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Former AIG Chief Executive Sues Government with Wall Street Backing

By Brigid P. McCurdy, J.D. Candidate 2017 | October 9, 2014

Trial began on Monday in a case that could impact not only future government bailouts, but also how large-scale litigation is financed.

Maurice R. Greenberg, former chief executive of American International Group Inc. (AIG), is suing the U.S. government on behalf of AIG shareholders for over $40 billion. He alleges that the government violated the Fifth Amendment and "cheated" shareholders during AIG's 2008 government bailout. Greenberg is the current chairman of C.V. Starr & Co., the largest investor in AIG at the time of the bailout. AIG declined to join the lawsuit.

The government gave AIG $182 billion during the financial crisis, and took what eventually amounted to a 92% equity stake in the company. Greenberg and his attorney, David Boies, argue that AIG received harsher treatment than other companies that also accepted government bailouts. Boies claims that banks like Morgan Stanley and Citigroup Inc. paid less than 4% interest rates on government lines of credit, while AIG had to pay more than 14% and give up a significant amount of equity. The government made a $22.7 billion profit from the AIG bailout.

Justice Department attorney Kenneth Dintzer counters that AIG would have gone bankrupt without the bailout deal, possibly leading to "world economic collapse." Dintzer also points out that AIG's board accepted the terms of the bailout, and that shareholders benefitted in the long run.

The trial is taking place at the United States Court of Federal Claims in Washington, D.C., with testimony expected from former Federal Reserve Chairman Ben Bernanke and former Treasury Secretary Timothy Geithner.

If the case is decided in favor of Greenberg and AIG shareholders, precedent could be set where banks and other companies get to dictate the terms of their government bailouts. A victory for Greenberg might also further the trend of litigation financing. About 15% of the financing for Greenberg's case, which has already totaled tens of millions of dollars, is allegedly coming from Wall Street investors, including former New York Stock Exchange director Kenneth Langone. In return, investors get a portion of any damages awarded to Greenberg and shareholders.

Recently, investment firms have begun raising funds specifically for litigation financing, with investors such as public pension funds and universities. Gretchen Keller Capital, a firm specializing in litigation financing, raised over $310 million for its litigation fund in less than a year. With potentially massive awards—$40 billion in Greenberg's case—litigation financing may become increasingly attractive to investors.