

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

JOHN JOHNSTON AND EDWARD
WILLMOTT, AS JOINT PROVISIONAL
LIQUIDATORS ON BEHALF OF PDV
INSURANCE COMPANY, LTD.

Plaintiffs,

v.

THE BOLIVARIAN REPUBLIC OF
VENEZUELA.

Defendant.

Civil Action No. _____

COMPLAINT

John Johnston and Edward Willmott, as Joint Provisional Liquidators on behalf of PDV Insurance Company, LTD. (collectively, the “Plaintiffs”), by their undersigned counsel, as and for their Complaint against Defendant the Bolivarian Republic of Venezuela (“Venezuela”), allege as follows:

PRELIMINARY STATEMENT

1. This is a breach of contract action arising from Venezuela’s failure to make contractually mandated principal and interest payments on two series of bonds (the “2018 Bonds” and “2019 Bonds”, collectively “the Bonds”) held by PDV Insurance Company, LTD., and issued by Venezuela pursuant to a fiscal agency agreement dated July 25, 2001, as amended (the “2001 FAA”). Under the 2001 FAA and the terms of the Bonds, Venezuela made unconditional promises to make punctual principal and interest payments. Venezuela, however, has failed to make the contractually mandated principal and interest payments on the Bonds since 2017. Plaintiffs now

seek to recover all due and unpaid principal and interest payments on the Bonds, together with any principal and interest payments that may yet accrue and remain unpaid prior to final judgment.

PARTIES

2. Plaintiff PDV Insurance Company, LTD (“PDVIC”), is a limited company that was formed and existing in Bermuda during pertinent times material to this Complaint. PDVIC is in liquidation currently pending before the Supreme Court of Bermuda, Companies (Winding-Up), Commercial Court, 2018: No. 159.

3. Plaintiffs John Johnston and Edward Willmott of Deloitte Financial Advisory Ltd. Bermuda, are Joint Provisional Liquidators and authorized foreign representatives (“JPLs”) of PDV Insurance Company, LTD. John Johnston was appointed as JPL and duly authorized foreign representative of PDVIC by Order of the Supreme Court of Bermuda, dated May 14, 2018. Edward Willmott was appointed as JPL of PDVIC by Order of the Supreme Court of Bermuda, dated September 25, 2023.¹ On August 30, 2018, the U.S. Bankruptcy Court granted recognition of PDVIC’s liquidation as a foreign main proceeding under Chapter 15 and authorized the JPLs, pursuant to § 1521(a)(5) of the U.S. Bankruptcy Code, to administer or realize all of PDVIC’s assets within the territorial jurisdiction of the United States. *See In re PDV Insurance Company, Ltd.*, No. 18-12216 [ECF No. 11] (Bankr. S.D.N.Y. Aug. 20, 2018).

4. Defendant the Bolivarian Republic of Venezuela is a “foreign state” as defined in 28 U.S.C. § 1603.

JURISDICTION AND VENUE

¹The Supreme Court of Bermuda Order dated May 14, 2018 appointed Rachelle Frisby and John Johnston as JPLs of PDVIC. Ms. Frisby no longer works for Deloitte Financial Advisory Ltd. Bermuda, and resigned as JPL of PDVIC on August 11, 2023. On September 25, 2023, the Supreme Court of Bermuda entered an Order removing Ms. Frisby as JPL and recognized Edward Willmott of Deloitte Financial Advisory Ltd Bermuda as Mr. Johnston’s counterpart as a new joint provisional liquidator of PDVIC. Mr. Willmott’s appointment became effective October 17, 2023. An application to amend the Recognition Order to recognize Mr. Willmott as PDVIC’s JPL will be filed soon with Bankruptcy Court.

5. This Court has jurisdiction over this action pursuant to the parties' agreement and pursuant to 28 U.S.C. § 1330(a) because this is a nonjury civil action against Venezuela, which is a foreign state that is not entitled to sovereign immunity under 28 U.S.C. §§ 1605–07 or under any applicable international agreement, as Venezuela, in the 2001 FAA, has explicitly and irrevocably waived sovereign immunity with respect to actions arising out of the 2001 FAA or the Bonds.

6. This Court has personal jurisdiction over Venezuela because, in the 2001 FAA, Venezuela explicitly and irrevocably submitted to the exclusive jurisdiction of this Court with respect to actions arising out of the 2001 FAA or any bonds issued thereunder.

7. Furthermore, once Plaintiffs serve Venezuela in accordance with 28 U.S.C. § 1608, this Court will have personal jurisdiction over Venezuela under 28 U.S.C. § 1330(b).

