

## TO THE ANTI-CORRUPTION UNIT OF SPAIN'S PUBLIC PROSECUTOR'S OFFICE

**Javier Jiménez de Eugenio** acting in the name and on behalf of General Federation of Trade, Tourism and Gaming of the Spanish General Union of Workers (hereinafter "CHTJ-UGT") by virtue of the powers and authorities expressly granted for this purpose by means of a public deed hereby attached, he appears before this Public Prosecutor's Office and to the fullest extent allowed by law **HE SAYS** as follows:

That by means of this communication and pursuant to the obligation of bringing to the attention of the competent authority the alleged commission of a public offence (as provided in the Articles 105, 262, 259, 264 and related provisions of the Criminal Procedure Act) I do file this formal COMPLAINT against both natural and legal persons who could be liable for the matters set forth below, legal persons who have been proven to be the hedge funds CANYON CAPITAL FINANCE S.A.R.L and GSO-Special Situations Fund LP and its parent company Blackstone together with other lender funds and its legal representatives and also against Credit Suisse, BBVA, Barclay Capital, Houston Casualty Company and its legal representatives, for the alleged illicit activities they may have committed against Codere Group and all its employees.

**First.** – UGT (founded 125 years ago) has never stopped seeking for improvements within the framework of workers' rights protection and social welfare, conducting any legal proceeding that could meet this purpose. Among such proceedings, our Union has lately seen itself forced to repeatedly defend the workers' rights against the alleged illicit conducts of "vulture" funds that operate in our country under protection of foreign inapplicable legislation, and in the absence of specific regulation for this type of financial operations, all this in order to take control of companies in difficult situation in our country as "angels of salvation". But in fact they only take advantage of this financial weakness and try to take control of these companies through fraudulent behavior and by imposing totally unfair and unacceptable conditions to its owners, diverting the companies' assets and selling them further in pieces, sometimes even without any compensation and in most of the cases making the companies' business disappear with its consequent loss of jobs.

There is a lot of opacity when one is supposed to identify the legal representatives of these funds as well as the physical geographical location of its tax domicile making it impossible for them to assume the responsibilities of their illicit conducts, all this situation leading to the final shutdown of those companies they placed themselves in with its consequent massive destruction of employment. The alleged lack of reaction by the Administration to protect the interests of the Spanish citizens working in Codere Group makes it imperative for this Union to file a formal complaint against this situation with this Prosecutor's Office.

**Second.**- Just as we have already mentioned, this is not the first case of company - in which this kind of hedge funds are actively lurking- this Union has been dealing with lately. Quite to the contrary, what we are going to provide as follows, it reflects exactly the same very similar

situation which unfortunately occurred in other companies in which CHTJ-UGT has tried to defend the jobs of its employees and in short its business viability.

This kind of hedge funds are here to destroy the companies obtaining the maximum benefits out of them and without taking into account the property rights stated within the Spanish legislation and the regulations ensuring the safeguarding of the rights of all employees.

Our experience clearly defines these funds' *modus operandi*: they step into the company, taking it out from the legal owners by means of rather illicit conducts very similar to the ones mentioned herein, taking away its capital and this way accelerating a process of Downsizing Plan of consecutive labor force adjustment and wage cuts becoming only interested in the company's financial dimension and not in its day-to-day business running process, that is to say they are not at all interested in keeping alive the company's core business they acquired in a pretty doubtful way. Besides, they perform all this with such obscurantism rendering it impossible for us to contact with their main representatives in order to require further information on their plans regarding the future of the company and its employees.

And finally, once they downsized it to the very last drop and broke it into pieces, the company is sold away, bringing huge profits solely and exclusively to this kind of funds and leaving behind thousands of defenseless employees who lost all their rights.

**Third.** - As for the current complaint, the CHTJ-UGT represents and defends herein Codere's workers rights. Codere is a multinational Spanish gaming company in the private gaming sector employing more than 20.000 people, thousand of which only in Spanish territory. (Official records hereby attached as Document nr.1).

Pieces of news - lately published/broadcasted in the main specialized business media (hereby attached as Document nr.2)- raise concerns to the current complainant about a new episode that is about to start in this Spanish Group and that could result into a massive jobs loss. The last episode that made this Union urgently react is the latest official declaration of pre-insolvency proceedings filed by the Group a few days ago. (Document nr.3 hereby attached as correspondent legal proof).

