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Deals, Capital and Restructurings



October 15–16, 2009
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MERGERS AND ACQUISITIONS INSTITUTE
Deals, Capital and Restructurings

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THURSDAY MORNING, OCTOBER 15, 2009

Presiding Officer:
Wilson Chu, Institute Co-Chair,
K&L Gates LLP, Dallas, TX

8:00 a.m. Registration Opens
Includes continental breakfast.

8:50 a.m. Welcoming Remarks

9:00 a.m. 1.00 hr

**Opportunities in Distressed M&A:
A Field Guide to Acquiring Distressed
Companies and Assets**

A panel of distressed investors, restructuring advisors and bankruptcy lawyers discuss their approaches to identifying, valuing and acquiring distressed companies and assets. Learn about the pitfalls, opportunities, investment approaches and due diligence required to do well in this sector.

Moderator:

Jeffrey A. Jones, Barrier Advisors, an affiliate of Highland Capital, Dallas, TX

Panelists:

Hendrik F. Jordaan, Holme Roberts & Owen LLP, Denver, CO

Leon V. Komkov, Longroad Asset Management, LLC, Austin, TX

10:00 a.m. 1.00 hr

**Corporate Deal Makers Roundtable:
Licking Wounds...or Licking Chops?**

M&A activity has ebbed over the past 18 months. As the downturn plays out, all agree a very different deal-making world will emerge. With the private equity investor currently in retreat, an even brighter spotlight shines on the corporate deal maker. Hear a distinguished panel of experienced M&A players on the Corporate Deal Makers Roundtable. Discussion includes: how are corporate deal makers responding to the current market challenges—what are the risks, what are the opportunities? How will corporates shape the future deal landscape? Will the M&A market in 2010 see more of the same? What will the pressure points be for buyers and sellers? How has the current deal environment changed the dynamics of a deal?

Moderator:

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

Panelists:

John R. Adams, Kimberly-Clark Corporation, Irving, TX

Peter O. Broussard, Celanese Ltd, Dallas, TX

Albert K. Hoover, AT&T Inc., Dallas, TX

11:00 a.m. Break

11:15 a.m. 1.25 hrs

Public Company M&A in 2009: Trends and Developments

The public company M&A marketplace has changed significantly from just a few years ago. This panel of experienced public company M&A practitioners discusses today's public company deal trends, how parties are addressing deal terms in this challenging market, as well as issues arising out of the recent litigation surrounding broken deals.

Moderator:

James R. Griffin, Fulbright & Jaworski, LLP, Dallas, TX

Panelists:

John Finley, Simpson Thacher & Bartlett LLP, New York, NY

Mark A. Morton, Potter Anderson & Corroon LLP, Wilmington, DE

Eileen T. Nugent, Skadden, Arps, Slate, Meagher & Flom LLP, New York, NY

THURSDAY AFTERNOON

Presiding Officer:
Larry E. Glasgow, Institute Co-Chair,
Gardere Wynne Sewell LLP, Dallas, TX

LUNCHEON PRESENTATION

12:30 p.m. Buffet Luncheon

Included in conference registration fee.

1:00 p.m. .50 hr

**Institutional Investing at UTIMCO:
Challenges, Opportunities and Alignment
of Interests**

Presented by Bruce Zimmerman, Chief Executive Officer and Chief Investment Officer, The University of Texas Investment Management Company (UTIMCO), Austin, TX.

1:30 p.m. Break

1:45 p.m. .75 hr

Takeover Preparedness and Defenses

Discussion of recommended approaches to assess a public company's structured preparedness to deal with hostile activities.

David A. Katz, Wachtell, Lipton, Rosen & Katz, New York, NY

Neel Lemon, Baker Botts L.L.P., Dallas, TX

2:30 p.m. 1.25 hrs

State of the Art Deal Protection

The possibility of bidding contests and "topping" bids makes deal protection measures even more critical in today's M&A market. This session covers various types of deal protections (including "no shop/no talk" provisions, board recommendation covenants, break-up fees and stockholder support agreements), and also addresses the fiduciary duties imposed on a target company's directors when they consider these arrangements.

Richard E. Climan, Dewey & LeBoeuf LLP, East Palo Alto, CA

Keith A. Flaum, Dewey & LeBoeuf LLP, East Palo Alto, CA

3:45 p.m. Break

4:00 p.m. .50 hr

The Role of Investment Bankers and Independent Financial Advisors

Coverage of the role of investment bankers in M&A transactions, fairness opinions, disclosure issues and conflicts of interest.

Stephen M. Kotran, Sullivan & Cromwell, LLP, New York, NY

Kevin Miller, Alston & Bird LLP, New York, NY

4:30 p.m. 1.00 hr

In-House M&A Counsel Roundup

A panel of in-house M&A attorneys discuss success stories and lessons learned in teaming with outside counsel to plan and execute strategic acquisitions and divestitures.

