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## Union Hits Pryor Cashman With \$42M Malpractice Suit

By **Pete Brush**

Law360, New York (August 25, 2010, 6:25 PM ET) -- Trustees for a New York City construction union have slapped Pryor Cashman LLP with a malpractice suit, claiming a firm partner failed to give legal advice that would have stopped third-party administrator King Care LLC from allegedly looting \$42 million from two benefits funds.

Pryor Cashman partner Christopher J. Sues even advised the plaintiffs not to litigate after the alleged thefts came to light in 2008, according to a complaint lodged Tuesday by attorney William J. Dealy of Dealy & Silberstein LLP, which represents the Construction Workers Local 147 trustees before the Supreme Court of the State of New York, County of New York.

The trustees, including first named plaintiff Richard T. Fitzsimmons, represent the union whose 1,000 members are known as the "sand hogs" for their work digging subway tunnels, caissons and other infrastructure in compressed-air environments.

The union hired King Care in 2002 to manage two of its benefit funds, the suit says, and paid between \$10,000 and \$15,000 per month for the service.

It wasn't until the fall of 2008 that the union began to suspect King Care "had stolen or misappropriated money," the suit says, adding that the administrator was fired by the union in October 2008.

A subsequent investigation showed that King Care principal Melissa King looted more than \$42 million from the fund and used the money for a personal shopping bonanza that included purchases of jewelry, country club memberships and other luxe items for her and her family, the suit says, adding that Melissa King now faces criminal charges and is set to go to trial in March.

In November 2008, after the alleged theft came to light, the lawsuit claims Sues attempted to dissuade the union from suing King Care because "the cost of litigation in such a case would far exceed the potential recovery."

The union now has litigation pending against King Care.

Sues also failed to inform the plaintiffs that certain required annual forms showed King Care's expenses were "grossly excessive," the suit charges, adding that Sues and Pryor Cashman also failed to advise the plaintiffs to retain an independent auditor.

The suit notes that the plaintiffs paid Pryor Cashman well over \$700,000 in legal fees during the time the firm advised the union about the funds.

"Based upon defendant's high billing rates, plaintiffs reasonably believed that defendants would provide plaintiffs with a superior level of expertise and service," the suit said.

The complaint seeks \$42 million from the firm and Sues plus punitive damages.

Requests for comment were not returned Wednesday.

The Bronx, N.Y.-based plaintiffs are represented by Dealy & Silberstein LLP and Fried & Epstein LLP.

Counsel information for the New York City-based law firm was not immediately available.

The case is Richard T. Fitzsimmons et al. v. Pryor Cashman and Christopher Joseph Sues, case number 651360/2010, in the Supreme Court of the State of New York, County of New York.

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