

FOCUS

AKIN GUMP 2010 ANNUAL REVIEW

AKIN GUMP
STRAUSS HAUER & FELD_{LLP}



“You can’t depend on your eyes when your imagination is out of focus.”

— Mark Twain, *A Connecticut Yankee in King Arthur’s Court*, 1889



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■ An Interview with R. Bruce McLean



R. Bruce McLean
Chairman

Q: What kind of year was 2010 for the firm and its clients?

A: In our 2009 annual review, we said that we expected 2010 to show the first fruits of the efforts by clients to take stock and rebuild after the global financial crises. The economy's direction and level of vitality in 2010 proved harder to determine than some had expected or hoped. Nevertheless, our clients were able to take concrete, constructive action that helped them move forward, even with the continued post-crisis dislocation. What I found heartening was the fact that our work style, our work ethic—full, firmwide collaboration across practices—helped many of our clients, whose challenges often didn't fall neatly into one area.

For the firm as a whole, 2010 was a time for us to pursue our strategic initiatives to grow the firm in a way that benefits both stakeholders and clients. We expanded our European footprint by opening our Geneva office in May. These partners and their team will add depth and strength to our capabilities in international arbitration and civil litigation, corporate and tax, as well as offer clients world-class counsel at a center of European multinational decision-making. We also brought on board marquee attorneys and advisers in key practices, including intellectual property litigation, policy and regulation, corporate and energy. It's a tribute to the strength of our platform that we were able to lure such strong talent to join us.

Q: What message would you want readers to take away from this annual review?

A: The overall theme for this review is “Focus on Clients.” Consistent with that focus, which is our guiding principle as a firm, we thought that, rather than use the annual review to talk about our achievements, we would use this occasion to focus on the stories our clients’ matters have to tell. Stories about innovation, perseverance and accomplishment in the face of uncertainty. No one would claim that these are boom times, yet our clients have businesses to run and enterprises to build, and they’ve hired us to help them achieve their goals. They’re the reason we come to work each morning, and, for that reason, we want to feature their stories in this annual review.

I spoke earlier about our collaborative approach and how it has helped us serve clients whose challenges were broader than any single practice. So take, for example, something like the economic crisis. Governments’ and other players’ initiatives were developing simultaneously along regulatory, legislative and political tracks. We encountered multiple opportunities to serve clients by collaborating to offer different blends of our transactional, advocacy and policy counsel because this was the best way to see that each situation was handled

appropriately and effectively. We have 14 offices linked across 16 time zones, staffed by over 800 lawyers in over 85 practices—that’s a remarkable wealth of legal, business and policy knowledge—and I’m proud to say that there are few challenges our clients face that this blended approach can’t address efficiently and effectively.

So, in short, what I hope readers take away from this report is the knowledge that, because of our experience and knowledge and because of the excellence of our attorneys and staff, Akin Gump can help them with just about any sort of legal challenge. More importantly, though, I hope that readers recognize themselves in the clients we’ve already helped, whose stories and successes are the inspiration for this book.



■ ■ FOCUS on Client Service

“And what is that law [of successful achievement]? First of all, it is to have a goal; not a vague, fuzzy goal, but **a sharply focused objective.**”

— Norman Vincent Peale, *You Can If You Think You Can*, 1974

Transactions

Polaris Energy Nicaragua, S.A.

Akin Gump represented Polaris Energy Nicaragua, S.A. (PENSA) as project counsel in PENSA's development and financing of the San Jacinto project, the largest geothermal power plant in Nicaragua's history. The \$160 million Phase II project financing is Nicaragua's largest project financing to date. The Phase II financing, when combined with the Phase I financing (also closed by the Akin Gump team), represents an overall project financing of nearly a quarter-billion U.S. dollars.

The Phase II financing was structured by International Finance Corporation (IFC) and consisted of a consortium of lenders including IFC, the Inter-American Development Bank, Central American Bank for Economic Integration, Deutsche Investitions- und Entwicklungsgesellschaft mbH, Nederlandse Financierings-Maatschappij voor Ontwikkelingslanden N.V., Oesterreichische Entwicklungsbank AG and Société de Promotion et Participation pour la Coopération Economique.

The transaction is widely recognized as one of the most challenging and structurally complex in the region. The financing structure consists of two independent credit facilities both sharing a single collateral package. The security documentation involves security interests in the United States,

Nicaragua and Panama. The structure of the deal was further complicated by the fact that there is a single power purchase agreement with a private offtaker (a subsidiary of Gas Natural Fenosa SA from Spain) and a single government concession over the geothermal resource.

Akin Gump was able to approach the proposed financing with current financing market knowledge and advised PENSA on the requirements of the project financing market as they developed through the course of the economic downturn.

Given the lack of recent project financing history in the Nicaraguan market, the deal team had to be creative in developing innovative financing structures to accommodate the requirements of the lenders. The successful closing of the financing has been a "game changer" for Nicaragua and the region as a whole, leading to new interest in financing infrastructure projects in Nicaragua at a level never before seen in the market. Lending institutions have now opened their doors to financing large-scale infrastructure projects in the country and have begun actively pursuing financing mandates.

■ Transactions

MLPs—Elimination of IDRs and Other Transactions

In 2010, Akin Gump's work on behalf of energy sector clients allowed us to maintain our position as one of the leaders in the practice of energy law, particularly with respect to master limited partnerships (MLPs). Among numerous other MLP transactions, Akin Gump was a primary participant in three (or 42 percent of the) MLP incentive distribution rights (IDR) elimination transactions announced in 2010 and five (or 56 percent of the) MLP IDR elimination transactions that have been announced since the creation of the first MLP. During 2010 alone, Akin Gump represented a variety of participants in MLP-related transactions, including: Capital Product Partners, L.P.; Exterran Energy Partners, L.P.; Penn Virginia GP Holdings, L.P.; Eagle Rock Energy Partners, L.P.; Genesis Energy Partners, L.P.; Regency Energy Partners, L.P.; El Paso Pipeline Partners, L.P.; Holly Energy Partners, L.P.; Western Gas Partners, L.P.; Enterprise Products Partners, L.P.; and Natural Gas Partners, L.P.

In one notable engagement, an Akin Gump team represented Penn Virginia GP Holdings, L.P. (PVG) in its proposed \$1.1 billion merger with Penn Virginia Resource Partners, L.P. (PVR). The deal, a stock-for-stock exchange, would eliminate PVR's incentive distribution rights via an equity recapitalization in which PVG unitholders would receive 0.98 of PVR shares in exchange for each PVG share owned at the time of closing. The deal is expected to (i) decrease PVR's cost of capital, (ii) increase its trading liquidity, (iii) streamline its capital structure and (iv) give its unitholders the right to elect all directors of its general partner's board.

“We think that the lower cost of capital that is expected to result from the merger, and the simplified partnership structure, will position Penn Virginia Resources to take advantage of accretive market opportunities and grow our quarterly distribution.”

— William Shea, CEO, Penn Virginia Resources and Penn Virginia GP Holdings

■ Transactions

Apollo Management LP – Lyondell Chemical Co.

Akin Gump represented Apollo Management LP, which was both a member of a lending group providing debtor-in-possession (DIP) financing to fund Lyondell Chemical Co.'s operations through bankruptcy and one of the company's largest pre-petition first lien lenders. Lyondell is the third-largest independent chemical manufacturer in the United States; its bankruptcy was the second-largest chemicals sector chapter 11 case in history.

Since Lyondell's chapter 11 filing in January 2009, Akin Gump, on behalf of Apollo, played a leading role in Lyondell's restructuring. First, Akin Gump assisted in the structuring and formulation of one of the largest-ever debtor-in-possession financings, which included a unique roll-up DIP during a time when capital markets were virtually frozen. Second, we represented Apollo as the largest backstopper of a \$2.8 billion rights offering that provided the company the necessary liquidity to exit chapter 11. Third, Akin Gump defended Apollo in the \$20 billion fraudulent conveyance litigation brought by the Official Committee of Unsecured Creditors, stemming from the leveraged buyout of Lyondell by Basell in 2008. This litigation was ultimately settled on the eve of a trial in February 2010 largely as a result of Akin Gump's efforts on behalf of Apollo. Fourth, Akin Gump, as counsel to the largest first lien lender, took the lead in negotiating, documenting and finalizing the settlement of various intracreditor disputes during the case, including settlement with, among others, (i) \$325 million in roll-up DIP lenders, (ii) \$475 million of first lien bondholders,

(iii) \$8 billion in second lien bank lenders, (iv) \$1 billion in unsecured subordinated noteholders who brought claims of fraudulent conveyance and breach of contract, (v) \$200 million of unsecured bondholders who claimed various entitlements due to intercompany loans and (vi) the Unsecured Creditors Committee on matters unrelated to the fraudulent conveyance lawsuit.

