=.59dff9c2442e; Sullivan, *supra* ¶ 83.

125. Defaults by the Commonwealth, PREPA, and PRHTA triggered National’s obligations to pay on its policies. National has acted to mitigate the crisis, making every payment due—more than \$720 million as of July 1, 2019.

126. National intends to make all future claims payments as well, which it reasonably estimates to be hundreds of millions of dollars.

127. National’s payments have helped and will continue to help make whole investors, including Commonwealth citizens, in the wake of the financial turmoil caused by the defaults.

128. While COFINA did not default, it entered bankruptcy-like proceedings, to National’s detriment. Under Title III of PROMESA, the FOMB filed petitions on behalf of Puerto Rico, and several of the Commonwealth’s instrumentalities—including PREPA, PRHTA, and COFINA—followed suit. In February 2019, COFINA emerged from its Title III proceedings, with a debt restructuring plan pursuant to which National reasonably expects to pay out over \$100 million in claims. Other instrumentalities have yet to emerge from their Title III proceedings.

129. While National, the issuers, and the people of Puerto Rico were deeply harmed by the defaults, the underwriters retained their massive profits. As a former bond broker from Defendant Morgan Stanley put it: “The banks [got] out, and everybody else [got] stuck with the bill.” Sullivan, *supra* ¶ 83.

VI. In 2018, A Special Investigation Revealed That—Contrary To Their False Assurances—Defendants Had Not Reasonably Investigated the Official Statements And Those Statements Were Materially False and Incomplete

130. The FOMB formed a Special Investigation Committee (the “Special Investigation”) that investigated the origins of Puerto Rico’s fiscal crisis. The results of the Special Investigation were released in a report in August 2018 (the “Special Investigation Report”). Through document request letters and subpoenas, the Special Investigation Committee obtained over 260,000 documents from 32 different parties including Puerto Rico entities, financial institutions, and financial advisors; it also interviewed 120 witnesses, including former and current Puerto Rico officials—and underwriters. Special Investigation Report at 25, 27.

131. The Committee’s findings were shocking. Everywhere it looked, it found that key representations in the Official Statements for the issuances it examined were untrue or incomplete. The Special Investigation Report found that the underwriters, including Defendants, did not adequately examine the veracity of those representations—if they investigated at all. The Special Investigation Report further indicated that the underwriters took the same approach to other issuances that were not examined as part of the Special Investigation. *See id.* at Parts XI, XIV.

132. The Special Investigation’s scope, as determined by the Committee, was limited: It looked at only the period from 2006 to 2015 and focused on only select issuers—the Commonwealth, PREPA, COFINA, and the Puerto Rico Aqueducts and Sewers Authority (“PRASA”). The Special Investigation Report stated that “[f]urther analysis and gathering of evidence by other stakeholders, with mandates different or broader than ours, will inform whether any potential causes of action or legal remedies identified in this Report can and should be pursued and, if so, in what manner and against whom.” *Id.* at 30. The Report advised that its discussion of potential causes of action in the report “is not intended to provide an exhaustive or definitive list and analysis of causes of action that may be available[.]” *Id.*

133. The Special Investigation Report reveals that Defendants failed to reasonably investigate the truth and completeness of Official Statements for the bonds at issue. The Report not only reveals the underwriters’ wholly inadequate approach to PREPA issuances, but also strongly indicates that they took the same approach to other issuances that the Report did not fully analyze, if at all—including those of the Commonwealth, PRHTA, and COFINA. As shown below, multiple Defendants underwrote multiple bonds for each issuer and across issuing entities. Six of the Defendants—J.P. Morgan Securities, the UBS Defendants (one of UBS Financial Services

and UBS Securities), Morgan Stanley LLC, Goldman Sachs LLC, Citigroup Global Markets, and Merrill Lynch—participated in every issuance insured by National—while Defendants Santander Securities and RBC Capital Markets participated in each issuance insured by National in 2007. The issuers themselves had the same Defendants marketing and selling their bonds, had similar or identical disclosure problems, and the bonds they underwrote all defaulted around the same time. Defendants had similar incentives for each issuance—to bring the bonds to market without performing investigations, the results of which could impair their profits.

A. The Key Representations in PREPA’s Official Statements Were Materially False and Incomplete

134. PREPA is responsible for conserving, developing, and utilizing Puerto Rico’s power resources to promote Puerto Rico’s general welfare.

135. PREPA’s bonds are backed by PREPA’s revenue from generating, transmitting, and distributing electricity. *E.g.*, PREPA, *Official Statement for Power Revenue Bonds, Series NN*, 5 (2003).

136. From 2001 to 2007, Defendants sought and obtained bond insurance from National, and National has made claims payments, on the following PREPA bonds:

a. PREPA Power Revenue Bonds, Series LL dated June 13, 2002, with a maturity date of July 1, 2019. The lead underwriters were Goldman Sachs LLC and UBS PaineWebber Inc. (now known as UBS Financial Services). Other underwriters included Merrill Lynch, Banc of America Securities (predecessor in interest to Defendant Merrill Lynch), ABN AMRO Financial Services, Inc. (predecessor in interest to Defendant Merrill Lynch), Morgan Stanley LLC, Bear Stearns & Co., Inc. (predecessor in interest to Defendant J.P. Morgan Securities), and Salomon Smith Barney (predecessor in interest to Defendant Citigroup Global Markets). The purpose of these bonds was to finance a portion of the cost of various projects under PREPA’s capital improvement program. National insured these bonds in the original par amount of \$98,125,000. The first default on these bonds was July 3, 2017.

b. PREPA Power Revenue Refunding Bonds, Series MM dated September 20, 2002, with a maturity date of July 1, 2023. The lead underwriters were Goldman Sachs LLC and UBS PaineWebber Inc. (now known as UBS Financial Services). Other underwriters included Merrill Lynch, Banc of America Securities (predecessor in interest to Defendant Merrill Lynch), ABN AMRO Financial Services, Inc. (predecessor in interest to Defendant Merrill

Lynch), Morgan Stanley LLC, Salomon Smith Barney (predecessor in interest to Defendant Citigroup Global Markets), and Bear Stearns & Co., Inc. (predecessor in interest to Defendant J.P. Morgan Securities). The purpose of these bonds was to refund previously issued PREPA revenue bonds. National insured these bonds in the original par amount of \$68,700,000. The first default on these bonds was July 3, 2017.

c. PREPA Power Revenue Bonds, Series NN dated August 8, 2003, with a maturity date of July 1, 2033. The lead underwriters were Goldman Sachs LLC, Merrill Lynch, and J.P. Morgan Securities. Other underwriters included Morgan Stanley LLC, UBS Financial Services, Banc of America Securities (predecessor in interest to Defendant Merrill Lynch), and Citigroup Global Markets. The purpose of these bonds was to finance a portion of the cost of various projects under PREPA's capital improvement program and to repay a Government Development Bank ("GDB") line of credit. National insured these bonds in the original par amount of \$272,290,000. The first default on these bonds was July 3, 2017.

d. PREPA Power Revenue Refunding Bonds, Series OO dated August 12, 2004, with a maturity date of July 1, 2025. The lead underwriters were Morgan Stanley LLC, Merrill Lynch, and J.P. Morgan Securities. Other underwriters included Goldman Sachs LLC, Banc of America Securities (predecessor in interest to Defendant Merrill Lynch), UBS Financial Services, and Citigroup Global Markets. The purpose of these bonds was to refund previously issued PREPA revenue bonds. National insured these bonds in the original par amount of \$124,550,000. The first default on these bonds was July 3, 2017.

e. PREPA Power Revenue Bonds Series RR and PREPA Power Revenue Refunding Bonds Series SS dated March 24, 2005, with a maturity date of July 1, 2024 and July 1, 2025, respectively. The lead underwriters were Morgan Stanley LLC, Merrill Lynch, and J.P. Morgan Securities. Other underwriters included Goldman Sachs LLC, Banc of America Securities (predecessor in interest to Defendant Merrill Lynch), UBS Financial Services, and Citigroup Global Markets. The purpose of the Series RR bonds was to finance a portion of the cost of various projects under PREPA's capital improvement program and to repay notes held by the GDB. The purpose of the Series SS bonds was to refund previously issued PREPA revenue bonds. National insured these bonds in the original par amount of \$469,025,000. The first default on these bonds was July 3, 2017.

f. PREPA Power Revenue Refunding Bonds, Series UU dated April 19, 2007, with a maturity date of July 1, 2019. The lead underwriters were J.P. Morgan Securities and UBS Investment Bank (now known as UBS Securities). Other underwriters included Merrill Lynch, Banc of America Securities (predecessor in interest to Defendant Merrill Lynch), Morgan Stanley LLC, Goldman Sachs LLC, RBC Capital Markets, and Santander Securities. The purpose of these bonds was to refund previously issued PREPA revenue bonds. National insured these bonds in the original par amount of \$77,290,000. The first default on these bonds was July 3, 2017.

g. PREPA Power Revenue Refunding Bonds, Series VV dated May 16, 2007, with a maturity date of July 1, 2035. The lead underwriters were J.P. Morgan Securities and UBS Investment Bank (now known as UBS Securities). Other underwriters included Merrill Lynch, Banc of America Securities (predecessor in interest to Defendant Merrill Lynch), Morgan Stanley LLC, Citigroup Global Markets, Goldman Sachs LLC, RBC Capital Markets, and Santander Securities. The purpose of these bonds was to refund previously issued PREPA revenue bonds. National insured these bonds for \$302,600,000 and issued an additional insurance policy in the original par amount of \$127,610,000. The first default on these bonds was July 3, 2017.

137. It was critical that statements regarding PREPA's long-term ability to earn revenues, minimize costs, and pay down debt through its revenue generating business be accurate. In particular, because the bonds were backed by revenues from generating, transmitting, and distributing electricity, it was important that raised funds actually be spent as disclosed on the generation, transmission, and distribution of electricity—which would generate revenues—to minimize the risk of default.

138. In fact, key representations in the Official Statements were materially false and incomplete, including those regarding: (a) basic financial information, including debt service coverage ratios and the underlying fundamentals, such as revenues; (b) how PREPA was spending money—including statements that it was spending money on generating, transmitting, and distributing electricity; and (c) the good repair of PREPA's systems. Defendants did not investigate and did not have a reasonable basis to believe the truthfulness and completeness of these disclosures.

139. *First*, the Official Statements represented PREPA’s basic financial information, including its historical and projected revenues, its expenses, its net revenues, and information about its existing debts, such as principal and interest amounts. The higher the revenues and the lower the expenses and debt obligations, the less likely PREPA would be to default on the proposed bonds.

140. The Official Statements provided by Defendants also disclosed PREPA’s debt coverage requirements. In order to issue new bonds, and while any bond is outstanding, PREPA must “fix, charge, and collect [reasonable] rates and charges so that Revenues of the System [would] be sufficient to pay [then and future] Current Expenses and to provide 120% of the aggregate Principal and Interest Requirements for the [then] next fiscal year.” *E.g.*, PREPA, *Official Statement for Power Revenue Bonds, Series TT and UU*, 10 (2007); PREPA, *Official Statement for Power Revenue Bonds, Series NN*, 7 (2003); PREPA, *Official Statement for Power Revenue Bonds, Series LL*, 10 (2002). Each Official Statement disclosed PREPA’s historical and projected debt service coverage calculations as the “ratio of [] Net Revenues to Principal and Interest Requirements.” *E.g.*, PREPA, *Official Statement for Power Revenue Bonds, Series NN*, 34 (2003). These calculations were designed to show that PREPA’s revenues would be sufficient to cover its operating expenses plus upcoming payments on its debt service—thereby minimizing the risk of default. A debt service coverage calculation showing a ratio above the requisite 120%, or 1.2, indicated PREPA would be well positioned to pay current and future expenses. The higher the calculation for PREPA was above the 1.2 ratio, the less risky an issuance appeared.

141. The Official Statements provided by Defendants J.P. Morgan Securities, Morgan Stanley LLC, Goldman Sachs LLC, Citigroup Global Markets, UBS Securities, and Merrill Lynch for the PREPA Power Revenue Bonds Series LL dated June 13, 2002 set forth the following “Historical Net Revenues and Coverage.” These representations included, among other things, net revenue information leading to historical debt coverage ratios well over the requisite ratio of 1.2—between 1.46 and 1.77 for the preceding five years:

Historical Net Revenues and Coverage

	Years Ended June 30,					Nine Months Ended March 31,	
	1997	1998	1999	2000	2001	2001	2002
Average number of clients.....		1,309,954	1,326,055	1,344,907	1,365,668	1,363,420	1,381,701
Electric energy sales (in millions of kWh).....	1,291,633	17,457	16,989	18,145	18,723	14,043	14,264
	16,118						
Source of Net Revenues							
(dollars in thousands)							
Revenues:							
Sales of electrical energy:							
Residential ⁽¹⁾	\$ 491,316	\$ 524,128	\$ 471,070	\$ 633,151	\$ 779,682	\$ 586,798	\$ 541,472
Commercial	725,146	745,228	688,526	878,697	1,026,219	768,694	717,973
Industrial.....	346,185	350,292	299,295	391,906	436,313	329,199	282,886
Other.....	73,185	74,338	68,944	80,473	86,889	62,915	62,177
	1,635,832	1,693,986	1,527,835	1,984,227	2,329,103	1,747,606	1,604,508
Revenues from Commonwealth for rural electrification.....	1,068	1,007	941	881	705	522	558
Other operating revenues.....	8,662	11,841	8,827	10,240	8,210	6,541	6,452
Other (principally interest earned).....	24,887	26,841	26,350	29,936	35,059	28,151	18,728
	1,670,449	1,733,675	1,563,953	2,025,284	2,373,077	1,782,820	1,630,246
Current Expenses:							
Operations:							
Fuel.....	648,899	625,346	500,920	801,433	944,760	728,422	535,232
Purchased power.....	--	--	--	64,517	177,330	125,390	163,203
Other production.....	37,378	43,658	42,818	55,690	56,301	41,925	43,131
Transmission and Distribution.....	76,735	86,901	83,385	94,793	105,034	74,922	84,724
Customer accounting and Collection.....	68,138	73,647	67,517	76,598	83,453	62,814	62,143
Administrative and General.....	148,376	139,986	142,866	151,069	139,117	103,977	112,658
Maintenance ⁽²⁾	217,455	215,118	212,530	219,812	213,666	163,568	160,870
Other.....	1,920	1,501	2,725	2,911	3,028	2,285	2,448
	1,198,901	1,186,157	1,052,761	1,466,823	1,722,689	1,303,303	1,164,409
Net Revenues	\$ 471,548	\$ 547,518	\$ 511,192	\$ 558,461	\$ 650,388	\$ 479,517	\$ 465,837
Coverage							
Principal and Interest Requirements.....	\$ 291,239	\$ 316,138	\$ 348,963	\$ 346,417	\$ 367,796	--	--
Ratio of Net Revenues to Principal and Interest Requirements.....	1.62	1.73	1.46	1.61	1.77	--	--

PREPA, *Official Statement for Power Revenue Bonds, Series LL*, 40 (2002).

142. The Official Statements provided by Defendants J.P. Morgan Securities, Morgan Stanley LLC, Goldman Sachs LLC, Citigroup Global Markets, UBS Securities, and Merrill Lynch for the PREPA Power Revenue Bonds Series LL dated June 13, 2002 set forth the following “Projected Net Revenues and Coverage.” These representations included, among other things, net revenues leading to projected debt coverage ratios well over the requisite ratio of 1.2—between 1.54 and 1.77 over the following five years:

Projected Net Revenues and Coverage

	Years Ending June 30,				
	2002 ⁽¹⁾	2003	2004	2005	2006
Average number of clients.....	1,384,206	1,403,844	1,424,481	1,444,121	1,464,762
Electric energy sales (in millions of kWh).....	19,051.3	19,756.2	20,352.2	20,823.7	21,655.4
Authority generation (gross)(in millions of kWh).....	19,576.6	17,157.5	17,622.1	18,393.2	19,512.4
Purchased generation (gross)(in millions of kWh).....	2,986.0	6,195.0	6,435.0	6,221.0	6,085.0
Sources of Net Revenues					
(dollars in thousands)					
Revenues:					
Sales of electrical energy:					
Residential.....	\$ 717,119	\$ 766,354	\$ 782,243	\$ 809,770	\$ 851,101
Commercial.....	958,533	1,037,601	1,101,832	1,154,489	1,235,627
Industrial.....	377,723	411,788	430,525	454,049	481,285
Other.....	85,055	90,734	91,909	92,548	93,665
	<u>2,138,430</u>	<u>2,306,477</u>	<u>2,406,509</u>	<u>2,510,856</u>	<u>2,661,678</u>
Revenues from Commonwealth for Rural Electrification.....	739	704	591	161	116
Other (principally, interests earned).....	33,573	37,115	39,115	41,115	43,115
	<u>2,172,742</u>	<u>2,344,296</u>	<u>2,446,215</u>	<u>2,552,132</u>	<u>2,704,909</u>
Current Expenses ⁽²⁾ :					
Operations.....					
Fuel.....	696,408	594,334	638,146	699,579	786,835
Purchased Power.....	229,265	438,830	450,989	458,351	461,651
Other Production.....	44,707	35,533	36,268	37,019	37,785
Transmission and Distribution.....	85,672	83,400	85,126	86,888	88,686
Customer Accounting and Collections.....	82,614	79,707	81,356	83,040	84,759
Administration and general.....	171,986	181,624	185,382	189,219	193,138
Maintenance.....	233,057	249,901	255,071	260,352	265,741
Other – Interest Charges.....	3,263	2,027	2,078	2,130	2,183
	<u>1,546,972</u>	<u>1,665,356</u>	<u>1,734,416</u>	<u>1,816,578</u>	<u>1,920,778</u>
Net Revenues	<u>\$ 625,770</u>	<u>\$ 678,940</u>	<u>\$ 711,799</u>	<u>\$ 735,554</u>	<u>\$ 784,131</u>
Coverage					
Principal and Interest Requirements ⁽³⁾	\$ 392,043	\$ 382,519	\$ 430,888	\$ 477,554	\$ 500,056
Ratio of Net Revenues to Principal and Interest Requirements.....	1.60	1.77	1.65	1.54	1.57

Id. at 45.