8. Venue is proper in this district by agreement of the parties in the 2001 FAA, in which Venezuela consented to and waived any objection to venue in this Court with respect to actions arising out of the 2001 FAA or any bonds issued thereunder. Venue is also proper under 28 U.S.C. § 1391(f)(1).

FACTUAL ALLEGATIONS

9. The 2001 FAA is a contract among Venezuela and Banco Central de Venezuela, as official financial agent, and Deutsche Bank AG and Deutsche Bank Trust Company Americas (formerly Bankers Trust Company), as fiscal agents and principal paying agents, dated July 25, 2001. The 2001 FAA and its amendments provide that they are governed by New York law.

10. Venezuela issued the 2018 Bonds and the 2019 Bonds under the 2001 FAA, with separate information memorandum for each bond.

11. The 2001 FAA specifies that any bonds issued thereunder are unsecured, direct, unconditional, and general obligations of Venezuela.

2018 Bonds

12. PDVIC is the beneficial owner of \$29,499,000 principal amount of 2018 Bonds that were issued to it in 2002 by Venezuela, for which Deutsche Bank Trust Company Americas f/k/a Bankers Trust Company acts as Fiscal Agent. The ISIN for the 2018 Bonds owned by PDVIC is USP9395PAA95 and PDVIC's 2018 Bonds have a coupon rate of 13.625%.

13. The 2018 Bonds owned by PDVIC are governed by the 2001 FAA, as well as by the terms of the bonds as set forth in the Information Memorandum dated May 2, 2002.

14. Moreover, the 2018 Bonds owned by PDVIC matured on August 15, 2018, at which time the entire principal amount became due and payable.

15. Despite the terms of the 2018 Bonds, Venezuela has failed to make the interest payments due to PDVIC on 2018 Bonds. Specifically, Venezuela has failed to make the interest payments due on the 2018 Bonds to PDVIC in the following required amounts on the following due dates:

February 15, 2018	\$2,009,619.38
August 15, 2018	\$2,009,619.38
Total	\$4,019,238.76

16. Because Venezuela has failed to make interest payments due on the 2018 Bonds for 30 days or more, each of the above interest payments are in default under the terms of the 2018 Bonds.

17. In addition to missed interest payments, Venezuela failed to redeem the entire principal amount of the 2018 Bonds, i.e., \$29,499,000, when they matured on August 15, 2018.

18. Interest payments on the 2018 Bonds continue to accrue due to Venezuela's failure redeem upon maturity. Venezuela has failed to make such interest payments due on the 2018 Bonds to PDVIC in the following required amounts on the following due dates:

February 15, 2019	\$2,009,619.38
August 15, 2019	\$2,009,619.38
February 15, 2020	\$2,009,619.38
August 15, 2020	\$2,009,619.38
February 15, 2021	\$2,009,619.38
August 15, 2021	\$2,009,619.38
February 15, 2022	\$2,009,619.38
August 15, 2022	\$2,009,619.38
February 15, 2023	\$2,009,619.38
August 15, 2023	\$2,009,619.38
Total	\$20,096,193.80

19. Venezuela's failure to pay PDVIC both interest payments and redeem the entire principal amount of the 2018 Bonds upon maturity all constitute default events and breaches of the terms of the 2018 Bonds.

2019 Bonds

20. PDVIC is the beneficial owner of \$36,300,000 principal amount of 2019 Bonds, issued in 2009 by Venezuela, for which Deutsche Bank Trust Company Americas f/k/a Bankers Trust Company acts as Fiscal Agent. The ISIN for the 2019 Bonds owned by PDVIC is USP97475AN08 and PDVIC's 2019 Bonds have a coupon rate of 7.75%.

21. The 2019 Bonds owned by PDVIC are governed by the 2001 FAA, as well as by the terms of the bonds as set forth in the Information Memorandum dated October 23, 2009.

22. Furthermore, the 2019 Bonds owned by PDVIC matured on October 13, 2019, at which time the entire principal amount became due and payable.

23. Similar to the 2018 Bonds, Venezuela has also failed to make the interest payments due on the 2019 Bonds to PDVIC in the following required amounts on the following due dates:

October 13, 2017	\$1,406,625
April 13, 2018	\$1,406,625
October 13, 2018	\$1,406,625
April 13, 2019	\$1,406,625
October 13, 2019	\$1,406,625
Total	\$7,033,125

24. Because Venezuela has failed to make interest payments due on the 2019 Bonds for 30 days or more, each of the above interest payments are in default under the terms of the 2019 Bonds.