This chapter 11 case included a number of unique items. For example, due to the judge's decision to put all of the "Financing Party Defendants" into one category of defendant, Akin Gump needed to team up with counsel to each of the pre-petition second lien lenders as well as the Ad Hoc Group of First Lien Lenders in defending each aspect of the litigation. This involved Akin Gump working, and filing coordinated pleadings, with a half-dozen law firms. Most interesting, however, was the fact that, in different parts of the chapter 11 case (which were occurring at the same time), Akin Gump was adverse to the second lien lenders, and as such, needed to cooperate with, and advocate against, the second lien lenders at the same time.

In the service of our client, our lawyers were at the forefront of each of the items and matters listed above. Ultimately, the bankruptcy court's approval of the settlement with the Unsecured Creditors Committee in March 2010 paved the way for the chapter 11 plan to go forward. On April 30, 2010, Lyondell emerged from chapter 11 under the control of its senior secured lenders.

■ Transactions

Official Committee of Unsecured Creditors of General Growth Properties Inc.

Akin Gump represented the Committee in the chapter 11 filings of General Growth Properties Inc. and certain of its subsidiaries—the largest real estate chapter 11 filings in history. Unable to refinance either past-due or upcoming debt maturities, General Growth had filed for chapter 11 in April 2009, listing \$29 billion in assets and approximately \$27 billion in liabilities.

After defeating, with the Committee's assistance, a multitude of motions to dismiss the chapter 11 cases, General Growth commenced a plan process bifurcated between the restructuring of the secured debt residing at the "Project-Level Debtors" and the unsecured funded debt residing with the "TopCo Debtors," its 126 corporate-level entities. Beginning on December 15, 2009, and continuing thereafter, General Growth confirmed plans of reorganization for 262 of the Project-Level Debtors, restructuring approximately \$15 billion in secured debt covering 108 loans.

Simultaneously, General Growth pursued a restructuring for the TopCo Debtors, filing a joint plan of reorganization in July that proposed to satisfy the claims of all unsecured creditors in full, including accrued pre- and post-petition interest. In order to fund the TopCo Debtors' restructuring, General Growth raised \$8.5 billion in new committed capital—one of the largest committed financings in chapter 11 history—from an investor group led by Brookfield Asset Management, Inc., Pershing Square Capital Management, L.P. and the Fairholme Funds, Inc.

Guided by Akin Gump, the Committee achieved significant success during General Growth's chapter 11 proceedings, including opposing the onerous post-petition financing facility proposed by the Debtors at the outset of the cases and helping to facilitate an auction among prospective lenders, all of which resulted in General Growth obtaining a \$400 million debtor-in-possession facility on terms vastly better than the original facility they proposed. General Growth also became the first debtor to have its common stock relisted on the New York Stock Exchange during a chapter 11 proceeding.

As a result, despite commencing its cases under particularly dire circumstances, in November, General Growth Properties and its related debtors emerged from chapter 11 with unsecured creditors receiving payment in full with interest.

■ Transactions

Colony Capital

As competitive and economic pressures reduced expected yields, Colony was challenged to employ the entrepreneurial investment strategy that had resulted in attractive risk-adjusted returns for the past 17 years.

Colony has historically thrived in distressed markets, positioning itself to exploit not only inefficiencies and illiquidity in real estate and financial markets, but also its experience of partnering with the government. In the current distressed environment, we represented Colony in a variety of transactions geared to maintaining its historically successful strategy by helping Colony in its investment in the out-of-favor mortgage sector, which has continued to play to its strengths in the distressed market and government ventures, maintaining activity in an area that has been virtually flat for its competition.

In this vein, we represented Colony in numerous acquisitions and dispositions in the distressed commercial mortgage arena, including loan pool purchases from both the government and various financial institutions, and post-acquisition strategic dealings with the underlying credits, including loan dispositions to other financial institutions, workouts with borrowers and REO transactions on the underlying security when appropriate.

More significantly, in addition to these outright purchase and sale transactions, we represented Colony in transactions that utilized its strength in partnering with the government. As a result, Colony successfully embarked on public-private joint venturing with the FDIC on billions of dollars of distressed and defaulted commercial real estate-secured debt from the portfolios of multiple failed banks, at attractive risk-adjusted returns. In these transactions, Colony took the lead role in the strategic management, ongoing servicing, work-out and other resolutions of the underlying properties and credits for the resulting venture. Our ongoing work for Colony continues in the implementation of these efforts, including both transaction-based solutions and litigation and foreclosure regarding the underlying real estate in particular circumstances.

■ Transactions

Max Capital Group Ltd.

Akin Gump client Max Capital Group Ltd., a Bermuda-based insurance and reinsurance company, agreed to a \$3 billion merger of equals with privately held Harbor Point Ltd., a property-casualty reinsurer. The combined operations were renamed and rebranded as Alterra Capital Holdings Limited as of May 2010. Alterra Capital is now a global enterprise dedicated to providing diversified specialty insurance and reinsurance products. This merger of equals was one of the most significant reinsurance deals done in 2010.

Amidst a backdrop of global economic uncertainty and continually tight credit markets, Max sought a synergistic merger partner with which to complete a transaction that was both accretive and strategic in its objectives. Despite a turbulent market for M&A transactions, Max and Harbor Point identified strong mutual synergies and commenced initial discussions in November 2009. The companies effectuated a merger of equals on an expedited basis in a move that increased the combined company's capital base and created substantial diversity in both product lines and geography.

Akin Gump served as chief legal advisor to longtime client Max. The team structured the transaction and advised on all aspects of the transaction, including deal protections, tax, benefits and diligence. The deal got a green light on February 2, 2010, and definitive documentation was signed on March 2. Despite significant requisite regulatory approvals from the Securities and Exchange Commission (SEC) and the insurance departments of Bermuda, Connecticut and Delaware, the deal was completed in 60 days on May 12, 2010. The speed and ease with which the Max/Harbor Point transaction was completed was no small legal feat, but was done seamlessly. Akin Gump continues to serve as counsel for the new entity, Alterra Capital.

■ Transactions

FirstEnergy Corp. and Allegheny Energy Corp. Merger

In 2010, an Akin Gump team represented FirstEnergy Corp. in its merger with Allegheny Energy, Inc. in an \$8.5 billion stock-for-stock transaction. The transaction, which was unanimously approved in February 2010, officially closed on February 25, 2011; the merged companies now comprise a leading regional energy provider, servicing more than six million customers in the Midwest and mid-Atlantic regions. The new company focuses on both regulated utility operations and a competitive generation business and, as a result of the merger, is more strategically positioned for growth, boasting more than \$16 billion in total annual revenues and more than \$1.4 billion in annual net income.

Mubadala Development Company/Verno Capital Fund

Akin Gump represented Mubadala Development Company (Mubadala), the Abu Dhabi-based strategic development and investment company in its \$100 million investment into the Verno Capital Fund, a specialist fund manager in the capital markets of Russia and the CIS. The transaction represented Mubadala's first investment in the Russian market, paving the way for future investment opportunities in the broader region.

Bridas Corporation/CNOOC

During 2010, we represented our client of long standing, Bridas Corporation, in two transformative marquee deals.

First, in March, Bridas sold a \$3.1 billion stake in its business to CNOOC Ltd., the Chinese state-owned oil company, resulting in a 50-50 joint venture and helping both organizations to reach new geographies and increase CNOOC's reserves. Then, in November, Bridas agreed to acquire BP's 60 percent stake in Pan American Energy LLC (PAE) for \$7.059 billion. Bridas currently owns a 40 percent interest in PAE. The transaction is expected to close in the first half of 2011. Funds raised in this divestiture by BP will be used to help cover an estimated \$40 billion in damage claims following the oil spill in the Gulf of Mexico.

Each of these transactions required the support of a deep and nimble legal team. For Bridas, Akin Gump's long-term understanding of its business operations and strategy, and of the trends and challenges in the energy sector at large, translated into effective and timely deal execution.

■ Transactions

VimpelCom/WIND TELECOM Merger

On October 4, 2010, VimpelCom Ltd., an emerging market mobile telecoms operator, signed a deal to combine with WIND TELECOM S.p.A. Upon completion, this landmark transaction will create the world's sixth-largest mobile telecommunications carrier by subscribers, with pro forma adjusted net operating revenues of \$21.3 billion, and will allow our client to diversify its revenue base with developed and emerging market assets.

