

# 2005 Mergers & Acquisitions

## September 15-16, 2005 • • Dallas,

### Thursday Morning, Sep. 15, 2005

#### Presiding Officer:

**Randy Finch**, CapStream - Houston, TX

10:00 am 1.17 hrs	<p><b>The Evolution of Private Equity Markets</b></p> <p>This session will examine how the private equity markets have changed in recent years and the implications of these changes for the future of the private equity industry. The discussion will focus on the opportunities and challenges associated with trends in private equity investing.</p> <p>W Clifford Atherton Jr., GulfStar Group - Houston, TX Peter S. Brodsky, Hicks, Muse, Tate, &amp; Furst Inc. - Dallas, TX William T. Charlton Jr., Ph.D., BH Equity - San Jose, CA Robert Parrino, University of Texas at Austin - Austin, TX Brent D. Williams, The Halifax Group - Dallas, TX</p>
11:25 am 0.82 hr	<p><b>New Barbarians? The Evolving Impact of Hedge Fund Activity in M&amp;A</b></p> <p>Hedge funds, flush with record levels of capital, are turning their attention to M&amp;A in ways beyond their traditional role as risk/merger arbitrageurs. The panelists will discuss the impact of innovative hedge fund strategies that have funds taking an increasingly prominent role in the corporate control game.</p> <p>Wilson Chu, Haynes &amp; Boone, LLP - Dallas, TX Patrick H. Daugherty, Highland Capital Management Lp - Dallas, TX Leon V. Komkov, Longroad Asset Management - Austin, TX B. Andrew Rabin, Goldman Sachs Group, Inc. - Dallas, TX</p>

### Thursday Afternoon, Sep. 15, 2005

#### Presiding Officer:

**Lawrence E. Glasgow**, Gardere Wynne Sewell LLP - Dallas, TX

12:15 pm 0.50 hr	<p><b>Sponsored Luncheon Presentation: Looking Ahead - The Deal Market in the Next Year</b></p> <p>A look at what is happening with deal trends, sector trends, and economics.</p> <p>Richard A. Lacher, Houlihan Lokey Howard &amp; Zukin - Dallas, TX</p>
1:30 pm 0.50 hr	<p><b>The Preliminary Documents: Confidentiality Agreements, Standstill Agreements, Exclusivity Agreements and Letters of Intent</b></p> <p>This session addresses the drafting and negotiation of several important documents that the parties to an M&amp;A transaction may wish to put in place before they negotiate the definitive acquisition agreement.</p> <p>Richard E. Climan, Cooley Godward LLP - Palo Alto, CA</p>

2:00 pm 1.00 hr	<p><b>State of the Art Deal Protection: Key Strategies and Provisions</b></p> <p>This session opens with a brief overview of various types of deal protection (including “no-shop/no-talk” provisions, board recommendation covenants, break-up fees and stockholder support agreements) and continues with a discussion of the fiduciary duties imposed on a target company’s directors when they consider these arrangements. [Particular attention will be given to the Delaware Supreme Court’s decision in the Omnicare case, and the implications of that decision both in acquisitions of public companies and in acquisitions of private companies.] The session includes a conversation between attorney and corporate development executive on negotiating and implementing effective deal protection strategies.</p> <p>Richard E. Climan, Cooley Godward LLP - Palo Alto, CA</p>
3:20 pm 1.17 hrs	<p><b>The Art of the Auction - Risks, Rewards and Strategies</b></p> <p>Counseling clients, both sellers and bidders, on the legal, financial, and deal-making risks of various common forms of auctions and auction-like bidding processes.</p> <p>Stuart C. Maudlin, Auctus Development - Houston, TX  Kevin Miller, Alston &amp; Bird LLP - New York, NY  Charles C. Szalkowski, Baker Botts, L.L.P. - Houston, TX  Greg Weinberger, Credit Suisse First Boston LLC - New York, NY  Richard M. Westwood, Browne &amp; Co. - Minneapolis, MN</p>
4:30 pm 1.00 hr	<p><b>Current Developments in Structuring and Executing Leveraged Buyouts (LBO)</b></p> <p>What’s happening with LBO’s: perspectives of the private equity investor, asset-based lender, financier, syndicator, and attorney.</p> <p>Jeff S. Fronterhouse, Brazos Private Equity Partners, LLC - Dallas, TX  Mary R. Korby, Weil Gotshal &amp; Manges LLP - Dallas, TX  Michael E. Rogers, Ernst &amp; Young, LLP - Dallas, TX  Pete Vaky, Sun Trust Humphrey Capital Markets - Atlanta, GA  Loren Willet, LaSalle Business Credit, LLC - Dallas, TX</p>

