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## Howrey Strikes \$41M Deal With BakerHostetler

By **Matthew Heller**

Law360, New York (August 16, 2013, 10:06 PM ET) -- The Chapter 11 trustee for Howrey LLP on Friday asked a California federal judge to approve a settlement with BakerHostetler, as well as former Howrey partners Baker hired, that will immediately provide \$41 million to pay off the Howrey bankruptcy estate's debt.

The money will come from about \$100 million in attorneys' fees that were awarded in three antitrust class actions filed by dairy farmers against Dean Foods, dairy industry groups and others. The cases were originated at Howrey by attorneys who later joined Baker.

Bankruptcy trustee Allan Diamond also filed court papers Friday seeking approval of an agreement to hand \$37 million to Citibank NA, Howrey's largest creditor, which would pay off the full amount of the principal the bank is owed and most of the interest.

"We can now see a light at the end of the tunnel in terms of potential additional recoveries from the remaining assets that are going to deliver a distribution" to other creditors including former employees and trade creditors, Diamond said.

The settlement with Baker is far larger than **settlements** the bankruptcy trustee had reached earlier this year with other law firms that hired former Howrey partners. Baker executive partner Steve Kestner said the firm was pleased with the deal.

"We believe the fees which Baker ... and other outside counsel will share is an acknowledgment of the time, energy and resources devoted to this complex, hard-fought antitrust litigation by the individual attorneys and their firms," he said in a statement.

Howrey began struggling financially years before it eventually dissolved. Beginning in 2008, the firm took on debt that it couldn't pay back, and in 2009, its profits began a significant decline, causing attorneys to jump ship. The firm collapsed in 2011, with creditors later forcing an involuntary Chapter 7 bankruptcy, which was converted to a Chapter 11 proceeding.

Eleven former Howrey partners joined Baker, many of them in March 2011, when Howrey's dissolution committee executed a case transfer and allocation-of-hours agreement with Baker. The agreement specified the terms under which the two firms would allocate recoveries in the dairy farmers' class actions.

According to the bankruptcy trustee, Howrey's settlement with Baker will provide it with immediate cash payments of \$36.7 million from the fee awards in the two class actions filed in Tennessee — about \$3.3 million more than Baker would have allocated under the transfer agreement.

The dispute over fees from a third class action filed in Vermont settled for \$1.4 million, more than \$140,000 over the transfer accord.

The settlement also awards Howrey a percentage of future recoveries in ongoing Baker contingency-fee cases, including an antitrust lawsuit against Wal-Mart Stores Inc. and Netflix Inc.

Eight former Howrey partners also agreed to a "clawback" payment of \$275,000 from the \$4 million they received from the firm in distributions or return of capital during the time the trustee contended it was insolvent. The clawback issue "was a major sticking point in the negotiations for months, if not years," the trustee noted in court papers.

Diamond is represented by Andrew B. Ryan of Diamond McCarthy LLP and Eric A. Nyberg and Chris D. Kuhner of Kornfield Nyberg Bendes & Kuhner PC.

The case is In re: Howrey LLP, case number 3:11-bk-31376, in the U.S. Bankruptcy Court for the Northern District of California.

--Editing by Elizabeth Bowen.

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