Moderator:

John W. Wesley, Kimberly-Clark Corporation, Dallas, TX

Panelists:

Dana Brooks Bourland, Koch Companies Public Sector LLC, Wichita, KS

Jennifer L. Kercher, Google Inc., Mountain View, CA

David J. Milan, Essilor of America, Inc., Dallas, TX

Robert H. Stone, AmerisourceBergen Specialty Group, Inc., Frisco, TX

5:30 P.M. SPONSORED RECEPTION

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Presiding Officer:
Nicholas V. Beare, Stephens Inc.,
Dallas, TX

8:00 a.m. Conference Room Opens
Includes continental breakfast.

8:30 a.m. .50 hr

Hey, I've Got Your Money Right Here! Today's Sources of Financing for Mid-Market Deals

A review and update of current sources of financing for mid-market deals—who's got the money and what are the terms?

David Hallett, Lazard Middle Market LLC,
Minneapolis, MN

9:00 a.m. .83 hr

Private Equity Roundtable

The global credit crisis has impacted private equity deal-making in many ways. The decreased availability of credit, the paucity of buyers and the mismatch of expectations between buyers and sellers all have contributed to a dramatic slowdown in deals. A panel of private equity investors discuss the internal and external challenges they face in executing deals and how they work through these issues. The panel also discusses how their investment criteria have changed, what kinds of deals are getting done in today's market and how to take advantage of the current environment.

Moderator:

Rick A. Lacher, Houlihan Lokey Howard & Zukin,
Dallas, TX

Panelists:

Edward Herring, HM Capital Partners LLC,
Dallas, TX

Peter Stein, Trinity Hunt Partners, Dallas, TX

Cliff W. Vrielink, Vinson & Elkins LLP, Houston, TX

Kneeland Youngblood, Pharos Capital Group, LLC,
Dallas, TX

9:50 a.m. .75 hr including .50 hr ethics

Rule of Law or Rule of Awe: Fiduciary Duties in M&A Transactions

Directors and officers owe fiduciary duties to the corporations they serve. When the company is under financial stress and subject to regulatory pressures to quickly take major actions, directors may be called upon to truncate normal vetting processes in making decisions about M&A transactions. The speakers discuss significant recent cases and share insights for counseling directors in difficult situations.

Byron F. Egan, Jackson Walker L.L.P., Dallas, TX

Mark A. Morton, Potter Anderson & Corroon LLP,
Wilmington, DE

10:35 a.m. Break

10:50 a.m.

1.00 hr

Maximizing Seller Leverage in a Buyer's Market

Does today's buyer's market really mean that a seller has no choice but to enjoy a beating by the "Golden Rule" (she who has the gold makes the rules)? With a focus on process as well as provisions, the speakers drill down into negotiation strategies designed to win the "Seller's Trifecta" (get your number, get your deal closed, and get sleep at night) even in the throes of a down-market.

Mary R. Korby, Weil, Gotshal & Manges LLP,
Dallas, TX

Carl R. Sanchez, Paul, Hastings, Janofsky & Walker LLP,
San Diego, CA

11:50 a.m.

1.17 hr

Mock Negotiations of Key Deal Terms

This panel—consisting of seasoned M&A attorneys from across the U.S.—stage an interactive "mock" negotiation to illustrate the "give and take" between the parties in an acquisition of a publicly traded or privately held company. Among the potentially controversial provisions addressed by the panelists are key representations and warranties, walk rights, non-reliance clauses, "sandbagging" clauses and indemnification provisions.

Wilson Chu, K&L Gates LLP, Dallas, TX

Richard E. Climan, Dewey & LeBoeuf LLP,
East Palo Alto, CA

Larry E. Glasgow, Gardere Wynne Sewell LLP, Dallas, TX

Joel I. Greenberg, Kaye Scholer LLP, New York, NY

1:00 p.m.

Adjourn

ABOUT THE COVER



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For more information, call 512-499-8357.

**COMMENTS FROM PAST
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INSTITUTES**

"An excellent seminar overall—particularly for the price and the location. Generally have to go to NY or California for similar quality."

"I am a small firm lawyer working with owners of closely held businesses as sellers or buyers. This annual conference is invaluable and has been, for me, a must-go event for the last 4 years. It has made me money and added solid sophistication to my deal negotiations—made me look like a genius on a deal last year."

"The In-House Counsel Panel was done right."

"Information was very timely and up-to-date; the speakers were exceptionally knowledgeable."

"I would certainly recommend this event to my colleagues."

"I like the mock negotiation of deal terms."

"Great panelists, topical subject matter."

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☐ Registration Fee after Wednesday, October 7, 2009 \$645.00

Association for Corporate Growth Members

- ☐ Early Registration Fee due by Wednesday, October 7, 2009 \$570.00
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Allow 3–5 weeks from the conference date for delivery.

- ☐ Course Binder Without Conference Registration \$200.00
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KEY DATES

October 7, 2009, 5 p.m.
last day for early registration
add \$50 for registrations
received after this time

October 9, 2009, 5 p.m.
last day for full refund

October 12, 2009, 5 p.m.
last day for partial refund
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October 15, 2009, 9 a.m.
conference begins

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