

MANDATE

12.04.2022

ARCANDOR INSOLVENCY: GLEISS LUTZ OBTAINS DISMISSAL OF ACTION FOR A FORMER MANAGEMENT BOARD MEMBER IN PROCEEDINGS ON CLAIMS FOR DAMAGES

In proceedings on claims for damages brought by Arcandor AG's insolvency administrator against former members of its management and supervisory boards, Gleiss Lutz has obtained a dismissal of action for one of the former management board members.

In 2010, Arcandor AG's insolvency administrator had asserted damages claims totalling approx. EUR 175 million against eleven former members of the company's management and supervisory boards. The claims were based on alleged breaches of duty in connection with the sale and leasing of five department store properties. In April 2012, Essen Regional Court decided that with regard to four management board members and the department store in Wiesbaden, the action was justified on the merits.

Hamm Higher Regional Court's Eighth Civil Panel has now ruled on the appeals filed by Arcandor AG's insolvency administrator, by the defendants convicted in the first instance, and by the D&O insurer that had intervened on the defendants' side in the first instance.

The Civil Panel holds that the claims brought against the management board members are unfounded and that no breaches of duty occurred. In particular, the contracts concluded under the management board's responsibility were not in breach of duty, as other contractual obligations already existed.

The Civil Panel denied leave to appeal to the Federal Court of Justice on points of law. The only option the parties now have is to appeal against denial of leave to appeal to the Federal Court of Justice.

Dr. Luidger Röckrath (lead, partner, Dispute Resolution, Munich) represented a former management board member in the proceedings.

PRESS

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