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## Ex-Haynes & Boone Atty Files \$15M Suit Over Firing

By **Pete Brush**

Law360, New York (May 17, 2010, 4:07 PM ET) -- A former Haynes and Boone LLP corporate finance and securities partner has launched a \$15 million breach of contract and defamation suit against the 500-lawyer firm, claiming he was wrongfully terminated from the New York City practice group he founded.

Plaintiff Harvey Kesner's lawsuit, lodged Friday in the U.S. District Court for the Southern District of New York, says the Dallas-based law firm owes him millions of dollars for services performed and also names the firm's current managing partner, Terry Conner, as a defendant.

"The suit is without merit and we intend to vigorously contest all of the claims that he has brought," attorney Tim Powers of Haynes and Boone, who oversees the firm's marketing department, said Monday.

The firm expects to retain counsel but hasn't as of yet, Powers said.

Kesner's lawsuit says that, having built a successful securities and corporate finance practice in New York City between 2001 and 2006 that earned some \$2.4 million per year, he was approached in 2006 by Haynes and Boone.

At the time, according to the suit, Haynes and Boone was seeking a presence in the Big Apple as part of "an aggressive growth campaign to expand beyond its Texas roots."

In August 2006, the suit says, Kesner agreed to join Haynes and Boone as head of its New York business and securities regulation group and soon thereafter succeeded in establishing a foothold for the firm, winning praise from his new peers.

In 2007, the lawsuit says, the practice group raked in \$7 million in revenue for the firm, far exceeding a \$2.4 million projection.

Despite that, the lawsuit charges, Kesner was not paid a bonus for 2007.

Ultimately, the suit says, Kesner made inquiries and learned his compensation was far below that of his counterparts at similar practice groups in New York.

In December 2007, the suit says, as Kesner shopped his practice and concurrently negotiated with Haynes and Boone, they arrived at a deal to pay him more money — \$1.6 million for 2008, at least \$2 million for 2009 and a \$100,000 bonus — to stay put.

After a dispute about where bonus money came from, the lawsuit says, Conner and Kesner spoke by telephone, and Kesner was told he was to leave the firm by February 2009.

A separation agreement significantly reduced Kesner's compensation, the lawsuit says, and Conner made "misrepresentations to the media" regarding the plaintiff's separation that caused him embarrassment and "damaged his ability to gain new employment."

All told, according to the lawsuit, the firm kept more than \$12 million from parties that became Haynes and Boone clients "solely as a result of plaintiff Kesner's efforts and relations."

The lawsuit also alleges the firm failed to take a vote on his removal in violation of the partnership agreement.

The lawsuit seeks a judgment that Kesner's termination violated the parties' compensation agreement and their partnership agreement and a judgment that the termination defamed him and damaged his ability to make money.

Kesner is represented by Dealy & Silberstein LLP.

The case is Kesner v. Haynes and Boone LP et al., case number 10-cv-04009, in the U.S. District Court for the Southern District of New York.

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