

HODGSON RUSS WINS SUMMARY JUDGMENT DISMISSING MULTI-MILLION DOLLAR CLAIMS AGAINST LARGE REGIONAL BANK

Stephen Kelkenberg and PJ Hines recently obtained summary judgment dismissing all claims against their financial services client, one of the largest regional banks in the United States. The case involved a plaintiff who had approached the bank with an idea for a branded consumer loan network for dental patients. Plaintiff claimed that the bank had orally committed to a joint venture despite the failure to sign the written agreement which plaintiff had originally proposed. When the project did not go forward, plaintiff sued for breach of the alleged joint venture, breach of fiduciary duty, and promissory estoppel. Plaintiff also claimed that the bank disclosed information protected by a confidentiality agreement, and wrongfully interfered with plaintiff's attempt to pursue its idea with other banks.

Kelkenberg and Hines successfully developed the record to defeat plaintiff's oral joint venture and fiduciary duty claims by showing that the parties did not intend to "carry out a single business enterprise for profit," and demonstrating that the parties had not reached an agreement to share in the "profits and losses of the business." In reaching these conclusions, the Court relied upon key admissions obtained during the depositions of plaintiff's executive team. The Court similarly dismissed plaintiff's promissory estoppel claim, finding that there was no "clear and unambiguous promise," and further that the bank had successfully demonstrated the absence of an "unconscionable injury" (both required elements under New York law). The Court also dismissed plaintiff's confidentiality and tortious interference claims, relying upon multiple party admissions and non-party statements which affirmatively refuted the material allegations in plaintiff's complaint. The net result is zero liability for the bank in the face of a complaint that sought in excess of \$15MM for compensatory losses, plus punitive damages and fees.

Attorneys

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