



Dentons targets client's Congo award in fee dispute

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Dentons and the global head of its international arbitration group have asked a court in Delaware for permission to recover unpaid fees from a client by forcing the sale of a US\$96 million ICC award that the law firm helped it obtain in a dispute with the Democratic Republic of the Congo.

In a petition filed with the Delaware Court of Chancery on 7 June, Dentons Europe LLP and Paris-based partner Jean-Christophe Honlet seek a writ of execution against an ICC award issued in favour of Delaware-registered Customs and Tax Consultancy (CTC).

They also seek the court's permission to appoint London-based litigation and arbitration funding broker ClaimTrading to "monetize" the ICC award by selling it on the secondary market.

Honlet and ClaimTrading declined to comment.

CTC launched its ICC claim in 2013 under a contract with the Democratic Republic of the Congo (DRC) in which it had agreed to provide assistance to the country's Customs and Excise Office in return for a percentage of duties collected.

A Paris-seated tribunal chaired by French-Lebanese arbitrator Ibrahim Fadlallah and including Belgium's Bernard Hanotiau and French academic Catherine Kessedjian issued a partial award requiring the DRC to pay US\$95 million plus interest in 2015 and a final award on costs the following year. GAR understands that with accrued interest, the award was worth more than US\$250 million as of last year.

The Paris Court of Appeal confirmed the award in May 2017 despite the DRC's efforts to have it annulled. The award became public after CTC applied last year to enforce it in the US courts.

The dispute between Dentons and CTC arose from the client's failure to honour a fee agreement concluded in 2015 for the provision of legal services in the ICC case and the French set-aside proceedings.

Following what the petitioners describe as "numerous and unfulfilled payment promises", Honlet obtained a decision last December from the president of the Paris Bar Association for an award of costs and attorneys' fees against CTC and its principals for their breach of the fee agreement (the amount payable has not been disclosed).

Honlet obtained the decision personally because Dentons Europe AARPI, through which the firm practises law in France, is an association without legal personality under French law.

CTC was not represented at the hearing before the Paris Bar president but did not contest the fees and did not pursue an appeal of the decision, which was confirmed and rendered enforceable by judgment of the presiding judge of the Paris Court of First Instance on 20 May.

In the Delaware petition, Dentons Europe and Honlet seeks to satisfy the French judgment by obtaining a writ of execution against the ICC award, as an asset of CTC. He says CTC has no other assets that could be targeted and that no creditor of CTC has a greater interest in the ICC award.

The petitioners also says ClaimTrading is "uniquely positioned" with access to participants in the secondary market for arbitration awards and has experience in monetising such awards. They add that the broker is "ready, willing, and able" to assist in that effort and that Dentons does "not have access to the same pool of potential investors".

They says ClaimTrading should be permitted to act on the writ by finding an investor to monetise the award and completing the transaction "by signing all necessary documents in the name and on behalf of CTC".

Dentons in the US had also been advising CTC in enforcement proceedings before the US District Court for the District of Columbia. There has been no activity recorded on the docket for the proceeding since last December. The DRC has failed to appear before the DC court, where CTC's motion for a default judgment is pending.

In the Court of Chancery of the State of Delaware

Dentons Europe LLP and Jean-Christophe Honlet v Customs and Tax Consultancy LLC (C.A. No. 2019-0415-JRS)

Counsel to Dentons Europe LLP and Honlet

Bayard PA

Stephen Brauerman and Emily Letcher in Wilmington

Counsel to CTC

Not yet appointed

Customs and Tax Consultancy LLC v The Democratic Republic of Congo

In the US District Court for the District of Columbia

Bench

Judge Richard Leon

Counsel to CTC

Dentons US LLP

Partners William O'Brien and John Lomas and associate Daniel Morris in Washington, DC

Counsel to the DRC

Not yet appointed

In the ICC arbitration

Tribunal

Ibrahim Fadlallah (France/Lebanon) (chair)

Bernard Hanotiau (Belgium) (appointed by CTC)

Catherine Kessedjian (France) (appointed by the Democratic Republic of Congo)

Counsel to CTC

Dentons Europe LLP

Partner Jean-Christophe Honlet and associates Augustin Barrier* and Ioana Petculescu** in Paris

*Joined Lalive in 2016

**Became a sole practitioner

Counsel to the DRC

Liedekerke Wolters Waelbroeck Kirkpatrick

Partners Nicolas Angelet (no longer with the firm) and Aimery de Schoutheete in Brussels

Mathias Audit in Paris