

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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Seguros Caracas de Liberty Mutual, S.A.,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 06-cv-10035-WGY
)	
Goldman, Sachs & Co.,)	
)	
Defendant.)	
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ANSWER OF DEFENDANT GOLDMAN, SACHS & CO.

Defendant Goldman, Sachs & Co. (“Goldman Sachs”), for its answer to plaintiff’s Complaint, states as follows:

I. Preliminary Statement

This action is an unjustified attempt by the plaintiff to portray historically worthless securities that it never ordered, never expected to receive, and never complained about not receiving over the past five years, as valuable rights to which it is entitled. This action arises from transactions in Venezuelan “Brady Bonds.” Such Bonds were originally issued in 1990 and included strippable “certificates” pegged to the price of oil which have never, until recently, been “in the money.” As a result, parties across the industry who have traded such Bonds, including the plaintiff, settled such trades historically without delivery of the certificates and have never demanded delivery of those certificates. Now, however, years after its transactions with Goldman Sachs, the plaintiff contends that it is entitled to receive certificates attendant to some bonds it purchased in 2001. Although it had notice at the time of the 2001 transactions that certificates had not been delivered, the plaintiff never uttered a word for almost five years after it

purchased the bonds and ignored the certificates altogether. As a matter of fact, the plaintiff never ordered and never intended to acquire the certificates; there was never a meeting of the minds that the certificates would be sold and delivered; and there surely was never the sale of an option to the plaintiff to cash in when the certificates suddenly—and unexpectedly—assumed value years later. To the contrary, the plaintiff was told, in writing at the time the transactions settled, and consistent with industry practice, that the certificates had not been and would not be delivered. As a matter of law, the plaintiff’s silence at the time of the failed “purchase” is dispositive that no certificates were due or expected in the first place. Moreover, even if Goldman Sachs breached such a delivery obligation, plaintiff’s duty to mitigate its “damages” required plaintiff to “cover” the failed “purchase” in the market contemporaneously – not to seek windfall damages five years later.

II. Answer to Specific Enumerated Paragraphs of Plaintiff’s Complaint

For its response to the enumerated paragraphs of the plaintiff’s Complaint, Goldman Sachs answers as follows:

1. Goldman Sachs denies the allegations of Paragraph 1 of the Complaint, except admits that it purports to describe the plaintiff’s claim.

Parties

2. Goldman Sachs lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 2 of the Complaint.

3. Goldman Sachs denies the allegations set forth in Paragraph 3 of the Complaint, except admits and avers that the defendant Goldman, Sachs & Co. is a limited partnership organized under the laws of the State of New York, with its principal place of business in New York, New York, and refers to its Form BD filed with the Securities and Exchange Commission

as well as the public filings of its ultimate parent, The Goldman Sachs Group, Inc., and the firm's public website for an accurate description of its business.

Jurisdiction and Venue

4. Goldman Sachs states that the allegations set forth in Paragraph 4 of the Complaint set forth the plaintiff's conclusions of law to which no answer is required.

5. Goldman Sachs states that the allegations set forth in Paragraph 5 of the Complaint set forth the plaintiff's conclusions of law to which no answer is required.

Facts

6. Goldman Sachs denies the allegations of Paragraph 6 of the Complaint, except admits and avers that (i) on 10 occasions in 2001, Liberty Mutual, as agent and investment adviser for Seguros Caracas, placed orders with Goldman Sachs to purchase Series A and Series B Par Bonds issued by the Republic of Venezuela, and refers to the documentation related to such transactions for their terms; and (ii) as originally issued in 1990, the Series A and Series B Par Bonds of the Republic of Venezuela were respectively assigned International Securities Identification Numbers ("ISIN") XS0029483038 and XS0033292912, and the certificates denominated Oil-Indexed Payment Obligations (the "Venezuelan Oil Obligation Securities" or "VOOS"), which could be detached and separately traded, were assigned ISIN XS0029484945.

7. Goldman Sachs denies the allegations set forth in Paragraph 7 of the Complaint, except refers to the offering materials for the Bonds, which describe the relevant terms of the Bonds and certificates.

8. Goldman Sachs denies the allegations set forth in Paragraph 8 of the Complaint, except admits that Liberty Mutual, as agent and investment adviser to Seguros Caracas and

PanAmerican, placed orders with Goldman Sachs on 10 occasions in 2001 to purchase Venezuelan Series A and Series B Par Bonds and refers to the documentation related to such transactions for their terms and settlement arrangements.

