

## Winston Wins Appeal in Favor of Fiduciary Trust International of California

FEBRUARY 14, 2014

Winston & Strawn secured an appellate win in favor of our client Fiduciary Trust International of California, acting as trustee for the estate of Herbalife founder Mark Hughes. At trial, plaintiff Zacadia alleged that the trust breached a \$350 million loan agreement with a 25-year term. Zacadia sought to accelerate the entire \$350 million obligation, which would have garnered it a windfall of roughly \$12 million. The jury found the alleged breaches to be non-material and refused to accelerate the loan.

The Winston team handled the appeal and successfully preserved the jury's verdict. Siding fully with our client's position, the California Court of Appeal ruled (colorfully) that the losing plaintiff "wanted the entire balance of the loan accelerated so it could collect in 2012 the profit that was due it in 2027, including 15 years' worth of future interest. Zacadia, in short, not only went for the whole enchilada, it tried to grab the entire combo plate." More than that, crediting the work to defend the verdict on appeal, the court ruled that "justice most certainly requires that the trust recover its costs on appeal." The plaintiff's request for rehearing was summarily denied.

The Winston team included Linda Coberly in Chicago, chair of the firm's appellate and critical motions practice, who argued the appeal.

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Linda Coberly