**Fourth.** – As reflected in the pieces of information hereby attached (Cinco Dias.com-Monday, January the 20th; El Economista.es-January,16th, 2014), the above mentioned hedge funds Canyon Capital Finance and GSO Capital Partners bought Codere's senior debt to Credit Suisse, Barclays, BBVA and Houston Casualty Company. Some of these funds which bought the senior debt, also acquired (we don't know if all this even before the purchase of senior debt) a kind of insurance against any default event from Codere (insurance called CDS or Credit Default Swaps), after which they would have forced an "artificial" default triggering the CDS and pocketing the resultant amount. Technically speaking, they created an artificial "default" so that they could collect the CDS insurance proceeds.

All this information in the media hereby attached confirms our suspicions of illicit interests by such hedge funds. As we have been informed, Codere Group applied for a loan with several financial entities – a loan with preferential guarantee over the other loan facilities at the amount of 120 million Euros divided into 60 million Euros as loan, 40 million Euros as letters of credit and guarantees and the rest of 40 million Euros as bonding policy. The interest rate established was LIBOR+4, 50% with initial maturity date June, 15<sup>th</sup>, 2013.

**Fifth.-** Originally, just as reflected in the newspapers' articles (El Economista.es – January, 16<sup>th</sup>, 2014), those lenders were Barclays Capital, Credit Suisse International, Banco Bilbao Vizcaya Argentaria SA and Houston Casualty Company Europe Seguros y Reaseguros SA, 100% creditor of the bonding policies. (hereinafter “HCC”).

The above mentioned debt matured the 15<sup>th</sup> of June, 2013, and therefore a few months before that date, the company initiated discussions with the mentioned financial entities in order to negotiate the renewal of this loan before its established maturity date in order to attend to the Group's financing needs. All the financial entities involved in this process were fully aware of the importance of the above mentioned loan renewal to ensure the company's proper day-to-day business process.

During this process of negotiations and just before the above mentioned maturity date of the senior debt and the possibility of reaching to an agreement for the loan renewal between the involved parties, Credit Suisse informs Codere that they have sold Codere's debt to a Hedge Fund named Canyon Capital Finance S.A.R.L. (referred to as “vulture fund” by the main newspapers).

After the acquisition of Codere's senior debt to Credit Suisse, Barclays and BBVA, Canyon informs that they have ceded this mentioned debt to other Hedge fund (also known as “vulture fund”) named GSO, subsidiary of Blackstone (the so-called group of investment and management entities looking for companies in “difficult financial situations”). Later on, the part of debt managed by HCC is also sold to these “vulture funds”. All this divestiture loan operations to third parties occurred initially without the prior consent of the company and afterwards the company was forced to express its consent.

**Sixth.-** Once they took power control of the situation, in this case by buying some immediately payable debt, and as in other similar situations well-known by this Union, the “vulture” funds are trying to illicitly plunder this Group's assets to the fully detriment of the company and its employees. And if CDS acquisition is finally confirmed, this means they could have imposed totally unfair and unacceptable conditions to Codere shamelessly and limitlessly, as they insured the opposite side, i.e. the case in which such conditions are seen as fully unacceptable and claiming for interest rates (as reflected by the main newspapers) starting at more than 115% at the beginning and reaching to an almost 40% presently.

Our suspicions of these CDSs fraudulent use are confirmed by its media coverage both nationally and internationally. One such good example is Jon Stewart's *The Daily Show* broadcasted initially in Comedy Central channel in USA and afterwards also in Internet becoming accessible to everyone. The humorist not only censors the operation which he openly qualifies as illegal and indirectly as “mafia-style” but also goes deeper showing that this silence is mainly due to existing interests that restrict the free exercise of independent journalism. Traditional and “cutting-edge” media would have preferred not to cover the scandal and turn a blind eye to it. This same matter is clearly reflected in the article published by Bloomberg on the October, 22<sup>nd</sup>, 2013.

The title of the article is itself very evocative: “Blackstone unit wins in no-lose Codere trade”. It mainly explains that when GSO Capital Partners LP is a subsidiary of Blackstone-the major private equity in the world- bought Codere's senior debt on secondary markets, they also acquired insurance against non-payment of this same debt, the so called *credit default swaps*. Then they agreed to give a “helping” hand to Codere by rolling a \$100 million revolver

in exchange for Codere agreeing to make an interest payment on some bonds 48 hours late with respect of the established deadline which expired on August, 15<sup>th</sup>, thus creating a technical default and triggering the CDS on the ISDA basis and therefore pocketing some good money on its CDS payout, something between 11.4 and 13.7 million Euros according to Bloomberg's editors.