143. The Official Statements provided by Defendants J.P. Morgan Securities, Morgan Stanley LLC, Goldman Sachs LLC, Citigroup Global Markets, UBS Securities, and Merrill Lynch for the PREPA Power Revenue Refunding Bonds Series MM dated September 20, 2002 set forth the following “Historical Net Revenues and Coverage.” These representations included, among other things, net revenue information leading to historical debt coverage ratios well over the requisite ratio of 1.2—1.62 in 2001 and 1.77 in 2002:

Historical Net Revenues and Coverage

	Years Ended June 30,	
	2001	2002*
Average number of clients	1,365,668	1,383,888
Electric energy sales (in millions of kWh)	18,723	19,130
Source of Net Revenues		
(dollars in thousands)		
Revenues:		
Sales of electrical energy:		
Residential ⁽¹⁾	\$ 779,682	\$ 725,797
Commercial	1,026,219	969,182
Industrial	436,313	382,140
Other	86,889	85,052
	2,329,103	2,162,171
Revenues from Commonwealth for rural electrification	705	739
Other operating revenues	8,210	8,514
Other (principally interest earned)	35,059	29,129
	2,373,077	2,200,553
Current Expenses:		
Operations:		
Fuel	944,760	720,292
Purchased power	177,330	227,923
Other production	56,301	56,029
Transmission and Distribution	105,034	114,971
Customer accounting and collection	83,453	84,689
Administrative and general	139,117	146,497
Maintenance ⁽²⁾	213,666	212,959
Other	3,028	3,235
	1,722,689	1,566,595
Net Revenues	\$ 650,388	\$ 633,958
Coverage		
Principal and Interest Requirements	\$ 367,796	\$ 392,043
Ratio of Net Revenues to Principal and Interest Requirements	1.77	1.62

PREPA, *Official Statement for Power Revenue Refunding Bonds, Series MM, 7* (2002).

144. The Official Statements provided by Defendants J.P. Morgan Securities, Morgan Stanley LLC, Goldman Sachs LLC, Citigroup Global Markets, UBS Securities, and Merrill Lynch for the PREPA Power Revenue Bonds Series NN dated August 8, 2003 set forth the following “Historical Net Revenues and Coverage.” These representations included, among other things, net revenue information leading to historical debt coverage ratios well over the requisite ratio of 1.2—between 1.46 and 1.77 for the preceding five years:

Historical Net Revenues and Coverage

	Years Ended June 30,					Ten Months Ended April 30,	
	1998	1999	2000	2001	2002	2002	2003
	Average number of clients	1,309,954	1,326,055	1,344,907	1,365,668	1,383,888	1,382,464
Electric energy sales (in millions of kWh).....	17,457	16,989	18,145	18,723	19,130	15,746	16,496
Source of Net Revenues							
(dollars in thousands)							
Revenues:							
Sales of electric energy:							
Residential ⁽¹⁾	\$ 524,128	\$ 471,070	\$ 633,151	\$ 779,682	\$ 725,797	\$ 596,273	\$ 717,208
Commercial	745,228	688,526	878,697	1,026,219	969,182	795,670	920,852
Industrial	350,292	299,295	391,906	436,313	382,140	313,991	359,643
Other	74,338	68,944	80,473	86,889	85,052	70,010	76,746
	1,693,986	1,527,835	1,984,227	2,329,103	2,162,171	1,775,944	2,074,449
Revenues from Commonwealth							
for rural electrification	1,007	941	881	705	739	620	590
Other operating revenues	11,841	8,827	10,240	8,210	8,514	7,061	7,417
Other (principally interest earned)	26,841	26,350	29,936	35,059	22,257	23,520	14,731
	1,733,675	1,563,953	2,025,284	2,373,077	2,193,681	1,807,145	2,097,187
Current Expenses:							
Operations:							
Fuel.....	625,346	500,920	801,433	944,760	720,292	591,029	735,142
Purchased power	--	--	64,517	177,330	227,923	182,644	274,209
Other production	43,658	42,818	55,690	56,301	56,029	47,495	34,367
Transmission and Distribution	86,901	83,385	94,793	105,034	114,971	94,641	97,584
Customer accounting and Collection	73,647	67,517	76,598	83,453	84,689	69,241	74,818
Administrative and General	139,986	142,866	151,069	139,117	146,497	125,972	133,672
Maintenance ⁽²⁾	215,118	212,530	219,812	213,666	212,959	178,485	191,903
Other	1,501	2,725	2,911	3,028	3,235	2,707	2,850
	1,186,157	1,052,761	1,466,823	1,722,689	1,566,595	1,292,214	1,544,545
Net Revenues.....	\$ 547,518	\$ 511,192	\$ 558,461	\$ 650,388	\$ 627,086	\$ 514,931	\$ 552,642
Coverage							
Principal and Interest Requirements.....	\$ 316,138	\$ 348,963	\$ 346,417	\$ 367,796	\$ 392,043	-	-
Ratio of Net Revenues to Principal and Interest Requirements.....	1.73	1.46	1.61	1.77	1.60	-	-

PREPA, *Official Statement for Power Revenue Bonds, Series NN, 35* (2003).

145. The Official Statements provided by Defendants Goldman Sachs LLC, Merrill Lynch, J.P. Morgan Securities, Morgan Stanley LLC, UBS Financial Services, Merrill Lynch, and Citigroup Global Markets for the PREPA Power Revenue Bonds Series NN dated August 8, 2003 set forth the following “Projected Net Revenues and Coverage.” These representations included, among other things, net revenues leading to projected debt coverage ratios well over the requisite ratio of 1.2—between 1.54 and 1.76 over the following five years:

Projected Net Revenues and Coverage

	Years Ending June 30,				
	2003 ^(b)	2004	2005	2006	2007
Average number of clients	1,401,379	1,420,024	1,439,656	1,458,277	1,477,899
Electric energy sales (in millions of kWh).....	19,888.5	20,536.2	21,146.2	21,796.3	22,458.6
Authority generation (gross)(in millions of kWh)....	23,676.2	24,326.3	25,048.8	25,818.9	26,603.4
Purchased generation (gross)(in millions of kWh)...	5,303.0	6,195.0	6,622.0	6,519.0	6,351.0
Sources of Net Revenues	(dollars in thousands)				
Revenues:					
Sales of electric energy:					
Residential	\$ 848,704	\$ 919,870	\$ 907,407	\$ 929,614	\$ 949,605
Commercial.....	1,099,070	1,187,370	1,206,163	1,260,723	1,314,370
Industrial.....	430,351	463,224	456,183	464,602	472,026
Other	92,333	93,632	91,435	91,458	91,406
	<u>2,470,458</u>	<u>2,664,096</u>	<u>2,661,188</u>	<u>2,746,397</u>	<u>2,827,407</u>
Revenues from Commonwealth for Rural Electrification.....	704	591	161	116	76
Other (principally, interests earned).....	28,333	38,247	40,247	42,247	44,247
	<u>2,499,495</u>	<u>2,702,934</u>	<u>2,701,596</u>	<u>2,788,760</u>	<u>2,871,730</u>
Current Expenses ⁽²⁾ :					
Operations:					
Fuel.....	840,722	873,970	812,568	847,038	880,163
Purchased Power.....	345,705	447,050	473,260	480,123	483,696
Other Production	40,861	51,174	52,924	54,737	56,616
Transmission and Distribution.....	112,306	112,329	116,170	120,150	124,274
Customer Accounting and Collections	88,827	97,207	100,531	103,975	107,544
Administration and general.....	159,094	164,563	170,189	176,021	182,063
Maintenance.....	236,314	243,862	252,200	260,841	269,795
Other – Interest Charges	3,187	2,078	2,129	2,182	2,238
	<u>1,827,016</u>	<u>1,992,233</u>	<u>1,979,971</u>	<u>2,045,067</u>	<u>2,106,389</u>
Net Revenues	<u>\$ 672,479</u>	<u>\$ 710,701</u>	<u>\$ 721,625</u>	<u>\$ 743,693</u>	<u>\$ 765,341</u>
Coverage					
Principal and Interest Requirements ⁽³⁾	\$ 382,519	\$ 427,088	\$ 447,143	\$ 476,260	\$ 498,184
Ratio of Net Revenues to Principal and Interest Requirements	1.76	1.66	1.61	1.56	1.54

Id. at 40.

146. The Official Statements provided by Defendants J.P. Morgan Securities, Morgan Stanley LLC, Goldman Sachs LLC, Citigroup Global Markets, UBS Securities, and Merrill Lynch for the PREPA Power Revenue Bonds Series OO dated August 12, 2004 set forth the following “Historical Net Revenues and Coverage.” These representations included net revenue information leading to historical debt coverage ratios well over the requisite ratio of 1.2—between 1.46 and 1.77 for the preceding five years:

Historical Net Revenues and Coverage

	Years Ended June 30,					Nine Months Ended March 31,	
	1999	2000	2001	2002	2003	2003	2004
Average number of clients.....	1,326,055	1,344,907	1,365,668	1,383,888	1,401,301	1,399,182	1,417,196
Electric energy sales (in millions of kWh)....	16,989	18,145	18,723	19,130	19,887	14,926	15,199
Source of Net Revenues							
(dollars in thousands)							
Revenues:							
Sales of electric energy:							
Residential ⁽¹⁾	\$ 471,070	\$ 633,151	\$ 779,682	\$ 725,797	\$ 867,684	\$ 645,339	\$ 667,594
Commercial.....	688,526	878,697	1,026,219	969,182	1,117,317	825,957	876,346
Industrial.....	299,295	391,906	436,313	382,140	432,296	323,775	326,052
Other.....	<u>68,944</u>	<u>80,473</u>	<u>86,889</u>	<u>85,052</u>	<u>91,461</u>	<u>69,163</u>	<u>65,831</u>
	1,527,835	1,984,227	2,329,103	2,162,171	2,508,758	1,864,234	1,935,823
Revenues from Commonwealth							
for rural electrification.....	941	881	705	739	704	531	441
Other operating revenues.....	8,827	10,240	8,210	8,514	9,625	6,713	7,107
Other (principally interest earned).....	<u>26,350</u>	<u>29,936</u>	<u>35,059</u>	<u>22,257</u>	<u>17,163</u>	<u>13,505</u>	<u>8,095</u>
	1,563,953	2,025,284	2,373,077	2,193,681	2,536,250	1,884,983	1,951,466
Current Expenses:							
Operations:							
Fuel.....	500,920	801,433	944,760	720,292	886,425	662,954	640,248
Purchased power.....	-	64,517	177,330	227,923	339,082	238,991	316,638
Other production.....	42,818	55,690	56,301	56,029	44,990	31,569	36,443
Transmission and Distribution.....	83,385	94,793	105,034	114,971	119,408	88,304	99,156
Customer accounting and Collection.....	67,517	76,598	83,453	84,689	89,710	67,786	67,150
Administrative and General.....	142,866	151,069	139,117	146,497	163,517	120,359	120,513
Maintenance ⁽²⁾	212,530	219,812	213,666	212,959	224,941	172,402	174,812
Other.....	<u>2,725</u>	<u>2,911</u>	<u>3,028</u>	<u>3,235</u>	<u>3,403</u>	<u>2,579</u>	<u>2,757</u>
	<u>1,052,761</u>	<u>1,466,823</u>	<u>1,722,689</u>	<u>1,566,595</u>	<u>1,871,476</u>	<u>1,384,944</u>	<u>1,457,717</u>
Net Revenues.....	<u>\$ 511,192</u>	<u>\$ 558,461</u>	<u>\$ 650,388</u>	<u>\$ 627,086</u>	<u>\$ 664,774</u>	<u>\$ 500,039</u>	<u>\$ 493,749</u>
Coverage							
Principal and Interest Requirements.....	<u>\$ 348,963</u>	<u>\$ 346,417</u>	<u>\$ 367,796</u>	<u>\$ 392,043</u>	<u>\$ 381,178</u>	-	-
Ratio of Net Revenues to Principal and Interest Requirements.....	1.46	1.61	1.77	1.60	1.74	-	-

PREPA, *Official Statement for Power Revenue Bonds, Series OO*, 44 (2004).

147. The Official Statements provided by Defendants J.P. Morgan Securities, Morgan Stanley LLC, Goldman Sachs LLC, Citigroup Global Markets, UBS Securities, and Merrill Lynch for the PREPA Power Revenue Refunding Bonds Series OO dated August 12, 2004 set forth the following “Projected Net Revenues and Coverage.” These representations included net revenue information leading to projected debt coverage ratios well over the requisite ratio of 1.2—between 1.50 and 1.66 over the following five years:

Projected Net Revenues and Coverage

	Years Ending June 30,				
	2004 ⁽¹⁾	2005	2006	2007	2008
Average number of clients	1,417,718	1,435,492	1,451,494	1,467,257	1,483,712
Electric energy sales (in millions of kWh).....	20,340.9	20,829.9	21,335.5	21,843.5	22,227.8
Authority generation (gross)(in millions of KWh).....	19,610.0	17,220.0	16,729.0	16,995.0	17,819.0
Purchased generation (gross)(in millions of KWh).....	5,947.0	7,511.0	7,381.0	7,736.0	7,511.0
Sources of Net Revenues					
(dollars in thousands)					
Revenues:					
Sales of electric energy:					
Residential	\$ 890,747	\$ 946,457	\$ 932,257	\$ 948,313	\$ 972,547
Commercial	1,172,288	1,234,804	1,265,333	1,314,945	1,371,653
Industrial.....	441,271	469,497	473,687	479,943	492,712
Other	88,797	90,877	89,351	89,428	90,542
	<u>2,593,103</u>	<u>2,741,635</u>	<u>2,760,628</u>	<u>2,832,629</u>	<u>2,927,454</u>
Revenues from Commonwealth for					
Rural Electrification	591	161	116	76	26
Other (principally, interests earned).....	24,766	27,403	29,403	31,403	33,403
	<u>2,618,460</u>	<u>2,769,199</u>	<u>2,790,147</u>	<u>2,864,108</u>	<u>2,960,883</u>
Current Expenses⁽²⁾:					
Operations:					
Fuel	850,461	898,527	869,098	886,653	948,386
Purchased Power	428,289	491,662	504,746	523,922	525,469
Other Production	49,231	50,141	51,179	52,238	53,319
Transmission and Distribution	127,245	123,446	126,000	128,608	131,270
Customer Accounting and Collections	91,457	100,671	102,754	104,881	107,052
Administration and general	161,650	166,519	169,964	173,481	177,073
Maintenance	235,776	251,058	256,253	261,557	266,971
Other – Interest Charges.....	3,278	2,130	2,183	2,237	2,293
	<u>1,947,387</u>	<u>2,084,154</u>	<u>2,082,177</u>	<u>2,133,577</u>	<u>2,211,833</u>
Net Revenues.....	\$ 671,073	\$ 685,045	\$ 707,970	\$ 730,531	\$ 749,050
Coverage					
Principal and Interest Requirements⁽³⁾.....	\$ 433,837	\$ 413,077	\$ 473,299	\$ 477,508	\$ 488,681
Ratio of Net Revenues to Principal and Interest Requirements	1.55	1.66	1.50	1.53	1.53

Id. at 48.

