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Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Epic LBO Collusion Case Settles For $590M

By **Kaitlyn Kiernan**

Law360, New York (November 21, 2014, 2:02 PM EST) -- A Massachusetts federal judge on Friday granted final approval to $590 million in settlements and a $200 million attorneys' fee in a class action claiming Goldman Sachs Group Inc., Carlyle Group LP and other private equity firms teamed up to keep leveraged buyout prices low, moving the long-running suit toward completion.

U.S. District Judge William G. Young granted approval to a series of settlements the firms had reached with the plaintiffs in the antitrust class action in recent months to wrap up the case just a month prior to the seven-year anniversary of the filing of the initial complaint. The judge also approved a petition for $200 million in attorneys' fees, despite objections that that number — more than one-third of the total settlement fund — was too high.

The decision comes three month after Carlyle became the last defendant to resolve the suit with a $115 million settlement to stave off a November trial in the case, which was brought by shareholders of companies the firms allegedly had underpaid by agreeing not to compete with one another for several major leveraged buyouts.

The case had wormed its way through federal court in Boston since late 2007 and remained largely under wraps until it was unsealed in late 2012. The complaint pinpoints a number of separate deals between 2003 and 2009 in which private firms allegedly followed an elaborate set of bidding rules to artificially deflate prices, shortchanging shareholders in the target companies.

Among the buyouts highlighted in the suit were a $21 billion deal for hospital chain HCA Holdings Inc. and a $5.1 billion deal for high-end retailer Neiman Marcus Group.

Carlyle agreed in August to pay $115 million to settle claims that it and several other private equity firms had teamed up to depress prices in leveraged buyouts leading up to the financial crisis. It agreed to settle after the five other private equity firms on the case inked settlements of their own, leaving Carlyle at risk of being left holding the bag should the case have gone to trial.

Goldman and Bain Capital Partners LLC were the first to reach a deal with the plaintiffs in June, agreeing to pay $67 million and $54 million, respectively, to exit the case. Silver Lake Partners LP followed suit in July with a $29.5 million deal.

In early August, KKR & Co. Inc., Blackstone Group LP and TPG Capital LP likewise agreed to pay a total of $325 million.

Prior to the settlements, plaintiffs had claimed damages from the purported collusion landed in billions.

The plaintiffs are represented by David W. Mitchell, Patrick J. Coughlin, Susan G. Taylor and Phong L. Tran of Robbins Geller Rudman & Dowd LLP, David R. Scott, Christopher M. Burke, Walter W. Noss and Kristen M. Anderson of Scott & Scott LLP, Lisa A. Furnald, K. Craig Wildfang, Thomas J. Undlin and Stacey P. Slaughter of Robins Kaplan Miller & Ciresi LLP, and others.

Carlyle is represented by Latham & Watkins LLP. Bain Capital is represented by Jones Day and Kirkland & Ellis LLP. Goldman Sachs is represented by Ropes & Gray LLP and Sullivan & Cromwell LLP. KKR is represented by Simpson Thacher & Bartlett LLP and Wollmuth Maher & Deutsche LLP. Blackstone is represented by Simpson Thacher. Silver Lake is represented by Jones Day and Willkie Farr & Gallagher LLP. TPG is represented by Arnold & Porter LLP and Susman Godfrey LLP.

The case is Kirk Dahl et al. v. Bain Capital Partners LLC et al., case number 1:07-cv-12388, in the U.S. District Court for the District of Massachusetts.

--Editing by Christine Chun.