**Seventh.-** From all the published information in the newspapers, one can deduce that some of the abusive conditions Codere could have been forced to accept during the process of negotiations were the following: (a) the obligation for Codere to pay to the New Lenders a commitment fee amounting to 5% of the total amount of the loan (i.e. nearly 5 million Euros) even if, once Codere signed the above mentioned loan, the loan amount would have not been disbursed and this could only occur for reasons not attributable to Codere, all this leading to an absurd situation in which Codere has no access to these funds for reasons behind their control and still have to pay nearly 5 million Euros to the New Lenders; (b) New Lenders could demand their right to participate in SFA refinancing process that is being currently designed and implemented even if Codere did not receive the correspondent funds (again, this could only occur for reasons not attributable to Codere) and (c) even when Codere is paying to the New Lenders a 7.5% for the risks arising from the bonding insurance policies, the company still has to keep paying to HCC the same premiums as before even if HCC is now totally free of risk as the New Lenders are currently assuming that risk. As a result, it seems that Codere is paying twice for the same concept.

**Eighth.-** To conclude, we truly believe that, if acceptance by the company of these abusive conditions (having detrimental effects for all the people working in Codere and depending on the company's business) is finally confirmed, this acceptance could have only occurred under extortion (Codere agrees on these conditions or otherwise the other party invokes the correspondent guarantee), seriously jeopardizing Codere's mere existence as a company, making necessary the involvement of this Prosecutor's Office in this particular case.

Considering all the above,

I REQUEST THAT THE PROSECUTOR'S OFFICE : having treated this written complaint as submitted, admit it and consider this COMPLAINT filed against the persons mentioned at the beginning of this communication and according to the Article 773. 2 of the Criminal Procedure Act investigate the facts hereby disclosed as it pleases, stating further proceedings legally pertinent thereafter.

We hereby request for justice on the issues raised on this complaint filed in Madrid, on January, the 30<sup>th</sup>, 2014.

#### MEASURES OF INSTRUCTIONS OR INQUIRY WE HEREBY REQUEST

1. The hearing of CODERE's Chief Officers involved in the above mentioned process of negotiation to clarify all the necessary issues.
2. The hearing, as defendants, of the legal representatives of the financial entities by means of a subpoena to the following persons:

-The Chief Executive Officer, legal representative and other such staff involved in this matter from the following financial entity:

CREDIT SUISSE  
C/Ayala 42, 4º  
28001 Madrid

-The Chief Executive Officer, legal representative and other such staff involved in this matter from the following financial entity:

BBVA  
Paseo de Recoletos, 10, Ala Sur  
28001 Madrid

-The Chief Executive Officer, legal representative and other such staff involved in this matter from the following financial entity:

BARCLAYS CAPITAL  
Plaza de Colón, 1  
28046 Madrid

-The Chief Executive Officer, legal representative and other such staff involved in this matter from the following financial entity:

HOUSTON CASUALTY COMPANY  
Plaza de Carlos Trias Bertrán, 4-1ªPlta.  
28020 Madrid

3. The hearing, as defendants, of the legal representatives who signed the sale of the senior debt agreement on behalf of Canyon Capital Finance S.a.r.l. and GSO-Special Situations Fund LP, as well as the hearing of the legal representatives of the financial entities being currently Codere's senior lenders and their managers in fact or by right whose address for notification purposes should be provided by the representatives of the financial entities mentioned in section 2 above.

We also request the hearing of Blackstone's Spanish legal representative (owner of GSO Special Situations Fund and an active agent of various financial transactions in Spain during this past year).

4. Formally request to the financial entities mentioned in section 2 and 3 above not to destroy any information and/or documents related to these matters and to provide all information and/or documents related to the sale of senior debt (which initially has been formalized by means of an agreement signed by the above mentioned financial entities and CODERE SA), providing name and address information of all the persons who acted in the name and on behalf of CANYON CAPITAL FINANCE S.a.r.l. and GSO Special Situations Fund LP and other financial entities mentioned in section 2 above.

They should also provide this Prosecutor's Office with the draft agreements and working documents regarding debt financing terms proposed to CODERE SA.

5. Formally request to the International Swaps and Derivatives Association (ISDA) and to Credit Suisse, BBVA and Barclays Capital, as members of ISDA, to provide all the available information regarding the CDSs acquired by CANYON CAPITAL FINANCE S.a.r.l. and GSO-Special Situations Fund LP, and related directly or indirectly to CODERE SA.

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