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## 9th Circ. Confirms \$8.9M Arbitral Award For Cotton Cos.

By **Shayna Posses**

Law360 (July 3, 2019, 4:30 PM EDT) -- The Ninth Circuit has upheld the confirmation of an \$8.9 million arbitral award issued to two U.S. cotton companies after they beat an Indian yarn spinner's competition claims, concluding that the dispute was correctly sent to arbitration.

The three-judge panel said in the decision on Tuesday that cotton merchant Jess Smith & Sons Cotton LLC and grower J.G. Boswell Co. were entitled to invoke the arbitration clause in a license agreement between India's Tradeline Enterprises Pvt. Ltd. and a trade association that promotes American Pima cotton.

The panel explained that Tradeline accused the American companies of pushing the Supima Association of America to drop the license agreement. Thus, the allegations were clearly "intertwined" with the contract and the American companies were allowed to invoke its arbitration clause, even though they hadn't signed the agreement themselves, the judges held.

"The complaint alleges that [Jess Smith] and Boswell caused Supima to breach and wrongfully terminate the license agreement," the panel said. "The license agreement is thus integral to Tradeline's claims, which 'arise out of and relate directly' to that contract."

Tradeline filed suit in October 2015, accusing Jess Smith and Boswell of violating the Sherman Act by conspiring with other players in the cotton industry to revoke the Indian company's license with the Supima Association and sully its name as it prepared to fill massive orders for apparel companies like Japanese retailer Uniqlo.

However, Jess Smith argued in court filings that Tradeline was merely trying to distract from its own wrongdoing, alleging that the spinner had stolen 870 bales of American Pima cotton and defaulted on contracts to buy thousands more. An International Cotton Association arbitration panel had already ordered Tradeline to pay \$7 million as a result, according to Jess Smith.

Jess Smith and Boswell moved to compel arbitration in late 2015, contending that the arbitration clause in Tradeline's agreement with the Supima association covered the antitrust allegations, and U.S. District Judge John A. Kronstadt **agreed in July 2016**.

Tradeline's subsequent arbitration demand named both the cotton companies and the Supima association, accusing them of Sherman Act violations and seeking damages amounting to the alleged enterprise value of its business. The Indian yarn spinner also included additional state law claims against the association, according to the cotton companies.

However, an International Centre for Dispute Resolution tribunal ultimately sided with the cotton companies in a lengthy April 2018 award, finding that Tradeline had failed to prove its claims and ordering it to cover Jess Smith's and Boswell's fees and costs.

The cotton companies asked Judge Kronstadt to confirm the award the following month, but were met with opposition by Tradeline, which asserted that the matter should not have been sent to arbitration in the first place.

Judge Kronstadt ultimately **upheld the arbitral award** in July 2018, agreeing with the cotton companies' **arguments** that the yarn spinner hadn't offered any new evidence or change in controlling law indicating that the previous order was clearly wrong.

Tradeline appealed the decision to the Ninth Circuit, but the panel wasn't swayed, explaining Tuesday that "[s]tate law controls whether federal courts may enforce arbitration agreements against signatories at the request of nonsignatories."

The laws of the Supima association's home state of Arizona govern under the license agreement, and a party there that didn't sign an arbitration agreement can force a signatory to arbitrate if the claims are "intimately founded in and intertwined with the underlying contract obligations," the panel noted.

That's the case here, the panel held, saying Tradeline's allegations are clearly connected to the license agreement with Supima.

Meanwhile, in the California district court, the parties are tussling over who can be held liable for the award.

The cotton companies **asked the court** to rule that Tradeline's litigation funder is also responsible for the judgment, while also requesting discovery to determine whether Arrowhead Capital LLC had provided the money. Tradeline insists that Arrowhead didn't fund the proceedings, but refuses to identify the entity who did, the cotton companies claimed.

In the end, Judge Kronstadt decided in mid-April to hold off on adding Arrowhead to the judgment and instead allow discovery to help the cotton companies figure out if a litigation funder can be added.

Dan Woods, who represents Boswell, told Law360 in a Wednesday email that the Ninth Circuit "quickly and decisively" affirmed the decision, as expected.

Tradeline's "appeal filed, briefed and argued by Quinn Emanuel's appellate team was frivolous and received short shrift from the Ninth Circuit," Woods said, adding, "We look forward to recovering our attorneys' fees and costs from Tradeline and its litigation funder."

Representatives for the other parties didn't immediately return requests for comment.

U.S. Circuit Judges Mary H. Murguia and Andrew D. Hurwitz and U.S. District Judge Fernando J. Gaitan Jr., sitting by designation, sat on the panel for the Ninth Circuit.

Tradeline is represented by Dominic Surprenant, Paul Slattery and David M. Cooper of Quinn Emanuel Urquhart & Sullivan LLP.

Jess Smith is represented by Edward C. Duckers, Michael B. Brown and Jonathan A. Miles of Stoel Rives LLP.

Boswell is represented by Dan Woods and Adam Weg of Musick Peeler & Garrett LLP.

The case is Tradeline Enterprises Pvt. Ltd. v. Jess Smith & Sons Cotton LLC and J.G. Boswell Co., case number 18-56101, in the U.S. Court of Appeals for the Ninth Circuit.

--Editing by Nicole Bleier.