148. The Official Statements provided by Defendants J.P. Morgan Securities, Morgan Stanley LLC, Goldman Sachs LLC, Citigroup Global Markets, UBS Securities, and Merrill Lynch for PREPA Power Revenue Bonds Series RR and PREPA Power Revenue Refunding Bonds Series SS dated March 24, 2005 set forth the following “Historical Net Revenues and Coverage.” These representations included net revenue information leading to historical debt coverage ratios well over the requisite ratio of 1.2—between 1.48 and 1.77 for the preceding five years:

Historical Net Revenues and Coverage

	Years Ended June 30,					Six Months Ended December 31,	
	2000	2001	2002	2003	2004	2003	2004
Average number of clients	1,344,907	1,365,668	1,383,888	1,401,301	1,419,602	1,414,849	1,433,982
Electric energy sales (in millions of kWh)	18,145	18,723	19,130	19,887	20,260	10,524	10,441
Source of Net Revenues							
(dollars in thousands)							
Revenues:							
Sales of electric energy:							
Residential ⁽¹⁾	\$ 633,151	\$ 779,682	\$ 725,797	\$ 867,684	\$ 897,965	\$ 459,461	\$ 503,949
Commercial	878,697	1,026,219	969,182	1,117,317	1,171,110	588,581	632,700
Industrial.....	391,906	436,313	382,140	432,296	444,070	219,251	244,177
Other.....	<u>80,473</u>	<u>86,889</u>	<u>85,052</u>	<u>91,461</u>	<u>87,123</u>	<u>43,826</u>	<u>43,981</u>
	1,984,227	2,329,103	2,162,171	2,508,758	2,600,268	1,311,119	1,424,807
Revenues from Commonwealth							
for rural electrification	881	705	739	704	591	294	78
Other operating revenues	10,240	8,210	8,514	9,625	8,565	5,233	4,919
Other (principally interest earned).....	<u>29,936</u>	<u>35,059</u>	<u>22,257</u>	<u>17,163</u>	<u>3,582</u>	<u>642</u>	<u>8,883</u>
	2,025,284	2,373,077	2,193,681	2,536,250	2,613,006	1,317,288	1,438,687
Current Expenses:							
Operations:							
Fuel.....	801,433	944,760	720,292	886,425	864,700	435,083	507,440
Purchased power	64,517	177,330	227,923	339,082	436,763	208,059	238,680
Other production	55,690	56,301	56,029	44,990	48,787	24,450	27,180
Transmission and Distribution.....	94,793	105,034	114,971	119,408	136,509	68,270	74,747
Customer accounting and Collection	76,598	83,453	84,689	89,710	91,763	44,558	51,065
Administrative and General	151,069	139,117	146,497	163,517	163,049	82,865	90,487
Maintenance ⁽²⁾	219,812	213,666	212,959	224,941	234,563	114,895	118,932
Other.....	<u>2,911</u>	<u>3,028</u>	<u>3,235</u>	<u>3,403</u>	<u>3,622</u>	<u>1,697</u>	<u>1,780</u>
	<u>1,466,823</u>	<u>1,722,689</u>	<u>1,566,595</u>	<u>1,871,476</u>	<u>1,979,756</u>	<u>979,877</u>	<u>1,110,311</u>
Net Revenues	<u>\$558,461</u>	<u>\$650,388</u>	<u>\$627,086</u>	<u>\$664,774</u>	<u>\$633,250</u>	<u>\$337,411</u>	<u>\$328,376</u>
Coverage							
Principal and Interest Requirements.....	<u>\$346,417</u>	<u>\$367,796</u>	<u>\$392,043</u>	<u>\$381,178</u>	<u>\$427,088</u>	-	-
Ratio of Net Revenues to Principal and Interest Requirements.....	1.61	1.77	1.60	1.74 ⁽³⁾	1.48	-	-

PREPA, *Official Statement for Power Revenue Bonds, Series RR and Power Revenue Refunding Bonds, Series SS*, 45 (2005).

149. The Official Statements provided by Defendants J.P. Morgan Securities, Morgan Stanley LLC, Goldman Sachs LLC, Citigroup Global Markets, UBS Securities, and Merrill Lynch for the PREPA Power Revenue Bonds Series RR and PREPA Power Revenue Refunding Bonds Series SS dated March 24, 2005 set forth the following “Projected Net Revenues and Coverage.” These representations included net revenues leading to projected debt coverage ratios well over the requisite ratio of 1.2—between 1.55 and 1.62 over the following five years:

Projected Net Revenues and Coverage

	Years Ending June 30,				
	2005 ⁽¹⁾	2006	2007	2008	2009
Average number of clients	1,417,718	1,435,492	1,451,494	1,467,257	1,483,712
Electric energy sales (in millions of kWh).....	20,474.3	21,335.5	21,843.5	22,227.8	22,657.1
Authority generation (gross)(in millions of KWh).....	19,610	17,220	16,729	16,995	17,819
Purchased generation (gross)(in millions of KWh)	6,804	7,381	7,736	7,511	8,637
Sources of Net Revenues					
(dollars in thousands)					
Revenues:					
Sales of electric energy:					
Residential.....	\$ 945,547	\$ 932,257	\$ 948,313	\$ 972,547	\$ 990,276
Commercial	1,224,497	1,265,333	1,314,945	1,371,653	1,425,599
Industrial.....	470,258	473,687	479,943	492,712	507,139
Other.....	88,358	89,351	89,428	90,542	90,843
	<u>2,728,660</u>	<u>2,760,628</u>	<u>2,832,629</u>	<u>2,927,454</u>	<u>3,013,857</u>
Revenues from Commonwealth for Rural Electrification	161	116	76	26	19
Other (principally interests earned).....	27,507	29,403	31,403	33,403	35,403
	<u>2,756,328</u>	<u>2,790,147</u>	<u>2,864,108</u>	<u>2,960,883</u>	<u>3,049,279</u>
Current Expenses ⁽²⁾ :					
Operations:					
Fuel.....	918,616	869,098	886,653	948,386	925,539
Purchased Power	481,344	504,746	523,922	525,469	602,272
Other Production	52,253	51,179	52,238	53,319	54,423
Transmission and Distribution	136,477	126,000	128,608	131,270	133,988
Maintenance	244,452	256,253	261,557	266,971	272,497
Client accounting and collection.....	101,402	102,754	104,881	107,052	109,268
Administration and general	173,734	169,964	173,481	177,073	180,739
Other – Interest Charges.....	2,842	2,183	2,237	2,293	2,351
	<u>2,111,120</u>	<u>2,082,177</u>	<u>2,133,577</u>	<u>2,211,833</u>	<u>2,281,077</u>
Net Revenues.....	<u>\$ 645,208</u>	<u>\$ 707,970</u>	<u>\$ 730,531</u>	<u>\$ 749,050</u>	<u>\$ 768,202</u>
Coverage					
Principal and Interest Requirements ⁽³⁾	\$ 398,450	\$ 455,302	\$ 470,632	\$ 474,802	\$ 496,942
Ratio of Net Revenues to Principal and Interest Requirements.....	1.62	1.55	1.55	1.58	1.55

Id. at 49.

150. The Official Statements provided by Defendants J.P. Morgan Securities, Morgan Stanley LLC, Goldman Sachs LLC, Citigroup Global Markets, UBS Securities, Merrill Lynch, Santander Securities, and RBC Capital Markets for the PREPA Power Revenue Refunding Bonds Series UU dated April 19, 2007 set forth the following “Historical Net Revenues and Coverage.” These representations included net revenue information leading to historical debt coverage ratios well over the requisite ratio of 1.2—between 1.48 and 1.74 for the preceding five years:

Historical Net Revenues and Coverage

	Years Ended June 30,					Six Months Ended December 31,	
	2002	2003	2004	2005	2006	2005	2006
Average number of clients	1,383,888	1,401,301	1,419,602	1,438,699	1,450,227	1,448,494	1,455,164
Electric energy sales (in millions of kWh)	19,130	19,887	20,260	20,507	20,620	10,739	10,737
Source of Net Revenues							
(dollars in thousands)							
Revenues:							
Sales of electric energy:							
Residential ⁽¹⁾	\$725,797	\$867,684	\$897,965	\$1,066,419	\$ 1,284,641	\$676,728	\$667,327
Commercial	969,182	1,117,317	1,171,110	1,350,731	1,656,770	845,063	855,003
Industrial.....	382,140	432,296	444,070	529,285	663,041	339,805	327,584
Other.....	<u>85,052</u>	<u>91,461</u>	<u>87,123</u>	<u>91,675</u>	<u>104,486</u>	<u>52,712</u>	<u>50,966</u>
	2,162,171	2,508,758	2,600,268	3,038,110	3,708,938	1,914,308	1,900,880
Revenues from Commonwealth for rural electrification	739	704	591	161	116	56	36
Other operating revenues	8,514	9,625	8,565	13,705	11,373	4,774	6,323
Other (principally interest earned).....	<u>22,257</u>	<u>17,163</u>	<u>3,582</u>	<u>8,146</u>	<u>11,498</u>	<u>2,830</u>	<u>12,432</u>
	<u>2,193,681</u>	<u>2,536,250</u>	<u>2,613,006</u>	<u>3,060,122</u>	<u>3,731,925</u>	<u>1,921,968</u>	<u>1,919,671</u>
Current Expenses:							
Operations:							
Fuel.....	720,292	886,425	864,700	1,182,936	1,665,866	893,740	827,649
Purchased power	227,923	339,082	436,763	492,621	603,169	273,429	316,638
Other production	56,029	44,990	48,787	55,945	57,918	29,461	29,260
Transmission and Distribution.....	114,971	119,408	136,509	159,843	162,956	81,584	79,963
Customer accounting and Collection	84,689	89,710	91,763	107,932	106,927	53,747	52,354
Administrative and General	146,497	163,517	163,049	187,134	198,509	97,290	107,035
Maintenance ⁽²⁾	212,959	224,941	234,563	232,464	236,633	124,152	123,461
Other.....	<u>3,235</u>	<u>3,403</u>	<u>3,622</u>	<u>3,728</u>	<u>1,946</u>	<u>1,851</u>	<u>1,923</u>
	<u>1,566,595</u>	<u>1,871,476</u>	<u>1,979,756</u>	<u>2,422,603</u>	<u>3,033,924</u>	<u>1,555,254</u>	<u>1,538,283</u>
Net Revenues	<u>\$ 627,086</u>	<u>\$ 664,774</u>	<u>\$ 633,250</u>	<u>\$ 637,519</u>	<u>\$ 698,001</u>	<u>\$ 366,714</u>	<u>\$381,388</u>
Coverage							
Principal and Interest Requirements.....	\$ 392,043	\$ 381,178	\$ 427,088	\$ 404,022	\$ 449,318		
Ratio of Net Revenues to Principal and Interest Requirements.....	1.60	1.74	1.48	1.58	1.55		

PREPA, *Official Statement for Power Revenue Refunding Bonds, Series UU, 45* (2007).

151. The Official Statements provided by Defendants J.P. Morgan Securities, Morgan Stanley LLC, Goldman Sachs LLC, Citigroup Global Markets, UBS Securities, Merrill Lynch, Santander Securities, and RBC Capital Markets for the PREPA Power Revenue Refunding Bonds Series UU dated April 19, 2007 set forth the following “Projected Net Revenues and Coverage.” These representations included net revenue information leading to projected debt coverage ratios well over the requisite ratio of 1.2—between 1.53 and 1.75 for the following five years:

Projected Net Revenues and Coverage

	Years Ending June 30,				
	2007 ⁽¹⁾	2008	2009	2010	2011
Average number of clients	1,455,164	1,472,492	1,482,211	1,491,083	1,501,704
Electric energy sales (in millions of kWh).....	20,749.3	21,113.1	21,645.5	22,202.2	22,796.8
Authority generation (gross)(in millions of KWh)	18,802.0	19,388.5	19,906.5	20,559.7	21,315.6
Purchased generation (gross)(in millions of KWh)	6,138.0	5,994.0	6,116.0	6,132.0	6,091.0
Sources of Net Revenues					
(dollars in thousands)					
Revenues:					
Sales of electric energy:					
Residential	\$1,306,965	\$1,332,023	\$1,295,130	\$1,251,747	\$1,244,922
Commercial	1,713,602	1,765,622	1,754,359	1,733,165	1,756,159
Industrial.....	659,857	671,090	656,484	637,916	638,240
Other.....	105,701	107,502	104,137	100,771	99,264
	<u>3,786,125</u>	<u>3,876,237</u>	<u>3,810,110</u>	<u>3,723,599</u>	<u>3,738,585</u>
Revenues from Commonwealth for Rural Electrification	76	26	19	-	-
Other Operating Revenues	6,323	-	-	-	-
Other (principally interests earned).....	26,350	29,832	31,832	33,832	35,832
	<u>3,818,874</u>	<u>3,906,095</u>	<u>3,841,961</u>	<u>3,757,431</u>	<u>3,774,417</u>
Current Expenses ⁽²⁾ :					
Operations:					
Fuel.....	1,650,538	1,668,755	1,577,881	1,475,500	1,464,372
Purchased Power	664,220	712,572	717,176	713,655	707,383
Other Production	56,310	54,970	55,896	57,127	58,349
Transmission and Distribution	149,685	141,706	144,092	147,265	150,415
Client accounting and collection.....	107,496	112,079	113,966	116,475	118,967
Administration and general	210,917	211,147	214,703	219,430	224,124
Maintenance	253,894	265,109	269,573	275,508	281,402
Other – Interest Charges.....	3,044	2,292	2,351	2,410	2,410
	<u>3,096,104</u>	<u>3,168,630</u>	<u>3,095,640</u>	<u>3,007,371</u>	<u>3,007,422</u>
Net Revenues.....	<u>\$722,770</u>	<u>\$737,465</u>	<u>\$746,321</u>	<u>\$750,060</u>	<u>\$766,995</u>
Coverage					
Principal and Interest Requirements ⁽³⁾	\$455,022	\$420,543	\$452,317	\$464,976	\$501,873
Ratio of Net Revenues to Principal and Interest Requirements	1.59	1.75	1.65	1.61	1.53

Id. at 49.

152. The Official Statements provided by Defendants J.P. Morgan Securities, Morgan Stanley LLC, Goldman Sachs LLC, Citigroup Global Markets, UBS Securities, Merrill Lynch, Santander Securities, and RBC Capital Markets for the PREPA Power Revenue Refunding Bonds Series VV dated May 16, 2007 set forth the following “Projected Net Revenues and Coverage.” These representations included net revenues leading to projected debt coverage ratios well over the requisite ratio of 1.2—between 1.56 and 1.76 over the following four years:

Projected Net Revenues and Coverage

	Years Ending June 30				
	2007 ⁽¹⁾	2008	2009	2010	2011
Average number of clients	1,455,164	1,472,492	1,482,211	1,491,083	1,501,704
Electric energy sales (in millions of kWh).....	20,749.3	21,113.1	21,645.5	22,202.2	22,796.8
Authority generation (gross)(in millions of kWh).....	18,802.0	19,388.5	19,906.5	20,559.7	21,315.6
Purchased generation (gross)(in millions of kWh).....	6,138.0	5,994.0	6,116.0	6,132.0	6,091.0
Sources of Net Revenues					
(in thousands)					
Revenues:					
Sales of electric energy:					
Residential.....	\$1,306,965	\$1,332,023	\$1,295,130	\$1,251,747	\$1,244,922
Commercial	1,713,602	1,765,622	1,754,359	1,733,165	1,756,159
Industrial.....	659,857	671,090	656,484	637,916	638,240
Other.....	105,701	107,502	104,137	100,771	99,264
	<u>3,786,125</u>	<u>3,876,237</u>	<u>3,810,110</u>	<u>3,723,599</u>	<u>3,738,585</u>
Revenues from Commonwealth for Rural Electrification.....	76	26	19	-	-
Other Operating Revenues.....	6,323	-	-	-	-
Other (principally interests earned).....	26,350	29,832	31,832	33,832	35,832
	<u>3,818,874</u>	<u>3,906,095</u>	<u>3,841,961</u>	<u>3,757,431</u>	<u>3,774,417</u>
Current Expenses ⁽²⁾ :					
Operations:					
Fuel.....	1,650,538	1,668,755	1,577,881	1,475,500	1,464,372
Purchased Power.....	664,220	712,572	717,176	713,655	707,383
Other Production.....	56,310	54,970	55,896	57,127	58,349
Transmission and Distribution.....	149,685	141,706	144,092	147,265	150,415
Client accounting and collection.....	107,496	112,079	113,966	116,475	118,967
Administration and general.....	210,917	211,147	214,703	219,430	224,124
Maintenance.....	253,894	265,109	269,573	275,508	281,402
Other – Interest Charges.....	3,044	2,292	2,351	2,410	2,410
	<u>3,096,104</u>	<u>3,168,630</u>	<u>3,095,640</u>	<u>3,007,371</u>	<u>3,007,422</u>
Net Revenues.....	<u>\$722,770</u>	<u>\$737,465</u>	<u>\$746,321</u>	<u>\$750,060</u>	<u>\$766,995</u>
Coverage					
Principal and Interest Requirements ⁽³⁾	\$455,022	\$419,568	\$451,343	\$464,004	\$491,850
Ratio of Net Revenues to Principal and Interest Requirements.....	1.59	1.76	1.65	1.62	1.56

PREPA, *Official Statement for Power Revenue Bonds, Series VV*, 13 (2007).

153. The representations set forth above, made from 2002 to 2007, were false, misleading, and incomplete. PREPA’s debt coverage ratio, and its underlying revenues, were misstated. In each instance, the misstated information made PREPA appear to be more financially stable than it actually was and PREPA’s proposed bond issuances appear to be less risky than they actually were.

154. The Special Investigation Report found that “PREPA systematically included uncollected revenues when it calculated its ability to cover its operations and debt service,” Special Investigation Report at 114, and “inflated its debt coverage ratio,” which “gave the appearance that it had the financial liquidity to support further bond issuances when almost certainly, as the ultimate insolvency of the Authority shows, it did not,” *id.* at 139.

