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Firm Overcomes SEC Challenge for NY Hedge Fund Adviser

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October 27, 2018 — After a five-year legal battle, Hughes Hubbard achieved an outstanding outcome for New York hedge fund adviser RD Legal Capital LLC (RDLC) and its founder, Roni Dersovitz, in an enforcement proceeding brought by the U.S. Securities and Exchange Commission (SEC). The case was tried over two months in 2017 before SEC Administrative Law Judge Jason Patil.

On Oct. 15, Judge Patil dismissed all of the SEC's claims alleging RDLC and its founder acted with intent to defraud investors by misrepresenting certain risks in investing in their domestic and offshore hedge funds.

In a 103-page opinion, Judge Patil found, "While the [SEC] attempts to use the evidence to craft a story that respondents orchestrated a malicious scheme to deceive and defraud investors, the evidence supports a different narrative: that respondents, though imperfect, operated the funds in a creditable fashion, exceeding in most cases key standards and practices of the hedge fund industry. ..."

The SEC had sought more than \$100 million in disgorgement and civil penalties against RDLC and Dersovitz, as well as a lifetime bar for both from the securities industry. The ruling of Judge Patil, which the SEC has indicated it will not appeal, will allow RDLC and Dersovitz to continue managing their successful private funds.

"As we always knew to be true, the court found today that neither Mr. Dersovitz nor RDLC acted with any fraudulent intent," Terence Healy said in a statement. "They in fact delivered to their investors strong above-market returns during the very period of time covered in the SEC's complaint."

The SEC brought the administrative proceeding against RDLC and Dersovitz in July 2016, alleging that they marketed their funds as a steady way to profit from safe legal investments, but instead "invested the funds' money however they saw fit." The SEC also alleged that the value of assets in the funds' portfolio was based on "unreasonable assumptions."

In early 2017, a proceeding unfolded for two months in New York federal court before an SEC administrative law

judge. In August 2017, Judge Patil granted HHR's motion for summary judgment on all claims related to valuation of the funds due to the SEC's lack of evidence showing that the investments were not reasonably valued.

In his most recent decision, Judge Patil found that, of the four investments challenged by the SEC, only two had been materially misrepresented to investors. But Judge Patil concluded that RDLC and Dersovitz did not intend to deceive investors.

The decision earned the firm a spot among [Law360's legal lions](#).

In addition to Healy, Roel Campos, Liz Solander, Alyssa Johnson, Webster McBride and paralegal Zoe Goldstein worked on this case.

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Terence Healy



Roel C. Campos



Elizabeth Solander



Alyssa M. Johnson



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