



MUTUAL ALERT

United States District Court, New Jersey, Denies Motion to Dismiss A Complaint By Spencer Saving Bank Alleging Conspiracy By Nine Out Of State Depositors to Fraudulently Or Improperly Open Or Maintain Accounts

On Wednesday, a federal district judge in New Jersey denied a motion to dismiss a complaint filed by Spencer Savings Bank alleging that nine out-of-state depositors—Philip A. Vasta, Catherine A. Higgins, John H. Merey, Richard J. Lashley, Frederick Ozdoba, Francesca Ozdoba, Robert Mitchell, Andrew Fish, and Howard Kent—conspired with corporate raider Lawrence Seidman to fraudulently or improperly open or maintain accounts at Spencer in an effort to further Mr. Seidman’s unlawful campaign to convert Spencer from a community bank to a stock-issuing institution. Without challenging the merits of the complaint, the defendants sought to dismiss the case on various procedural grounds. In an eleven-page opinion, United States District Judge Kevin McNulty held that the case can proceed even though Mr. Seidman—a New Jersey resident and the leader of the alleged conspiracy—had not been named as a defendant, and ongoing litigation in Passaic County involves similar issues. “[T]his case does not present exceptional circumstances that would warrant this Court to forgo its ‘virtually unflagging obligation’ to exercise jurisdiction,” the opinion states.

Spencer’s complaint states that the defendants “have waged a coordinated campaign to remain member-depositors and to deny Spencer its ability to establish the qualifications for its own membership.” Spencer alleges that the defendants (and possibly others) “formed a sleeper cell of out-of-state, bad-faith—and in some cases, fraudulent—member-depositors looking to assist Seidman’s takeover efforts for their own financial gain.” Spencer uncovered the scheme only after the defendants could not provide documentation supporting their eligibility to be member-depositors. According to Spencer representatives, the bank intends to vigorously prosecute the action, through trial if necessary.

September 30, 2022