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Current Developments in Cross-Border Litigation | Enforcement Against Foreign Controlled Party Through Reverse Pierce of the Corporate Veil

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Reverse piercing attaches liability for the judgment to a corporations' owners and/or directors because they exercise complete dominion of the business, and such domination was used to commit a fraud against the plaintiff. In *Citibank N.A. v. Aralpa Holdings P'ship*, 2024 WL 3938094 (S.D. N.Y. Feb. 2, 2024), Citibank provided a line of credit to defendant secured by a personal guaranty. It held a judgment against the guarantor personally. It moved post-judgment to hold the owner of a New York high rise condominium, a New York limited liability company, and the owner, a Miami holding company, of a luxury home in Miami personally liable because each entity was a "mere instrumentality" of the guarantor. Both entities were owned by a Mexican entity wherein the guarantor was president, and his daughter was either secretary or an "authorized agent". Both entities were inadequately capitalized and conducted no business. Any funds were deposited into the guarantor's personal accounts. Both entities used the guarantor's personal addresses. The guarantor personally provided money for the mortgage payments and both entities had property that the guarantor used as if were his own. The court determined that the guarantor made repeated presentations to Citibank that the properties were his own, only to disclaim any control once a creditor questioned him. The court found the guarantor was an "equitable owner"—an individual who exercises sufficient control over a corporation can be deemed to own it in equity.

When pursuing recovery of a judgment, a plaintiff must not be myopic in its recovery focus and be aware of available recovery theories that can open avenues of enforcement.

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