

FIRM NEWS

Victory Secured for Interdealer Broker Tullett

March 27, 2014

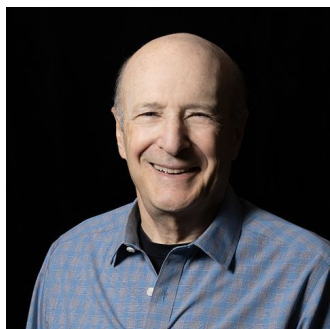
SRZ litigators have secured another victory on behalf of London-based interdealer broker Tullett Prebon plc in a three-year, “bet the company” case brought by rival BGC Partners alleging theft of trade secrets. On March 27, 2014, the New York Court of Appeals denied BGC’s motion for leave to appeal from a decision rendered in Tullett’s favor, thereby ending BGC’s efforts to overturn an American Arbitration Association (AAA) award in which BGC received only a fraction of the damages that it had sought against Tullett.

BGC originally sued Tullett in 2010, seeking approximately \$2 billion in damages and claiming that Tullett breached its agreement with BGC by allowing some of its brokers to receive SwapMarker 100, a Tullett product used to price certain swaps. BGC, which had previously supplied U.S. Treasury data for the product, demanded damages based on the contract’s liquidated damages provision, which provided for \$500 per broker, per day in the event of a breach. Following a week-long hearing at which many witnesses testified, an experienced AAA arbitrator found the contract’s damages provision unenforceable on the grounds that it constituted an impermissible penalty and limited BGC’s recovery to only \$789,000 plus interest. BGC challenged the arbitrator’s decision, and on Nov. 14, 2013, the New York Supreme Court, Appellate Division upheld the arbitration award, finding that the arbitrator’s judgment rejecting BGC’s damages theory was “inescapable” in light of the evidence SRZ had introduced at trial. In a second decision issued on Nov. 22, 2013, the New York Supreme Court, Commercial Division dismissed yet another of the cases BGC had brought against Tullett, finding that BGC’s claims were

barred because, among other reasons, those claims had already been litigated in the original AAA case. The most recent decision by the New York Court of Appeals puts an end to BGC's effort to overturn the AAA award (although the decision to dismiss the second of the three cases remains on appeal to the New York Supreme Court Appellate Division). The decision by the New York Court of Appeals forecloses BGC's repeated attempts to overturn the AAA decision achieved by SRZ litigators for Tullett and rejects, yet again, BGC's efforts to use the legal process to destroy a rival.

The SRZ team representing Tullett was led by litigation partner Harry S. Davis and included litigation partner Robert M. Abrahams.

Related People



**Robert
Abrahams**

Of Counsel
New York



**Harry
Davis**

Partner
New York

Practices

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