



Case study: Kentucky court dismisses broker's commission recovery claim

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Categories:

Experience

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Problem

Our client, an issuer of stock in a private placement for an oil and gas company, was sued by a broker who claimed to have solicited many of the investors for the private placement. The broker sued our client for what he claimed to be a reasonable fee (commission) for his services. Our client disputed the broker's role in bringing the investors into the company and sought Frost Brown Todd's (FBT) help defending the claim.

Solution

FBT's trial team, led by Barry Hunter, determined that the broker/plaintiff was not registered as an agent with the Kentucky Division of Securities. On a motion to dismiss and for summary judgment, FBT defended the lawsuit on the grounds that an unlicensed securities agent cannot recover a commission for procuring investors in a securities offering. FBT's filings argued that (1) the plaintiff was unable to demonstrate that any exemption to registration as an agent was applicable, and (2) he could not avoid the prohibition against unlicensed brokers receiving a securities commission by asserting a quantum meruit or an unjust enrichment claim.

Client Benefit

The court sustained FBT's position and dismissed the broker's lawsuit without any discovery.

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