WIND TELECOM is the holding company for both Orascom Telecom Holding S.A.E. and Wind Telecomunicazioni S.p.A. Under the terms of the transaction, VimpelCom will acquire 51.7 percent of Orascom Telecom, an Egyptian mobile telecommunications company listed on the Egypt and London stock exchanges and operating in key markets in the Middle East, Africa and Asia, and 100 percent of Wind Telecomunicazioni, a leading Italian telecommunications operator. At closing, the selling shareholders of WIND TELECOM will receive shares representing approximately a 20.0 percent economic interest and 30.6 percent voting interest in the post-acquisition VimpelCom and up to \$1.495 billion in cash. In addition, certain assets will be demerged from the combined group at, or shortly after, closing. The deal is expected to close subject to certain conditions being met in the first half of 2011.

On completion, the expanded VimpelCom will have operations in 19 countries in Europe, Asia, Africa and North America, with approximately 838 million people living within its coverage area. VimpelCom's existing license portfolio covers the whole of Russia and Ukraine, as well as Kazakhstan, Uzbekistan, Tajikistan, Georgia, Armenia, Kyrgyzstan, Vietnam and Cambodia.

■ Transactions

Special Committee of the Board of Directors of AmeriCredit Corp.

We represented the Special Committee of the Board of Directors of Fort Worth, Texas-based AmeriCredit Corp., a leading independent automobile finance company that provides financing solutions through auto dealers nationwide, in its \$3.5 billion acquisition by General Motors (GM).

GM noted that, “The acquisition establishes the core of a new GM captive financing arm that will enable GM to provide customers with a more complete

range of financing options, while creating significant growth opportunities for both GM and AmeriCredit.” The new entity, to be known as “GM Financial,” intends to work with dealers to expand financing and leasing options for consumers by providing more access to subprime lending and leasing.

“To create something exceptional, your mindset must be relentlessly focused on the smallest detail.”

— Giorgio Armani, CNN interview, 2006.

Advocacy

Kinetic Concepts, Inc., et al. v. Smith & Nephew PLC, et al.

Our clients Kinetic Concepts, Inc. (KCI) and Wake Forest University won a major trial victory in a critical case of patent infringement involving the Vacuum Assisted Closure system of wound treatment. After nearly four weeks of trial and eight days of deliberation, a San Antonio jury returned a unanimous verdict against Smith & Nephew (S&N), one of the world's largest wound care companies. All 39 jury questions were answered in favor of our clients, finding infringement by S&N and upholding the validity of the Wake Forest patents—despite prior decisions in the U.K. and Germany invalidating the equivalent foreign patents. Based on this verdict, our clients are seeking a permanent injunction to stop S&N from selling negative pressure wound therapy products. This case was of particular importance to KCI because it has two other actions pending against alleged infringers whose products threaten to erode its market share in its segment of the medical products market.

Minerva Industries Inc. v. Motorola Inc., et al.

For the past four years, Akin Gump led the wireless phone industry's defense of a major case over the invention of smartphone technologies, including Internet access, camera, video, GPS, Bluetooth, voice control and replaceable memory card features. In doing so, we have represented Motorola, Samsung, Nokia, LG, HTC, Kyocera, AT&T, Verizon, T-Mobile, Sprint Nextel and several other wireless service providers. In conjunction with the litigation, Akin Gump also led two *inter partes* reexamination proceedings involving the patents-in-suit, including the largest *inter partes* reexamination request in U.S. Patent and Trademark Office history. The reexamination proceedings led to the rejection of all asserted claims of both patents based on substantial new questions of patentability presented by prior art located and analyzed by our team. Judge Charles Everingham in the Eastern District of Texas issued an extremely favorable claim construction ruling that led to the elimination of over 70 percent of our clients' products from the case and a summary judgment of invalidity on one of the patents-in-suit. The rest of the litigation is in the final stages of settling on very favorable confidential terms for our clients.

Elektrim Finance B.V.

Akin Gump represented Elektrim Finance B.V. in a decade-old dispute arising out of a battle for corporate control over a Polish telecommunications company. Despite having been brought in only one month before hearings on the merits were to begin, our team guided Elektrim Finance through a hard-fought dispute settlement that resulted in a dismissal of all claims against our client.

In 1999, both T-Mobile Deutschland and Vivendi S.A. took an interest in the Polish wireless telephone company, Polska Telefonia Cyfrowa Sp. z o.o. To facilitate its intended takeover of Polska Telefonia in light of local law preventing foreign majority ownership of Polish telecom companies, Vivendi partnered with a Polish company, Elektrim S.A., and established a joint venture with Elektrim S.A. that operated through a holding company.

In order to raise funds to participate in the acquisition, Elektrim Finance, a wholly owned special purpose vehicle for Elektrim S.A., issued €500 million of Euro-linked exchangeable bonds, guaranteed and exchangeable into those of Elektrim S.A. Over time, Vivendi invested \$2.5 billion to acquire a 51 percent interest in the holding company, which ultimately came to own a total of 51 percent of the Polska Telefonia stock. It was this ownership position that was then challenged by T-Mobile Deutschland. Subsequently, Elektrim S.A. changed

hands, and it transferred the disputed shares to T-Mobile Deutschland after a previous award in favor of the latter.

Complicating matters, in 2005, the bond trustee accelerated the bonds and filed a bankruptcy petition against Elektrim S.A., and then commenced litigation against numerous Elektrim affiliates in order to secure the assets and set aside transactions that were detrimental to creditors and reduced the value of the debtor's assets. As part of its efforts to secure the debtor's assets, the bond trustee seized the shares in Polska Telefonia. This, in turn, led to litigation against the trustee by all those that claimed to own the seized Polska Telefonia shares.

This contest ultimately spawned 20 litigations and arbitrations across Europe, all of which the parties tried to settle in early 2006. However—after weeks preparing the settlement agreements but prior to their signature—the balance of power again shifted such that the settlement negotiations terminated, and Vivendi filed an arbitration to enforce the alleged settlement agreement on the grounds that all of its essential terms had been agreed, with only the formality of signature missing. Barring specific performance of the settlement agreement, the claimants demanded damages in excess of \$4 billion.

■ Advocacy

Akin Gump was brought in to try the case one month before the hearings on the merits were to begin. Given the amount at stake and the history of the dispute, the hearings were particularly hard-fought; involved several thorny legal issues under Swiss, Polish and Dutch law; and were complicated further by the existence of numerous respondents, each with its own defenses. More than once, respondents gave in to the temptation of taking positions that complicated those of our client.

After weeks of hearings on the merits—and immediately prior to the tribunal issuing its award—the parties settled their dispute. As part of the settlement, all claims against Elektrim Finance were to be dismissed, and its creditors to be paid in full.

*“If you want to hit a bird on the wing, you must **have all your will in focus**, you must not be thinking about yourself, and equally, you must not be thinking about your neighbor: you must be living in your eye on that bird. Every achievement is a bird on the wing.”*

— Oliver Wendell Holmes Jr., *Speeches*, 1913

Europe-based Global Industrial Conglomerate

Akin Gump served as lead defense counsel to a Europe-based global industrial conglomerate (the Company) and affiliated entities and individuals in a high-profile criminal export and sanctions enforcement investigation led by the U.S. Commerce Department's Bureau of Industry and Security (BIS), in coordination with the Department of Justice Office of the National Coordinator for Export Enforcement (DOJ) and the Treasury Department's Office of Foreign Assets Control (OFAC). Our firm was engaged following the imposition of a Temporary Denial Order (TDO) suspending the U.S. export privileges of the Company, a number of affiliates and named directors, as well as an unrelated foreign entity and an unrelated Iranian party.

Over a two-year period, a team of Akin Gump lawyers from our international trade and government investigations and litigation practices successfully defended the clients' interests and negotiated a landmark coordinated global settlement of the case with BIS, DOJ and OFAC. Under the settlement, a subsidiary of the Company entered a plea in the U.S. District Court for the District of Columbia to a two-count criminal information in connection with the illegal export of U.S.-origin goods from the United States to Iran. Under the plea, this entity agreed to pay a criminal fine of \$2 million and was placed on corporate probation for a period of five years. To resolve related civil charges with BIS and OFAC, the Company and the subsidiary entered a joint settlement agree-

ment with those two agencies involving payment of a fine of \$13 million over a unique two-year extended payment schedule, plus a suspended amount of \$2 million and a suspended five-year denial order (with suspension conditioned on future compliance with U.S. export controls and sanctions). The terms allow the Company to resume business involving U.S. goods, technology and commercial interests going forward.

Four significant outcomes for our client in this complex, cross-border matter are notable: (i) the combined civil and criminal penalty amount agreed to in the final settlement is a very small portion of potential penalties that could have been imposed by BIS, OFAC and DOJ under 2007 revisions to penalty assessment guidelines under the International Emergency Economic Powers Act (IEEPA) Enhanced Penalty Act; (ii) under the settlement, no punitive action was taken against any individual officers of the Company; (iii) the Company concluded a novel joint settlement with BIS, OFAC and DOJ involving provisions for annual audits and reporting (only the second of its kind) that provided an important basis for mitigation under the settlement; and (iv) the Company secured an unprecedented two-year schedule for payment of the civil fine to BIS and OFAC.

