# Kidder Will Pay Maxus $165 Million to Settle Insider Suit

By KURT EICHENWALD

Closing another chapter from the Wall Street scandals of the 1980's, Kidder, Peabody & Company has agreed to pay $165 million to the Maxus Energy Corporation to settle a lawsuit in which the Texas oil company contended that it was damaged by the insider trading of a former Kidder executive.

The civil settlement, announced Saturday night by Maxus, is the highest reached with a single company claiming to have been financially injured by illegal trading on Wall Street. It is more than six times the $25.3 million that Kidder agreed to pay the Government in 1987 to settle charges related to the insider trading of the former executive, Martin A. Siegel, once Kidder's top takeover star.

With the Maxus settlement, Kidder tentatively has put all of the lawsuits stemming from its employment of Mr. Siegel behind it. Several months ago, the securities firm reached an agreement in principle to settle all claims against it in a consolidated class-action suit in Federal court. That settlement, which still must be approved by the court, would cost the firm a maximum of $5[illegible] million, a Kidder spokeswoman said.

## Other Defendants

The resolution of the Maxus case, which has been slowly moving through the courts for some five years, came on the eve of the first day of jury selection, which is scheduled for today before Texas District Judge Adolph Canales in Dallas. The case against other defendants named by Maxus, including Mr. Siegel and Ivan F. Boesky, the former arbitrager who settled insider trading charges in 1986, is expected to proceed.

Maxus Energy, a successor of the Diamond Shamrock Corporation and a former Kidder client, had sought $2.25 billion in damages in its suit. Maxus contended that insider trading by Mr. Siegel and Mr. Boesky drove up the price of the stock of the Natomas Company, forcing Maxus to pay far too much in its 1983 acquisition of the San Francisco-based company.

The basic argument in the case was that Diamond Shamrock trusted Mr. Siegel as an adviser based on Kidder's recommendation of him. As a result, the oil company provided Mr. Siegel with confidential information, which he then turned over to Mr. Boesky in exchange for a promise of cash.

The huge claim had raised concern on Wall Street about Kidder and its parent, the General Electric Company, largely because of the reputation of Texas juries for awarding large damages in big business cases.

## Reserves in Place

In a statement yesterday, Kidder said the settlement would have no impact on its business because reserves for the situation had already been put in place. The firm said the settlement did not change its expectation that it would have a record year in 1992. General Electric said in a statement yesterday that the settlement by its brokerage subsidiary would have no impact on overall earnings.

But the settlement will have an enormous impact on Maxus, which has been struggling with financial difficulties. Since 1985, the Dallas-based company has posted losses in every year except one, and it is under enormous pressure from trying to pay down $796 million in debt as well as finance its aggressive oil and gas exploration in Latin America.

"This is a fair settlement for Maxus and its stockholders," Charles E. Blackburn, chairman and chief executive of Maxus, said in a statement. "The new capital we get in this transaction will enhance our ability to fund aggressive oil and gas exploration and development programs."

With the lawsuit out of the way, he added that Maxus would consider Kidder for future investment banking assignments.

Under the terms of the deal, Maxus will receive $165 million in cash almost immediately. Kidder will pay $125 million to Maxus; Kidder's holding company — the Kidder, Peabody Group — will pay Maxus $40 million, in exchange for five year warrants to purchase eight million common shares of Maxus at $13 a share.

Maxus closed Friday at $7 a share, down 25 cents, on the New York Stock Exchange. With a cost for the warrant equivalent to about $5 a share, Kidder's holding company, which would own 6 percent of Maxus if it exercised its warrants, would be able to recoup its $40 million payment and realize the full value of its Maxus shares if the stock hit $18 a share.

## Effect on Stock's Price

Such terms may actually restrain upward movement in Maxus shares in the future. With the market fully aware that one of the largest holders of the stock has a financial incentive to dump it at between $13 and $18, few investors would be enthusiastic about buying shares at that price if Kidder has exercised its warrants.

In a statement, Kidder said it continued to believe it would have been vindicated in court, but chose to settle to avoid the uncertainties and potential cost of protracted litigation.

"Our motivation for settling was to close the books on a lawsuit that has existed for more than five years and to avoid the costs and distractions of protracted litigation," said Michael A. Carpenter, chairman and chief executive of Kidder. "Resolving this case permits us to continue to focus our complete resources and attention on serving our clients and is in the best interest of Kidder, Peabody."

The settlement of the case came after a week of pretrial hearings in which little was going Kidder's way. Judge Canales rejected Kidder's motion for summary judgment in its favor, and also said he would not tell the jury that Mr. Siegel's actions should be considered those of a "renegade," saying instead that such a determination would rest with the jurors.