

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

IN RE:

CASE NO. 26-00712 (ESL)

THE PHOENIX FUND LLC

CHAPTER 11

Debtor

**ORDER GRANTING THE URGENT JOINT MOTION OF THE RECEIVER AND
USIC FOR RELEASE OF CASH COLLATERAL BOND AND FOR
USE BY THE RECEIVER OF CASH COLLATERAL**

WHEREAS, Driven P.S.C. (“Driven” or the “Receiver”), as appointed receiver pursuant to the *Amended Complaint and Receiver Order* (the “Complaint and Receiver Order”) and the entity authorized to act as debtor-in-possession and representative of the bankruptcy estate of The Phoenix Fund LLC (the “Fund” and the “Estate”), and United Surety and Indemnity Company (“USIC” and together with the Receiver, the “Parties”), filed an *Urgent Joint Motion of the Receiver and USIC for Release of Cash Collateral Bond and for Use by the Receiver of Cash Collateral* (the “Motion”) on July 10, 2026, under Docket Entry No. 301 of Bankruptcy Case No. 26-00712, seeking authority to release the full amount of \$5,596,885.00 of certain cash collateral held by USIC in connection with that certain Tax Credit Financial Guarantee Bond No. 23241588 (the “Dorado Health Bond”) and that certain Financial Guarantee Bond No. 24246289 (the “Fund Bond”, together with the Dorado Health Bond, the “Bond”) and authority for the Receiver to use up to \$3,905,600.00 of the to-be-released funds (the “USIC Collateral”) to fund the Estate’s liquidation;

WHEREAS, through the Motion, the Parties request authorization to (i) release the USIC Collateral and (ii) use up to \$4,429,730.00 of cash collateral during the period commencing on June 1, 2026 and ending on December 31, 2026 (the “Cash Collateral Use Period”), a ten percent (10%) permitted variance for fees and expenses, the reservation of rights, and termination events set forth in the Motion;

WHEREAS, through the Motion, the Receiver further seeks interim relief authorizing

1 the Receiver to satisfy Permitted Expenditures (as defined below) during June and July 2026, in
2 accordance with the Budget attached to the Motion, totaling \$1,463,825.00 (plus \$136,382.50 in
3 Permitted Variances of 10% for fees and expenses); and for the court to schedule a final hearing,
4 if necessary, to consider authorization for the Receiver's continued use of the USIC Collateral
5 for the period from August 2026 through December 2026;

6 **WHEREAS**, the court has considered the Motion, the record in this case, the
7 representations of the Parties, and the legal and factual bases for the relief requested therein; and

8 **IT IS NOW THEREFORE FOUND AND DETERMINED THAT¹:**

9 1. The court has subject matter jurisdiction to consider the Motion and the relief
10 requested therein in accordance with 28 U.S.C. §§ 157 and 1334, the Bankruptcy Code, and the
11 Bankruptcy Rules.

12 2. The relief requested in the Motion is a core proceeding pursuant to 28 U.S.C. §
13 157(b)(2), and venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

14 3. Notice of the Motion and the relief requested therein was adequate and appropriate
15 under the particular circumstances to all interested persons, parties in interest, creditors, and other
16 entities, including USIC, Dorado Health, the PR Treasury Department, the PR Tourism
17 Company, and the Office of the United States Trustee.

18 4. The USIC Collateral is property of the Estate subject to USIC's asserted security
19 interest and constitutes cash collateral within the meaning of Section 363(a) of the Bankruptcy
20 Code. The Receiver's use of cash collateral as authorized herein is necessary to preserve and
21 maximize the value of the Estate and avoid immediate and irreparable harm to the Estate and its
22 creditors.

23 5. Nothing herein adjudicates any netting or setoff issue that Dorado Health may
24 otherwise assert, and all rights of the Estate and parties-in-interest are reserved.