■ Advocacy

Pendergest-Holt v. Certain Underwriters at Lloyd's of London

In 2009, the Securities and Exchange Commission and Department of Justice brought charges against Allen Stanford and three other Stanford Financial executives for allegedly operating an \$8 billion Ponzi scheme. The Stanford defendants subsequently sought coverage for up to \$100 million for their defense costs, pursuant to a directors and officers insurance policy issued by our clients, a group of underwriters at Lloyd's of London ("Underwriters"). In November 2009, Underwriters denied coverage based on a money laundering exclusion that precludes coverage for defense costs for claims that arise from acts of money laundering, as defined in the policy. The criminal defendants sued Underwriters in the Southern District of Texas and obtained a preliminary injunction requiring Underwriters to continue paying their defense costs through the conclusion of their criminal cases.

On appeal, in a case of first impression, Akin Gump persuaded the 5th Circuit that the policy's money laundering exclusion permitted Underwriters to seek a judicial determination on coverage before the civil or criminal actions concluded. The 5th Circuit remanded the case to the district court to determine whether money laundering had, in fact, occurred.

Following a week-long evidentiary hearing in the district court, Judge Nancy F. Atlas issued a 45-page opinion finding Underwriters had proven that each of the criminal defendants had engaged in acts of money laundering. Judge Atlas vacated a prior judge's preliminary injunction requiring Underwriters to pay defense costs and denied a stay of her order pending appeal, finding the criminal defendants had "little likelihood of success" on any appeal from her ruling.

The victory is particularly significant to our clients (and has received substantial coverage in the press) given its precedential value, as this was the first court to construe and apply this money laundering exclusion. This success was the result of a combined effort from lawyers in all of Akin Gump's Texas offices, as well as an appellate team based in Los Angeles.



DOJ and SEC Insider Trading Defense

In a widely publicized case involving the first-ever use of wiretaps to investigate alleged insider trading, Akin Gump represents the founder and managing general partner of The Galleon Group of hedge funds, Raj Rajaratnam, in both a criminal case, filed by the U.S. Attorney for the Southern District of New York (SDNY), and a civil insider trading case, filed by the Securities and Exchange Commission in SDNY. The government alleges approximately \$50 million in unlawful gains from insider trading.

A central issue in both the criminal and civil cases involves more than 18,000 recordings of conversations involving more than 550 individuals, obtained via wiretaps by the FBI. Akin Gump has moved to suppress these wiretaps in a *Franks* hearing (which specifically allows a defendant to challenge a search warrant in cases where “the defendant makes a substantial preliminary showing that a false statement knowing and intentionally...was included by the affiant in the warrant affidavit”) in the criminal case and has successfully opposed the SEC’s request for the wiretap evidence in the civil action, obtaining an order from the 2nd Circuit reversing the district court’s order requiring the wiretap recordings to be turned over to the SEC in discovery. Our motion to suppress the wiretap evidence in this matter raises significant issues of first impression in a case that the government has heralded as the beginning of a new era of electronic surveillance in white collar cases. The case also presents unique and

unprecedented issues regarding the use and disclosure of wiretap evidence in parallel civil and criminal proceedings.

Shortly after the indictment, Akin Gump had received the wiretap recordings from the government in order to prepare Mr. Rajaratnam’s criminal defense. Following a superceding indictment and months of reviewing the 18,000 recordings, we moved to suppress the wiretap evidence in the criminal case, on the grounds that: (i) the government failed to disclose to Judge Lynch—who granted the wiretap application—that their source for probable cause had a prior fraud conviction and an extensive record of lying and (ii) the government knowingly and misleadingly neglected to inform Judge Lynch about a lengthy joint investigation by the FBI, U.S. Attorney’s Office and SEC that had, in fact, obtained all of the information that the government claimed it could not obtain, thus necessitating the wiretap.

On July 27, 2010, Judge Holwell held a hearing on the motion to suppress in the criminal case and two weeks later issued an order stating: “Rajaratnam has made a substantial preliminary showing that the government recklessly or knowingly misleadingly omitted several key facts from its March 7 affidavit,” failing to tell Judge Lynch about the SEC investigation, the receipt of four million documents and the taking of testimony of 23 Galleon employees, including

■ Advocacy

Rajaratnam. As a result, Judge Holwell ordered a *Franks* hearing in which three government witnesses were examined and over 200 exhibits were admitted. The court, in a lengthy opinion scolding the government for its misbehavior, denied our motion. We are confident of reversal on appeal if that becomes necessary.

In the civil matter, the SEC, which is not authorized to conduct wire surveillance, requested the wiretap evidence in civil discovery from the defendants. Akin Gump moved to quash this discovery request pending a determination in the criminal case as to whether the wiretap evidence was lawfully obtained. Judge Rakoff denied our motion and declared our request to certify the question for the 2nd Circuit to be “frivolous.” Nevertheless, the 2nd Circuit granted our request for an emergency stay of Judge Rakoff’s order and scheduled argument of the matter.

Following argument, the 2nd Circuit issued a 54-page opinion, in which a three-judge appellate panel ruled in favor of our client. The 2nd Circuit’s opinion—authored by the same Judge Lynch to whom the government applied for the initial wiretap on Mr. Rajaratnam’s phone—held that Judge Rakoff’s production order in the SEC case was “clearly outside the range of permissible decisions.” The court granted a writ of mandamus and vacated Judge Rakoff’s order.

Recently, Judge Rakoff ordered the “relevant” intercepts produced to the SEC and scheduled the SEC civil action to follow the conclusion of the criminal trial, which was scheduled to begin on March 8, 2011.

■ Advocacy

In re Philadelphia Newspapers, LLC, et al.

In February 2009, Philadelphia Media Holdings LLC; PMH Acquisition LLC; Broad Street Video LLC; Philadelphia Newspapers LLC; Philadelphia Direct, LLC; Philly Online, LLC; PMH Holdings, LLC; Broad Street Publishing, LLC; and Philadelphia Media, LLC (the Debtors), the owners of *The Philadelphia Inquirer*, the *Philadelphia Daily News* and Philly.com, filed for bankruptcy in Philadelphia. In the bankruptcy proceeding Akin Gump represented the Steering Group of Senior Secured Lenders.

After months of litigation regarding the bankruptcy, an auction for substantially all of the assets of the Debtors was held on April 23, 2010, and the Senior Secured Lenders prevailed. The purchasing entity, Philadelphia Media Network, owned by the Senior Secured Lenders, was represented by Akin Gump as it prepared to take ownership of *The Philadelphia Inquirer*, the *Daily News* and Philly.com. As part of this effort, Akin Gump represented Philadelphia Media Network in labor negotiations seeking substantial concessions in 15 new collective bargaining agreements.

Due to opposition from the International Brotherhood of the Teamsters, a second auction of substantially all of the assets of the Debtors was held on September 23, 2010. Once again, Philadelphia Media Network prevailed at the auction. After the second auction, Akin Gump continued to represent Philadelphia Media Network in labor negotiations and achieved the ratification

of 15 new collective bargaining agreements. The new collective bargaining agreements obtain significant concessions for Philadelphia Media Network and eliminate all defined benefit pension plans.

On October 8, 2010, Philadelphia Media Network became the owner of *The Philadelphia Inquirer*, *Philadelphia Daily News* and the Web site Philly.com.

■ Advocacy

Koike v. Starbucks Corporation

In 2010, our longtime client Starbucks Corporation successfully defeated a multimillion-dollar wage and hour lawsuit. The plaintiffs were two former Starbucks employees, Roya Koike and Adam Odnert, who claimed that assistant store managers performed work “off the clock” without pay. The plaintiffs sought unpaid wages, unpaid overtime, penalties and attorneys’ fees on behalf of a class of several thousand current and former assistant managers in California. They commenced the action in San Francisco Superior Court in April 2006, which Starbucks then removed to the United States District Court for the Northern District of California.

The parties then engaged in more than two years of intensive discovery, including the production of more than 10,000 documents and multiple depositions of company executives and other witnesses in Seattle, San Francisco and Los Angeles. The plaintiffs also moved to restrict Starbucks’ ability to communicate with putative class members; however, Starbucks successfully defeated this motion. Starbucks then moved for summary judgment regarding Odnert’s claims and opposed Koike’s class certification motion. Starbucks argued that the company had no knowledge of any alleged off-the-clock work by Odnert, and that knowledge was an individualized issue that precluded Koike’s class claims. In July 2008, the district court agreed, granting summary judgment against Odnert and denying Koike’s motion for class certification.

