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# Citi Has Options, but Faces Hurdles to Retrieving \$500 Million Revlon Goof

The bank's accidental payment to Revlon lenders has opened a can of worms as the bank aims to retrieve the funds



A Citigroup bank branch in Brooklyn, N.Y. The bank blamed human error for a mistaken payment to Revlon lenders last August.

PHOTO: GABBY JONES/BLOOMBERG NEWS

By *Alexander Gladstone* and *Becky Yerak*

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Citigroup Inc. has options to try to recoup roughly \$500 million wired by accident to Revlon Inc. lenders even though a federal judge has allowed recipients of the payment to keep it, but the

bank also faces obstacles and uncertainties, according to legal experts.

Citi has said it would appeal a federal court's ruling last week refusing to undo the bank's mistaken payment out of its own pocket of a loan issued by cosmetics company Revlon. An appeal is uncertain to succeed and could take years to resolve, but the bank could explore other options in the interim to try to retrieve the funds.

Because Citi paid off a debt owed by Revlon, the bank can argue that it took over the rights of the lenders against Revlon and look to the company for repayment of the \$500 million, legal experts said.

Citi last August mistakenly wired the full loan balance of nearly \$900 million instead of a small interest payment that lenders were owed. Some lenders returned roughly \$385 million at Citi's request. The bank sued the 10 lenders that refused, including Brigade Capital Management LP, Symphony Asset Management LLC and HPS Investment Partners LLC, for the roughly \$500 million they kept.

Stephen Lubben, professor of corporate governance and business ethics at Seton Hall University School of Law, said he believes Citi likely will take over the rights of the lenders it paid.

David Conaway, head of the bankruptcy practice group at law firm Shumaker Loop & Kendrick LLP, also said Citi likely would seek to put Revlon back on the hook for its loan, the same position it was in before the bank's error. Otherwise, he said, Revlon will have arguably reaped a windfall at Citi's expense.

Citi and Revlon declined to comment.

"Is it fair for Revlon to have improved their position because of Citi's mistake? It doesn't seem like it to me, so I have to believe that Citi will pursue those kinds of claims against Revlon," said Mr. Conaway, who is advising certain Revlon suppliers monitoring its financial condition.

But there may be disputes about whether Citi can assume the debt and the bank's ability to collect. One scenario is Revlon taking the position it owes nothing to Citi since it hadn't asked the bank to repay the loan, according to a person close to the matter. Another is Revlon contending that Citi lacks the same collateral and security rights as the lenders, legal experts and other people close to the matter said.

"I think you'll see them fight it on some level," Mr. Conaway said. "Revlon could take a shot to take as much of that \$500 million off their books as they can."

In ruling against Citi, Judge Jesse Furman of the U.S. District Court in New York focused on the critical question of what the lenders knew or suspected when their loans to Revlon, which

weren't due until 2023, were unexpectedly paid off in full.

Citi, Revlon's loan agent, blamed human error for the goof and argued that recipients knew right away they had been paid by mistake. The lenders contended they didn't think the transactions were erroneous until Citi claimed as much and demanded repayment.

The judge backed up the lenders' argument at trial that it would have been irrational for them to believe that one of the world's largest financial institutions would transfer by accident the full amount they were owed by Revlon, down to the penny.

The judge didn't address whether Citi obtained the lenders' right against Revlon by virtue of paying off their loans. If Citi loses on appeal, the bank should have the same claims against Revlon as the lenders, said Ronald Mann, a Columbia Law School professor who filed court papers supporting the bank on behalf of the Loan Syndications and Trading Association.

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But there may be disputes challenging Citi's claim against Revlon, including whether the bank has the collateral rights that lenders did, experts and people close to the matter said.

Before the errant payment, lenders had come to believe that Revlon, with Citi's assistance, had deprived them of the collateral they bargained for, siphoning off valuable intellectual property assets that had been pledged to them.

Lenders sued to demand the assets back, though the litigation went largely dormant after Citi's mistaken payment.

Columbia Law School professor Eric Talley said loan contracts typically allow lenders to assign their positions to others. If Citi and the lenders were to negotiate a settlement, Citi likely would be considered as stepping into the lenders' position, he said.

—*Andrew Scurria and Soma Biswas contributed to this article.*

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