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27 ¹ Findings of fact shall be construed as conclusions of law and conclusions of law shall be construed as findings of
fact when appropriate. See, Fed. R. Bankr. P. 7052.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. The recitals, determinations, conclusions, and findings set forth above are incorporated into this Order.

2. The Motion is GRANTED as set forth herein.

3. USIC is AUTHORIZED to release the full amount of \$5,596,885.00 held by USIC in Treasury Bills and held in account JX-57670 (the "USIC Collateral Account") in UBS Financial Services.

4. To the extent necessary, UBS Financial Services is hereby ORDERED to disburse to USIC the amounts held in the USIC Collateral Account.

5. The Budget contemplates aggregate Permitted Expenditures of \$4,429,730.00 for the Cash Collateral Use Period (inclusive of \$350,000.00 for adequate protection payments to Brevet to reduce the Replacement Lien), plus a ten percent (10%) permitted variance in the amount of \$407,973.00 (the "Permitted Variance"). The Receiver may reallocate amounts between line items in the Budget, provided that aggregate expenditures during the Cash Collateral Use Period do not exceed the total Budget amount plus the Permitted Variance without further order of this court. All fees and expenses of Estate professionals remain subject to court approval in accordance with 11 U.S.C. §§ 330 and 331 and the applicable fee approval procedures established in this case.

6. The Receiver and USIC are authorized to implement a consensual release and disbursement protocol for the USIC Collateral from the USIC Collateral Account under which USIC may disburse the full amount of the USIC Collateral to the debtor-in-possession account maintained by the Receiver (the "DIP Account"). Effective only as of the Release Effective Date (as defined in the Motion), USIC shall be fully, finally, and irrevocably released and discharged from any and all obligations, liabilities, claims, and demands of any kind or nature whatsoever, whether known or unknown, matured or contingent, and whether arising before or after the expiration of the Bond, relating to or arising out of the Bond and the related surety relationship, including without limitation any recapture, indemnity, exoneration, reimbursement, or premium-

1 related obligation, and including any obligations owed to the Fund, the PR Treasury Department,
2 the PR Tourism Company or Dorado Health. Until the Release Effective Date, USIC shall not be
3 required to disburse or relinquish possession or control of the USIC Collateral and may hold such
4 funds or place them in a segregated escrow account pending satisfaction of the conditions to the
5 USIC Release. USIC shall be deemed to have acted in good faith with respect to, and shall be
6 entitled to the fullest extent applicable to the protections of 11 U.S.C. § 363(m) in connection
7 with, its disbursement of the USIC Collateral.

8 7. All parties and persons are hereby enjoined from asserting against USIC any claim
9 released by the USIC Release or any claim of liability for USIC's release or disbursement of the
10 USIC Collateral in accordance with this Order. Any dispute concerning the validity, priority,
11 extent, or enforceability of any lien, claim, or interest in the USIC Collateral or its proceeds shall
12 be resolved solely as among the Estate, Brevet, and any other claimant, and shall not affect, delay,
13 or condition the USIC Release, the disbursement of the USIC Collateral, or their finality. In the
14 event the USIC Release is for any reason held or determined to be invalid or unenforceable, or is
15 set aside or avoided, then USIC's obligations under the Bond, USIC's security interest in and
16 rights to the USIC Collateral, and USIC's filed proof of claim shall each be reinstated *nunc pro*
17 *tunc* as if the release and disbursement had not occurred, and the Receiver shall, upon written
18 demand, return the USIC Collateral to USIC to the extent then recoverable, without prejudice to
19 USIC's other rights and remedies.

20 8. Nothing in the Motion, this Order, or any use of cash collateral shall constitute **(a)**
21 an admission or determination as to the extent, validity, priority, perfection, enforceability,
22 avoidability, or amount of USIC's asserted liens, claims, rights, or interests; **(b)** an admission that
23 Brevet has any lien, claim, or interest in the USIC Collateral or any funds released by USIC; or
24 **(c)** an admission by USIC as to the validity, extent, or priority of any claim or lien asserted by
25 Brevet, Dorado Health, or any other party. Nothing in this Order shall reduce, disallow,
26 subordinate, or otherwise impair USIC's filed proof of claim against the Estate, all rights with
27 respect to which are expressly preserved.

