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SEC Closes The Book On Sam Wyly Case With \$198M Paid

By **Jack Newsham**

Law360, New York (December 6, 2017, 9:52 PM EST) -- A Texas federal judge closed out the U.S. Securities and Exchange Commission's long battle with investor Sam Wyly and his family on Tuesday, releasing them from an asset freeze in the wake of the full payment of a \$198 million settlement.

The decisions come after years of litigation against Sam and his late brother Charles Wyly Jr., both of whom the SEC has pursued since 2010 through trial and **bankruptcy** court on claims they committed fraud by using offshore trusts to trade stocks. Sam Wyly sought bankruptcy protection after the court ruled that he owed \$198 million, but he **agreed** last year to pay the full amount, a process that was completed with this week's rulings.

"This is a significant step towards resolving Mr. Wyly's disputes with the government and allowing him to exit from bankruptcy," said Jim Lee, a lawyer at Vinson & Elkins LLP who represents Sam Wyly, in an email.

The Wyly brothers made an immense fortune through investments in Michaels Stores and several software companies. They had been accused of avoiding their tax obligations by transferring stock options in Michaels and Sterling Software Inc. to several Isle of Man trusts after receiving advice from a lawyer who promoted foreign trusts as a method of asset protection and tax deferral.

While the decisions end the SEC's beef with Sam Wyly and nine family members named as relief defendants, he remains in bankruptcy, where the Internal Revenue Service is **seeking** about \$1 billion. Some \$180 million from the amount he paid to the securities watchdog will be credited to that tax bill, however.

The estate and family members of Charles Wyly Jr. aren't out of the woods yet, either. Their appeal of the \$101 million judgment against Charles Wyly's estate is currently on hold while a settlement — referred to in court papers as "global" and involving agencies other than the SEC — receives the requisite approvals from government higher-ups.

The orders entered Tuesday dissolve an asset freeze on Sam Wyly and the relief defendants and dismiss the SEC's claims against the relief defendants. They followed the agency's notification of the court on Monday that the full \$198 million judgment had been satisfied, although the agency noted that anti-fraud injunctions and other nonmonetary provisions of the court's order against Sam remained in effect.

Stewart Thomas, a lawyer at Hallett & Perrin PC who represents the Wyly family, confirmed that the settlement had been paid but didn't comment further. Lawyers for other parties didn't respond to comment requests and an SEC spokesperson declined to comment.

The SEC is represented by Marsha C. Massey, Bridget M. Fitzpatrick, John D. Worland Jr., Gregory N. Miller, Michael J. Roessner, Hope Hall Augustini, Daniel Staroselsky and Martin L. Zerwitz.

The relief defendants are represented by Stewart H. Thomas and Tom M. Dees of Hallett & Perrin PC.

Sam Wyly is represented by James J. Lee of Vinson & Elkins LLP.

The case is SEC v. Wyly et al., case number 1:10-cv-05760 in U.S. District Court for the Southern District of New York.

--Additional reporting by Vidya Kauri. Editing by Alanna Weissman.

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