In March 2009, after Koike settled her individual claims, a putative class member named Shaun Nguyen—represented by the same attorneys—intervened in the case to appeal the class certification decision. On May 5, 2010, following more than a year of appellate proceedings and oral arguments, the 9th Circuit unanimously affirmed, despite a recent wave of class decisions in this circuit that are unfavorable to employers. Then, on July 22, 2010, our client’s victory was confirmed when the 9th Circuit denied Nguyen’s petition for rehearing en banc.

United Parcel Service

United Parcel Service (UPS) is the world's largest package delivery company, transporting more than 15 million packages and documents per business day throughout the United States and to more than 200 countries and territories. UPS is also one of the largest customs brokers and freight forwarders in the world, interacting daily with customs administrations around the globe. In the United States, UPS works closely with U.S. Customs and Border Protection (CBP) at its express carrier facilities and virtually all U.S. ports of entry and exit.

Given its large international trade volume, and despite a close working relationship with CBP, UPS has had fines levied by CBP for unintentional errors on customs import entry filings. UPS has appealed CBP's decisions, arguing that the fines are not necessarily supported by law, but the appeal process rarely results in reversal of the agency's stance. The dollar volume of the fines, while not a welcome cost of doing business, did not trouble UPS as much as the disagreement with CBP over the interpretation of some of the laws governing customs brokers, coupled with the apparent futility of any appeal or protest effort.

In this matter, CBP sought to recover monetary penalties against UPS Custom-house Brokerage, Inc. (UPS/CHB), alleging that UPS/CHB had failed to exercise "responsible supervision and control" in connection with a series of non-intentional tariff misclassifications that resulted in no duty or fee loss to

CBP. In fact, UPS relied in this case on tariff classifications that appeared on commercial documentation, such as invoices.

Beginning in 2004, UPS and Akin Gump contested CBP's allegation in a series of proceedings before the U.S. Court of International Trade (CIT) and the U.S. Court of Appeals for the Federal Circuit (CAFC). One of the critical issues in the litigation was whether CBP had to consider each element of the "responsible supervision and control" requirement. Unfortunately, the CIT initially ruled after a 2007 trial that UPS failed to exercise "responsible supervision and control," that CBP was not required to consider each element of that requirement and that CBP had the discretion to issue multiple monetary penalties for the misclassifications. UPS decided to appeal this decision before the CAFC.

At the CAFC, UPS and Akin Gump appeared before a three-judge panel and argued that the plain meaning of the law, its history and CBP's own previous decisions in other cases required that the agency consider each element of the "responsible supervision and control" requirement before issuing any fines. In a case of first impression, the CAFC evaluated this novel argument and issued a favorable decision on August 11, 2009, finding (i) that CBP was required to show that it had considered each element of the "responsible supervision and control" requirement before initiating any penalty case and

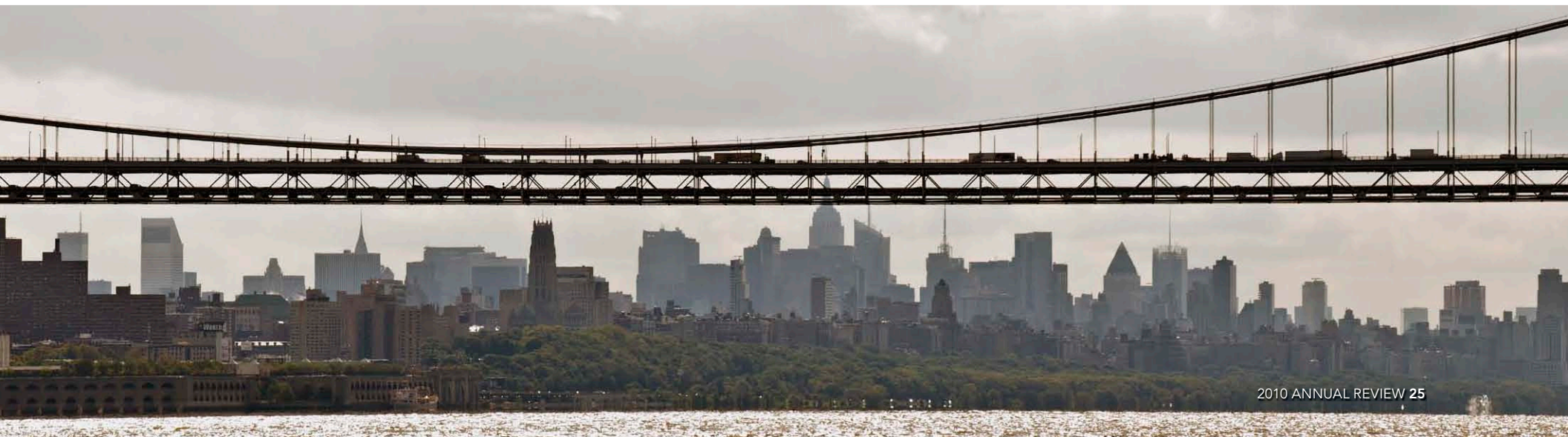
■ Advocacy

(ii) that it had not done so at the 2007 trial. The CAFC remanded the case to the CIT and, effectively, threw out the entire penalty case because CBP had not satisfied this condition precedent to a penalty case.

Upon remand, the CIT addressed the CAFC decision. Because the CAFC decision found that CBP did not consider all 10 regulatory factors in the definition of “responsible supervision and control” and that the CIT erred in upholding CBP’s determination that the agency was not required to consider each factor, the CIT found the main issue on remand to be whether CBP can “correct its error and demonstrate that it should be able to recover the penalty.” After Akin Gump and UPS and CBP submitted briefs, the CIT issued

an opinion and answered clearly and unambiguously that the answer was no; as a consequence, in a favorable and final outcome to this litigation, the CIT issued judgment in favor of UPS/CHB.

These decisions have a significant and positive impact for both UPS/CHB and the U.S. customs brokerage industry because now, by law, CBP has to consider all of the regulatory factors before issuing penalties or other sanctions for alleged violations of the “responsible supervision and control” requirement. The CIT’s decision sets positive precedent on various customs issues, including the burden of proof CBP has in a customs broker penalty (and, possibly, other types of customs monetary penalty proceedings).



Antidumping Cases

In 2010, the international trade practice achieved three significant victories on behalf of three separate clients in antidumping duty proceedings before the U.S. Department of Commerce. In each instance, our trade lawyers were successful in exempting our clients from antidumping duty liability, resulting in a cost savings of millions of dollars to their enterprises.

Our lawyers represented Shienq Huong Enterprise Co., Ltd., the largest Taiwanese producer of narrow woven ribbons, in the U.S. antidumping duty investigation of narrow woven ribbons from Taiwan. In the Department of Commerce's July 19, 2010, final determination, Shienq Huong received a de minimis antidumping duty rate. As a result, Shienq Huong was exempted from the antidumping duty order issued by the Department of Commerce, and its shipments of narrow woven ribbons to the United States are free and clear of antidumping duties.

We also represented POSCO, the fourth-largest steel company in the world, in the U.S. antidumping duty administrative review of corrosion-resistant carbon steel flat products from Korea. In the Department of Commerce's March 22, 2010, final results, POSCO received a de minimis antidumping duty rate. As a result, POSCO's shipments of corrosion-resistant steel to the United States are subject to a 0.00 percent antidumping duty cash deposit rate. The firm continues to represent the company in subsequent review proceedings.

Additionally, we represented Kolon Industries, one of the largest petrochemical companies in the Republic of Korea, in the U.S. antidumping duty administrative review of polyethylene terephthalate (PET) film from Korea. In the Department of Commerce's November 19, 2010, final results, Kolon Industries received a de minimis antidumping duty rate. As a result, Kolon Industries' shipments of PET film to the United States are subject to a 0.00 percent antidumping duty cash deposit rate. The firm continues to represent the company in subsequent review proceedings.

Policy and Regulation

Ukraine Anticorruption Investigation

Akin Gump represents the government of Ukraine in a wide-ranging investigation of allegations of financial corruption in transactions entered into by government agencies under the administration of former Prime Minister Yulia Tymoshenko. The investigation, which was ordered by the Cabinet of Ministers in April 2010, received extensive press attention and represented the first time a national government in the former Soviet Union engaged U.S. law firms to conduct an independent anticorruption investigation.

Working in collaboration with another U.S. law firm and a major London-based international consulting firm, Akin Gump directed a team of lawyers and investigators in Kyiv and Washington, D.C. in a comprehensive investigation of a group of cross-border financial transactions previously executed by Ukrainian government officials. The team's final report revealed evidence of misapplication of hundreds of millions in public funds and apparent fraud involving the highest levels of the previous administration, specific ministries and private corporations.

