

\$70M INTERNATIONAL ARBITRATION RULING UPHELD IN FAVOR OF BELL NUNNALLY CLIENT AND RENEWABLE ENERGY INVESTOR

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On August 9, the U.S. District Court for the Northern District of Texas upheld a \$70 million arbitration award against Chinese state-owned AVIC (Aviation Industry Corporation) International U.S.A. (AVIC). A nine-member arbitration panel operating through The International Centre for Dispute Resolution had previously found in 2015 that AVIC violated a non-compete provision in a Limited Liability Company Agreement for Soaring Wind Energy LLC (Soaring Wind) it had entered into with a group of wind energy developers. Bell Nunnally & Martin LLP Partner Jeffrey S. Lowenstein represented Soaring Wind energy developer and investor Keith P. Young, and later his widow.

In coverage by Law360, Lowenstein called it a “great and just outcome, especially in light of the tactics used by the other side to try to avoid liability from their partners.”

In 2008, the American Investors and AVIC formed Soaring Wind to develop wind farms in the U.S. The agreement included a promise by the parties not to divert wind farm or related business opportunities away from Soaring Wind and required AVIC to act as the funding source for those opportunities.

In June 2014, Soaring Wind filed a demand for arbitration, asserting that AVIC did not make good on its pledge of \$300 million in financing and had not included the group in its 2011 deal to buy Minnesota plane manufacturer Cirrus Industries, Inc. In addition, Soaring Wind also asserted that AVIC had created a unit designed specifically to siphon funding and opportunities away from their partnership and that operated as a competitor.

Central to the dispute was Soaring Wind's assertion that AVIC was responsible for the conduct of other Chinese state-owned entities that had diverted the wind farm related opportunities, as alter egos even though these other entities had not signed the arbitration agreement.

In its appeal, AVIC argued to the district court that Soaring Wind had undue influence over the proceedings because each investor had the ability to choose an arbitrator, leaving AVIC with just one, and accused the panel of misconduct by making adverse inferences against AVIC and awarding attorneys' fees and damages. These arguments were rejected by the court, which found AVIC hadn't established any of the circumstances necessary for vacating an award under the Federal Arbitration Act.

To read a recap of the appeal on *Law360* (subscription required), please click [here](#).

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