1 9. **Interim Relief.** Pursuant to Local Bankruptcy Rule 4001-2(d), the Receiver is
2 hereby AUTHORIZED, subject to the terms of this Order, to use cash collateral consisting of
3 funds held as the USIC Collateral solely to pay the following categories of expenses (collectively,
4 the “Permitted Expenditures”), during the period of June and July 2026: **(a)** allowed fees and
5 expenses of the Receiver; **(b)** allowed fees and expenses of counsel to the Receiver; **(c)** allowed
6 fees and expenses of the Receiver’s financial advisor; **(d)** U.S. Trustee quarterly fees, **(e)** any
7 other reasonable and necessary administrative expenses approved by the court, in accordance
8 with the Budget attached to the Motion, provided, that the Permitted Expenditures detailed in
9 subsections **(a)** through **(e)** of this paragraph 5 total \$1,463,825.00 (plus \$136,382.50 in Permitted
10 Variances, defined below, of 10%), plus **(f)** adequate protection payments to Brevet in the total
11 amount of \$100,000.00 to reduce the Replacement Lien granted through the Brevet Stipulation;

12 10. The Receiver’s authority to use cash collateral under this Order shall terminate
13 upon the earliest to occur of **(a)** the expiration of the Cash Collateral Use Period, **(b)** the
14 conversion of this case to a case under chapter 7 of the Bankruptcy Code, **(c)** the dismissal of this
15 case, **(d)** the appointment of a chapter 11 trustee, or **(e)** the Receiver’s material breach of the
16 terms and conditions of the Motion, as granted through this Order, which breach remains uncured
17 for fifteen (15) business days after written notice thereof from any party in interest. Upon the
18 occurrence of a termination event, the Receiver shall immediately cease using cash collateral,
19 except as may be authorized by further order of this court.

20 11. Parties in interest are granted twenty-one (21) days from entry of this Order to file
21 objections to the continued use of USIC Collateral. A final hearing in connection with the Motion,
22 if necessary, is hereby scheduled for August 12, 2026, at 2:00 P.M, to consider the Receiver’s
23 continued use the USIC Collateral for the period from August 2026 through December 2026, via
24 Microsoft Teams Video & Audio Conferencing and/or Telephonic Hearings. All parties that wish
25 to appear at the Microsoft Teams hearing must familiarize themselves and follow the Procedure
26 for Remote Appearances, found on the homepage of our Website at <https://prb.uscourts.gov>.

27 12. This Order shall take effect immediately and shall not be stayed pursuant to

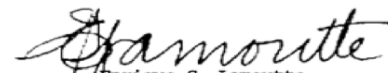
1 Bankruptcy Rules 6004(h), 7062, or otherwise. The Receiver and USIC are authorized to take all
2 actions necessary or appropriate to effectuate the consensual relief granted herein, and no party
3 or person with notice of this Order shall interfere with the consensual consummation or
4 implementation of its terms.

5 13. USIC shall have no obligation to monitor, enforce, or ensure compliance by the
6 Receiver or the Estate with any term or condition of this Order, and USIC's release of the USIC
7 Collateral shall not be affected, conditioned upon, or subject to any such compliance or any
8 breach thereof by the Receiver or the Estate.

9 14. The court shall retain jurisdiction to interpret, construe, and enforce this Order and
10 to hear and determine any disputes arising under or related hereto.

11 IT IS SO ORDERED.

12 In San Juan, Puerto Rico, this 10th day of July 2026.

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15 Enrique S. Lamoutte
16 United States Bankruptcy Judge
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