155. PREPA exceeded its debt covenant (i.e., its ratio fell below 1.2) from 2011 through 2016, because its collected revenues were insufficient to cover its

overhead and operational expenses. *Id.* at 562 (There is “consensus ... that PREPA’s [electricity] rates were insufficient to cover its operating expenses.”). Indeed, PREPA admitted that from at least 2011 through 2016, “[PREPA’s] rates were insufficient to cover overhead and operational costs,” *see id.*, thus admitting that the bonds it issued in 2012 did not comply with its debt covenant. *Id.* at 136. It is reasonable to infer that PREPA breached its debt covenant ratio for years prior to 2011.

156. The Special Investigation Report makes clear that, contrary to their assurances, Defendants did not investigate PREPA’s debt service coverage ratios at any point in time: “[U]nderwriters accepted PREPA’s debt service calculations without conducting any of their own due diligence into the veracity of those figures” and “denied having conducted their own due diligence” into whether “PREPA’s rates were not, in fact, sufficient to cover operating expenses.” *Id.* at 562-63. That is, Defendants did not investigate PREPA’s debt service coverage ratios—or the underlying revenue, expense, and debt information that comprised the debt service coverage ratio calculation—and so could not have formed any belief as to their truth or completeness—let alone a reasonable belief. Moreover, because Defendants underwrote PREPA bonds almost every year from 2001 to 2013, it is reasonable to infer that they treated PREPA issuances the same way in all those years—at no point did they investigate debt ratio calculations.

157. Had Defendants reasonably investigated debt ratio calculations, they would, at the very least, have discovered that PREPA’s rates were insufficient to cover expenses, and that it was systematically including uncollected revenues in its calculation—just as the Special Investigation revealed. Had National known either that the disclosures were false or that Defendants had not investigated them, it never would have issued its insurance.

158. *Second*, the Official Statements represented how PREPA had spent and would spend its money—including monies generated through its business operations and bond issuances. The statements depicted PREPA as spending its money in prudent ways that tended to suggest PREPA’s relative revenues would increase and its relative expenses would decrease in the long run, which tended to indicate that PREPA would be less likely to default in the long run. This representation was of special import because PREPA bonds were backed by PREPA’s revenues.

159. The Official Statements represented that PREPA had used and/or would use its funds to improve its generation, transmission, and distribution systems. The Official Statements included disclosures concerning “historical total capital

improvement program and financing sources” and “projected capital improvement program and financing sources.”

160. The Official Statements provided by Defendants for the PREPA Power Revenue Bonds Series LL dated June 13, 2002, which were issued in part to “finance a portion of the cost of various projects under its capital improvement program” for fiscal years 2002 through 2006, represented how much PREPA projected it would spend on capital improvements for production plants, transmission facilities, and distribution facilities, and whether the spending would be financed with internally generated funds or borrowed funds, PREPA, *Official Statement for Power Revenue Bonds, Series LL*, 7 (2002):

Projected Capital Improvement Program						
(in thousands)						
	Years Ending June 30,					Total ⁽¹⁾
	2002	2003	2004	2005	2006	
Capital Improvements						
Production plant.....	\$ 144,743	\$ 118,638	\$ 131,389	\$ 132,182	\$ 110,436	\$ 637,388
Transmission facilities.....	85,037	95,485	107,042	98,827	114,306	500,697
Distribution facilities.....	94,325	106,619	105,189	101,567	103,397	511,097
Other ⁽²⁾	92,373	109,411	85,325	77,595	55,192	419,896
	<u>\$ 416,478</u>	<u>\$ 430,153</u>	<u>\$ 428,945</u>	<u>\$ 410,171</u>	<u>\$ 383,331</u>	<u>\$ 2,069,078</u>
Financing Sources						
Internally generated funds.....	\$ 82,158	\$ 125,687	\$ 105,344	\$ 77,540	\$ 92,012	\$ 482,741
Borrowed funds ⁽³⁾	334,320	304,466	323,601	332,631	291,319	1,586,337
	<u>\$ 416,478</u>	<u>\$ 430,153</u>	<u>\$ 428,945</u>	<u>\$ 410,171</u>	<u>\$ 383,331</u>	<u>\$ 2,069,078</u>
Allowance for funds used during construction.....	<u>\$ 15,993</u>	<u>\$ 11,780</u>	<u>\$ 8,564</u>	<u>\$ 14,951</u>	<u>\$ 14,170</u>	<u>\$ 65,450</u>

Id. at 32.

161. The Official Statements provided by Defendants J.P. Morgan Securities, Morgan Stanley LLC, Goldman Sachs LLC, Citigroup Global Markets, UBS Securities, and Merrill Lynch for the PREPA Power Revenue Bonds, Series NN dated August 8, 2003, which were issued in part to “finance a portion of the cost of various projects under its capital improvement program” for fiscal years 2003 through 2007, represented how much PREPA projected it would spend on capital improvements for production plants, transmission facilities, and distribution facilities, and whether the spending would be financed with internally generated funds or borrowed funds, PREPA, *Official Statement for Power Revenue Bonds, Series NN*, 4 (2003):

**Projected Capital Improvement Program
(in thousands)**

	Years Ending June 30,					Total ⁽²⁾
	2003 ⁽¹⁾	2004	2005	2006	2007	
Capital Improvements						
Production plant	\$ 99,458	\$ 142,831	\$ 137,845	\$ 142,918	\$ 193,317	\$ 716,369
Transmission facilities	96,488	104,027	108,181	97,104	74,369	480,169
Distribution facilities	123,001	112,319	98,048	105,277	86,690	525,335
Other ⁽³⁾	59,303	87,520	78,667	77,058	63,723	366,271
	<u>\$ 378,250</u>	<u>\$ 446,697</u>	<u>\$ 422,741</u>	<u>\$ 422,357</u>	<u>\$ 418,099</u>	<u>\$ 2,088,144</u>
Financing Sources						
Internally generated funds	\$ 133,188	\$ 101,762	\$ 95,517	\$ 83,263	\$ 77,905	\$ 491,635
Borrowed funds ⁽⁴⁾	245,062	344,935	327,224	339,094	340,194	1,596,509
	<u>\$ 378,250</u>	<u>\$ 446,697</u>	<u>\$ 422,741</u>	<u>\$ 422,357</u>	<u>\$ 418,099</u>	<u>\$ 2,088,144</u>
Allowance for funds used during construction	\$ 11,780	\$ 21,076	\$ 9,719	\$ 19,726	\$ 25,782	\$ 88,083

Id. at 27.

162. The Official Statements provided by Defendants J.P. Morgan Securities, Morgan Stanley LLC, Goldman Sachs LLC, Citigroup Global Markets, UBS Securities, and Merrill Lynch for the PREPA Power Revenue Refunding Bonds Series OO bonds dated August 12, 2004 represented how much PREPA projected it would spend on capital improvements for production plants, transmission facilities, and distribution facilities, and whether the spending would be financed with internally generated funds or borrowed funds:

**Projected Capital Improvement Program
(in thousands)**

	Years Ending June 30,					Total ⁽²⁾
	2004 ⁽¹⁾	2005	2006	2007	2008	
Capital Improvements						
Production plant	\$ 119,274	\$ 152,568	\$ 172,314	\$ 192,089	\$ 171,906	\$ 808,151
Transmission facilities	99,685	117,334	98,934	99,757	104,786	520,496
Distribution facilities	124,111	95,346	98,893	98,297	87,368	504,015
Other ⁽³⁾	76,950	69,222	74,376	77,652	71,043	369,243
Total	<u>\$ 420,020</u>	<u>\$ 434,470</u>	<u>\$ 444,517</u>	<u>\$ 467,795</u>	<u>\$ 435,103</u>	<u>\$ 2,201,905</u>
Financing Sources						
Internally generated funds	\$ 82,139	\$ 102,499	\$ 60,202	\$ 74,135	\$ 77,131	\$ 396,106
Borrowed funds ⁽⁴⁾	337,881	331,971	384,315	393,660	357,972	1,805,799
Total	<u>\$ 420,020</u>	<u>\$ 434,470</u>	<u>\$ 444,517</u>	<u>\$ 467,795</u>	<u>\$ 435,103</u>	<u>\$ 2,201,905</u>
Allowance for funds used during construction ...	\$ 21,076	\$ 12,328	\$ 9,758	\$ 21,771	\$ 26,014	\$ 90,947

PREPA, *Official Statement for Power Revenue Refunding Bonds, Series OO*, 35 (2004).

163. The Official Statements provided by Defendants J.P. Morgan Securities, Morgan Stanley LLC, Goldman Sachs LLC, Citigroup Global Markets, UBS Securities, and Merrill Lynch for the PREPA Power Revenue Bonds Series RR dated March 24, 2005, which were issued in part to “finance a portion of the cost of various projects under its capital improvement program for fiscal years 2005 and 2006,” represented how much PREPA projected it would spend on capital improvements for production plants, transmission facilities, and distribution facilities, and how the spending had

been financed—internally generated funds or borrowed funds, PREPA, *Official Statement for Power Revenue Bonds, Series RR and Power Revenue Refunding Bonds, Series SS, 5* (2005):

	Years Ending June 30,					Total ⁽²⁾
	2005 ⁽¹⁾	2006	2007	2008	2009	
Capital Improvements						
Production plant.....	\$ 128,802	\$ 172,314	\$ 192,089	\$ 171,906	\$ 138,519	\$ 803,630
Transmission facilities.....	122,888	98,934	99,757	104,786	78,794	505,159
Distribution facilities.....	119,222	98,893	98,297	87,368	64,281	468,061
Other ⁽³⁾	81,300	74,376	77,652	71,043	46,115	350,486
Total.....	\$ 452,212	\$ 444,517	\$ 467,795	\$ 435,103	\$ 327,709	\$ 2,127,336
Financing Sources						
Internally generated funds.....	\$ 82,995	\$ 77,379	\$ 80,191	\$ 90,190	\$ 83,807	\$ 414,562
Borrowed funds ⁽⁴⁾	369,217	367,138	387,604	344,913	243,902	1,712,774
Total.....	\$ 452,212	\$ 444,517	\$ 467,795	\$ 435,103	\$ 327,709	\$ 2,127,336
Allowance for funds used during construction ...	\$ 9,328	\$ 9,758	\$ 21,771	\$ 26,014	\$ 25,092	\$ 91,963

Id. at 37.

164. The Official Statements provided by Defendants J.P. Morgan Securities, Morgan Stanley LLC, Goldman Sachs LLC, Citigroup Global Markets, UBS Securities, Merrill Lynch, Santander Securities, and RBC Capital Markets for the PREPA Power Revenue Refunding Bonds Series UU dated April 19, 2007 represented how much PREPA projected it would spend on capital improvements for production plants, transmission facilities, and distribution facilities, and whether the spending would be financed with internally generated funds or borrowed funds:

	Years Ending June 30,					Total
	2007	2008	2009	2010	2011	
Capital Improvements						
Production plant.....	\$291,200	\$242,811	\$208,620	\$130,787	\$107,970	\$981,388
Transmission.....	97,749	109,316	95,033	110,958	77,804	490,860
Distribution.....	84,076	81,445	78,030	79,733	78,215	401,499
Other ⁽¹⁾	58,468	52,694	51,860	80,884	70,302	314,208
Total.....	\$531,493	\$486,266	\$433,543	\$402,362	\$334,291	\$2,187,955
Financing Sources						
Internal Funds.....	57,229	133,312	120,261	110,268	86,502	507,572
Borrowed Funds ⁽²⁾	474,264	352,954	313,282	292,094	247,789	1,680,383
Total.....	\$531,493	\$486,266	\$433,543	\$402,362	\$334,291	\$2,187,955

PREPA, *Official Statement for Power Revenue Refunding Bonds, Series UU, 37* (2007).

165. The Official Statements provided by Defendants J.P. Morgan Securities, Morgan Stanley LLC, Goldman Sachs LLC, Citigroup Global Markets, UBS

Securities, Merrill Lynch, Santander Securities, and RBC Capital Markets for the PREPA Power Revenue Refunding Bonds Series VV dated May 16, 2007 represented how much PREPA projected it would spend on capital improvements for production plants, transmission facilities, and distribution facilities, and whether the spending would be financed with internally generated funds or borrowed funds:

Projected Capital Improvement Program
(in thousands)

Years Ending June 30

Capital Improvements	2007	2008	2009	2010	2011	Total
Production plant.....	\$291,200	\$242,811	\$208,620	\$130,787	\$107,970	\$981,388
Transmission.....	97,749	109,316	95,033	110,958	77,804	490,860
Distribution.....	84,076	81,445	78,030	79,733	78,215	401,499
Other ⁽¹⁾	58,468	52,694	51,860	80,884	70,302	314,208
Total.....	<u>\$531,493</u>	<u>\$486,266</u>	<u>\$433,543</u>	<u>\$402,362</u>	<u>\$334,291</u>	<u>\$2,187,955</u>
Financing Sources						
Internal Funds.....	57,229	134,287	121,235	111,240	96,525	507,516
Borrowed Funds ⁽²⁾	474,264	351,979	312,308	291,122	237,766	1,667,439
Total.....	<u>\$531,493</u>	<u>\$486,266</u>	<u>\$433,543</u>	<u>\$402,362</u>	<u>\$334,291</u>	<u>\$2,187,955</u>

PREPA, *Official Statement for Power Revenue Refunding Bonds, Series VV*, 37 (2007).

166. The Official Statements provided by Defendants also included disclosures regarding sources and uses of funds, including whether PREPA would deposit funds into its “construction fund”—which holds “the proceeds of any bonds issued for the purpose of paying the cost of acquiring or constructing Improvements” to PREPA’s systems (*i.e.*, any costs related to construction, such as for labor, engineers, architects, materials, and land). *See, e.g.*, PREPA, *Official Statement for Power Revenue Bonds, Series RR and Power Revenue Refunding Bonds, Series SS*, I-15 (2005). Deposits into the construction fund indicated that PREPA’s net revenues would increase in the long term. Similarly, the Official Statements represented that PREPA would deposit money into escrow funds for refunded bonds, for the purpose of paying down other debt or expenses. By using these monies to cover its existing financial obligations, PREPA was supposedly freeing up funds for other purposes, such as construction, thereby making the bonds less risky.

167. The Official Statements provided by Defendants J.P. Morgan Securities, Morgan Stanley LLC, Goldman Sachs LLC, Citigroup Global Markets, UBS Securities, and Merrill Lynch for the PREPA Power Revenue Bonds Series LL dated June 13, 2002 represented the following regarding sources and uses of funds, including

that PREPA would deposit \$106,000,000 into the construction fund and \$425,881,025.00 in its escrow fund:

Estimated Sources and Uses of Funds

Sources:	
Principal amount of the Series KK Bonds	\$ 401,785,000.00
Principal amount of the Series LL Bonds	98,125,000.00
Net original issue premium.....	<u>43,119,586.45</u>
Total Sources	<u>\$ 543,029,586.45</u>
Uses:	
Deposit to Escrow Fund for Refunded Power Revenue Bonds	\$ 425,881,025.00
Deposit to 1974 Construction Fund.....	106,000,000.00
Underwriting discount, municipal bond insurance premiums and estimated legal, printing and other financing expenses	<u>11,148,561.45</u>
Total Uses	<u>\$ 543,029,586.45</u>

PREPA, *Official Statement for Power Revenue Bonds, Series LL*, 7 (2002).

168. The Official Statements provided by Defendants J.P. Morgan Securities, Morgan Stanley LLC, Goldman Sachs LLC, Citigroup Global Markets, UBS Securities, and Merrill Lynch for the PREPA Power Revenue Refunding Bonds Series MM dated September 20, 2002 represented the following regarding sources and uses of funds, including that PREPA would deposit \$114,211,191.80 into the escrow fund for refunded power revenue bonds:

Estimated Sources and Uses of Funds

Sources:	
Principal amount of the Bonds.....	\$105,055,000.00
Net original issue premium.....	9,880,295.85
Other available moneys.....	<u>1,483,484.38</u>
Total Sources.....	<u>\$ 116,418,780.23</u>
Uses:	
Deposit to Escrow Fund for Refunded Power Revenue Bonds.....	\$ 114,211,191.80
Underwriting discount, municipal bond insurance premium and estimated legal, printing and other financing expenses.....	<u>2,207,588.43</u>
Total Uses.....	<u>\$ 116,418,780.23</u>

PREPA, *Official Statement for Power Revenue Refunding Bonds, Series MM*, 3 (2002).

169. The Official Statements provided by Defendants J.P. Morgan Securities, Morgan Stanley LLC, Goldman Sachs LLC, Citigroup Global Markets, UBS Securities, and Merrill Lynch for the PREPA Power Revenue Bonds Series NN dated August 8, 2003 represented the following regarding sources and uses of funds, including that PREPA would deposit \$410,913,000 into the construction fund:

Estimated Sources and Uses of Funds for the Bonds

Sources:	
Principal amount of the Bonds	\$517,305,000.00
Net original issue premium	<u>1,069,071.40</u>
Total Sources.....	<u>\$518,374,071.40</u>
Uses:	
Deposit to 1974 Construction Fund	\$410,913,000.00
Repayment of Government Development Bank line of credit.....	90,000,000.00
Underwriting discount, municipal bond insurance premium and estimated legal, printing and other financing expenses	<u>17,461,071.40</u>
Total Uses.....	<u>\$518,374,071.40</u>

PREPA, *Official Statement for Power Revenue Bonds, Series NN*, 4 (2003).

