

Carter Ledyard Client Crest Hill Capital Granted Temporary Restraining Order

July 23, 2015

On Thursday, July 3, 2015, the firm procured a temporary restraining order on behalf of its clients against former account executives who had set up a competing company and had been soliciting sales representatives and clients to whom they had been introduced while working for Crest Hill. Despite the fact that there was no restrictive covenant, non-solicitation or non-competition agreement in place, Justice Geoffrey D. Wright of the Supreme Court, New York County, temporarily restrained the former account executives (and their cohorts) from "soliciting or contracting with, for themselves or any third party, any of the Plaintiffs' independent sales offices ("ISOs") or merchant accounts for merchant cash advance transactions." In a subsequent decision confirming the entry of the TRO on July 7, 2015, Justice Wright explained that "while the names of potential clients is no secret, the particular clients, and more particularly, their interest in the service offered by the Plaintiffs and the Defendants, was known to the Defendants by virtue of their association with the Plaintiffs. ... the apparent concentration of the Defendants on the clients of the Plaintiffs . . . would seem to stultify their argument that they are only operating in a universe where the Plaintiffs' clientele are but dwarf asteroids among super planets." Justice Barbara Kapnick of the Appellate Division, First Department, heard defendants' emergency appeal of the TRO grant and declined to stay, vacate or modify the order. Litigation partner Mitchell C. Shapiro and associate Jacob H. Nemon handled the case.

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