

REGIONAL COURT (*Landgericht*)

Frankfurt am Main

6 July 2010

Court file no.: 2-23 O 385/09

Minutes of the public

hearing of the 23rd civil division

Present:

Presiding regional court judge Dr Renk

presiding,

Regional court Judges Szustak and Hübner

associated judges.

The presence of a recording clerk is waived.

I n t h e c a s e o f

Lehman Brothers International (Europe) (in administration)

v e r s u s

Dr Michael C. Frege

there appeared, upon announcement of the matter:

for the Plaintiff

German lawyers (*Rechtsanwälte*) Schelow and Schmitt and Saffenreuther,

as well as for the Plaintiff's Administration

Mr Jarvis and Mr Clark,

for the Defendant

German lawyers van den Sande and Dr Burmeister,

as well as from the insolvency administration Dr Schild and Mr Kühne.

The factual and legal situation is discussed.

There is a discussion about whether an amicable settlement between the parties is a possibility.

This is not the case at the current stage of the litigation.

The settlement negotiations are thus concluded and the hearing of the dispute commenced.

Counsel for the Plaintiff, Mr Saffenreuther, declares that no lists of clients were made available to Bankhaus for the disputed transfer of U.S.\$1 billion.

Counsel for the Defendant, Dr Burmeister, declares that lists of clients were never made available, not even for previous transfers.

Counsel for the Plaintiff, Mr Saffenreuther, explains with regard to the claim for disclosure of information (claim no. 1.1):

Any reference therein to original documents that the Defendant is to provide means account statements and/or account slips over which the Defendant has a power of disposal, for example with regard to any potential target accounts that Bankhaus may have maintained at another location.

Counsel for the Plaintiff, Mr Saffenreuther, states the claims in the statement of claim (folios 2 and 3 of the file) and explains

that claim 4 is being made alternatively to the preceding claims.

Counsel for the Defendant, Dr Burmeister, requests that the claim be *d i s m i s s e d*.

Counsel for the Plaintiff receives copies of the opponent's pleadings dated 24 June 2010. He in turn submits pleadings dated 6 July 2010, of which the opponent receives copies.

Counsel for the Defendant submits a counterclaim dated 6 July 2010, of which the opponent receives copies.

It is discussed with counsel that the counterclaim just submitted cannot be the subject of the day's hearing, since it was previously unknown to both the court as well as the opponent, and since further measures with regard to this counterclaim shall be undertaken *ex officio*.

Held:

The Defendant shall have the opportunity to submit further written argumentation, as requested in the pleadings dated 24 June 2010, **by August 31 2010**.

Judgement will be pronounced on

Thursday, 7 October 2010, 10 a.m., Room 360 B.

Dr Renk

For the correctness of the transcription

from the recording:

Tischow, court clerk