UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE CITIBANK AUGUST 11, 2020 WIRE TRANSFERS	20-CV-6539 (JMF) FINDINGS OF FACT AND CONCLUSIONS OF LAW

JESSE M. FURMAN, United States District Judge:

INTRODUCTION

On August 11, 2020, Citibank N.A. ("Citibank"), acting in its capacity as Administrative Agent for a syndicated term loan taken out by Revlon, Inc. ("Revlon"), intended to wire approximately $7.8 million in interest payments to Revlon's lenders. Instead, it made one of the biggest blunders in banking history: It mistakenly wired, in addition to Revlon's $7.8 million, almost *$900 million* of its own money as well. The resulting payments equaled — to the penny — the amounts of principal and interest that Revlon owed on the loan to its lenders. The question in this case is whether Citibank is entitled to get the money back or whether the lenders are allowed to keep it.

The law generally treats a failure to return money that is wired by mistake as unjust enrichment or conversion and requires that the recipient return such money to its sender. Under New York law (which applies here), however, there is an exception to this rule: The recipient is allowed to keep the funds if they discharge a valid debt, the recipient made no misrepresentations to induce the payment, and the recipient did not have notice of the mistake. As the New York Court of Appeals explained the exception: "When a beneficiary receives money to which it is entitled and has no knowledge that the money was erroneously wired, the beneficiary should not have to wonder whether it may retain the funds; rather, such a beneficiary should be able to consider the transfer of funds as a final and complete transaction, not subject to revocation." *Banque Worms v. BankAmerica Int'l*, 570 N.E.2d 189, 196 (N.Y. 1991).

Defendants in this case — ten investment advisory firms managing entities that, collectively, received more than $500 million of the mistaken August 11th wire transfers from Citibank — contend that this exception to the general rule, known as the "discharge-for-value defense," applies here and that Citibank is therefore not entitled to the return of its money. In December 2020, the Court held a bench trial to decide whether Defendants are correct.

For the reasons that follow, the Court concludes that Defendants are indeed correct. As the Court will explain, application of the discharge-for-value defense ultimately turns on whether Defendants (or, more precisely, their clients) were on constructive notice of Citibank's mistake at the moment they received the August 11th wire transfers. Based on the credible testimony of Defendants' employees and the documentary record, the Court concludes that they were not. Taken together, the evidence shows that the entities believed — in good faith and with ample justification — that the payments they received were prepayments in full of the Revlon loan. The real explanation for the payments — a banking error of perhaps unprecedented nature and

magnitude — understandably did not occur to them until, nearly a day later, Citibank itself realized the error and sent notices demanding the money back.

Because the discharge-for-value defense applies, the Court holds that Citibank is not entitled to its money back. Instead, Defendants' clients are entitled to keep the money. Accordingly, and for the reasons that follow, judgment will be entered in favor of Defendants.

FACTUAL FINDINGS

Many, if not most, of the facts relevant to the resolution of this case are not in dispute. In any event, pursuant to Rule 52(a)(1) of the Federal Rules of Civil Procedure, the Court makes the following findings of fact based on the testimony and exhibits at trial.[1]

A. The 2016 Term Loan

In 2016, Revlon took out a seven-year, $1.8 billion syndicated loan (the "2016 Term Loan") pursuant to a credit agreement (the "2016 Loan Agreement"). PX485; *see also* DX1044 (the 2016 Loan Agreement as amended in 2020, or the "Amended Loan Agreement"); ECF No. 144-1 ("Stipulation"), ¶¶ 1-2.[2] Citibank serves as the Administrative Agent for the loan. Among its duties, which are set forth in the Amended Loan Agreement, it receives payments from Revlon and passes them on to the 2016 Term Loan lenders ("the Lenders"), including payments of principal and interest. Amended Loan Agreement, § 2.8, at -103-04.[3] Defendants are Brigade

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[1] The Court ruled on most of the parties' objections to testimony and exhibits at trial. To the extent that the Court cites in this Opinion to any evidence to which a party objected, the objection is overruled. The Court need not and does not resolve the remaining objections.

[2] "Tr. __" refers to the transcript of the trial, conducted from December 9 to 16, 2020; PX__ refers to a Plaintiff's Exhibit; DX__ refers to a Defense Exhibit; and "Dep. Tr. __" refers to a deposition transcript. Because the pagination of DX1044 is inconsistent, references to it will include the terminal digits of the Bates stamp located at the bottom center of each page.

[3] There is some dispute with respect to whether Citibank validly remains the Administrative Agent under the Amended Loan Agreement, the details of which are not pertinent