170. The Official Statements provided by Defendants J.P. Morgan Securities, Morgan Stanley LLC, Goldman Sachs LLC, Citigroup Global Markets, UBS Securities, and Merrill Lynch for PREPA Power Revenue Refunding Bonds Series OO and PP dated August 12, 2004, represented the following regarding sources and uses of funds, including that PREPA would deposit \$244,224,171.48 into the escrow funds for the Series OO and PP refunded bonds:

Estimated Sources and Uses of Funds

Series OO Bonds and Series PP Bonds

Sources:	
Principal amount of the Series OO Bonds and Series PP Bonds	\$ 224,700,000.00
Net original issue premium or discount	17,754,262.45
Other available moneys ⁽¹⁾	<u>7,094,192.08</u>
Total Sources	<u>\$ 249,548,454.53</u>
Uses:	
Deposit to Escrow Funds for the Series OO and Series PP Refunded Bonds..	\$ 244,224,171.48
Underwriting discount, bond insurance premiums and estimated legal, printing and other financing expenses.....	<u>5,324,283.05</u>
Total Uses	<u>\$ 249,548,454.53</u>

PREPA, *Official Statement for Power Revenue Refunding Bonds, Series OO and PP*, 9, (2004).

171. The Official Statements provided by Defendants J.P. Morgan Securities, Morgan Stanley LLC, Goldman Sachs LLC, Citigroup Global Markets, UBS Securities, and Merrill Lynch for the PREPA Power Revenue Bonds Series RR dated March 24, 2005 represented the following regarding sources and uses of funds, including that PREPA would deposit \$332,067,172.17 into the construction fund:

Estimated Sources and Uses of Funds

Series RR Bonds

Sources:	
Principal amount of the Series RR Bonds.....	\$ 509,520,000.00
Original issue premium.....	23,496,510.60
Total Sources	<u>\$ 533,016,510.60</u>
Uses:	
Deposit to 1974 Construction Fund	<u>\$ 332,067,172.17</u>
Repayment of Government Development Bank Line of Credit ⁽¹⁾	167,932,827.83
Capitalized interest on Series RR Bonds through January 1, 2006	18,481,477.27
Underwriting discount, municipal bond insurance premiums, and estimated legal, printing and other financing expenses.....	<u>14,535,033.33</u>
Total Uses	<u>\$ 533,016,510.60</u>

PREPA, *Official Statement for Power Revenue Bonds, Series RR and SS, 7, (2005).*

172. The Official Statements provided by Defendants J.P. Morgan Securities, Morgan Stanley LLC, Goldman Sachs LLC, Citigroup Global Markets, UBS Securities, and Merrill Lynch for the PREPA Power Revenue Refunding Bonds Series SS dated March 24, 2005 represented the following regarding sources and uses of funds, including that PREPA would deposit \$533,090,846 into the escrow fund for the refunded bonds:

Estimated Sources and Uses of Funds

...

Series SS Bonds

Sources:	
Principal amount of the Series SS Bonds.....	\$ 483,930,000.00
Net original issue premium	28,084,075.15
Other available moneys ⁽¹⁾	<u>30,315,281.82</u>
Total Sources	<u>\$ 542,329,356.97</u>
Uses:	
Deposit to Escrow Fund for the Refunded Bonds.....	<u>\$ 533,090,846.40</u>
Underwriting discount, municipal bond insurance premiums, and estimated legal, printing and other financing expenses.....	<u>9,238,510.57</u>
Total Uses	<u>\$ 542,329,356.97</u>

PREPA, *Official Statement for Power Revenue Bonds, Series RR and SS, 7 (2005).*

173. The Official Statements provided by Defendants J.P. Morgan Securities, Morgan Stanley LLC, Goldman Sachs LLC, Citigroup Global Markets, UBS Securities, Merrill Lynch, Santander Securities, and RBC Capital Markets for the PREPA Power Revenue Refunding Bonds Series UU dated April 19, 2007 represented the following regarding sources and uses of funds, including that PREPA would deposit \$1,328,964,760.50 into the escrow fund for the refunded bonds:

Estimated Sources and Uses of Funds

...

Series UU Bonds

Sources:	
Principal amount of the Series UU Bonds	\$1,300,035,000.00
Net original issue premium	25,352,703.80
Other available moneys ⁽¹⁾	<u>21,777,849.17</u>
Total Sources	<u>\$1,347,165,552.97</u>
Uses:	
Deposit to Escrow Fund for the Refunded Bonds.....	\$1,328,964,760.50
Underwriting discount, municipal bond insurance premiums, and estimated legal, printing and other financing expenses.....	<u>18,200,792.47</u>
Total Uses	<u>\$1,347,165,552.97</u>

PREPA, *Official Statement for Power Revenue Refunding Bonds, Series TT and UU*, 7 (2007).

174. The Official Statements provided by Defendants J.P. Morgan Securities, Morgan Stanley LLC, Goldman Sachs LLC, Citigroup Global Markets, UBS Securities, Merrill Lynch, Santander Securities, and RBC Capital Markets for the PREPA Power Revenue Refunding Bonds Series VV dated May 16, 2007 represented the following regarding sources and uses of funds, including that PREPA would deposit \$637,315,730.38 into the escrow fund:

Estimated Sources and Uses of Funds

Sources:	
Principal amount of the Bonds.....	\$557,410,000.00
Net original issue premium	82,016,511.80
Other available moneys ⁽¹⁾	<u>12,619,072.92</u>
Total Sources	<u>\$652,045,584.72</u>
Uses:	
Deposit to Escrow Fund for the Refunded Bonds.....	\$637,315,730.38
Underwriting discount, municipal bond insurance premiums, and estimated legal, printing and other financing expenses.....	<u>14,729,854.34</u>
Total Uses	<u>\$652,045,584.72</u>

PREPA, *Official Statement for Power Revenue Refunding Bonds, Series VV*, 3 (2007).

175. In sum, the Official Statements represented that PREPA would use \$1,181,047,344 of the bond proceeds for construction purposes and \$1,753,699,290 to pay down other debt or expenses, with the expectation that it would spend the money freed up by those expenditures on capital improvements for production, transmission, and distribution. Indeed, the Official Statements for each issuance reflected that hundreds of millions of dollars—generated through bond issuances and internal revenues—would be spent on these capital improvements. *See supra* ¶¶ 159-165.

176. These statements regarding how money was and would be spent, however, were false and incomplete, as indicated in the Special Investigation Report. The Special Investigation Report included an illustrative analysis of how PREPA actually

spent the funds generated by PREPA bonds issued between March 2010 and August 2013, which had been earmarked for construction. A forensic review could not account for a staggering **\$430 million** of these funds. As the Special Investigation Report stated: “To contextualize this figure, we note the difference represents approximately 86% of the \$500 million in funds from PREPA’s 2013A Power Revenue bond offering that PREPA represented would be allocated to the Construction Fund.” Special Investigation Report at 144. The Special Investigation Report also revealed that Defendants did not “monitor[]” any “actual use of proceeds” by PREPA “in relation to the represented uses identified in relevant offering documents” at any point. *Id.* at 5.

177. The Special Investigation Committee did not examine how PREPA actually spent funds generated by bonds issued pre-2010 or funds generated internally, explicitly noting that it was leaving this subject to other parties: “We chose to publish this finding, noting that further analysis by other stakeholders, with mandates different from or broader than ours, could lead to additional, more definitive findings on the subject,” *id.* at 144, and “we expect this to be of further inquiry for interested parties.” *Id.* at 564.

178. A United States Government Accountability Office (“GAO”) Report to Congressional Committees dated May 2018 on “Factors Contributing to the Debt Crisis and Potential Federal Actions to Address Them” (the “GAO Report”) further confirms that PREPA did not spend money as represented. *See* U.S. GOV’T ACCOUNTABILITY OFFICE, GAO-18-387, PUERTO RICO: FACTORS CONTRIBUTING TO THE DEBT CRISIS AND POTENTIAL FEDERAL ACTIONS TO ADDRESS THEM (2018), <https://www.gao.gov/assets/700/691944.pdf>. Among other things, the GAO “reviewed Puerto Rico government documents on its financial condition and on its processes for budget development and execution, debt issuance, and financial management[]” and interviewed current and former Puerto Rico officials. *Id.* at 2-3. The GAO concluded that, despite the great sums of money that PREPA purportedly allocated for construction and capital improvement, “PREPA did not update or improve its electric generation and transmission systems, which hampered their performance and led to increased production costs.” *Id.* at 25.

179. In sum, PREPA did not spend money as the Official Statements distributed by Defendants said it had and would over the course of many years. It is reasonable to infer that PREPA also did not spend the proceeds of the bonds at issue here as it represented. Moreover, Defendants did not investigate how PREPA had spent or would spend these bond proceeds—or PREPA’s underlying revenue, expense, and debt information—and so they could not have formed a belief as to the truth or

completeness of representations in the Official Statements on those subjects. The same Defendants were underwriting bonds in the 2010-2013 timeframe as in the 2001-2007 timeframe. There is no reason to believe Defendants treated the later issuances differently. These conclusions are bolstered by the fact that PREPA issued bonds almost every year between 2001 and 2013, and the same underwriters underwrote multiple PREPA issuances.

180. Defendants did not reasonably investigate these expenditures and did not have a reasonable basis to believe they were true and complete. Had Defendants reasonably investigated how PREPA spent its bond proceeds, they would have at the very least discovered that PREPA was not using funds as represented. Specifically, underwriters of later issuances would have discovered, as part of their reasonable investigation into the issuance, that how money was spent was misstated in prior issuances—as the Special Investigation revealed. Had National known either that the disclosures were false or that Defendants had not investigated them, it never would have issued its insurance.

181. *Third*, Defendants represented in each Official Statement that PREPA’s “production plant and transmission and distribution system is in good repair and sound operating condition.” *E.g.*, PREPA, *Official Statement for Power Revenue Refunding Bonds, Series OO and PP*, 30 (2004). The healthier the system, the more likely PREPA would be to generate greater net revenues from the system over time, and the less likely PREPA would be to default on the proposed bonds.

182. The Special Investigation Report shows that these statements were false and incomplete. The statements were made “in the context of considering the system’s age”—a qualification that was never disclosed. Special Investigation Report at 135. Moreover, PREPA did not have sufficient funds to “retire old facilities and build new ones”—another fact that was never disclosed. *Id.*

183. The Chairman of the Puerto Rico Energy Commission, the independent body that regulates Puerto Rico’s energy supply, recently observed that PREPA’s “power plants are decrepit, with some more than 40 years old.” Umair Irfan, *Puerto Rico’s Blackout, the Largest in American History, Explained*, VOX (May 8, 2018), <https://www.vox.com/2018/2/8/16986408/puerto-rico-blackout-power-hurricane>. Likewise, reports to the Puerto Rico Energy Commission observed that “[i]t is difficult to overstate the level of disrepair or operational neglect at PREPA’s generation facilities.” Expert Report of Fisher and Horowitz, P.R. Energy Comm. In re Review of Rates of The Puerto Rico Electric Power Authority, No. CEPR-AP-2015-0001, 27 (November 23, 2016), <http://energia.pr.gov/wp-content/uploads/2016/11/Expert-Report-Revenue->

Requirements-Fisher-and-Horowitz-Revised-20161123.pdf. Recent public news reports further confirm that PREPA's systems were "decrepit, corroded and poorly maintained." James Glanz & Frances Robles, *How Storms, Missteps and an Ailing Grid Left Puerto Rico in the Dark*, N.Y. TIMES, May 6, 2018, <https://www.nytimes.com/interactive/2018/05/06/us/puerto-rico-power-grid-hurricanes.html>.

184. Accordingly, Defendants did not perform a reasonable investigation into the state of repair and operating condition of PREPA's systems, nor did they form a reasonable basis as to the truthfulness and completeness of dependent statements. This conclusion is bolstered by the fact that PREPA issued bonds almost every year between 2001 and 2013, and the same underwriters underwrote multiple PREPA issuances. Had Defendants visited the facilities, as a reasonable investigation requires, they would have discovered the disrepair—just as the Special Investigation revealed. Had National known either that the disclosures were false or that Defendants had not investigated them, it never would have issued its insurance.

B. The Key Representations in the General Obligation Official Statements Were Materially False and Incomplete

185. The Puerto Rico Public Improvement Fund is intended to pay for various responsibilities that the Commonwealth has assumed on behalf of its citizens, including police and fire protection, education, public health and welfare programs, economic development, and municipal fiscal affairs. Bonds issued for this fund—so-called "General Obligation" or "GO" bonds—are general obligations of the Commonwealth, backed by its good faith, credit, and taxing power, and payable from the Commonwealth's general funds. Under the Puerto Rico Constitution, GO bondholders have the first claim on the Commonwealth's available resources.

186. From 2001 to 2007, Defendants sought and obtained bond insurance from National, and National has made claims payments, on the following GO bonds:

- a. The Series 2002A bonds dated October 11, 2001 with a maturity date of July 1, 2021. The lead underwriter was UBS PaineWebber Inc. (now known as UBS Financial Services). Other underwriters included Merrill Lynch, Banc of America Securities (predecessor in interest to Defendant Merrill Lynch), ABN AMRO Financial Services, Inc. (predecessor in interest to Defendant Merrill Lynch), Goldman Sachs LLC, Morgan Stanley LLC, Salomon Smith Barney (predecessor in interest to Defendant Citigroup Global Markets), and Bear Stearns & Co., Inc. (predecessor in interest to Defendant J.P. Morgan Securities). The purpose of the bonds was to fund the 2002 Public Improvements Fund to carry out capital improvement programs including

agricultural and tourism facilities, aqueduct and sewer facilities, schools and similar projects, and to fund the Extraordinary Maintenance Fund, which is used for infrastructure projects related to water resources. National insured these bonds in the original par amount of \$261,675,000. The first default on the bond was July 1, 2016.

b. The Series 2003C bonds dated April 16, 2003 with a maturity date of July 1, 2028. The lead underwriters were Goldman Sachs LLC and Morgan Stanley LLC. Other underwriters included Merrill Lynch, Banc of America Securities (predecessor in interest to Defendant Merrill Lynch), UBS PaineWebber Inc. (now known as UBS Financial Services), J.P. Morgan Securities, and Citigroup. The purpose of the Series 2003C bonds was to repay a GDB line of credit in the amount of \$11.3 million and to refund previously issued Public Improvement bonds. National insured these bonds in the original par amount of \$466,995,000. The first default on the bonds was July 1, 2016.

c. The Series 2007A bonds dated October 3, 2007 with a maturity date of July 1, 2020. The lead underwriters were UBS Investment Bank (now known as UBS Securities) and Morgan Stanley. Other underwriters included Merrill Lynch, Banc of America Securities (predecessor in interest to Defendant Merrill Lynch), Goldman Sachs LLC, Citigroup, RBC Capital Markets, J.P. Morgan Securities, Bear, Stearns & Co., Inc. (predecessor in interest to Defendant J.P. Morgan Securities), and Santander Securities. The purpose of the bonds was to refund previously issued Public Improvement bonds. National insured these bonds in the original par amount of \$92,505,000. The first default on the bonds was July 1, 2016.

187. It was critical to National and other market participants that all representations regarding the Commonwealth's long-term ability to earn revenues and issue further debt be accurate.

188. In fact, revenue projections were systemically overstated (including revenues that would never be collected), appropriations projections were systematically understated, and, as a result, net revenues (as represented by the difference between projected revenues plus appropriations and actual revenues plus appropriations) were systematically overestimated.

189. A special report prepared on behalf of the Commonwealth and the GDB in 2015 by economists concluded that Commonwealth budgets were overly optimistic, noting that, from FY 2004 to 2014, "revenue forecasts ... systematically exceeded actual collections by some \$1.5 billion each year (15% of the original budget)." Anne O.

