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# Settlements common in harassment cases like Cain's

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By David Ingram

WASHINGTON (Reuters) - Claims of sexual harassment like those swirling around Republican presidential candidate Herman Cain are often settled quietly by U.S. companies and organizations, regardless of whether the accusations are true, employment lawyers said.

Details of the allegations against Cain are scarce, but a key issue is whether his former employers settled with two women said to have accused him of inappropriate behavior.

Cain said in Washington on Monday that he never sexually harassed anyone and that he was falsely accused while he was head of the National Restaurant Association in the 1990s.

His comments followed a report by news website Politico that the restaurant industry lobbying group had settled complaints from the two women about his conduct.

"There are all kinds of typical business reasons why these matters get resolved outside of formal proceedings," said Barbara Brown, a partner at the law firm of Paul Hastings.

Reasons might include that the employer doesn't want to expend resources on a lengthy defense, even if there's a strong chance of winning; or that the employer wants to keep the matter secret to protect its reputation, lawyers said.

On the employee's side, a settlement that includes leaving the company also might seem an attractive way to move on.

"Often in those situations, the working relationship is soured, and those individuals are just as happy to leave and look for something else to do," Brown said.

It is standard for written settlement agreements to include confidentiality clauses, said Donald Livingston, a former U.S. Equal Employment Opportunity Commission general counsel.

"Part of the whole basis upon which to reach a settlement is to put the matter to rest, so that the settling parties can go on with their lives and their business, and a confidentiality clause is viewed as an important factor in enabling that to happen," said Livingston, now a partner at the law firm of Akin Gump Strauss Hauer & Feld.

## NO KNOWLEDGE-CAIN

Cain said on Fox News he had no knowledge that the restaurant association had settled allegations against him.

"If the restaurant association did a settlement, I wasn't even aware of it, and I hope it wasn't for much because nothing happened," he said.

Two lawyers said the comment surprised them.

Lynne Bernabei, a partner at Bernabei & Wachtel, said someone in Cain's management position or directly beneath him would have needed to sign the settlement agreement.

"It's unlikely he would not have known. If you're a mid-level manager, that might be true, but not if you're the head of the trade association," she said.

Ronald Green, partner at Epstein Becker & Green, said it would be "somewhat extraordinary" if Cain was unaware of the settlement as it is standard for parties in a harassment case to sign documents releasing each other from further claims.

"Since he was accused, he would be among those released, and he would certainly want to know that," Green said.

On the other hand, Livingston said Cain's denial of knowledge of a settlement is "quite believable, but not necessarily a 'best practice,' depending upon the overall facts and circumstances."

It is standard for an employer to conduct an internal inquiry of harassment allegations, including interviews of all parties, lawyers said.

## "NO BASIS" TO ALLEGATIONS - CAIN

Cain said that was the case at the restaurant association where, after the allegations against him arose, he said the general counsel and a human resources official investigated and concluded the complaints "had no basis."

Politico reported that the two women who accused Cain left the trade group, and that the agreements they signed gave them payouts of uncertain amounts.

Employees who don't resolve disputes internally have the option to file a complaint with a government agency.

In Washington, where the restaurant association has its headquarters, a private-sector employee would do so with the U.S. Equal Employment Opportunity Commission or the District of Columbia Office of Human Rights, lawyers said.

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