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Pickens Sues Lehman For \$59.9M

By **Denise Oliveira**

Law360, New York (October 08, 2008) -- Texas billionaire T. Boone Pickens has sued a unit of bankrupt investment bank Lehman Brothers Holdings Inc. for \$59.9 million in damages stemming from derivatives deals that were aborted after the bank filed for bankruptcy on Sept. 15.

The damages consist of unreimbursed collateral that had been posted by Pickens and four of his energy funds, according to Reuters.

Lehman's bankruptcy filing opened the door for Pickens to terminate his investment agreements with Lehman Brothers Commodity Services Inc., Pickens said in a complaint filed Monday in the Supreme Court of the State of New York, County of New York. And the agreements contemplated that damages would be due in the event of an early termination, according to Pickens.

"Lehman Holdings' filing for bankruptcy relief on Sep. 15, 2008, constituted an event of default under ... the master agreements," the complaint said.

Lehman Brothers' bankruptcy has been the largest in U.S. history.

Pickens sent Lehman a notice of termination on the day the bank filed for Chapter 11, according to the complaint.

Eight days later, on Sep. 23, he followed up with demand letters outlining the damages he believed he was entitled to: \$18,157,000 to him, and approximately \$41.8 million to his funds. The bank has not paid up, Pickens said.

Both Pickens' lawyer and Lehman Brothers Holdings declined to comment on Wednesday.

On Sep. 26, Bank of America Corp. sued three Lehman Brothers units to recover nearly \$500 million provided as collateral for derivative transactions, Reuters reported Tuesday.

Lehman's chief executive officer Richard S. Fuld Jr. faced a grilling by the House Oversight and Governmental Reform Committee on Monday.

"Nobody, including me, anticipated how the problems that started in the mortgage markets would expand into our credit markets and our banking system," Fuld told the committee. "I take full responsibility for the decisions that I made and for the actions that I took."

The hearing was the first in a series of five that the committee's chairman, Rep. Henry Waxman, D-Calif., said would take place over the course of three weeks to determine what went wrong in the financial sector and what regulations need to be installed to keep them from happening again.

Lehman creditors asked the bankruptcy court on Oct. 2 for permission to investigate whether JPMorgan Chase & Co. contributed to the company's cash crunch before Lehman filed for bankruptcy protection last month.

JPMorgan refused to make those assets available to Lehman, which may have contributed to the investment bank's liquidity problems, the creditors allege, saying discovery would be necessary in order to determine why JPMorgan essentially froze Lehman's account on Sep. 12.

In the newly filed suit, Pickens is represented by Haynes and Boone LLP.

Lehman Brothers's counsel could not be readily identified.

The case is T. Boone Pickens et al. v. Lehman Brothers Commodity Services Inc., case number 08602884, in the Supreme Court of the State of New York, County of New York.

-- Additional reporting by Evan Weinberger and Jacqueline Bell