

insights

TYPES NOT MAPPED YET April 04, 2023 | TTR not mapped yet | Brigitte R. Rose, John P. Amato, Mark T. Power, Joseph Orbach

The New York Business Litigation Practice and the Financial Restructuring and Bankruptcy Practice secure another victory for Howard Ehrenberg

The New York Business Litigation Practice and the Financial Restructuring and Bankruptcy Practice have scored another major victory, as the United States District Court for the Eastern District of New York affirmed on appeal a favorable decision obtained in the Eastern District of New York Bankruptcy Court. The Thompson Coburn team successfully affirmed on appeal the validity of a default judgment obtained against Aquila Alpha LLC to avoid and recover a \$23 million mortgage secured by a property in Colts Neck, New Jersey.

The litigation began in 2018 when the Thompson Coburn team commenced an adversary proceeding on behalf of the Debtors. After obtaining the default judgment, Aquila Alpha filed a motion to vacate, claiming that it was never served with the relevant pleadings in the matter. After multiple rounds of paper submissions and an evidentiary hearing held virtually before Justice Trust, which required a cross-examination of the alleged principal of the defendant, the Thompson Coburn team was successful in recovering the mortgage.

The District Court for the Eastern District of New York agreed with the Bankruptcy Court's ruling against Aquila Alpha, finding that the defendant was properly served, that its default was willful, and that its other arguments lacked merit. To date, the Thompson Coburn Team has successfully recovered in excess of \$80 million in cash plus a condo unit located in Manhattan for the benefit of the litigation trust. The Colts Neck mortgage, once foreclosed upon, may push total recoveries over the \$100 million mark. The decision is currently on appeal before the Second Circuit Court of Appeals.

[Brigitte Rose](#) led the team, while partners [John Amato](#), [Mark Power](#) and [Joseph Orbach](#) provided invaluable assistance.

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