

## *Assad v. Pershing Square et al.*

**COURT:** United States District Court for the Southern District of New York  
**CASE NUMBER:** 1:21-cv-06907  
**CASE LEADERS:** Mark Lebovitch, Gregory V. Varallo  
**CASE TEAM:** Daniel Meyer

On August 17, 2021, BLB&G filed a stockholder derivative complaint (the “Complaint”) in the Southern District of New York, on behalf of nominal defendant Pershing Square Tontine Holdings, Ltd. (“PSTH” or the “Company”), a special purpose acquisition company, or “SPAC” launched by notorious activist investor, Bill Ackman.

The defendants include the sponsor of the PSTH SPAC (the “Sponsor”), members of PSTH’s board of directors (the “Board”), and the entities that own the Sponsor (the “Pershing Square Funds”). In this effort BLB&G partnered with co-counsel including former SEC Commissioner Robert Jackson and Yale Law Professor John Morley.

The Complaint alleges that the defendants violated the Investment Company Act of 1940 (“ICA”). The ICA requires that companies whose primary business is investing in or trading securities must register and make certain disclosures. Registration requires payment of fees and that the entity be structured in a way that meets norms for standardization and transparency in order to protect the investing public.

PSTH did not register under the ICA, despite the fact that its primary business is and has been investing in securities. As a SPAC, PSTH raised \$4 billion from the public in its July 2020 initial public offering. These funds were invested in U.S. government securities and money market funds, where they have since remained. As a result, the Company has invested nearly all of its assets in securities.

The Complaint alleges that, in so doing, PSTH is an investment company not in compliance with the ICA. The Complaint also alleges that PSTH has not been taking the steps under the ICA necessary to protect investors. Moreover, the compensation paid to the Board and the Sponsor also violates the ICA, since it is excessive and not the product of arm’s-length bargaining.

The parties are currently preparing for motion to dismiss briefing.

### **Case Documents**

- August 17, 2021 - PSTH Complaint