

## NY Judge Signs Off On \$300M Deal In Renren Derivative Suit

By **Stewart Bishop**

Law360, New York (June 10, 2022, 9:44 PM EDT) -- A New York state judge Thursday approved a \$300 million settlement of derivative litigation against principals of Renren Inc. and others, in a suit alleging that minority stockholders were cheated in a sham go-private deal in which hundreds of millions of dollars in Renren investments were siphoned off to an entity controlled by insiders.

Following a morning hearing in Manhattan, New York Supreme Court Justice Andrew Borrok approved the modified deal in a bench ruling, after initially rejecting the settlement last year over concerns about some stockholders being wrongfully excluded from the deal and an "excessive" contemplated award of attorney fees for plaintiffs' counsel.

Renren was launched by Renren's chairman and chief executive officer, Joseph Chen, with the intent of becoming the "Facebook of China," after the aforementioned social media giant was banned from the country in 2009. Despite raising over \$777 million in its initial public offering, Renren's social media business had lackluster results and the company morphed into a venture capital outfit.

According to Renren's minority investors, Chen, Renren Director David Chao and the company's controlling shareholders hatched a plan to defraud minority shareholders in Renren after the social network faltered. It involved, among other things, taking on multiple investments in American fintech company Social Finance, or SoFi.

After what the shareholder plaintiffs said was an "offensive and ludicrous" offer to go private, Chen and Chao created the Cayman Islands-incorporated company Oak Pacific Investment — a company controlled by Chen and Chao — to which Renren's investments were siphoned off, including its over-21% share in SoFi. In all, a book value of \$560 million of Renren's assets was transferred to OPI both directly and through subsidiaries, the shareholders allege.

Minority shareholders were given the option of accepting a cash dividend — which the plaintiffs say was based on a manipulated value of the stock — or, if they were both "accredited investors" and "qualified purchasers," meaning well-off, they could opt to receive shares of OPI.

Judge Borrok on Thursday approved the reworked settlement with some relatively minor revisions. Most notably, he sliced the requested award of attorney fees from the settlement down to \$52.5 million for the plaintiffs counsel at Reid Collins & Tsai LLP, with another \$275,000 going to lawyers at Glenn Agre Bergman & Fuentes LLP, who represent another group of shareholders.

The deal applies to all current shareholders of Renren, a Cayman Islands corporation, headquartered in China. Judge Borrok set the record date for establishing contemporaneous ownership as of June 21, 2018, when the Renren transaction closed, as opposed to certain objectors' favored record date of April 29, 2018, the day before the transaction was announced, and when some investors subsequently decided to sell their shares.

Lead counsel for the derivative plaintiffs, William Reid of Reid Collins & Tsai LLP, told Law360 the approved deal is an outstanding result for all current shareholders.

"And I believe that it's the largest ever direct-pay cash settlement in U.S. litigation history in terms of settlement of a derivative action," Reid said. "So for that, I'm proud. It's an amazing result."

The revised deal drew some objections, both to the deal itself and the amount of attorney fees.

One such objector, CRCM Institutional Master Fund (BVI) Ltd., argued that such a deal isn't permitted under Cayman Islands law, which requires that any recovery in derivative actions be paid to the corporation, not to shareholders directly. Moreover, even if New York law controls, the same principle applies, CRCM contends.

Judge Borrok disagreed, reasoning that a settlement allowing for direct payments to shareholders is allowed in a derivative action, as opposed to a successful adjudication of the matter, when any recovery must go to the corporation.

Alternatively, CRCM argued that if direct payments are allowed, the settlement proceeds should go to shareholders who were injured by the transaction, i.e. shareholders who took the dividend based on the lowballed valuation of Renren and others who didn't qualify to receive OPI shares.

An attorney for CRCM, Michael Rakower of Rakower Law PLLC, told Law360 they will appeal Judge Borrok's decision.

Lawyers for Chen and Chao did not immediately respond to requests for comment Friday.

The bulk of the settlement will be paid by OPI and Chen, while Duff & Phelps — now known as Kroll Inc. — the adviser that allegedly provided a cooked 'true value and fairness' opinion to help OPI allegedly loot Renren, is also on the hook. OPI and Chen may have to pay more once a final determination is made about the number of shares that will be covered by the settlement.

The plaintiff shareholders are represented by William Reid IV, Marc Dworsky, Jeffrey Gross, Nathaniel Palmer and Michael Yoder of Reid Collins & Tsai LLP; Mark Zauderer and Jason Cohen of Ganfer Shore Leeds & Zauderer LLP; Christine Mackintosh and Michael Bell of Grant & Eisenhofer PA; and James Notis and Jennifer Sarnelli of Gardy & Notis LLP.

Renren is represented by Christopher Malloy of Skadden Arps Slate Meagher & Flom LLP and Eliot Burriss of Katten Muchin Rosenman LLP.

Chen and OPI are represented by Allan Arffa, Gregory Laufer, Jonathan Hurwitz and Johan Tatoy of Paul Weiss Rifkind Wharton & Garrison LLP, as well as Andrew Kratenstein, M. Elias Berman and J. Greer Griffith of McDermott Will & Emery LLP. Chao and associated entities are represented by Adam Slutsky of Goodwin Procter LLP.

Duff & Phelps is represented by James Smith III, Michelle Tuma and Stephen D'Amore of Winston & Strawn LLP. SoFi is represented by James Kramer and William Foley of Orrick Herrington & Sutcliffe LLP.

CRCM is represented by Michael Rakower and Melissa Yang of Rakower Law PLLC.

The case is In re: Renren Inc. Derivative Litigation, case number 653594/2018, in the Supreme Court of the State of New York, County of New York.

--Editing by Patrick Reagan.

*Update: This article has been updated with additional counsel information.*