## Friday Morning, Sep. 16, 2005

### Presiding Officer:

**Michael E. Rogers**, Ernst & Young, LLP - Dallas, TX

8:30 am 1.25 hrs	<p><b>Getting the Deals Done in a Heightened Regulatory and Enforcement Environment: Domestic and International Experiences</b></p> <p>In the aftermath of Enron, WorldCom, Tyco and Parmalat and the adoption of the Sarbanes-Oxley reforms, transactions generally are subject to greater regulatory scrutiny and heightened due diligence requirements, as well as more difficult to negotiate. Three experienced international M&amp;A practitioners will discuss potential pitfalls and how acquirors and targets deal with them before they put the transaction in jeopardy.</p> <p>Ann Beth Bejgrowicz, Skadden, Arps, Slate, Meagher &amp; Flom - New York, NY  David A. Katz, Wachtell, Lipton, Rosen &amp; Katz - New York, NY  Jonathan Lampe, Goodmans LLP - Toronto, Canada</p>
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9:45 am 0.50 hr	<p><b>While Most Deals Don't Work, A Few Do</b></p> <p>Numerous studies have shown that a majority of transactions fail to meet expectations and destroy value. However, applying leading practices can increase the odds of success.</p> <p>Jeffrey S. Perry, Ernst &amp; Young LLP - Chicago, IL</p>
10:30 am 1.25 hrs	<p><b>Busted M&amp;A Deals Headed for Litigation: What Happens When Bad Things Surface between Signing and Closing</b></p> <p>You've worked hard on that M&amp;A transaction, but just before the deal is done, you learn some unsettling information about the soon-to-be-acquired company. What should you do? Back out? Renegotiate? Close and sue for breach of representation? Experienced M&amp;A lawyers will lead you through these muddy waters and bring you up-to-date on your rights and explore what can happen if you end up in the courthouse. You will learn what the buyer's and seller's obligations are in the period between signing and closing, how to address potential problems in the drafting stage, and techniques for effectively counseling clients in resolution of disputes concerning pre-closing issues and positioning them for litigation.</p> <p>R. Franklin Balotti, Richards, Layton &amp; Finger, P.A. - Wilmington, DE  Nathaniel L. Doliner, Carlton Fields, P.A. - Tampa, FL  Byron F. Egan, Jackson Walker L.L.P. - Dallas, TX  George W. Patrick, American Water Works Service Company, Inc - Voorhees, NJ  H. Lawrence Tafe III, Day, Berry &amp; Howard LLP - Boston, MA</p>
11:45 am 0.75 hr	<p><b>Current Developments in Distressed M&amp;A - Strategies and Techniques</b></p> <p>Trends, techniques and legal issues in buying and selling distressed companies, in and out of bankruptcy court.</p> <p>Adam Dunayer, Houlihan Lokey Howard &amp; Zukin - Dallas, TX  Michael W. Tankersley, Export-Import Bank of the United States - Washington, DC</p>

## Friday Afternoon, Sep. 16, 2005

### Presiding Officer:

**Wilson Chu**, Haynes & Boone, LLP - Dallas, TX

1:45 pm 1.50 hrs	<p><b>Emerging Deal Terms and Practices</b></p> <p>"Anecdotal Lawyer" on the other side of the table keeps telling you "his proposals are market." Other than the perfectly valid inquiry as to how he alone knows what constitutes "market," what can you do? This panel will show you how you can meet "Anecdotal Lawyer" head-on with actual empirical data as to how deals are really negotiated. From the information provided in this presentation, you'll be able to separate fact from fiction on market terms for key legal issues, including: "Catch-all" representations and warranties; How wrong can the seller be without giving buyer a walk right?; "MAC attacks"; "Sandbagging rights"; and Indemnification baskets, caps, and exclusive remedy limitations.</p> <p>Wilson Chu, Haynes &amp; Boone, LLP - Dallas, TX  Keith A. Flaum, Cooley Godward LLP. - Palo Alto, CA  Lawrence E. Glasgow, Gardere Wynne Sewell LLP - Dallas, TX  E. Allen Jacobs, Charles River Associates, Inc. - Dallas, TX</p>
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