The investigation proceeded over a period of four months with teams of lawyers, investigators and analysts working in Kyiv, London and Washington, D.C. All investigative activity in Ukraine was conducted in collaboration with officials of the Main Control and Revision Office of the Finance Ministry of the Ukraine. The investigative team employed a full range of modern analytical tools, including forensic accounting and extensive electronic databases, and conducted traditional human intelligence work that included numerous interviews of witnesses.

The investigation resulted in a comprehensive final report that included several volumes of documentary evidence to support the findings in the report. From the beginning, there were no limitations of any kind placed on the scope, depth or details of the investigation. This investigation carried no subpoena power or other legal means to compel cooperation by individual witnesses. Only in a few limited instances did individual government employees resist or otherwise fail to cooperate in the investigation.

In the course of the investigation, several transactions were identified in which government ministries and public enterprises suffered substantial monetary losses involving funds that were transferred outside Ukraine. Where appropriate, the investigative team recommended that legal action be taken by the government of Ukraine and its constituent agencies against companies responsible for these losses. As a result, civil suits have been initiated in the federal courts of the United States and the High Court of Justice of England and Wales. In December 2010, the Cabinet of Ministers of Ukraine authorized an expanded investigation of corrupt transactions that affected the State Material Reserve in an effort to formulate claims against, and recover losses from, companies and banks outside Ukraine.

■ Policy and Regulation

On the Leading Edge of Financial Services Regulatory Reform

In July, President Obama signed the Dodd-Frank Wall Street Reform and Consumer Protection Act into law. During much of 2009 and the first half of 2010, Akin Gump professionals in the public law and policy practice worked with a number of financial services firms to ensure that their interests were protected as this far-reaching legislation moved through the Congress. Specifically, our lawyers and advisors helped a leading stock exchange, a major credit rating agency, one of the world's largest mutual funds, the private mortgage insurance industry and myriad hedge funds and investment advisors navigate the complexities of the legislative process. At the same time, we advocated with key policymakers on issues that were of critical importance to our clients, including provisions in the legislation that would fundamentally alter the regulation of the over-the-counter derivatives market, regulations affecting the credit rating industry and proposed changes to the securitization process for asset-backed securities. Our team of dedicated professionals interacted on a daily basis with members and staff on the key congressional committees, including the House Financial Services Committee and the Senate Banking, Housing and Urban Affairs Committee, as well as with congressional leadership in both chambers. As the banking regulators, the SEC and the Commodity Futures Trading Commission implement the legislation, our financial services policy practitioners will continue to advise clients on the opportunities and risks presented by this legislation, as well as provide guidance on its regulatory impact.

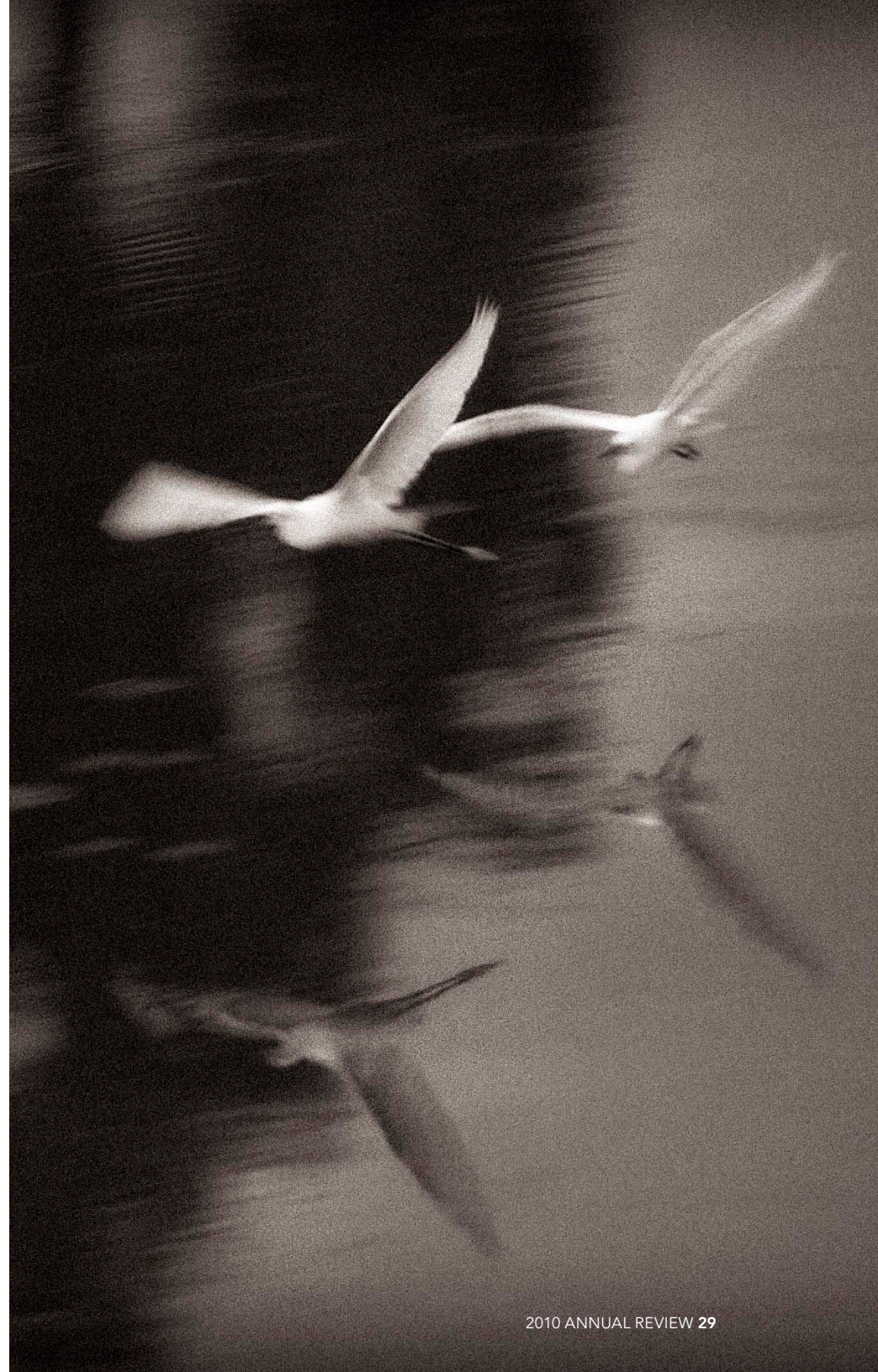
Working to Reform the Patent System

Akin Gump professionals in the public law and policy practice represent the Coalition for 21st Century Patent Reform—a diverse group of nearly 60 corporations representing leaders in technology and innovation across the economy. Our lawyers and advisors have been at the forefront of collaboration with policymakers in Congress and the administration to improve a patent system that has not kept pace with the global economy. Akin Gump's expertise in negotiating the complicated political, legislative and administrative landscape has, for the first time, produced reform legislation that is supported by a bipartisan group drawn from the Senate, the House and the executive branch. We were also able to expand our coalition to incorporate America's leading universities, trade associations, labor unions and venture capitalists through diligent engagement in the policy process that occurs outside of the Congress in the conference rooms of stakeholders. Over the course of the debate, Akin Gump's team was viewed by policymakers not merely as advocates, but as a resource for expertise and honest, thoughtful legal analysis—creating answers to complicated questions of patent law and bringing the effort additional supporters. In the current Congress, we expect patent reform again to be an issue of congressional action, and one where a lasting bipartisan consensus can emerge. We will continue to engage with our multifaceted strategy that combines intellectual force with political adeptness.

■ Policy and Regulation

Crow Tribe

A team of Akin Gump lawyers and advisors was instrumental in the passage of the Crow Water Rights Settlement Act of 2010, which President Obama signed into law in December as part of the Claims Resolution Act of 2010. This is the second time that the firm has passed a significant water settlement bill in a lame duck session of Congress. In addition to very difficult negotiations with the federal government over the size and scope of the federal contribution to the settlement—one of the largest-ever for an Indian water rights settlement—the firm had to develop a coalition of other water settlements and then put that coalition together with the other settlements that formed the Claims Resolution Act of 2010, as well as find a way to pay for it with offsets. As a result, the settlement provides the Crow Tribe with water rights in excess of 1,000,000 acre feet per year, as well as over \$460 million in federal benefits, including a clean drinking water system for the Crow Reservation, rehabilitation of a dilapidated irrigation project on the reservation, a clean energy development fund and hydropower development rights on the Big Horn River.