9. Goldman Sachs denies the allegations set forth in Paragraph 9 of the Complaint, except admits that Liberty Mutual, as agent and investment adviser to Seguros Caracas, placed an order with Goldman Sachs to purchase a Venezuelan Series A Par Bond, and refers to the documentation related to such transaction for a description of the terms and settlement arrangements, including the written statement that VOOS had not been and would not be delivered.

10. Goldman Sachs denies the allegations set forth in Paragraph 10 of the Complaint, except admits that Liberty Mutual, as agent and investment adviser to Seguros Caracas and PanAmerican, placed orders with Goldman Sachs to purchase Venezuelan Series A Par Bonds, and refers to the documentation related to such transactions for a description of their terms and settlement arrangements, including the written statement that VOOS had not been and would not be delivered.

11. Goldman Sachs denies the allegations set forth in Paragraph 11 of the Complaint, except admits that Liberty Mutual, as agent and investment adviser to Seguros Caracas, placed an order with Goldman Sachs to purchase a Venezuelan Series B Par Bond, and refers to the documentation related to such transaction for a description of the terms and settlement arrangements, including the written statement that VOOS had not been and would not be delivered.

12. Goldman Sachs denies the allegations set forth in Paragraph 12 of the Complaint, except admits that Liberty Mutual, as agent and investment adviser to Seguros Caracas and PanAmerican, placed orders with Goldman Sachs to purchase Venezuelan Series A Par Bonds, and refers to the documentation related to such transactions for a description of their terms and settlement arrangements, including the written statement that VOOS had not been and would not be delivered.

13. Goldman Sachs denies the allegations set forth in Paragraph 13 of the Complaint, except admits that Liberty Mutual, as agent and investment adviser to PanAmerican, placed an order with Goldman Sachs to purchase a Venezuelan Series A Par Bond, and refers to the documentation related to such transaction for a description of the terms and settlement arrangements, including the written statement that VOOS had not been and would not be delivered.

14. Goldman Sachs denies the allegations set forth in Paragraph 14 of the Complaint, except admits that Liberty Mutual, as agent and investment adviser to Seguros Caracas and PanAmerican, placed orders with Goldman Sachs to purchase Venezuelan Series A Par Bonds, and refers to the documentation related to such transactions for a description of their terms and settlement arrangements, including the written statement that VOOS had not been and would not be delivered.

15. Goldman Sachs denies the allegations set forth in Paragraph 15 of the Complaint, except admits that Liberty Mutual, as agent and investment adviser to PanAmerican, placed an order with Goldman Sachs to purchase a Venezuelan Series A Par Bond, and refers to the documentation related to such transaction for a description of the terms and settlement

arrangements, including the written statement that VOOS had not been and would not be delivered.

16. Goldman Sachs denies the allegations set forth in Paragraph 16 of the Complaint.

Count I

(Breach of Contract)

17. Goldman Sachs repeats and incorporates by reference its responses to Paragraphs 1 through 16 of the Complaint.

18. Goldman Sachs denies the allegations set forth in Paragraph 18 of the Complaint.

19. Goldman Sachs denies the allegations set forth in Paragraph 19 of the Complaint.

Affirmative Defenses

In addition to its responses to the numbered paragraphs of the Complaint, Goldman Sachs hereby sets forth the following affirmative defenses to plaintiff's claims, each to be considered in the alternative. Goldman Sachs reserves the right to add additional affirmative defenses as they may become available.

First Affirmative Defense

The Complaint fails to state a claim upon which relief can be granted.

Second Affirmative Defense

Plaintiff's recovery, if any, is barred in whole or in part by its failure to mitigate damages.

Third Affirmative Defense

Plaintiff's claims are barred by the doctrine of laches.

Fourth Affirmative Defense

Plaintiff's claims are barred under principles of estoppel and waiver.

Fifth Affirmative Defense

Plaintiff's claims are barred because plaintiff has failed to join indispensable parties, including the other parties in the chain of transactions involving the Bonds as to which the plaintiff claims there are attendant certificates and including those parties participating in an industrywide effort to resolve disputes over delivery of VOOS, an effort which this lawsuit seeks to preempt and replace.

WHEREFORE, Goldman Sachs respectfully prays that this Court dismiss all claims in the Complaint with prejudice and that the Court grant it any other relief as it deems just and proper.

Goldman, Sachs & Co.
By its attorneys,

/s John D. Donovan

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Dated: February 28, 2006

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as on the Notice of Electronic Filing (NEF). At this time, I am not aware of any non-registered participants to whom paper copies must be sent.

/s/ Michael T. Marcucci
Michael T. Marcucci