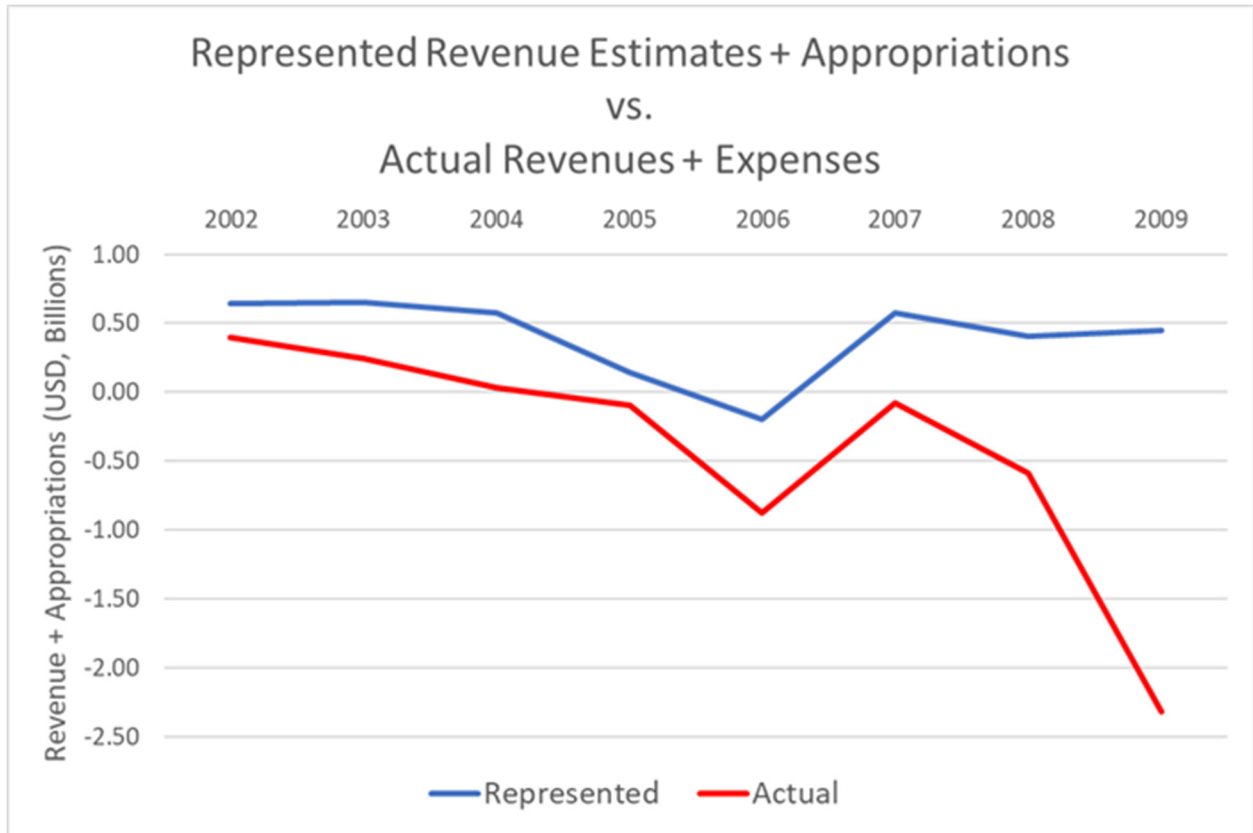
Krueger, Ranjit Teja & Andrew Wolfe, GDB, *Puerto Rico – A Way Forward*, 9 (June 29, 2015), <http://www.gdb.pr.gov/documents/puertoricowayforward.pdf>.

190. Similarly, the GAO Report concluded, based on interviews with “[f]ormer Puerto Rico officials and experts in Puerto Rico’s economy,” that the Commonwealth “frequently overestimated the amount of revenues it would collect in the coming year.” GAO Report at 16. “Overly optimistic revenue estimates allowed Puerto Rico’s legislature—with approval from the governor—to increase appropriations to agencies in most years while also passing purportedly balanced budgets. When actual revenue fell short of the revenue estimates—and expenses were not adjusted accordingly—Puerto Rico’s General Fund operated with a deficit.” *Id.* at 17. The report also explained that “Puerto Rico had difficulty collecting tax revenue,” and that politicians “in the revenue estimating process” “exerted pressure ... to adopt optimistic revenue estimates.” *Id.* at 18-19.

191. The GAO Report concluded that the Commonwealth “regularly spent more than the amounts Puerto Rico’s legislature appropriated for a given fiscal year.” *Id.* at 19. In fact, “Puerto Rico spent in excess of appropriated general fund amounts in nine of the thirteen most recent years for which data were available For the nine years when Puerto Rico spent in excess of appropriated amounts, actual spending exceeded appropriated amounts by an average of 5.6 percent, or \$459 million, annually.” *Id.*

192. Because these projections included uncollected revenues, and thus overstated estimated revenues, and because the Commonwealth consistently understated appropriations, the Commonwealth’s combined estimated revenues and appropriations consistently presented a picture far more favorable than actual combined revenues and appropriations. The extent of these misrepresentations is illustrated by the

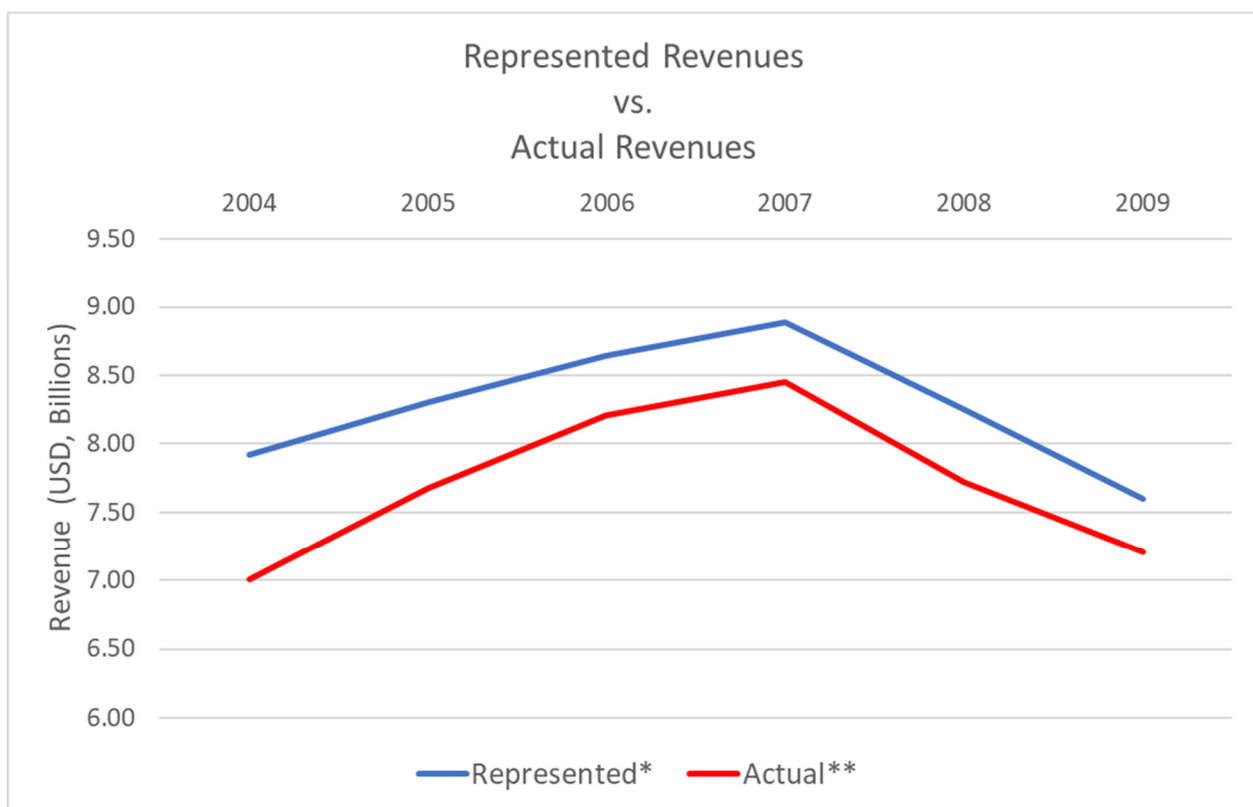
comparison of the Commonwealth’s combined estimated revenues and appropriations to its actual combined revenues and appropriations as identified by the GAO Report:



Fiscal Year	2002	2003	2004	2005	2006	2007	2008	2009
Represented	0.64	0.65	0.57	0.14	-0.20	0.57	0.40	0.44
Actual	0.39	0.24	0.03	-0.1	-0.88	-0.08	-0.59	-2.32

Source: U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-18-387, PUERTO RICO: FACTORS TO CONTRIBUTING TO THE DEBT CRISIS AND POTENTIAL FEDERAL ACTIONS TO ADDRESS THEM (2018)

193. Bloomberg—which only has data since 2004—has similar actual revenue estimates:



Fiscal Year	2004	2005	2006	2007	2008	2009
Represented*	7.93	8.30	8.65	8.89	8.25	7.60
Actual**	7.01	7.67	8.21	8.45	7.72	7.21

*Source: Official Statements, Commonwealth of Puerto Rico Public Improvement Bonds and Public Improvement Refunding Bonds

**Source: Bloomberg, Commonwealth of PR, General Fund Income Statement, Total General Fund Tax Revenues

194. The differences between the GAO Report’s estimates and Bloomberg’s estimates shows the difficulties in independently verifying the Commonwealth’s data, which underscores why National had to rely on Defendants’ investigation of that data—the publicly available data was unreliable. While the precise scale of the misrepresentations may not be ascertainable, it is clear that the data was massively misrepresented.

195. The Official Statements provided by Defendants J.P. Morgan Securities, Morgan Stanley LLC, Goldman Sachs LLC, Citigroup Global Markets, UBS Securities, and Merrill Lynch for the Commonwealth of Puerto Rico, Public Improvement Refunding Bonds, Series 2002A represented estimated general fund revenues of \$7,485,000,000 and appropriations of \$7,371,398,000 for FY 2002. Commonwealth of Puerto Rico, *Official Statement for Public Improvement Refunding Bonds, Series 2002A*, I-37 (2001). However, the 2018 analysis conducted by the GAO found that actual general fund revenues combined with actual expenses were overstated by approximately \$250,000,000.

196. Official Statements provided by Defendants J.P. Morgan Securities, Morgan Stanley LLC, Goldman Sachs LLC, Citigroup Global Markets, UBS Securities, and Merrill Lynch for the Commonwealth of Puerto Rico, Public Improvement Refunding Bonds Series 2003B and 2003C bonds represented estimated general fund revenues of \$7,836,000,000 and appropriations of \$7,530,938,000 in FY 2003 and projected general fund revenues of \$7,925,000,000 and appropriations of \$7,785,552,000 for FY 2004. Commonwealth of Puerto Rico, *Official Statement for Public Improvement Refunding Bonds, Series 2003B and 2003C*, I-48 (2003). However, the 2018 analysis conducted by the GAO found that actual general fund revenues combined with actual expenses were overstated by approximately \$410,000,000 for FY 2003 and \$540,000,000 for FY 2004.

197. The Official Statements provided by Defendants J.P. Morgan Securities, Morgan Stanley LLC, Goldman Sachs LLC, Citigroup Global Markets, UBS Securities, Merrill Lynch, Santander Securities, and RBC Capital Markets for the Commonwealth of Puerto Rico Public Improvement Refunding Bonds Series 2007A bonds represented estimated general fund revenues of \$8,890,047,000 and appropriations of

\$8,794,003,000 for FY 2007 and projected general fund revenues of \$9,077,000,000 and appropriations of \$8,776,298,000 for FY 2008. Commonwealth of Puerto Rico, *Official Statement for Public Improvement Refunding Bonds, Series 2007A*, I-55 (2007). However, the 2018 analysis conducted by the GAO found that actual general fund revenues combined with actual expenses were overstated by approximately \$650,000,000 for FY 2007 and \$990,000,000 for FY 2008. Further, data compiled by Bloomberg shows that total general fund tax revenues for FY 2007 were approximately \$440,000,000 less than estimates and for FY 2008 approximately \$1,350,000,000 less than projections as represented in the Official Statements for the Series 2007A bonds.

198. Defendants did not reasonably investigate these projections and did not have a reasonable basis to believe they were true and complete. Had Defendants reasonably investigated how the Commonwealth estimated its revenues and appropriations, they would have at the very least discovered those estimates and projections were inaccurate—just as the GAO did when it investigated. Had National known either that the disclosures were false or that Defendants had not investigated them, it never would have issued its insurance.

C. The Key Representations in PRHTA’s Official Statements Were Materially False and Incomplete

199. PRHTA is a public corporation and governmental instrumentality of Puerto Rico that plans and manages the construction of all major projects relating to Puerto Rico’s transportation system; it controls and supervises any highway and other transportation facilities that it owns, operates, or built; it set tolls and other charges for the use of highways and other transportation facilities; and it conducts major repairs and maintenance of Puerto Rico’s toll highways.

200. PRHTA could issue “Highway Revenue Bonds” under Resolution No. 68-18, adopted by the Authority on June 13, 1968, as amended (the “1968 PRHTA Resolution”). These bonds were payable from, and secured by, certain revenues of the Authority, including: (i) current gasoline taxes, a portion of current gas oil and diesel oil taxes, and a portion of current motor vehicle license fees allocated to the Authority by the Commonwealth; (ii) toll revenues of PRHTA’s traffic facilities financed with Highway Revenue Bonds and any extensions and improvements thereto; and (iii) certain investment earnings. 1968 PRHTA Resolution at 7, 11.

201. PRHTA could also issue “Transportation Revenue Bonds” under Resolution No. 98-06, adopted by the Authority on February 26, 1998, as amended (the “1998 PRHTA Resolution”). These bonds were payable from, and secured by (i) excise taxes,

up to \$120 million per fiscal year, imposed by the Commonwealth on certain petroleum products; (ii) toll revenues of PRHTA's traffic facilities not financed with Highway Revenue Bonds; (iii) certain investment earnings; and (iv) revenues derived from bonds issued pursuant to the 1968 PRHTA Resolution after payment of debt service on the Authority's outstanding Highway Revenue Bonds. 1998 PRHTA Resolution at 3, 19.

202. PRHTA issued bonds to finance directly certain capital improvements; to build new transportation projects; and to refund outstanding debt, thus making funds available to finance other projects.

203. From 2003 to 2007, Defendants sought and obtained bond insurance from National, and National has made claims payments, on the following PRHTA bonds:

a. PRHTA, Highway Revenue Refunding Bonds Series AA dated April 10, 2003, with a maturity date of July 1, 2023. The lead underwriters were Citigroup, Morgan Stanley LLC, and Merrill Lynch. Other underwriters included UBS PaineWebber Inc. (now known as UBS Financial Services), J.P. Morgan Securities, Goldman Sachs LLC, Merrill Lynch, and Banc of America Securities (predecessor in interest to Defendant Merrill Lynch). The purpose of these bonds was to refund a portion of previously issued bonds and pay costs of issuance of Series AA bonds. National insured these bonds in the original par amount of \$196,440,000. The first default on the bonds was July 1, 2017.

b. PRHTA, Transportation Revenue Bonds Series J, dated April 7, 2004, with a maturity date of July 1, 2018. The lead underwriters were Citigroup, Morgan Stanley LLC, and Merrill Lynch. Other underwriters included UBS Financial Services, J.P. Morgan Securities, Goldman Sachs LLC, and Banc of America Securities (predecessor in interest to Defendant Merrill Lynch). The purpose of these bonds was to finance various highway projects in the PRHTA's Construction Improvement Program, to make a deposit into the 1998 Senior Bond Reserve Account, to make a deposit into the 1998 Senior Bond Service account to be applied to pay interest on the Series J bonds, and to pay costs of the issuance of the Series J bonds. National insured these bonds in the original par amount of \$106,745,000. The first default on the bonds was July 1, 2017.

c. PRHTA, Transportation Revenue Refunding Bonds Series L, dated September 22, 2005, with a maturity date of July 1, 2035. The lead underwriters were Citigroup and UBS Financial Services. Other underwriters

included Morgan Stanley LLC, J.P. Morgan Securities, Goldman Sachs LLC, Merrill Lynch, and Banc of America Securities (predecessor in interest to Defendant Merrill Lynch). The purpose of the Series L bonds was to refund a portion of the PRHTA's senior transportation revenue bonds and to pay costs of the Series L bonds issuance. National insured these bonds in the original par amount of \$170,730,000. The first default on these bonds was July 1, 2017.

d. PRHTA, Revenue Refunding Bonds Series N, dated February 15, 2007, with a maturity date of July 1, 2041. The purpose of the Series N bonds was to refund a portion of the PRHTA's senior transportation revenue bonds and to pay the costs of the issuance of the Series N bonds. The lead underwriters were Citigroup, RBC Capital Markets, and Goldman Sachs LLC. Other underwriters included Morgan Stanley LLC, UBS Investment Bank (now known as UBS Securities), Merrill Lynch, Banc of America Securities (predecessor in interest to Defendant Merrill Lynch), J.P. Morgan Securities, and Santander Securities. National insured these bonds in the original par amount of \$337,075,000. The first default on these bonds was July 1, 2017.

204. The Official Statements represented that, in certain circumstances, the Commonwealth had first priority on PRHTA's taxes and license fees, to the extent the Commonwealth's own revenues were insufficient to meet its obligations under the GO bonds. The Official Statements for PRHTA explicitly incorporated Commonwealth financial information, because of "[t]he possibility that a significant portion of [PRHTA's] revenues would have to be used to pay" GO Bonds. *E.g.*, PRHTA, *Official Statement for Transportation Revenue Refunding Bonds Series L, 2* (2005).

205. It was critical to National and other market participants that representations relating to the Commonwealth's ability to claw back PRHTA's taxes and fees be accurate.

206. In fact, as discussed above, the Commonwealth's estimated revenue collections were systematically overstated and its appropriations were systematically understated. Defendants also made the following key representations regarding PRHTA, which were also materially false and incomplete: (a) how PRHTA was spending bond proceeds, including statements that it was spending those funds on highways and other revenue generating projects, like toll roads—which it was not; and (b) basic financial information, including debt service coverage ratios and the underlying fundamentals, like revenues.

207. *First*, Defendants did not have a reasonable basis to believe the Commonwealth's estimated revenues and appropriations.

