

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

IN RE:

P.J. ROSALY ENTERPRISES, INC.

Debtor in Possession

CASE NO.: 16-07690 (ESL)

CHAPTER 11

DEBTOR'S RESPONSE TO UNION DE TRONQUISTAS' OBJECTION TO
DISCLOSURE STATEMENT AND PLAN OF REORGANIZATION,
SUPPLEMENT TO DISCLOSURE STATEMENT
AND MOTION TO STRIKE

TO THE HONORABLE COURT:

COMES NOW, P.J. Rosaly Enterprises, Inc. (hereinafter the "Debtor") through the undersigned attorney and very respectfully STATES and PRAYS:

1. On April 27, 2017, the Debtor filed its *Joint Disclosure Statement and Summary of Proposed Joint Plan of Reorganization Dated April 27, 2017* (the "Disclosure Statement", Docket No. 148) and its *Joint Plan of Reorganization Dated April 27, 2017* (the "Plan of Reorganization", Docket No. 149).
2. On July 20, 2017, the Union de Tronquistas de Puerto Rico (the "Union") filed its *Objection to Disclosure Statement and Plan of Reorganization* (the "Objection", Docket No. 187) averring the following objections:
 - a. that the Banco de Desarrollo Economico will receive more than what it is owed;
 - b. lack of information about the Union in Debtor's history;
 - c. lack of information regarding pending litigation
 - d. negotiations with potential future clients; and
 - e. Allegations of discrimination against the Union.

3. It is important to note that this is the only objection filed to Debtor's the Disclosure Statement.
4. The Debtor herein responds to each one of The Union de Tronquistas allegations in the same order they were raised.
 - a. As to the first argument that the Banco de Desarrollo Economico (BDE) will receive more than what it is owed, this statement is incorrect. The Debtor included in its Disclosure Statement as Exhibit 5 and analysis of BDE's collateral that reflects the correctness on the proposal to BDE.
 - b. As to the second argument regarding the lack of information about the Union de Tronquistas in Debtor's disclosures, it is the position of the Debtor that the information provided by the Debtor complies with the requirements of disclosure of Section 1125 of the Bankruptcy Code.
 - i. The Debtor included reasonable information about The Union de Tronquistas, i.e., in Debtor's History (Page 7) and
 - ii. within the specific classification and treatment (Class 9) at Page 36 of the Disclosure Statement
 - iii. within the treatment to executory contracts, at Page 42.
 - c. The Unions third argument involves to pending litigation that was not listed. The Union the Tronquistas is partially correct. The true fact is that the SOFA did not include the pending claims before the National Labor Relation Board (NLRB). The true fact is that this is the first time this matter is brought, even though the Union the Tronquistas has always been actively present since day one in this case and has met in various occasions with the Debtor. This involuntary error could

have been resolved immediately. In any event, many of those cases involve employees whose claims were listed on Debtor's schedules since day one and they have been fully aware of the procedures. Other cases are already closed or withdrawn. Other cases are post-petition claims that are pending assignment and resolution of the Board. The Debtor herein Supplements the Disclosure Statement with the list prepared of Pending Litigation, its status and will provide all employees not previously included in Debtors Schedules (10 employees) a proof of claim and due notice under the provisions of Local FRBP 1007 (1)(f). See Exhibit 1.

- d. The Union raises an objection regarding possible future contracts that the Debtor is in the process of negotiating. The Debtor herein clarifies that any negotiation with potential new clients is still pending and has not been finalized. Once any negotiation are finalized the Debtor will provide all employees the proper information, however, at this time there is nothing concrete or solid to inform. Debtor's business is to provide transportation and next day delivery services to its clients. In its ordinary course of business the Debtor gains new clients and loses current clients. The Debtor is always looking for new clients, as is its competition. The competition in this market is very aggressive and in many occasions the difference is made by a deduction of a fraction of a penny. Due to the nature of this business usually "confidentiality agreements" are signed to protect the negotiation period and the possible client itself. Currently the Debtor is in negotiation under "confidentiality agreements". These negotiations are in process and due analysis is being made on all the requirements of the possible

new client. There are no final agreements on the table. The parties are still in negotiation. The information provided by The Union de Tronquistas in this objection that an agreement was to be signed, is simple not true. In addition, the Union de Tronquistas is placing in jeopardy this and any new contract the Debtor might be negotiating. Any undue and premature disclosure of possible new agreements or clients which include commercial information of the Debtor may jeopardize Debtor's current position and shall be stricken from the record on urgent basis. This petition to the Court is made under the provisions of 11 U.S.C. 107 (b), 105, and Fed. R. Bank. P. 9002 (1), 9018 and Fed. R. Bank. P. 7012(f) applicable to contested matters. See also In re Borders Grp. Inc. 462 BR 42, 47 Bankr. S.D.N.Y. 2011).

