
Cahill Prevails in United States Court of Appeals for the Second Circuit in Securities Action

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A Cahill litigation team prevailed on behalf of Deutsche Bank Trust Company Americas (“DBTCA”) in the United States Court of Appeals for the Second Circuit, obtaining an affirmance of (1) an order entering summary judgment in Deutsche Bank’s favor arising from a \$2.5 million claim for breach of contract against Rado Limited Partnership (“Rado”), and (2) dismissing counterclaims by Rado for approximately \$10 million for breach of contract, aiding and abetting a breach of fiduciary duty, and gross negligence.

The parties’ dispute arises from a non-discretionary custody account that Rado held with DBTCA and allegations that DBTCA failed to adequately safeguard the assets from Rado’s own independent investment advisor, who in-turn is alleged to have misappropriated the assets in connection with a long-running Ponzi scheme. In affirming the district court’s decisions, the Second Circuit held that under the terms of the custody agreement, DBTCA was under no obligation to monitor investments undertaken by Rado’s own investment advisor and that Rado’s decision to fund the custody account with assets flowing from a trust did modify the terms of the parties’ agreement or otherwise transform a custody account into a trust account.

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