

Delaware Chancery Court Rules in Favor of Carlyle's \$100 Million Fee Lawsuit

June 2018

Over the past decade, the firm has defended The Carlyle Group in a worldwide series of cases arising from the failure of Carlyle Capital Corporation (“CCC”), an investment fund that collapsed at the outset of the financial crisis. In 2010, the Guernsey-based liquidators of CCC brought a two billion dollar claim against Carlyle, backed by a then unnamed litigation funder, alleging that Carlyle had mismanaged the fund. In 2012, Carlyle filed suit in Delaware Chancery Court against Dutch billionaire investor Louis Reijtenbagh, alleging that he was funding the liquidator lawsuit, and that the funding breached general releases that he had signed. Carlyle seeks the more than \$100 million it has spent defending the claims in Guernsey.

In September 2017, after a six-month trial, the Guernsey Court rejected all of the liquidators' claims. Because of its complete victory in Guernsey, Carlyle was entitled to prevailing-party fees and began the fee-shifting process. Reijtenbagh responded by moving for summary judgment in the Delaware case, arguing that the case should not proceed because Carlyle had elected its remedy (fee shifting) in Guernsey, and that the Delaware case was also barred under the doctrines of res judicata and collateral estoppel. That motion, and a motion to stay the case, were argued in April 2018.

On June 28, the Delaware Court of Chancery denied the summary judgment motion, and also rejected the stay request. The Court found that the issues in Guernsey were sufficiently distinct from those in the Delaware case, and that no further delay was warranted.

Carlyle is represented in the Delaware action by **Nicholas J. Boyle**, **Carol J. Pruski**, **A. Joshua Podoll**, **Monika Isia Jasiewicz** and **Surya Kundu**.

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