

White and Williams Secures Domestic Confirmation of Six-Figure Foreign Arbitration Award

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On July 19, 2018, the United States District Court for the Eastern District of New York entered a high six-figure judgment in favor a China-based client represented domestically by White and Williams, confirming an arbitration award issued by the China International Economic and Trade Arbitration Commission (CIETAC).

The client, a distributor of certain dietary supplements based in Tianjin, China, entered into a contract in 2013 with a U.S.-based distributor whereby the client sold certain goods to the distributor. Despite receiving the goods, the distributor refused to pay the client as provided under the contract.

The contract contained an arbitration clause requiring any disputes arising under the agreement to be brought before CIETAC in China. The client initiated an arbitration proceeding and ultimately obtained a six-figure award in its favor. Though the distributor received notice of the proceeding, it failed to participate in any way.

In order to enforce and collect on the foreign award against the U.S.-based distributor, the client engaged White and Williams to have the award confirmed domestically by a U.S. court. White and Williams proceeded to file a petition in the Eastern District of New York seeking confirmation of the award, plus interest and attorneys' fees, pursuant to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards and the federal law of the United States implementing the Convention.

The distributor aggressively contested the petition, moving to dismiss on the grounds that it had purportedly never been properly served in the underlying arbitration proceeding and arguing that the parties' contract had somehow been forged.

In opposing the motion, White and Williams worked closely with its client to systematically and methodically address and dismantle each of the distributor's arguments against confirmation.

By its Decision and Order May 30, 2018, which granted the client's Petition to Confirm Arbitration Award, the court not only denied the distributor's motion to dismiss, it affirmatively determined that the distributor had no viable defense to enforcement of the arbitration award. The client is now free to collect on the CIETAC issued award.

The client was represented by Gary Biehn, Tom Fiddler and Eric Porter.