

Defrauded Chinese Investors Should Consider Legal Action for U.S. Losses

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Thousands of Chinese companies, investors, and individuals lose money every year in the United States due to fraud, breach of contract, and other legal wrongs. Recently, hundreds of Chinese investors seeking EB-5 visas have had their money stolen by unethical business promoters.

Unfortunately, many Chinese businesses and investors who have improperly lost money do not take advantage of the United States' strong legal system, and have allowed unethical individuals and companies to keep their illegally-earned money.

In many cases, it makes sense for aggrieved companies and investors to seek to recover their money in the legal system.

The main reasons that Chinese people do not pursue lost funds in the United States is a lack of understanding of the U.S. legal system, a fear that money they pay to lawyers will simply increase their loss, doubt that they will be able to collect funds even if they win a judgment, and concerns about delays within the court system.

The U.S. legal system is robust. U.S. judges are generally people of high integrity, fair, and impartial, and incidences of bribery of judges are extremely rare. Judges pride themselves on being fair to people regardless of where they are from. To take one example, I represented two Muslim investors from Indonesia in New York, seeking to recover \$3 million they invested in a fraudulent project. Even though the judge and the defendant were both Jewish and the defendant lived only a few miles from the court, the court ruled for the Indonesian investors, and gave them a judgment in the amount of \$6 million against the local defendant.

Juries, sometimes required in court cases, are also generally fair to Chinese plaintiffs. Last year, I won a \$7.2 million jury verdict in favor of a Chinese corporation which was defrauded by local people. In general, Chinese investors seeking to recover money stand a very good chance to recover money, as long as their cause is just.

Many people decide not to initiate litigation because of concern over the fees charged by American lawyers. In strong cases involving a substantial amount of lost money, concern about lawyer fees should not prevent a case from going forward. Many American lawyers are willing to take a case on a "contingent" basis, pursuant to which fees are charged only when a recovery of funds is realized. Contingency fee rates generally vary from 30% to 50% of total funds recovered by the lawyer. Other lawyers will accept a blend of contingency fees and other fees. Some lawyers will accept only an hourly fee. A lawyer's determination regarding the amount and type of fee varies according to numerous factors, including the monetary size of the case, the strength of the case, the financial position of the defendant, and the size of the firm at which the lawyer works. At the conclusion of many cases, the judge orders the loser of the case to pay the attorneys' fees of the case's winner.

Finding appropriate counsel can be a challenge. Large, international firms tend to be the most expensive, and often do not justify their costs. Smaller, regional firms are often a better bet for investors, because they offer more personalized service at substantially lower costs. The best way to

find an attorney is through a trusted lawyer in China who has worked on international matters before and who knows quality litigators, or through a lawyer referral service run by the state or county bar associations. It is always good to check references of clients for whom the lawyer has previously litigated. It is strongly recommended a local Chinese lawyer with experience of handling similar case be hired to back up the American lawyer. Such local lawyer will well serve as a coordinator and assistant for exchange of information, documents and ideas.

American law favors creditors in collection proceedings. Courts allow a creditor to thoroughly investigate a debtor's bank accounts, investment accounts, and other sources of funds. It also allows creditors to recover assets which are improperly transferred to family members for the purpose of avoiding payment. All of the states in the United States work together to enforce one another's judgments. In cases involving fraud or malfeasance, a corporation will generally not shield corrupt officers' assets from collection by judgment creditors. Competent counsel will investigate the financial solvency of all defendants and key officers at the outset of a case to determine whether a lawsuit is worthwhile.

In recent years, the court system has speeded up. Most state and federal jurisdictions allow no more than 18 months to pass before trial. 98% of cases in the legal system settle or are resolved within 2 years.

Of course, the best way to avoid losses for fraud is to have a good lawyer review your contracts and business dealings in the United States before investing your money. In recent years, many fraudulent schemes involving EB-5 visas have looted millions of dollars from Chinese investors.

In conclusion, individuals and companies who wrongly lose money in the U.S. shouldn't just accept their fate—they should strongly consider taking legal action to recover their money. If they have a good case and the case is sufficiently large, they should be able to find a lawyer who will make pursuing their case cost-effective and financially worthwhile (11.24,2016).

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