25. In addition to missed interest payments, Venezuela failed to redeem the entire principal amount of the 2019 Bonds, i.e., \$36,300,000, when they matured on October 13, 2019.

26. Interest payments on the 2019 Bonds continue to accrue due to Venezuela's failure redeem upon maturity. Venezuela has failed to make such interest payments due on the 2019 Bonds to PDVIC in the following required amounts on the following due dates:

April 13, 2020	\$1,406,625
October 13, 2020	\$1,406,625
April 13, 2021	\$1,406,625

October 13, 2021	\$1,406,625
April 13, 2022	\$1,406,625
October 13, 2022	\$1,406,625
April 13, 2023	\$1,406,625
October 13, 2023	\$1,406,625
Total:	\$11,253,000

27. Venezuela’s failure to pay PDVIC both interest payments and redeem the entire principal amount of the 2019 Bonds upon maturity all constitute default events and breaches of the terms of the 2019 Bonds.

COUNT I

(Breach of Contract on the 13.625% 2018 Bonds)

28. Plaintiffs repeat and reallege the allegations set forth in the foregoing paragraphs.

29. The 2018 Bonds are direct, unconditional, and general obligations of Venezuela.

30. PDVIC, as beneficial owners of the 2018 Bonds, have performed any obligations they may have under the 2001 FAA, as amended, and the 2018 Bonds.

31. Venezuela failed to make interest payments due to PDVIC on the 2018 Bonds on February 15, 2018, and August 15, 2018, as required by the terms of the 2018 Bonds.

32. Venezuela failed to redeem the entire principal amount of the 2018 Bonds when they matured on August 15, 2018, as required by the terms of the 2018 Bonds.

33. After Venezuela failed to redeem the entire principal amount of the 2018 Bonds when they matured on August 15, 2018, Venezuela failed to make interest payments thereafter due to PDVIC on the 2018 Bonds on February 15, 2019, August 15, 2019, February 15, 2020, August 15, 2020, February 15, 2021, August 15, 2021, February 15, 2022, August 15, 2022, February 15, 2023, and August 15, 2023, as required by the terms of the 2018 Bonds.

34. As a result, Venezuela owes PDVIC \$53,614,432.60 on the 2018 Bonds, excluding prejudgment interest and any interest that may accrue and remain unpaid prior to final judgment.

35. Plaintiffs have been authorized to bring this action on behalf of PDVIC as beneficial owners of the 2018 Bonds.

COUNT II

(Breach of Contract on the 7.75% 2019 Bonds)

36. Plaintiffs repeat and reallege the allegations set forth in the foregoing paragraphs.

37. The 2019 Bonds are direct, unconditional, and general obligations of Venezuela.

38. PDVIC, as beneficial owners of the 2019 Bonds, have performed any obligations they may have under the 2001 FAA, as amended, and the 2019 Bonds.

39. Venezuela failed to make interest payments due to PDVIC on the 2019 Bonds on October 13, 2017, April 13, 2018, October 13, 2018, April 13, 2019, and August 13, 2019, as required by the terms of the 2019 Bonds.

40. Venezuela failed to redeem the entire principal amount of the 2019 Bonds when they matured on October 13, 2019, as required by the terms of the 2019 Bonds.

41. After Venezuela failed to redeem the entire principal amount of the 2019 Bonds when they matured on October 13, 2019, Venezuela failed to make interest payments thereafter due to PDVIC on the 2019 Bonds on April 13, 2020, October 13, 2020, April 13, 2021, October 13, 2021, April 13, 2022, October 13, 2022, April 13, 2023, October 13, 2023, as required by the terms of the 2019 Bonds.

42. As a result, Venezuela owes PDVIC \$54,586,125 on the 2019 Bonds, excluding prejudgment interest and any interest that may accrue and remain unpaid prior to final judgment.

43. Plaintiffs have been authorized to bring this action on behalf of PDVIC as beneficial owners of the 2019 Bonds.

REQUEST FOR RELIEF

Plaintiffs demand judgment against Venezuela as follows:

- a. A money judgment in an amount to be determined at trial, but not less than \$108,200,558, plus prejudgment interest, contractually mandated interest and any other interest or payments that may accrue and remain unpaid prior to final judgment, post judgment interest, and attorneys' fees and costs.
- b. Such other and further relief as the Court shall deem just and proper.

Dated: October 31, 2023

STEVENS & LEE, P.C.

By: /s/ Nicholas F. Kajon

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