- e. Lastly, the Union states that the Disclosure Statement and Plan of Reorganization discriminate against it and its members. This allegation is wrong and has no basis in facts. Debtor's proposal to the Union de Tronquistas under the plan of reorganization is based on adjustments on benefits to the union employees that have already been in place for all other non- union employees. The proposed plan does not contemplate the rejection of the Collective Bargaining Agreement, that is why under Class 9 which contemplates the possible scenario of a rejection, has no amount to be paid as of this date. The Plan is premised on adjustments the Debtor has already applied to all other employees, mainly in the adjustment to the Christmas Bonus and the Health Plan. The position of the Union de Tronquistas moved the Debtor to reject the Collective Bargaining Agreement after exhausting any means of negotiations. Any final determination by this Honorable Court

regarding this issue might require an amendment to the treatment to the Union de Tronquistas under the Plan of Reorganization. Nevertheless, the Debtor has provided full information, even regarding a possible alternative treatment.

5. Therefore, for the above stated reasons the Objection filed by the Union de Tronquistas should be denied and the Debtor's disclosure statement should be approved, as supplemented herein.
6. Finally, it is of most importance that the Debtor maintains any and all negotiations with possible new clients, in confidentiality until such negotiations are finalized in order to avoid real and critical damage to Debtor's operations and future reorganization.

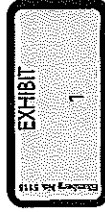
WHEREFORE the Debtor very respectfully requests that this Honorable Court accept this motion as a Supplement to the Disclosure Statement, deny all other Objections filed by the Union and protect Debtor's business against disclosing its current or future negotiations with potential clients by issuing an order to strike any reference to such negotiations and issue an Order approving the Disclosure Statement as Supplemented, with any other Order it may deem appropriate.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 2nd day of August 2017.

I HEREBY CERTIFY that on this same date I electronically filed the foregoing through the CM/ECF system, which will send notification of such filing to the parties therein registered to receive Notice including the US Trustee and the Union.

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**NEGOCIADO DE CONCILIACION Y ARBITRAJE: ISLAND WIDE
LISTADO CASOS – ACTIVOS**

	NUMERO DE CASO	NOMBRE DE EMPLEADO	Caso	Status	Incluido en Schedules
1	A-09-278	Unidad Contratante	Reclamación de igualar rate por hora	Esperando nueva fecha para arbitraje	X
2	A-12-1936	Eduardo Alicea	Despido	En calendario	
3	A-12-3145	Bernabé Pitre	Despido	Esperando selección de nuevo arbitro	
4	A-13-479	Eduardo Calderón**	Reclamación de horas	Caso cerrado	W/D
5	A-14-216	Angel Bartolomei	Reclamación	En calendario	X
6	A-14-218	Unidad Contratante	Reclamación de Uniformes (polos)	Esperando nueva fecha para arbitraje	X
7	A-14-268	Juan C. Castillo Llanes**	Despido	Esperando UT solicite cierre	W/D
8	A-14-440	Unidad Contratante	Reclamación Bono Accidente	Esperando nueva fecha para arbitraje	X
9	A-14-1508	Pedro Serrano	Reclamación de cambio de horario sin aviso	En calendario	X
10	A-14-1509	Jorge Resto**		Querrelante solicitó no continuar con el caso	X and W/D
11	A-14-2552	Francisco Roque	Reclamación	En calendario	X
12	A-14-2622	Henry González	Despido	En calendario	
13	A-15-241	Aarón Zayas	Retirar amonestación	En calendario	X
14	A-15-892	Angel Martínez	Reclamación	En calendario	X
15	A-15-2083	Andrés Ríos	Retirar amonestación	En calendario	X
16	A-15-2085	Mildred Figueroa	Retirar amonestación	En calendario	X
17	A-15-2197	William Vázquez	Despido	En calendario	
18	A-15-2539	Edwin Fernández	Suspensión	En calendario	
19	A-15-2540	Edwin Fernández	Despido	En calendario	
20	A-15-3077	David Hernández	Despido	En calendario	
21	A-16-925	Freddy Ramirez**	Bono por no accidente	UT solicitó cierre	X and W/D
22	A-16-2179	Juan C. Villegas	Despido	En calendario	
23	A-16-2180	Victor Collazo	Despido	En calendario	

24	A-17-11	Manuel Arcelay	Despido	Esperando fecha para arbitraje	
25	A-17-1128	Denny Ascar	Despido	Esperando fecha para arbitraje	X
26	A-17-1358	Elvis Talavera	Suspensión	Esperando fecha para arbitraje	X
27		Ricardo Fabón*	Reclamación horas OT	En solicitud de designación	X
28		Jose López*	Despido	En solicitud de designación	X
29		Ramón Ríos*	Despido	En solicitud de designación	X
30		Unidad Contratante*	Bono de Navidad 2016	En solicitud de designación	
31		Ismael Marrero*	Reclamación periodo alimentos y horas OT	En solicitud de designación	

* Case filed post petition

** Cases withdrawn or closed

***Case A-15-1585 was listed in the Union's motion as a pending case. The same was closed and resolved pre-petition. It is not an active case.

Total pre-petition litigation: 26

Cases included in Schedule E: 16

Pre-Petition Cases not included in the Schedules: 10

Withdrawn cases: 4

Post Petition Cases listed by the Union: 5