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Thomas Caveng, Legal Translator / Marketing Director

t.caveng@soulier-avocats.com

Tel.: + 33 (0)4 72 82 20 80

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Docks Lyonnais case: Soulier AARPI wins 11,700,000 euros in damages for an asset manager

In the so-called “Docks Lyonnais” case echoed in the press, the company Shaftesbury Asset Management France was defended by [André Soulier](#), [Flore Foyatier](#) and [Stéphanie Yavordios](#), in cooperation with the DE PARDIEU BROCAS MAFFEI law firm.

After several years of many court proceedings tirelessly pursued by our firm, the Court of Appeals of Lyon ordered the company Les Docks Lyonnais, a subsidiary of the global financial services company UBS, to pay 11,700,000 euros in damages to our client, in compensation for the loss it had suffered as a result of the wrongful premature termination of an asset management agreement.

To try to justify the premature termination – 14 months before the planned expiry date – of an agreement under which our client had been entrusted with the exclusive management of real estate assets (including in particular all the shops and businesses of the Grôlée Street and Carnot Street in Lyon) for a total amount of approx. 1 billion euros, the lawyers of Les Docks Lyonnais used their utmost legal ingenuity.

Yet, all of their attempts failed and the Court of Appeals of Lyon held that Les Docks Lyonnais was solely and exclusively liable for the wrongful and unjustified premature termination of the asset management agreement – whereas the first instance judges had remained rather vague in this respect.

To escape conviction, Les Docks Lyonnais, as a main request, first sought the nullification of the contentious agreement and raised three separate grounds of nullity. In this respect, LES DOCKS LYONNAIS asked the Court of Appeals to order our client to pay the sum of 17 million euros to refund amounts that had allegedly been unduly received by our client and to compensate for a pretended loss that they have not eventually been able to prove.

The Court of Appeals of Lyon followed our argumentation by holding that two of the three grounds of nullity raised by our opponent were time-barred and inadmissible. The third ground of nullity was held admissible but

unfounded.

As an alternative claim, Les Docks Lyonnais claimed that the premature termination was justified by the various and varied contractual breaches allegedly committed by our client. In this respect, our opponents did not hesitate to seek a judgment against Shaftesbury Asset Management France for the payment of 11 million euros.

Even though governed by French law, the contentious asset management agreement was drafted in English and made reference to Anglo-Saxon concepts. As such, the premature termination was only authorized “for cause”. The agreement included an exhaustive list of causes. In particular, for premature termination to be justified, the existence of a willful misconduct or a fraud on the part of our client, the asset manager, had to be established.

The Court of Appeals approved our line of arguments and considered that it was in no way established that our client had engaged into willful misconduct or committed a fraud that would justify afterwards the implementation of the termination clause of the asset management agreement.

Consequently, the Court of Appeals of Lyon ruled that the premature termination was without cause and consequently ordered Les Docks Lyonnais to compensate the economic loss suffered by our client as a result of said termination. It assessed such loss at 11,700,000 euros based on the findings of a valuation expert (the SORGEM firm) that we had appointed.

[For more information on the discussions and arguments raised in these proceedings, please read the decision of the Court of Appeals of Lyon](#) (in English).

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