



Compensation for a decrease in equity can only be in the form of damages paid to the company - Corporate Law

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GRP Rainer Lawyers and Tax Advisors in Cologne, Berlin, Bonn, Bremen, Dusseldorf, Essen, Frankfurt, Hamburg, Hanover, Munich, Nuremberg, Stuttgart and London - www.grprainer.com/en conclude: This principle, which the Federal Supreme Court [BGH] has emphasized again and again in its on-going case law, also applies if the company is dissolved through the opening of bankruptcy proceedings (BGH, file number: II ZR 176/10). In the case at hand, a shareholder of a company had sued for damages due to the loss of future dividends. Both plaintiff and defendant were shareholders of a limited company (GmbH). The defendant had quit his shareholdings and gone to a competing company which had then taken over the customers as well as orders already underway. The company had to declare bankruptcy because of the lost business.

The BGH dismissed the action stating that the plaintiff personally had no claim for damages and that the loss of future dividends was only an indirect loss for the plaintiff resulting from damage caused to the company. The shareholder could not claim damages due to such an indirect loss in the form of compensation to him, only in the form of compensation to the company. This was not affected by the fact that the company had declared bankruptcy in the meantime.

The trustee in bankruptcy had agreed with the plaintiff beforehand to pay him a settlement of 20 000 EUR. The judges clarified that even a claim against the trustee, should he have acted improperly, could also justify only compensation payable to the estate in bankruptcy and that the shareholder personally had no claim in any case.

In many cases, an investment in a company is connected with legal questions and problems. The complexity of corporate law does not always make it easy to find the right solution straightaway. Legal advice by a lawyer experienced in corporate law is the answer. Shareholders or a company may have claims that are based on many different regulations or on case law. A lawyer will carefully review the circumstances and help to assert the rightful claims.

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Anlage: Bild

