

Press Release of the Ad Hoc Administrative Board of PDVSA on Important Decision by the Federal Court of the Southern District of New York Regarding the Nonexistence of Alter Ego Between PDVSA and PDVH

July 1, 2025

The Ad Hoc Administrative Board of Petróleos de Venezuela, S.A. (PDVSA) is pleased to share that the U.S. District Court for the Southern District of New York has issued an important judicial decision in the case of Girard Street Investment LLC and G&A Strategic Investment I LLC et al v. PDVSA and PDV Holding (PDVH), which substantially reinforces the arguments made by PDVSA in defense of the legal independence of its foreign subsidiaries. The lawsuit concerned the collection of certain promissory notes issued by PDVSA to the companies Schlumberger and Halliburton between 2016 and 2017. According to the plaintiffs, the companies G&A and Girard acquired the notes at deep discounts, for pennies on the dollar, and sought to collect 100% of the debt allegedly owed under the notes from PDVH by applying the alter ego doctrine between PDVH and PDVSA.

In a decision issued on June 25, 2025, the Honorable Judge Jed S. Rakoff categorically rejected the plaintiffs' argument that PDVH is the alter ego of PDVSA and, based on that holding, concluded that PDVH cannot be held liable for Plaintiffs' claim of more than \$1 billion in principal and interest under the notes.

The Court concluded that the plaintiffs did not prove the existence of significant, repeated, and day-to-day control by PDVSA over PDVH. The Judge noted that the events cited by the plaintiffs to try to prove PDVSA's total control over PDVH were nothing more than isolated events, which also complied with corporate formalities and fell within the limits of legitimate shareholder control. Even the plaintiffs' claims of lobbying by PDVH on behalf of PDVSA and that Venezuelan laws controlled PDVH were dismissed as irrelevant or insufficient to pierce the corporate veil.

This decision benefits the position of the Ad Hoc Administrative Board of PDVSA, as it strengthens the defense of the corporate structure of PDVSA and its subsidiaries and corroborates the diligence and good judgment of the Ad Hoc Board. Beyond the effects between the parties, Judge Rakoff's decision contrasts with the decisions of the Delaware Courts that have led to the forced sale of CITGO, at least in the following four aspects:

1. Although a fundamental aspect of the G&A and Girard cases was the corporate relationship between PDVSA and PDVH, the plaintiffs also attempted to expand the analysis to Venezuelan law, such as the Transition Statute approved by the National Assembly in 2019, as evidence that PDVH was the alter ego of PDVSA. This gave the New York Court the opportunity to issue an opinion that contradicts the questionable stance of the Delaware Court in the *OIEG* case. The New York Court specifically rejected the argument that the Transition Statute constitutes evidence of alter ego, stating that “*the policies and goals reflected in the Transition Statute do not manifest similar signs of irregular and selective pursuit of Venezuela's state policies and, importantly, ... do not have a demonstrable effect on the actions of PDVH, let alone manifest extensive day-to-day control*” by PDVSA. Likewise, the decision states emphatically that “[t]he Court finds that the issuance of these policy directives does not demonstrate that the National Assembly exercised outsized influence or operational control over PDVH.” This contrasts with the decisions of the Delaware Courts that found evidence of alter ego in provisions of the Venezuelan Constitution, as well as the Transition Statute.
2. The New York Court applied a rigorous analysis of the alter ego doctrine. The Court emphasized that to establish alter ego, the level of daily control exercised by the shareholder

over its subsidiary must be “above the level that corporations would normally tolerate from significant shareholders or expect from government regulators.” For example, the New York Court contradicts the conclusion reached by the Delaware Court that the appointment of board members is by itself an act constituting alter ego. Judge Rakoff concludes that “such an exercise of power is incidental to ownership” and “does not by itself establish day-to-day operational control.” Likewise, the New York Court, referring to the payment of dividends from PDVH to PDVSA, concludes that “Payments of dividends had been effectively barred by OFAC sanctions since 2017, and the attachment of PDVH shares by Crystallex in 2018 would have independently precluded any declared dividends from being paid to PDVSA – even if such payments had been authorized by OFAC.” This contrasts with the erroneous conclusions of the Delaware District Court in the *OIEG* case where, without any evidence in the record, the Delaware Court found that to finance itself, the interim government drew “directly from PDVSA commercial subsidiaries in the United States, bypassing PDVSA’s corporate right to dividends.” This conclusion by the Delaware Court is contrary to the facts, and PDVSA Ad Hoc completely disputes it, as reiterated in its filings and arguments before the New York Court.

3. The New York Court concluded that the plaintiffs failed to legally demonstrate that PDVSA exercised significant and repeated control over the daily operations of PDVH, “which is required to overcome the strong presumption of corporate separateness.” In this sense, isolated acts that do not represent day-to-day control of a subsidiary’s operations cannot be relied on to pierce the corporate veil. Therefore, PDVSA exercised powers appropriate of a sole and majority shareholder.
4. Finally, the New York Court recognizes Venezuelan democratic institutionalism by distinguishing between the actions of the de facto regime of Nicolás Maduro and the decisions made by the 2015 National Assembly and PDVSA Ad Hoc.

This decision represents a key procedural and institutional victory for PDVSA Ad Hoc and contributes significantly to protecting PDVSA’s strategic assets abroad. It also reaffirms the consistency and legitimacy of the actions carried out by the Ad Hoc Board on behalf of PDVSA.

The Ad Hoc Board will continue its institutional defense work with firmness, transparency, and adherence to the law, safeguarding PDVSA’s strategic assets abroad, particularly CITGO, as a company that contributes to the bilateral relationship between Venezuela and the United States, and as a strategic asset for the reconstruction of the energy sector in Venezuela once democratic transition is achieved.

Ad Hoc Administrative Board of PDVSA