208. The PRHTA Official Statement for bond series AA incorporated by reference the Commonwealth's Financial Information and Operating Data Report included as Appendix I to the Official Statement relating to the offering of the Commonwealth's Public Improvement Bonds Series 2003 (the "Series 2003 Commonwealth Report"). The Series 2003 Commonwealth Report estimated general fund revenues of \$7,465,000,000 and appropriations of \$7,294,396,000 for FY 2002 and projected general fund revenues of \$7,836,000,000 and appropriations of \$7,460,111,000 for FY 2003. Commonwealth of Puerto Rico, *Official Statement for Public Improvement Refunding Bonds, Series 2003*, I-45 (2002). However, the 2018 analysis conducted by the GAO found that actual general fund revenues combined with actual expenses were overstated by approximately \$250,000,000 for FY 2002 and \$410,000,000 for FY 2003.

209. The PRHTA Official Statement for bond series J incorporated by reference the Commonwealth's Financial Information and Operating Data Report dated September 1, 2003 included as Appendix I to the Official Statement, dated October 3, 2003, relating to the offering of the Commonwealth's Public Improvement Bonds, Series 2004A (the "September 2003 Commonwealth Report"). The September 2003 Commonwealth Report estimated general fund revenues of \$7,591,742,000 and appropriations of \$7,590,059,000 for FY 2003 and projected general fund revenues of \$7,925,000,000 and appropriations of \$7,944,984,000 for FY 2004. Commonwealth of Puerto Rico, *Official Statement for Public Improvement Refunding Bonds, Series 2004A*, I-50 (2003). However, the 2018 analysis conducted by the GAO found that actual general fund revenues combined with actual expenses were overstated by approximately \$410,000,000 for FY 2003 and \$540,000,000 for FY 2004. Further, data compiled by Bloomberg shows that FY 2004 Total General Fund Tax Revenues was approximately \$980,000,000 less than projections as represented in the September 2003 Commonwealth Report.

210. The PRHTA Official Statement for bond series L incorporated by reference the Commonwealth's Financial Information and Operating Data Report dated May 1, 2005 included as Appendix I to the Official Statement, dated June 2, 2005, of the Puerto Rico Infrastructure Financing Authority relating to its Special Tax Revenue Bonds, Series 2005A and 2005B (the "May 2005 Commonwealth Report"). The May 2005 Commonwealth Report estimated general fund revenues of \$8,304,000,000 and appropriations of \$8,962,015,000 for FY 2005 and projected general fund revenues of \$9,684,000,000 and appropriations of \$9,249,000,000 for FY 2006. Puerto Rico Infrastructure Finance Authority, *Official Statement for Special Tax Revenue Bonds*,

Series 2005A and 2005B, III-44 (2005). However, the 2018 analysis conducted by the GAO found that actual general fund revenues combined with actual expenses were overstated by approximately \$540,000,000 for FY 2004 and \$240,000,000 for FY 2005. Further, data compiled by Bloomberg shows that total general fund tax revenues for FY 2004 were approximately \$920,000,000 less than estimates and for FY 2005 were approximately \$630,00,000 less than projections as represented in the May 2005 Commonwealth Report.

211. The PRHTA Official Statement for bond series N incorporated by reference the Commonwealth's Financial Information and Operating Data Report dated July 1, 2006 included as Appendix I to the Official Statement, dated August 2, 2006, relating to the offering of the Commonwealth's Public Improvement Bonds, Series 2006A and Series 2006B (the "July 2006 Commonwealth Report"). The July 2006 Commonwealth Report estimated general fund revenues of \$8,645,024,000 and appropriations of 9,389,289,000 for FY 2006 and projected general fund revenues of \$8,899,000,000 and appropriations of \$8,524,803,000 for FY 2007. Commonwealth of Puerto Rico, *Official Statement for Public Improvement Refunding Bonds, Series 2006A and 2006B*, I-55 (2005). However, the 2018 analysis conducted by the GAO found that actual general fund revenues combined with actual expenses were overstated by approximately \$680,000,000 for FY 2006 and \$650,000,000 for FY 2007. Further, data compiled by Bloomberg shows that total general fund tax revenues for FY 2006 were approximately \$430,000,000 less than estimates and for FY 2007 were approximately \$450,000,000 less than projections as represented in the July 2006 Commonwealth Report.

212. Defendants did not reasonably investigate Official Statements of PRHTA bond issuances regarding Commonwealth finances, including the Commonwealth's revenue and appropriations estimates and projections and its ability to service its debt—even though Defendants underwrote bonds issued by the Commonwealth, PREPA, and PRHTA during the same time period. Had Defendants reasonably investigated, they would have discovered these statements were materially false and incomplete—just as the GAO did when it investigated the factors that contributed to the Puerto Rico debt crisis (*see supra* ¶¶ 178-179, 190-198). Had National known either that the disclosures were false or that Defendants had not investigated them, it never would have issued its insurance.

213. *Second*, Defendants did not have a reasonable basis to believe disclosures regarding how PRHTA spent money, which were materially false and incomplete.

214. Defendants represented in the Official Statements how PRHTA had spent and would spend its money—including monies generated through PRHTA’s business operations and through bond issuances. Defendants indicated in those statements that PRHTA was unlikely to default on the proposed bonds because it was spending its money prudently, in a way that would have the tendency to increase relative revenues and decrease relative expenses in the long run.

215. Statements that PRHTA had used or would use its funds to maintain, operate, repair, or improve highways, roads, bridges, and similar transportation facilities indicated that PRHTA’s net revenues would increase in the long term. In particular, statements that PRHTA would deposit funds into its “construction fund”—which holds the proceeds of any bonds issued for the purpose of paying construction costs—provided assurances that PRHTA’s net revenues would increase.

216. The Official Statements provided by Defendants J.P. Morgan Securities, Morgan Stanley LLC, Goldman Sachs LLC, Citigroup Global Markets, UBS Securities, and Merrill Lynch for the PRHTA Highway Revenue Refunding Bonds Series AA dated April 10, 2003, disclosed the following regarding sources and uses of funds, including that \$522,475,000 would be deposited into the construction fund:

Sources and Uses of Funds

Sources:

Principal Amount of 2003 Highway Revenue Bonds	\$717,365,000.00
Principal Amount of 2003 Transportation Revenue Bonds	956,230,000.00
Net Original Issue Premium	80,116,608.35
Other available moneys	<u>67,780,398.31</u>
Total Sources	<u>\$1,821,492,006.66</u>

Uses:

Deposit into 1998 Construction Fund	\$522,475,000.00
Payment of TIFIA Loan	305,614,191.78
Deposit to 1968 Escrow Fund	796,880,008.08
Deposit to 1998 Escrow Fund	80,912,991.80
Deposit to 1968 Reserve Account	10,884,473.34
Deposit to 1998 Senior Bond Reserve Account	36,770,506.26
Deposit to 2003 Subordinated Bonds Reserve Account	26,512,201.26
Underwriting discount and legal, printing, bond insurance and other financing expenses	<u>41,442,634.14</u>
Total Uses	<u>\$1,821,492,006.66</u>

PRHTA, *Official Statement for PRHTA, Highway Revenue Refunding Bonds, Series AA*, 7 (2003).

217. The Official Statements provided by Defendants UBS Securities, Citigroup Global Markets, J.P. Morgan Securities, Goldman Sachs LLC, and Merrill Lynch for the PRHTA Transportation Revenue Bonds Series J dated April 7, 2004 disclosed the following regarding sources and uses of funds, including that \$360,000,000 would be deposited into the construction fund:

Sources and Uses of Proceeds of the Series J Bonds

Sources:

Principal Amount of Series J Bonds.....	\$405,895,000.00
Net Original Issue Premium.....	7,550,647.10
Total Sources.....	<u>\$413,445,647.10</u>

Uses:

Deposit into 1998 Construction Fund.....	\$360,000,000.00
Deposit into 1998 Senior Bond Reserve Account.....	24,275,575.00
Deposit into 1998 Senior Bond Service Account.....	22,104,922.85
Underwriting discount and legal, bond insurance, printing, and other financing expenses.....	7,065,149.25
Total Uses.....	<u>\$ 413,445,647.10</u>

PRHTA, *Official Statement for Transportation Revenue Bonds, Series J*, 6 (2004).

218. The Official Statements provided by Defendants J.P. Morgan Securities, Morgan Stanley LLC, Goldman Sachs LLC, Citigroup Global Markets, UBS Securities, and Merrill Lynch for the PRHTA Transportation Revenue Refunding Bonds Series L dated September 22, 2005, disclosed the following regarding sources and uses of funds, including that \$294,220,068.41 would be deposited into the construction fund:

Sources and Uses of Funds

Sources:

Principal Amount of the Bonds.....	\$1,499,910,000.00
Net Original Issue Premium.....	130,321,412.80
Other Available Moneys.....	9,960,464.69
Total Sources.....	<u>\$1,640,191,877.49</u>

Uses:

Deposit into 1998 Construction Fund.....	\$ 294,220,068.41
Deposit into 1968 Escrow Fund.....	112,939,249.11
Deposit into 1998 Escrow Funds.....	667,426,462.75
Deposit into 1998 Senior Bond Reserve Account.....	46,883,777.50
Capitalized interest on Series K Bonds through July 1, 2006.....	27,007,323.43
Underwriting discount and legal, printing, municipal bond insurance policy and other financing expenses.....	38,714,996.29
Payment of GDB Line of Credit.....	453,000,000.00
Total Uses.....	<u>\$1,640,191,877.49</u>

PRHTA, *Official Statement for Transportation Revenue Refunding Bonds, Series L*, 7 (2005).

219. The Official Statements provided by Defendants J.P. Morgan Securities, Morgan Stanley LLC, Goldman Sachs LLC, Citigroup Global Markets, UBS Securities, Merrill Lynch, Santander Securities, and RBC Capital Markets for the PRHTA Transportation Revenue Refunding Bonds Series N dated February 15, 2007 disclosed the following regarding sources and uses of funds, including that \$53,232,325.88 would be deposited into the construction fund:

Sources and Uses of Funds

<u>Sources:</u>	
Principal Amount of the Bonds.....	\$2,184,860,553.00
Net Original Issue Premium or Discount.....	240,821,059.45
Other available moneys	42,951,730.36
Total Sources	<u>\$2,468,633,342.81</u>
<u>Uses:</u>	
Deposit into 1998 Construction Fund.....	\$ 53,232,325.88
Deposit into 1968 Escrow Fund.....	497,283,713.96
Deposit into 1998 Escrow Fund.....	1,650,106,990.44
Deposit into 1998 Bond Reserve Account.....	3,932,464.00
Underwriting discount and bond insurance premium, legal, printing, and other financing expenses.....	62,638,375.43
Repayment of Subordinated Transportation Revenue Bonds Series 2007A.....	201,439,473.10
Total Uses	<u>\$2,468,633,342.81</u>

PRHTA, *Official Statement for Transportation Revenue Refunding Bonds, Series N*, 10 (2007).

220. PRHTA did not spend the money in the way it said it would. The head of PRHTA from 2005 to 2007 was investigated by the FBI for corruption—a fact that came to light after National issued its last policy for PRHTA. *El FBI Toca a Otra Puerta*, EL NUEVO DÍA (July 16, 2008), <https://www.elnuevodia.com/noticias/politica/nota/elbitocaaotrapuerta-431380/>; *Ante el FBI un Supuesto Esquema de Corrupción*, EL NUEVO DÍA (Aug. 22, 2008), <https://www.elnuevodia.com/noticias/locales/nota/anteelfbiunsupuestoesquemadecorruccion-447158/>.

221. Media reports after National issued its policies indicate that, despite extensive reported expenditures, PRHTA did not maintain the infrastructure as warranted. *See, e.g., Designan Jefe Para el DTOP*, PRIMERA HORA (Mar. 27, 2007), <https://www.primerahora.com/noticias/puerto-rico/nota/designanjefeparaeldtop-42234/>; *Rechaza a Pesquera*, EL NUEVO DÍA (Sept. 7, 2009), <https://www.elnuevodia.com/noticias/politica/nota/rechazoapesquera-612446/>.

222. Moreover, as described above, the Special Investigation Report’s illustrative analysis showed that PREPA earmarked funds for construction that it did not spend as represented; the analysis could not account for \$430 million during the period under review. Given that the same banks were underwriting bonds for both

PREPA and PRHTA, and given those agencies' similarities, it is reasonable to infer that PRHTA also did not spend its funds as represented. The Report also found that Defendants did not "monitor" any "actual use of proceeds" by PREPA or PRASA (the only other public utility it reviewed) at any point. Special Investigation Report at 5. It is likewise reasonable to infer that underwriters, including Defendants, also did not monitor actual use of proceeds for PRHTA.

223. Had Defendants reasonably investigated, they would have discovered that these statements were materially false and incomplete. Defendants did not investigate and did not have a reasonable basis to believe the truth and completeness of these disclosures. Had National known either that the disclosures were false or that Defendants had not investigated them, it never would have issued insurance.

224. *Third*, Defendants did not have a reasonable basis to believe PRHTA's financial information and debt service coverage ratios, which were materially false and incomplete.

225. The Official Statements represented PRHTA's basic financial information, including its historical and projected revenues, its expenses, its net revenues, and information about its existing debts, such as principal and interest amounts. The higher the revenues and the lower the expenses and debt obligations, the less likely PRHTA would be to default on the proposed bonds.

226. The Official Statements also disclosed PRHTA's debt service coverage requirements, which required PRHTA, among other things, to have revenues over 150% greater than its debt principal and interest requirements for senior transportation bonds (*i.e.*, a debt service coverage ratio of over 1.5) and over 125% for its subordinated transportation revenue bonds (*i.e.*, a debt service coverage ratio of over 1.25).

227. Specifically, PRHTA could issue Senior Transportation Revenue Bonds under the 1998 PRHTA Resolution

provided that the 1998 Resolution Revenues for any 12 consecutive months of the 15 months immediately preceding the issuance of such Senior Transportation Revenue Bonds ... are not less than 150% of the maximum Principal and Interest Requirements for any fiscal year thereafter on account of all outstanding Senior Transportation Revenue Bonds and the additional Senior Transportation Revenue Bonds then to be issued and not less than 100% of the maximum Principal and Interest Requirements for any fiscal year thereafter on account of all outstanding Transportation Revenue Bonds (including Subordinated Transportation Revenue Bonds) and the additional Senior Transportation Revenue Bonds then to be issued.

See, e.g., PRHTA, *Official Statement for Transportation Revenue Bonds, Series J*, 18-19 (2004).

228. PRHTA could issue Subordinated Transportation Revenue Bonds

under the 1998 Resolution to pay all or any part of the cost of any highway project or transit project eligible for financial assistance under federal legislation, provided that the 1998 Resolution Revenues for any 12 consecutive months of the 15 months immediately preceding the issuance of such Subordinated Transportation Revenue Bonds ... are not less than 125% of the maximum Principal and Interest Requirements for any fiscal year thereafter on account of all outstanding Transportation Revenue Bonds and the Subordinated Transportation Revenue Bonds then to be issued.

See, e.g., id. at 19.

229. The Official Statements disclosed historical and projected debt service coverage calculations as the “1998 Resolution Senior and Subordinated Coverage Ratio.” This ratio was a key indicator of PRHTA’s ability to access debt financing and of PRHTA’s financial health—the higher the revenues, the lower the debt, the less likely the risk of default.

230. The Official Statements provided by Defendants J.P. Morgan Securities, Morgan Stanley LLC, Goldman Sachs LLC, Citigroup Global Markets, UBS Securities, Merrill Lynch, Santander Securities, and RBC Capital for the PRHTA, Revenue Refunding Bonds Series N dated February 15, 2007 represented the following “Historical Revenues and Debt Service Coverage,” including net revenue information that led to 1998 Resolution Senior and Subordinated Coverage Ratios well over 1.5—between 2.66 and 1.61:

HISTORICAL REVENUES AND DEBT SERVICE COVERAGE
(dollars in thousands)

	Fiscal Year Ended June 30,				
	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>
<u>1968 Resolution Revenues:</u>					
Gasoline taxes	\$174,885	\$173,507	\$188,529	\$185,883	\$178,932
Gas oil and diesel oil taxes	<u>18,922</u>	<u>15,298</u>	<u>14,556</u>	<u>16,679</u>	<u>15,676</u>
Subtotal	\$193,807	\$188,805	\$203,085	\$202,562	\$194,608
Motor vehicle license fees	<u>30,693</u>	<u>31,920</u>	<u>32,491</u>	<u>32,385</u>	<u>31,655</u>
Subtotal	\$224,500	\$220,725	\$235,576	\$234,947	\$226,263
Toll receipts	130,498	135,352	141,378	146,286	189,618
Investment income	<u>10,168</u>	<u>12,947</u>	<u>9,264</u>	<u>9,858</u>	<u>9,923</u>
Total 1968 Resolution Revenues	<u>\$365,166</u>	<u>\$369,024</u>	<u>\$386,218</u>	<u>\$391,091</u>	<u>\$425,804</u>
Debt Service on Highway Revenue Bonds	\$177,400	\$95,056	\$120,723	\$153,925	\$145,080
1968 Resolution Coverage Ratio	2.06	3.88	3.20	2.54	2.93
Excess 1968 Resolution Revenues	<u>\$187,766</u>	<u>\$273,968</u>	<u>\$265,495</u>	<u>\$237,166</u>	<u>\$280,724</u>
<u>1998 Resolution Revenues:</u>					
Petroleum Products Tax	\$120,000	\$120,000	\$115,295	\$110,262	\$102,206
Excess 1968 Resolution Revenues	187,766	273,968	265,495	237,166	280,724
Toll Receipts					<u>2,452</u>
Investment income	<u>11,198</u>	<u>11,586</u>	<u>11,440</u>	<u>16,692</u>	<u>16,801</u>
Total 1998 Resolution Revenues	<u>\$318,964</u>	<u>\$405,554</u>	<u>\$392,230</u>	<u>\$364,120</u>	<u>\$402,183</u>
Debt Service on Senior Transportation Revenue Bonds	\$116,150	\$135,168	\$162,868	\$196,726	\$225,891
1998 Resolution Senior Coverage Ratio ¹³¹	2.75	3.00	2.41	1.85	1.78
Debt Service on Subordinated Transportation Revenue Bonds	\$3,795	\$6,654	\$20,398	\$20,398	\$24,018
Total Debt Service on Transportation Revenue Bonds	\$119,945	\$141,822	\$183,266	\$217,124	\$249,909
1998 Resolution Senior and Subordinated Coverage Ratio ¹³²	2.66	2.86	2.14	1.68	1.61
Aggregate Revenues¹³¹	<u>\$496,364</u>	<u>\$500,610</u>	<u>\$512,953</u>	<u>\$518,045</u>	<u>\$547,263</u>
Aggregate Debt Service ¹⁴¹	\$297,345	\$236,878	\$303,989	\$371,049	\$394,989
Aggregate Coverage Ratio ¹⁵¹	1.67	2.11	1.69	1.40	1.39

PRHTA, *Official Statement for Transportation Revenue Refunding Bonds, Series N*, 43 (2007).

