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Prevailing in Six-Day Trial, OLSS Helps South American Client Avoid Reverse Piercing and Obtain \$8.5 Million Payment on Foreign Judgment After Decade-Long Multinational Saga

OLSS has helped the chairman of a South American business conglomerate defeat a long-running attempt by a private equity fund to seize the assets of a business group he leads, while enabling him to collect on his own judgment against the fund. The dispute began in 2010, when the client provided a personal purchase price guaranty to aid his affiliate in buying a business from the private equity fund. The affiliate later discovered that the business's value had been inflated and refused to pay part of the purchase price. The fund sued on the guaranty in New York state court under a forum selection clause, eventually obtaining a judgment of \$10 million plus interest. At about the same time, the client won a judgment of roughly equal size against the fund in South America in a different dispute. For the next several years, while appealing the South American result, the fund sought to enforce the New York judgment through a multilateral effort to access the New York bank accounts and take the assets of a completely unrelated business group helmed by the client. The litigation over this effort culminated in a New York bench trial, involving evidence from several continents as well as complex choice of law and evidentiary issues. After six days of testimony and lengthy summations, the special referee issued a 50-page opinion, holding, as OLSS had urged, that the fund was not entitled to "reverse-pierce" the corporate veil to reach the business group assets and agreeing with most of the other positions advocated by OLSS. Unable to use its effectively unenforceable New York judgment to set off the South American judgment against it, the fund sought bankruptcy protection and eventually agreed to a global settlement in which it paid the client \$8.5 million and marked the New York judgment satisfied.

David Gorvitz and Samuel Feldman of OLSS handled the New York state litigation on behalf of the client, who was represented by other counsel in the South American action and ancillary U.S. Bankruptcy Court proceedings.