Kobre & Kim Clients Secure Significant Trial Victory Recharacterizing AIG's US $37+ Billion Claim

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Former executives of AIG Financial Products (AIG FP), represented by Kobre & Kim, obtained a key ruling in the long-running litigation that began in Connecticut state court and was later tried in bankruptcy court after AIG FP filed for bankruptcy in 2022. The U.S. Bankruptcy Court for the District of Delaware held that AIG's asserted US $37+ billion intercompany claim should be recharacterized as equity rather than debt and, alternatively, subordinated to the former executives' claims because AIG engaged in deception.

The decision rejects AIG's effort to recover ahead of other stakeholders based on decades of funding provided to AIG FP during the financial crisis and thereafter. In a detailed opinion, the court found that the economic reality of the transactions supported treating the payments as equity contributions rather than loans. The court further held that, even if characterized as debt, AIG's claims would be equitably subordinated.

The ruling represents a significant outcome for the former executives following nearly seven years of litigation challenging AIG's asserted claims and seeking to protect their rights to deferred compensation and other claims against the estate.

The decision further highlights Kobre & Kim's experience securing trial victories in high-stakes restructuring and insolvency disputes. In recent years, the firm has helped clients achieve significant courtroom successes in matters such as the landmark Hunkemöller liability management exercise dispute, which addressed complex questions relating to creditor rights, capital structures and restructuring transactions.

Why This Matters

The decision demonstrates that courts may look beyond the formal labels attached to insider financing arrangements and instead focus on their economic substance.

The ruling highlights several important considerations:

- Intercompany payments documented as debt may face challenges where the underlying facts suggest an equity investment rather than a true lending relationship.
- Parent company and insider claims can face heightened scrutiny where the insider claimant exercised control over the debtor's affairs to harm it or obtain an advantage against other creditors.
- Recharacterization and equitable subordination remain powerful tools for stakeholders seeking to challenge insider claims that threaten to dilute recoveries.

As multinational corporate structures become increasingly complex, the decision serves as a reminder that substance, rather than form

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alone, may ultimately determine priority in insolvency proceedings.

The team was led by Steven Perlstein, Zachary Rosenbaum, George Stamatopoulos and Michael Fasano.

The American Lawyer recognized the result, naming the team among its Litigator of the Week Runners-Up and Shout-Outs following the decision.

The decision was reported by: The Wall Street Journal | Bloomberg Law | The Insurer

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