

Purell and Simple: The “Unclean Hands” Doctrine as a Bar to Equitable Relief

Following a well-developed line of precedent, the Delaware Court of Chancery recently declined to grant equitable relief to a party seeking an injunction with respect to non-compete provisions because the requesting party had also breached its non-compete obligations.

Background

While courts most commonly grant monetary relief to an aggrieved party, equitable remedies are prescribed in situations where money is an inadequate means of compensation. Equitable remedies include both injunctions, which are court-ordered remedies that either temporarily or permanently prevent a party from taking certain actions, and specific performance, which courts use to compel parties to take certain actions. However, courts will refuse to provide equitable relief under the “unclean hands” doctrine when the party seeking such relief has engaged in inequitable activities.

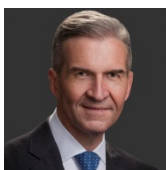
In *inTEAM Associates, LLC v. Heartland Payment Systems, LLC*, Heartland Payment Systems, Inc. (“Heartland”) entered into a purchase agreement to acquire certain assets of School Link Technologies, Inc. (“SL-Tech”) while simultaneously entering into a consulting agreement with SL-Tech’s former CEO, Lawrence Goodman III (“Goodman”). The purchase agreement excluded one SL-Tech division from the acquisition, and that division became inTEAM Associates, LLC (“inTEAM”), with Goodman serving as CEO. Heartland and inTEAM also entered into a co-marketing agreement which granted the parties the right to market the other’s products.

These agreements contained various non-compete provisions restricting the competitive activities of all three parties. Shortly afterwards, both Heartland, on the one hand, and inTEAM and Goodman, on the other hand, engaged in competitive behavior in violation of the non-compete provisions. Heartland and inTEAM both brought claims requesting that the Delaware Court of Chancery enforce the non-compete provisions through injunctive relief.

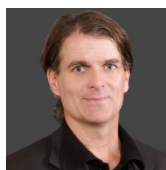
Despite the fact that both parties violated the non-compete provisions in the underlying agreements, the court rejected the requests for injunctions, citing the doctrine of unclean hands. In denying the requests, the court noted that “[h]e who comes into equity must come with clean hands.” Since both parties had “dirty hands,” equitable remedies were not available to either party. This doctrine does not, however, extend to monetary damages, and Goodman was ordered to disgorge the consulting fees he collected while breaching the non-compete restriction.

Our View

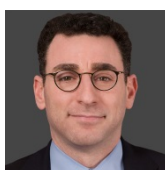
In the context of M&A transactions, dealmakers often expect that equitable remedies will be available to them. As a result, practitioners often pay close attention to provisions regarding specific performance and injunctive relief in confidentiality agreements, purchase agreements and other deal documents. Despite these provisions, however, the recent *Heartland* case serves as a reminder that equitable recourse requires parties to otherwise abide by the terms of the deal they struck with their counterparty. As always, we would welcome the opportunity to discuss these principles with you in greater detail.



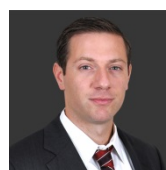
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