231. The Official Statements provided by Defendants J.P. Morgan Securities, Morgan Stanley LLC, Goldman Sachs LLC, Citigroup Global Markets, UBS Securities, Merrill Lynch, Santander Securities, and RBC Capital Markets for the PRHTA, Revenue Refunding Bonds Series N dated February 15, 2007 represented the following “Projected Revenues and Debt Service Coverages,” including net revenue information that led to 1998 Senior and Subordinate Debt Service Coverage Ratio over the following five years well over 1.5—between 1.81 and 1.62—until 2011, when it fell to 1.43; despite the dip to 1.43, the projections nonetheless satisfied tests for senior and subordinate debt coverage ratios (with, respectively, ratios of 1.74 and 1.35):

**PUERTO RICO HIGHWAY AND TRANSPORTATION AUTHORITY
PROJECTED REVENUES AND DEBT SERVICE COVERAGE**
(dollars in thousands)

	Fiscal Year Ended June 30,				
	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>
1968 Resolution Revenues					
Gasoline Taxes	\$177,470	\$180,320	\$185,580	\$190,150	\$195,140
Gas oil and diesel oil taxes	15,500	12,500	12,750	9,000	9,000
Subtotal	192,970	192,820	198,330	199,150	204,140
Motor vehicle license fees	<u>31,980</u>	<u>32,310</u>	<u>32,640</u>	<u>32,980</u>	<u>33,320</u>
Subtotal	224,950	225,130	230,970	232,130	237,460
Toll receipts	205,760	214,950	223,780	232,710	242,290
Investment Income	<u>8,950</u>	<u>9,018</u>	<u>9,033</u>	<u>9,149</u>	<u>9,075</u>
Total 1968 Resolution Revenues	439,660	449,098	463,783	473,989	488,825
<u>Debt Service on Highway Revenue Bonds</u>	124,942	129,018	129,928	136,871	132,430
<u>1968 Resolution Coverage Ratio</u>	3.52	3.48	3.57	3.46	3.69
Excess 1968 Resolution Revenues	314,718	320,080	333,855	337,118	356,395
1998 Resolution Revenues					
Petroleum Products Tax	101,160	102,780	105,780	108,380	111,230
Investment Income	17,543	18,548	19,374	19,702	19,776
Eastern Corridor Toll Receipts	16,130	21,000	21,630	22,279	22,947
Subtotal 1998 Resolution Revenues	134,833	142,328	146,784	150,360	153,953
Excess 1968 Resolution Revenues	<u>314,718</u>	<u>320,080</u>	<u>333,855</u>	<u>337,118</u>	<u>356,395</u>
Total 1998 Revenues	449,551	462,408	480,639	487,479	510,348
<u>Debt Service on 1998 Senior Transportation Revenue Bonds (1)</u>	206,476	248,705	266,582	289,902	274,187
<u>1998 Senior Coverage Ratio (2)</u>	2.18	1.87	1.80	1.81	1.86
Additional Bond Test, Senior Transportation Revenue Bonds (3)	1.57	1.57	1.63	1.66	1.74
Additional Bond Test, Subordinated Transportation Revenue Bonds (4)	1.36	1.43	1.48	1.29	1.35
Available to Pay 1998 Subordinated Transportation Revenue Bonds (5)	243,074	215,703	214,057	217,577	236,162
<u>Debt service on 1998 Subordinated Transportation Revenue Bonds</u>	41,816	33,751	30,321	30,344	83,557
Senior and Subordinate Debt Service	248,292	280,457	296,903	300,246	357,744
Senior and Subordinate Debt Service Coverage Ratio	1.81	1.65	1.62	1.62	1.43
Aggregate Revenues (6)	574,493	591,426	610,567	624,349	642,778
Aggregate Debt Service (7)	373,234	409,475	426,831	437,116	490,174
Aggregate Debt Service Coverage Ratio (8)	1.54	1.44	1.43	1.43	1.31

Id. at 45.

232. The debt service coverage calculations and underlying information, such as revenues, were not accurately disclosed in the PRHTA Official Statement. For example, the calculations did not accurately reflect that the Commonwealth “frequently overestimated the amount of revenues it would collect in the coming year,” as the GAO Report concluded, even though PRHTA revenues could potentially be clawed back by the Commonwealth to repay GO bond payments. GAO Report at 16.

233. Defendants did not reasonably investigate these statements, which were materially false and incomplete. The Special Investigation Report revealed that “PREPA systematically included uncollected revenues when it calculated its ability to cover its operations and debt service,” Special Investigation Report at 114, and “inflated its debt coverage ratio,” which “gave the appearance that it had the financial liquidity to support further bond issuances when almost certainly, as the ultimate insolvency of the Authority shows, it did not[.]” *Id.* at 139. Moreover, “underwriters accepted PREPA’s debt coverage service calculations without conducting any of their own due diligence into the veracity of those figures.” *Id.* at 563. It is reasonable to

infer that PHRTA also included uncollected revenues in its debt-service calculations and that Defendants also accepted those calculations without investigating them.

234. Moreover, in limited circumstances, the Commonwealth could claw back PRHTA revenues to make payments on GO bonds. The same underwriters, including Defendants, underwrote bond issuances for both the Commonwealth and for PRHTA over the same time period—all nine Defendants underwrote both COFINA and PRHTA 2007 Series bonds. Defendants should have investigated PRHTA revenues in connection with their reviews of Commonwealth net revenues, but they did not. It is reasonable to infer that Defendants treated PRHTA bonds as they treated Commonwealth bonds—they did not perform a reasonable investigation into net revenues.

235. Defendants did not investigate and did not have a reasonable basis to believe the truth and completeness of these disclosures. Had Defendants reasonably investigated they would have discovered these statements were materially false and incomplete. Had National known either that the disclosures were false or that Defendants had not investigated them, it never would have issued the insurance. Had National known either that the disclosures were false or that Defendants had not investigated them, it never would have issued insurance.

D. The Key Representations in COFINA’s Official Statements Were Materially False and Incomplete

236. COFINA, created in July 2007, is a “corporate and political entity independent and separate from the Commonwealth of Puerto Rico,” created to issue bonds secured by a sales and use tax (“SUT”). COFINA, *Official Statement for Sales Tax Revenue Bonds, Series 2007A*, 1 (2007).

237. In 2007, Defendants sought and obtained insurance from National, and National has made claims payments on COFINA Sales Tax Revenue Bonds Series 2007A, dated July 13, 2007, with a maturity date of August 1, 2046. The lead underwriter was Goldman Sachs LLC. The underwriting team included the following Defendants: UBS Investment Bank (now known as UBS Securities), Morgan Stanley LLC, Merrill Lynch, Banc of America Securities (predecessor in interest to Defendant Merrill Lynch), Citigroup, RBC Capital Markets, J.P. Morgan Securities, Bear, Stearns & Co., Inc. (predecessor in interest to Defendant J.P. Morgan Securities), and Santander Securities. The purpose of the bonds was to pay and retire a portion of the debt owed to the GDB and the Puerto Rico Finance Corporation (“PFC”). National insured these bonds under two policies in the original par amount of \$440,396,676 and for \$243,774,198.40, respectively, or \$684,170,874.40, collectively.

238. COFINA emerged from bankruptcy-like proceedings with a debt adjustment plan confirmed by the Title III Court in February 2019 (currently subject to appeal). The COFINA plan of adjustment reflects a settlement among stakeholders of both COFINA and the Commonwealth regarding the allocation and availability of the SUT. Pursuant to that plan, National reasonably expects to pay out over \$100 million in claims.

239. A key issue for COFINA bonds was whether “[SUT] could effectively be ‘diverted’ from the General Fund so as not to be subject to priority claims by GO Bondholders” under Article VI of the Puerto Rico Constitution. Article VI provides that holders of GO bonds “have priority rights to be paid from ‘available resources,’ ahead of all other debts, in the event of a revenue shortfall.” Special Investigation Report at 164. If the SUT revenue did not constitute an “available resource,” then the COFINA bonds would be backed by a revenue stream separate from and not shared with the GO bonds.

240. Defendants provided National with Official Statements for the COFINA bonds that stated conclusively that SUT revenues were *not* “‘available resources’ of the Commonwealth for any purpose, including for purposes of Section 8 of Article VI of the [Puerto Rico] Constitution.” COFINA, *Official Statement for Sales Tax Revenue Bonds, Series 2007A*, 22 (2007).

241. It was critical to National and other market participants that representations relating to the Commonwealth’s priority on COFINA’s taxes and fees be accurate.

242. In fact, these disclosures were materially incomplete. The Special Investigation Report found that at least one lawyer advised COFINA’s fiscal agent around March 2006 that the representation was materially incomplete because, “according to the [Puerto Rico Constitution], [SUT] *cannot* be diverted away from the General Fund.” Special Investigation Report at 165. This legal opinion was sent to at least one underwriter. *Id.*

243. The Special Investigation Report also found that in May 2007—two months *before* the relevant bonds were issued—the law firm of Sidley Austin LLP (“Sidley”), which served as Puerto Rico’s bond counsel, told COFINA’s fiscal agent: “I think a court would have a hard time concluding just on the basis of the legislature saying so that the sales tax revenues are not ‘available’ to the Commonwealth should it need the money to pay [GO] debt.” *Id.* Sidley advised that cautionary language should be provided in the Official Statement—but it was not. Sidley refused to provide a legal opinion that “if the issue were to come before the Puerto Rico Supreme

Court, the sales tax securitization structure would be held constitutional and not be found to violate the GO Bondholders' priority rights under the Puerto Rico Constitution." *Id.* at 530. According to the Special Investigation Report, at least one underwriter was aware of Sidley's legal opinion. *Id.* at 165.

244. Defendants never disclosed in Official Statements for the bonds that there were conflicting opinions as to the availability of SUT revenues for application to GO bondholders. It was not until 2009—long after National issued insurance for the bonds at issue—that Official Statements for new COFINA bonds admitted there were serious risks SUT could be claimed by the Commonwealth. Specifically, these new disclosures provided that “the opinions” that SUT was independent were “not a prediction of what a particular court ... that reached the issue on the merits would hold and ... are not a guarantee, warranty or representation.” *Id.* at 531. Further, the new Official Statement advised that courts, including the Puerto Rico Supreme Court, could decide that SUT was in fact an available resource of the Commonwealth. *Id.* These new disclosures materially increased the risk profile of the COFINA bonds.

245. Defendants did not investigate and did not have a reasonable basis to believe the truth and completeness of these disclosures. Had they reasonably investigated, Defendants would have learned that counsel had recommended that the Official Statements contain cautionary language to the contrary—as the Special Investigation revealed. Had National known either that the disclosures were materially incomplete or that Defendants had not investigated them, it never would have issued its insurance.

First Cause of Action: Doctrina de Actos Propios

246. National incorporates and realleges the foregoing factual allegations.

247. Under Article 7 of the Puerto Rico Civil Code, “[W]hen there is no statute applicable to the case at issue, the court shall decide in accordance with equity, which means that natural justice, as embodied in the general principles of jurisprudence and in accepted and established usages and customs, shall be taken into consideration.”

248. Defendants through their acts solicited bond insurance by assuring National that they would form, were forming, and had formed a reasonable basis to believe the Official Statements they provided to National were true and complete—including by reasonably investigating those statements before the bonds and insurance were issued. Defendants did so by, among other things, submitting insurance applications to National; touting their compliance with the securities laws

(which required them to have a reasonable basis for truthfulness and completeness and to perform a reasonable investigation); appearing to adhere to industry custom and norm (which required a reasonable investigation); and affixing their names on the Official Statements.

249. Defendants' assurances created a situation contrary to reality. Defendants did not act in accordance with their promised roles as gatekeepers in the municipal bond market. Specifically, they did not perform the warranted reasonable investigation or form a reasonable basis to believe that draft and final Official Statements were true or complete—including statements regarding issuers' debt service coverage ratios; issuers' basic financial information, such as their net revenues; how the issuers had spent, were spending, and would spend their funds; and the good repair of the issuers' facilities. Based on the findings of the Special Investigation, Defendants instead have apparently taken the position that they did not need to perform an investigation into these disclosures, which were substantially misstated.

250. Defendants' assurances objectively induced National to issue irrevocable bond insurance. National relied in good faith on Defendants' acts to its detriment. Had National known the truth—that Defendants had *not* conducted reasonable investigations and did *not* have reasonable bases to believe the truth and completeness of the Official Statements—National would not have issued its insurance. Because National relied on Defendants' assurances, it issued irrevocable insurance policies. It has paid out over \$720 million in claims as of July 1, 2019 and reasonably expects to pay out hundreds of millions of dollars more in future claims payments.

251. There is no apparent statutory claim available to National. National may bring neither a securities claim nor a contract claim. *Doctrina de actos propios* operates to fill that gap in these extraordinary circumstances.

252. Defendants' actions caused widespread harm throughout the Commonwealth, including harm to National totaling not less than \$720 million.

253. Because Defendants acted without conducting their promised due diligence, they are now estopped from denying responsibility for the consequences of their failure to conduct the warranted investigations and must compensate National accordingly.

Second Cause of Action: Unilateral Declaration of Will

254. National incorporates and realleges the foregoing factual allegations.

255. Under Article 7 of the Puerto Rico Civil Code, “[W]hen there is no statute applicable to the case at issue, the court shall decide in accordance with equity, which means that natural justice, as embodied in the general principles of jurisprudence and in accepted and established usages and customs, shall be taken into consideration.”

256. In submitting Official Statements to National, Defendants acted with their sole will and intended to be bound by their assurances that they had performed a reasonable investigation and had formed a reasonable basis as to the truth and completeness of the Official Statements prior to any bond issuance or issuance of insurance.

257. National, as the recipient of Defendants’ assurances, has standing to enforce Defendants’ declaration.

258. By assuring National that they had acted in accordance with the federal securities laws and industry custom and norms, Defendants clearly intended to be bound to perform a reasonable investigation and form a reasonable basis as to the truth and completeness of the Official Statements prior to any bond issuance or issuance of insurance.

259. The object of Defendants’ obligation was plain—to induce National to insure the bonds.

260. Defendants’ statements to National that they had complied with the securities laws unequivocally represented that Defendants had a reasonable basis to believe the truth and completeness of the Official Statements, including that they had reasonably investigated those statements.

261. Defendants performed a suitable juridical act in providing the Official Statements to National as part of the insurance application and assuring National that they would comply with federal securities laws.

262. Enforcing Defendants’ obligation to conduct a reasonable investigation and to form a reasonable basis as to the truth and completeness of the Official Statements is consistent with the law and supported by morals and public policy.

263. Because National relied in good faith on Defendants’ assurances, it issued irrevocable insurance policies. It has paid out over \$720 million in claims as of July 1, 2019 and reasonably expects to pay out hundreds of millions of dollars more in future claims payments.

264. There is no apparent statutory claim available to National. National may bring neither a securities claim nor a contract claim. The unilateral declaration of will operates to fill that gap in these extraordinary circumstances.

265. National relied in good faith on Defendants' representations to its detriment. National would not have issued insurance had it known Defendants did not perform a reasonable investigation and did not have a reasonable basis to believe the truth and completeness of the Official Statements. Defendants' actions caused widespread harm throughout the Commonwealth, including harms to National totaling not less than \$720 million.

WHEREFORE, National requests relief as follows:

- a) Damages to be proven at trial, but in any event no less than \$720,000,000, as well as all reasonably foreseeable reliance damages;
- b) Prejudgment interest and any other legal interest to which National is entitled;
- c) Reasonable attorney's fees and costs; and
- d) Such other and further relief as the Court may deem just and proper.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 8th day of August 2019.

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