

E&Y Settles HealthSouth Case for \$109M

Auditor for the scandal-ridden health-care provider will create investor fund as a result of the class-action agreement.

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Ernst & Young agreed to pay \$109 million as part of a settlement with HealthSouth shareholders stemming from the health care provider's earlier accounting scandal.

The accounting firm, which agreed to the settlement without admitting to or denying the allegations, had been named in a class-action lawsuit also brought against HealthSouth founder and former CEO Richard Scrushy; UBS, one of HealthSouth's former investment bankers; and three former UBS employees. The class is led by the New Mexico State Investment Council, Central States SE and SW Areas Pension, and several Michigan pension funds. Last October, UBS agreed to pay \$100 million for its role in the fraud.

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E&Y was HealthSouth's auditor from 1996 to 2002.

Terms call for a fund to be created for investors, according to court papers filed this week in the Birmingham, Ala., federal court case, the *Birmingham News* reported. The paper quoted Rob Riley, a Birmingham attorney for the plaintiffs, as saying that the deal is "a good settlement for the shareholders, many of whom thought they would never see any return of their investment."

"This settlement allows us to resolve the litigation brought by the shareholders of HealthSouth," Charles Perkins, an Ernst & Young spokesman, told the paper in an interview. U.S. District Judge Karon Bowdre scheduled a hearing for Thursday on whether to give preliminary approval to the accord.

In September 2006 HealthSouth agreed to pay \$445 million to settle several lawsuits stemming from the accounting scandal. In that deal, HealthSouth agreed to shell out \$215 million in common stock and warrants, and its insurance carriers paid \$230 million in cash. HealthSouth was to pay 25 percent of the net proceeds to the plaintiffs, after deducting its costs and expenses in connection with the litigation.

The latest payout was the result of the terms of that earlier settlement.

In June 2005, HealthSouth had agreed to pay \$100 million over two years to settle Securities and Exchange Commission civil charges stemming from the accounting scandal. The SEC alleged that HealthSouth overstated earnings by \$2.7 billion from 1999 to 2002 to meet Wall Street projections and boost its share price. Earlier in that year, Ernst & Young had turned the tables by suing HealthSouth for alleged

damages stemming from the medical rehabilitation chain's huge accounting fraud. E&Y claimed that the scandal exposed it to lawsuits and damaged its reputation.

As part of the June 2005 settlement, HealthSouth – which admitted no wrongdoing – also agreed to retain the services of consultants in the areas of governance, internal controls, and accounting to review policies and practices implemented under the new management team; provide training and education to appropriate officers; and continue to cooperate with the SEC and Department of Justice in their respective, ongoing investigations.

In 2005, Scrushy himself was acquitted of all charges linked to the accounting fraud. He and several executives had been accused of recording as much as \$2.7 billion of fake revenues on the company's books over six years, and correspondingly adjusting the balance sheets and paper trails. He later was convicted on fraud and bribery charges, and is now serving his sentence in a Beaumont, Tex., federal prison.

In May 2006, HealthSouth agreed to pay \$3 in a deal with the U.S. Department of Justice, which agreed to not indict the company on criminal charges.

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