■ Policy and Regulation

UnitedHealthcare Crosses Antitrust Hurdles to Close Acquisitions

Akin Gump represents UnitedHealthcare regularly on antitrust issues related to mergers and acquisitions, including a series of acquisitions and related investigations during 2010 that positioned the company for the changes being brought by health care reform legislation. We handled the antitrust investigations of United's acquisition of the nationwide health insurance business of Principal Life Insurance Company, its deal for Health Net's health plan business in the northeast and other transactions that drew varying degrees of antitrust scrutiny. In the acquisitions of Health Net's competing business in New York, Connecticut and New Jersey, for example, the transaction was investigated by the Antitrust Division of the U.S. Department of Justice (DOJ), the Connecticut Department of Insurance, the Connecticut Office of the Attorney General and regulators in New York and New Jersey. The American Medical Association and the Connecticut Medical Society actively sought to block the transaction, given the direct overlaps between the merging parties' business, moving to intervene and offering expert and fact testimony to the Connecticut Department of Insurance. We developed the antitrust arguments and expert testimony presented to the Connecticut Department of Insurance that underlay a published decision from the department on antitrust issues rejecting the arguments of the medical societies that will be helpful in future transactions. All federal and state regulators ultimately cleared the

matter. The parties completed the transaction without divestitures and within the timeframe originally expected. This was the first public health plan merger review by the DOJ during a time of intense scrutiny of health plans amidst the debate over health care reform and was highlighted by the assistant attorney general for the Antitrust Division in a speech on May 24, 2010.



THE AMERICAN LAWYER—45 UNDER 45 Recognizing Kerry Berchem as one of “the best young women lawyers in The Am Law 200.”

CALIFORNIA LAWYER—ATTORNEYS OF THE YEAR Naming Catherine Conway and Rex Heinke to its annual Attorneys of the Year list in recognition of their appellate victory on behalf of Starbucks in *Chau v. Starbucks Corp.*

CORPORATE BOARD MEMBER—AMERICA’S BEST CORPORATE LAW FIRMS Ranking Akin Gump as one of the nation’s top 20 national corporate law firms in an annual survey of senior officers and directors of U.S. publicly traded companies.

THE DAILY DEAL—TOP COMPLETED FINANCIAL SERVICES MERGERS IN 2010 Recognizing Max Capital Group Ltd.’s \$3 billion acquisition of Harbor Point Ltd. as one of the top completed financial services deals of 2010. Akin Gump served as legal advisor to Max Capital Group Ltd. on this transaction.

THE DAILY DEAL—TOP M&A DEALS OF 2010 Recognizing the sale of Philadelphia Newspapers LLC, the publisher of *The Philadelphia Inquirer* and *Philadelphia Daily News*, as one of the top M&A deals of 2010. Akin Gump represented the Steering Group of Secured Lenders of Philadelphia News.

THE DEAL—FACES OF DEAL LAWYERS Recognizing John Goodgame as one of eight of the best up-and-coming transactional law talents.

EUROWEEK—EMERGING MARKETS DEAL OF THE YEAR Naming the LUKOIL Eurobond the Emerging Markets Deal of the Year. Akin Gump served as legal advisor to LUKOIL on this transaction.

FINANCIAL TIMES—U.S. INNOVATIVE LAWYERS Naming Dino Barajas as one of 10 U.S. attorneys recognized as an Innovative Individual and highlighting his structuring of the Polaris Geothermal project financing.

LAW360—TOP EMPLOYMENT DEFENSE FIRMS Naming Akin Gump as one of five employment defense firms that “stood out for their work on some of the year’s major cases.”

LAW360—TOP INSURANCE FIRMS Naming Akin Gump as one of six top insurance firms.

LEGAL 500 UK Recognizing Akin Gump as one of the top firms in the U.K. in the areas of Equity Capital Markets, M&A (both U.K. and U.S. capabilities), International Arbitration, Debt Capital Markets, Investment Funds, Hedge Funds, Private Funds and Projects, Energy and Natural Resources.

THE LEGAL INTELLIGENCER—TOP LATERAL HIRES Recognizing Dianne Elderkin, Steve Maslowski and Barbara Mullin as the top lateral hires in Pennsylvania in 2010.

M&A ADVISOR—WOMAN DEALMAKER OF THE YEAR Naming Christine LaFollette “Woman Dealmaker of the Year” at the 9th Annual M&A Advisor Awards and Summit.

THE NATIONAL LAW JOURNAL—APPELLATE HOT LIST Naming Akin Gump to the list for the third year in a row.

NATIONAL LAW JOURNAL—WASHINGTON’S MOST INFLUENTIAL WOMEN LAWYERS Naming Patricia A. Millett to the 2010 list.

THE WALL STREET JOURNAL—FIVE MOST IMPORTANT M&A DEALS OF 2010 Naming the CNOOC/Bridas Corporation joint venture and the CNOOC/Bridas Corporation/Pan American Energy acquisition as two of the most important M&A deals of 2010. Akin Gump served as legal advisor to Bridas on these transactions.



■ ■ FOCUS on Public Service

“...being human is being always directed, and pointing, to something or someone other than one's self...Only to the extent that someone is living out this self-transcendence of human existence, is he truly human or does he become his true self. **He becomes so, not by concerning himself with his self's actualization, but by forgetting himself and giving himself, overlooking himself and focusing outward.**”

— Viktor Frankl, *The Unheard Cry for Meaning*, 1997

■ ■ Pro Bono Practice



Steven Schulman
Pro Bono Partner

Letter from Pro Bono Partner Steven Schulman

My Akin Gump colleagues and I are problem solvers, and we take this skill and attitude to our pro bono work. As we do in our commercial practices, we represent a diverse array of pro bono clients and help them through myriad legal issues, from the refugee seeking asylum to the charter school trying to secure a facility in which to teach its students.

Our work is not limited to the problems that come to our doors, though plenty do. We also help legal services organizations develop projects to address critical community needs. In Washington, D.C., for example, we formed an “SSI SWAT Team” to help the D.C. Bar Advocacy & Justice Clinic deal with a backlog of social security disability cases. Working together, our attorneys have represented nearly 20 disabled individuals, securing for them needed benefits so they can live safely and securely. As you will read in the following pages, we took this same initiative with KIPP, a national network of innovative charter schools. In 2006, we called KIPP’s general counsel and asked whether KIPP would be interested in a firm serving as the organization’s national pro bono counsel. Nearly five years later, KIPP is our largest pro bono client, with more than 130 Akin Gump attorneys across the firm pitching in to help these charter schools fulfill their mission of educating low-income children and putting them on the path to college.

Through our pro bono practice, our lawyers work in homeless shelters, in rural immigration detention centers and in the U.S. Supreme Court. Across these varied venues, what ties our lawyers together is an enduring sense of mission—to provide our pro bono clients with first-rate legal services that help them solve their problems.

A handwritten signature in black ink that reads "Steven Schulman".

■ Pro Bono

Pro Bono Partnerships

- Appleseed
- American Bar Association Military Pro Bono Project
- Bronx Defenders
- Capital Area Immigrants' Rights Coalition
- Catholic Charities
- Children's Law Center
- Center for Justice and Accountability
- Dallas Volunteer Attorney Program
- DC Bar Justice and Advocacy Clinic
- Environmental Defender Law Center
- Human Rights First
- Human Rights Initiative
- Injured Marines Semper Fi Fund
- InMotion
- Legal Aid Society of New York
- National Center for Refugee and Immigrant Children
- ProBAR Asylum Project
- Public Counsel Law Center
- Scholar Rescue Fund
- Tahirih Justice Center
- Texas Appleseed
- Texas Bar Legal Assistance to Military Personnel
- Texas C-Bar
- Volunteer Legal Services of Central Texas
- Washington Legal Clinic for the Homeless
- Western Center on Law and Poverty
- Whitman-Walker Clinic



Obtaining Military Survivorship Benefits

The wounds of war are not always physical and immediate, and their consequences sometimes require lawyers rather than doctors. In one matter, Gen. James F. Amos, then-assistant commandant of the Marine Corps, and his wife Bonnie, requested Akin Gump's assistance in a July 2010 e-mail seeking to help the spouse and family of a retired major of the United States Marine Corps (USMC) who had recently taken his own life. When we first met the major's spouse, she was struggling to navigate the often convoluted appeals process of the Veterans Administration (VA), fielding calls and letters from numerous creditors on a daily basis and trying to be a source of stability for her three sons, even as she coped with her husband's sudden death.

