

MAY 17, 2010 www.mcvpr.com***Financial Intermediation Business Act***

On April 22, 2010, the Puerto Rico Supreme Court issued an important decision interpreting for the first time the licensing or registration requirements of the Puerto Rico Financial Intermediation Business Act ("FIBA"). The Court held that a contract to provide financial intermediation services, such as loan brokerage, is null and void unless the financial intermediary is duly licensed or exempt from registration under FIBA.

In *Piovanetti v. Touma*, 2010 TSPR 61, certain shareholders that wanted to obtain financing for the acquisition of outstanding shares of the corporation entered into an agreement (the "Agreement") with a securities broker whose registration under the Puerto Rico Uniform Securities Act ("PRUSA") was no longer in effect. Pursuant to the Agreement, the broker would solicit financing and negotiate the terms thereof on behalf of the purchasing shareholders in exchange for a fee. After meeting with several financial institutions, the broker obtained a loan commitment for the purchase of the shares. Although the purchasing shareholders initially agreed to the terms negotiated by the broker, they eventually backed off and obtained financing from another institution. The broker then sued the shareholders for declaratory judgment, breach of contract and damages.

The Puerto Rico Supreme Court affirmed the dismissal of the complaint based on the nullity of the Agreement. The Court concluded that the loan brokerage services rendered by the broker were expressly regulated under FIBA and, therefore, the broker was required to register with the Office of the Commissioner of Financial Institutions of Puerto Rico pursuant to FIBA unless otherwise exempted from registration. Among other things, FIBA provides a registration exemption for securities brokers that are duly registered under PRUSA. In reaching its conclusion, the Court rejected the broker's contention that he was exempted from FIBA's licensing requirements because his registration as a securities broker under PRUSA had expired.

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