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

BofA, Dynasty End Worker Trade Secrets Suit

By **Erin Fuchs**

Law360, New York (January 25, 2011) -- Bank of America NA has settled its suit alleging former employees of its U.S. Trust wealth management business misappropriated trade secrets and breached contracts when they went to work for Dynasty Financial Partners LLC.

Dynasty announced the deal Monday, ending a suit in the New York Supreme Court, County of New York, that claimed the four workers took confidential information that would have given the investment and technology platforms provider an unfair edge in the area of wealth management.

The terms of the settlement are confidential, but Dynasty CEO Shirl Penney said Monday that the company was "very satisfied with the terms of the agreement with Bank of America."

Bank of America and Dynasty will file a stipulation of dismissal in New York Supreme Court later in the week.

A lawyer for Bank of America declined to comment but confirmed Tuesday that the matter had been settled.

In addition to Dynasty, the suit named Michael C. Brown, who had been the private client adviser for U.S. Trust and who headed the team that is now at Dynasty. Also named were the private client manager on his team, Charles F. Britton, and two client sales and service officers, Marcus Wilson and Amanda Kerley.

The group quit on Dec. 3 and 6, submitting identical resignation letters that indicated they were going to work for Dynasty, according to the complaint.

In their resignation letters, Brown and Britton said explicitly they were taking several pages worth of clients' names, addresses, phone numbers and e-mail addresses — which were not all readily accessible or known publicly — that they obtained from U.S. Trust's databases, the complaint said.

The trade secrets include information about clients' identities, bank accounts, net worth, liquid assets and investment objectives — all kept on password-protected databases, the suit claimed. As a condition of their employment, the defendants had all agreed "in some form" not to solicit any of the bank's customers for business, the suit said.

Any competitor who was able to get access to U.S. Trust's trade secrets would gain an unfair advantage, the suit alleged.

In New York, for instance, its database of basic client information "reduces the universe of

potential clients from millions to a small, preselected group of high and ultra-high net worth individuals," the complaint said.

The suit accused each of the team members of breach of contract and breach of fiduciary duty. It also accused Brown and Britton of misappropriating trade secrets and conversion. Dynasty is accused of tortious interference of a contract and unfair business practices.

Penney said Monday that the company was pleased the issues were resolved "amicably."

"With this matter behind us, Mike, Charles and their team can focus on building their business at Dynasty, and we can return our full attention to building the premier wealth management platform for independent financial advisers with high net worth clients," she said.

The defendants are represented by Stark & Stark.

Bank of America is represented by Silverman Sclar Shin & Byrne PLLC.

The case is Bank of America NA v. Brown et al., case number 115949/2010, in the New York Supreme Court, County of New York.

--Additional reporting by Hilary Russ

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