

## Abbott Wins Trust Asset Freeze To Collect \$33M In TM Fight

By **Dorothy Atkins**

*Law360 (July 18, 2024, 10:58 PM EDT)* -- A New York federal judge has agreed to freeze trusts tied to a couple who owe Abbott Laboratories \$33.4 million in sprawling trademark litigation over gray-market diabetes test strips, finding an asset freeze is necessary due to the defendants' "pervasive and repeated" use of the trusts for personal expenses and gambling.

In an 18-page order Wednesday, U.S. District Judge Carol Bagley Amon agreed to freeze two of three trusts owned by wholesaler H&H Wholesale Services Inc. President Howard Goldman and his wife, H&H employee Lori Goldman.



Geoffrey Potter

The trusts at issue are Michigan domestic asset protection trusts and one of them, the Lori M. Goldman Irrevocable Trust — referred to in the order as the LG Trust — is 98% invested in another trust, SGE I LLC, worth roughly \$7 million. The third trust at issue, the Howard B. Goldman Irrevocable Trust, or HG Trust, isn't invested in SGE.

The judge agreed to freeze the HG and the SGE I LLC trusts but declined to freeze the LG Trust since the bulk of its assets are invested in SGE I LLC, according to the order.

The ruling is the latest development in action Abbott launched in October 2015 against hundreds of defendants — including distributors, pharmacies, importers, online sellers and their principals — accusing them of selling Abbott's FreeStyle brand of blood glucose test strips in the U.S. that the company had marketed to be sold in other countries.

In 2019, U.S. Magistrate Judge Lois Bloom wrote that H&H and the Goldmans deserve "the harshest sanction" for egregious discovery misconduct and using search terms they knew would not turn up results during discovery and specifically removing damning documents.

In March 2020, Judge Amon adopted Judge Bloom's recommendation to issue case-ending sanctions and enter a default judgment against the H&H defendants.

And in March 2023, Judge Amon ordered wholesaler H&H and the Goldmans to pay nearly \$26.5 million in damages, which reflected double the \$13 million amount of losses from H&H's sales that Abbott's lawyers were able to tally in early 2021, plus \$1.5 million in attorney fees and costs, and \$5.48 million in prejudgment interest to Abbott and its affiliates.

The total judgment came to \$33.47 million, and Abbott attempted to begin collecting it, but the company informed the court last year that it was facing problems with collecting the judgment, and Abbott accused the Goldmans of misconduct in a purported attempt to evade the judgment, according to court documents.

"Abbott's collection efforts have not been going smoothly, and Abbott has reason to suspect that the Goldmans have been dissipating their assets in an attempt to evade this court's judgment," the order said.

Abbott alleged the Goldmans gambled more than \$1 million during a 12-week period, with Howard Goldman allegedly losing more than \$73,000 gambling at the MGM Detroit, after Abbott began serving the Goldmans and their affiliates with restraining notices. Abbott also claimed Howard Goldman conspired with his investment manager Ryan Rapaski to gamble away tens of thousands of dollars on poker websites, among other alleged misconduct.

Last year, Judge Amon agreed to issue a temporary restraining order, and the Goldmans consented to the imposition of an asset freeze on their personal assets with certain carveouts for living expenses, according to court documents. But Abbott still asked the court to freeze their trusts, which Abbott claimed the couple could still tap into.

On Thursday, the judge agreed with Abbott that it has met the standard for demonstrating that the Goldmans have an interest in the assets of the HG Trust and SGE. The judge wrote that given the "egregious and brazen misconduct" alleged, a court-ordered asset freeze would be useful "for the purpose of impressing upon the Goldmans and anyone acting in concert with them the gravity of the asset restraints and the potential consequences of violating them."

The judge noted that counsel for the SGE Trust even conceded that if the Goldmans were allowed to continue to use the trust as their "piggybank," the trust would not have an ability to recover damage from the Goldmans since they are broke.

"Given the highly unusual circumstances of this case — the substantial irregularities in the management of SGE Abbott has documented thus far, the Goldmans' history of utilizing SGE (including income from its non-liquid assets) to pay their own expenses and bypass the restraining notices, and the egregious misconduct of the Goldmans in violating the restraining notices with other funds the origin of which remains a mystery — the danger that the Goldmans will use SGE to continue dissipating their assets and attempting to evade the court's judgment is glaringly obvious," the order said.

The judge additionally rejected the Goldmans' claims that the court lacks jurisdiction over the trusts.

Abbott's counsel declined to comment Thursday.

Representatives for Abbott and counsel for the defendants didn't immediately respond to requests for comment Thursday.

Abbott is represented by Geoffrey Potter of Patterson Belknap Webb & Tyler LLP.

Howard Goldman and H&H are represented by Leon B. Borstein of Ballon Stoll PC.

Lori Goldman is represented by Derrelle M. Janey of The Janey Law Firm PC.

The case is Abbott Laboratories v. Adelpia Supply USA et al., case number 1:15-cv-05826, in the U.S. District Court for the Eastern District of New York.

--Additional reporting by Andrew Karpan. Editing by Janice Carter Brown.

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