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# Hughes Hubbard & Reed

## HHR Wins Significant Victory for NY Hedge Fund Adviser

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**August 17, 2017** – Hughes Hubbard won dismissal of several claims against a New York hedge fund adviser, RD Legal Capital LLC (RDLC), and its investment manager, Roni Dersovitz, in a U.S. Securities and Exchange Commission (SEC) enforcement action.

The SEC had alleged RDLC defrauded investors by misrepresenting certain risks in investing in its domestic and offshore hedge funds, and by valuing the assets in the funds' portfolio based on "unreasonable assumptions." The case was tried in a two-month proceeding in the Eastern District of New York before an SEC administrative law judge.

In February, at the conclusion of discovery, HHR sought summary disposition on any claims related to valuation of the funds, arguing that the SEC lacked sufficient evidence to show that the investments were not reasonably valued. But the administrative law judge previously assigned to the matter denied the request as "untimely," arguing the court would not have time to consider the motion before the trial date.

During a pre-hearing conference on March 13, Judge Jason Patil separately deferred ruling on HHR's request and indicated that RDLC could renew the motion at the close of the division's case in chief. Following the conclusion of the division's case in chief, Terence Healy moved for a ruling on valuation as a matter of law, citing a lack of evidence to support the allegations and contrary evidence showing that RDLC engaged a nationally-recognized third-party valuation agent to value the illiquid assets at issue.

Judge Patil, in declining to grant summary disposition at that time, acknowledged the strength of HHR's arguments and stated that this was the closest he had ever been to granting summary disposition during his time on the bench. Judge Patil also noted that both the court and RDLC would benefit from a more complete record on valuation at trial.

Following trial and during the pendency of ongoing post-hearing briefings on the merits, Judge Patil took the extraordinary step of granting summary disposition on all of the SEC's claims related to valuation, ruling after

further consideration that the SEC's evidence in this area and "its allegations on valuation amount to nothing."

In his Aug. 16 opinion, Judge Patil found the evidence HHR presented on valuation in its case in chief compelling. The court acknowledged the strength of the testimony of the two national experts HHR presented on valuation, including the former CFO of Citibank, and the lead audit partner for the funds' independent auditor. This expert testimony overwhelmed the weight of evidence the SEC presented on the issue.

"We are happy with the decision and appreciate Judge Patil taking the step of issuing summary disposition while the post-hearing briefing is ongoing," Healy told [Law360](#). Roel Campos added, "From the beginning of the case, our legal team was convinced that the RDL valuation process was proper and that the evidence we developed through expert witnesses would be dispositive, if we were persistent and made the correct arguments."

Judge Patil will address the rest of the claims in the complaint in a subsequent decision.

In addition to Healy and Campos, the HHR team includes John Wood, Katie Steele, Liz Solander, Webster McBride, Alyssa Johnson and paralegal Zoe Goldstein.

## Related People



**Terence Healy**



**Roel C. Campos**



**Elizabeth Solander**



**Webster D. McBride**



**Alyssa M. Johnson**

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