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Firm Achieves Appellate Victory for Convictions AM

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April 1, 2019 – Hughes Hubbard obtained a victory for portfolio management company Convictions AM (now Sanso Investment Solutions) before the Paris Court of Appeal in a long-running dispute with one of its financial product distributors.

The case began in 2012 when Asse7 Partners sued Convictions AM in the course of summary proceedings before the president of the Paris Commercial Court to obtain accounting documents from Convictions AM to calculate the amount of losses sustained. The case then went to the Paris Court of Appeals, which held that Convictions AM had to produce the documents in question.

On the basis of these documents, Asse7 Partners brought an action against Convictions AM before the Paris Commercial Court to obtain various indemnities. Asse7 claimed it was a commercial agent and was therefore entitled to compensation, in particular for a subscription for shares in a fund by EDF in an amount of 20 million euros that was allegedly made through it.

On May 18, 2016, Convictions AM was found liable at first instance in a court judgment with immediate effect.

On July 12, 2016, during summary proceedings, HHR won an order by the president of the Paris Court of Appeal. The order required that the funds be held in escrow by the Caisse des Dépôts et Consignations in order to avoid flight of the capital abroad (the CEO of Asse7 lives in Mauritius) and possible difficulties with recovery in the event of a favorable decision by the Court of Appeals.

On Feb. 21, 2019, the Paris Court of Appeal quashed the decision at first instance. The court ruled that the classification of the contract had to be assessed in relation to Asse7's actual activity (and not by reference to the erroneous classification given by the parties), and that it transpired from the circumstances of the dispute (lack of powers to amend the conditions for subscribing to the financial products in question, and in particular the role of a mere intermediary with EDF). The court concluded that Asse7 could not be a commercial agent and claim any indemnity in this respect.

This ruling is important for the French market because in many sales contracts, financial intermediaries are subject to the status of commercial agent, which is very protective in the event of termination of the contract.

The team working on this case consisted of Ludmilla Balandine, who pleaded the case before the Paris Court of Appeal, and Sena Agbayissah, who handled all the aspects of banking law involved.

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Ludmilla Balandine



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