The major was a 27-year veteran of the USMC who served two tours in Iraq as the commanding officer for the Explosive Ordnance Disposal unit, a team charged with defusing, destroying or safely detonating improvised explosive devices planted by the enemy—a perilous task most recently brought to public consciousness in the film *The Hurt Locker*. During his deployments, at least 13 of the major's men, many of whom he considered close friends and family, were killed. These losses, as well as the constant stress of life in a combat zone,

caused the major to develop post-traumatic stress disorder (PTSD) and depression, though neither condition was diagnosed during his lifetime. The major was exhibiting all of the principal symptoms of both PTSD and depression, but his behavior did not raise any flags with his colleagues or superiors. After the major's retirement from the USMC in early 2008, his symptoms of PTSD and depression continued to worsen over the next two years, until he took his own life in June 2010.

After the major's death, his wife applied for benefits from the VA, but was informed that she would be denied benefits unless she could prove that her husband's death was caused by a "service-connected" injury. Akin Gump attorneys, led by a litigation partner, himself a former Marine and father of a current Marine, stepped in to assist. Over the next three weeks, the team set about interviewing the major's wife, her sons and anyone else who had extensive contact with the major in the preceding five years. The team interviewed and took the statements of over 20 Marines and friends, consulted multiple experts and put together a package that conclusively showed that the major suffered from PTSD and depression at the time of his death and that those illnesses were

■ Pro Bono

a direct result of his service in Iraq. The VA agreed, and, in mid-September, found that the major's death was, in fact, service-connected and that the major's wife and her family were eligible for full Dependency and Indemnity Compensation, among other benefits.

The firm continues to represent the major's wife in her efforts to obtain other veteran's and insurance benefits to which she is entitled as a result of her husband's death. Additionally, lawyers from the firm's financial restructuring

practice—typically assigned to work through billion-dollar bankruptcies—are assisting her in the management of the extensive debt left behind after the major's death. Though the major's wife struggles every day with the sudden loss of her husband, she has been using her husband's story to warn veterans' spouses and family members of the symptoms and dangers of PTSD, so, as she says, "some good can come out of this."





Knowledge Is Power Program (KIPP)

In 2010, our client the KIPP Foundation continued its work to expand its network of charter schools and to reform public education in America. KIPP (“Knowledge is Power Program”) is a national network of 99 free, open-enrollment, college preparatory public charter schools that succeed in educating a student body that is as rich in potential as it is lacking in economic resources. More than 80 percent of KIPP students are eligible for the federal free or reduced-price meals program, yet over 85 percent of KIPP alumni go to college. Despite its incredible success, KIPP still faces enormous challenges in obtaining facilities, managing school operations and employees, developing strategic plans for advocacy and government relations and implementing technology. More than 130 Akin Gump lawyers helped KIPP in each of those areas in 2010.

Facilities

The single greatest challenge facing KIPP today is the struggle to find adequate facilities for schools. Most states and local school districts do not provide facilities or funding for facilities to KIPP. KIPP, then, must use part of its instructional funding for school facilities. As a result, KIPP is constantly seeking creative solutions to this problem. We represented the KIPP Foundation in negotiating two key loan programs. The first loan program provides for debt financing from a lender syndicate to a single-purpose entity (SPE) structured to provide mortgage loans to KIPP schools for school facilities. The second loan program provides for leasehold financing from a financial corporation to KIPP schools. We also

advised the KIPP Foundation in connection with its provision of credit enhancement with respect to each of the foregoing loan programs as well as for charter school loans outside of the loan programs.

Legal Compliance

KIPP also faces the challenge of managing employees and school operations in a manner that honors KIPP’s unique culture without exposing KIPP to legal liability. KIPP schools, like all charter schools, are subject to closure for even minor infractions of their charters or the law, so they must be even more vigilant than ordinary public schools to operate in a manner that is entirely legally compliant. Yet, KIPP’s culture and its success depend on the KIPP school administrators and teachers maintaining focus on the education of their students, not on legal compliance. Accordingly, in March 2010, we offered to provide comprehensive legal reviews to any interested KIPP school. Since the program began, several teams of Akin Gump lawyers have scoured the local laws where KIPP schools operate and reviewed handbooks, policies and procedures of various KIPP schools in light of those laws to pinpoint any shortcomings. The legal reviews and subsequent meetings with KIPP administrators have been instrumental in preventing problems and potential lawsuits. Even more critically, the comprehensive legal reviews have freed up the KIPP administrators to focus on the most important task: educating the children and getting them on the path to college.

■ Pro Bono

Advocacy

KIPP is determined to use its experience to improve education for all students through improved laws and school systems. Akin Gump's experienced public law and policy practitioners helped KIPP form a strategic plan for advocacy and provided introduction to certain influential legislators.

Technology

KIPP also seeks to use technology to improve its effectiveness. Specifically, KIPP sought to create a Web site exclusively for KIPP teachers to connect with

each other and share lesson plans and curriculum. In 2010, Akin Gump helped KIPP launch "KIPP Share." The KIPP Foundation's general counsel, Nolan Highbaugh, stated, "The lawyers from Akin Gump made all the difference in enabling us to form a complex technology partnership to provide cutting-edge web tools to KIPP teachers. This partnership was the first of its kind ... and [they] thoughtfully resolved novel issues and creatively developed original documents ... Without Akin Gump, KIPP teachers would not have access to technology tools that now are helping them daily in the classroom."

“Every Akin Gump lawyer understands our mission and objectives, and treats KIPP like any other client. We consistently get top-flight legal advice, when we need it, where we need it, and how we need it.”

— Nolan Highbaugh, General Counsel, KIPP Foundation

■ Pro Bono



Scholar Rescue Fund

For several years, Akin Gump has represented the Scholar Rescue Fund (SRF), a project of the International Institute of Education (IIE) that was formed in 2002 to formalize IIE's 80-year history of assisting scholars at risk of harm due to their academic work. The firm's representation of SRF includes advising the organization on various corporate and immigration-related matters. In addition, Akin Gump has volunteered to assist several professors brought to the United States by SRF. In the past few years, the firm has helped three scholars secure asylum in the United States, including "A.K.," a 41-year-old Palestinian professor and father of five.

Background

In 2009, A.K., a prominent professor of contemporary American literature and an activist in the Gaza Strip, fled his home in Gaza with his wife and children after facing persecution and threats against his life by Hamas, a U.S.-designated foreign terrorist organization currently in political control of the Gaza Strip. While in Gaza, A.K., together with the U.S. Consulate in Jerusalem, had established an American Corner at his university to spread American culture to Gazans and to encourage communication and understanding between Palestinians and Americans. Through the American Corner at his university, A.K. organized educational activities, including video conferences with American specialists on topics such as nonviolence and the

teachings of Dr. Martin Luther King, Jr., the civil rights movement, the 2008 elections and American literature. In addition, A.K. used his position as a university professor to advocate nonviolence and to voice opposition to Hamas to his students.

Threatened by Hamas

Since seizing control of Gaza in 2007, Hamas has engaged in widespread persecution of its political opponents. In retaliation for A.K.'s vocal opposition, as well as for his pro-American and pro-peace beliefs, Hamas threatened A.K. and his family on numerous occasions with death or bodily injury—specifically "knee-capping," where his knee caps would be shot off to cripple him. Not long before A.K. escaped Gaza, the Hamas-controlled police force arrested A.K. for his activities and seized his home, confiscating his keys and forcing A.K.'s wife and children out of the house. By the time the keys were returned to him—a month later—the house had been so badly damaged by airstrikes during Hamas-Israeli hostilities that the family could no longer live there safely. Some of A.K.'s children still suffer nightmares from their experiences in Gaza. In February 2009, Hamas threatened A.K.'s life because of critical statements he made in the classroom.

■ Pro Bono

The Scholar Rescue Fund

With the help of the U.S. Consulate, A.K. left Gaza in April 2009, receiving a fellowship from SRF to travel to the United States and teach. A.K. was awarded a second fellowship in 2010 after SRF conducted an independent investigation into the continuing risks he would face if he returned to Gaza, which he had left without permission.

After A.K. arrived in the U.S. and began teaching, SRF asked Akin Gump to represent A.K. in seeking asylum. Following a rigorous interview at the asylum office in Chicago, Illinois, A.K.—along with his wife and five children—received asylum. A.K. can now continue his academic work at a prominent university in the Midwest.

“You shouldn’t focus on why you can’t do something, which is what most people do. You should focus on why perhaps you can, and be one of the exceptions.”

— Steve Case, Academy of Achievement interview, 2004.



■ ■ FOCUS on Commitment

“Concentrate all your thought upon the work at hand. The sun’s rays do not burn until **brought to a focus.**”

— Alexander Graham Bell, *How They Succeeded*, 1901

■ Enhancing Value

Geneva Office Increases European Presence

In May 2010, Akin Gump opened an office in Geneva, Switzerland. The Geneva office anchors the firm's international arbitration practice, as well as our international tax planning and restructuring practices on the European continent and serves as a platform for our international trade practice vis-à-vis the World Trade Organization and other Geneva-based international organizations. The Geneva office also offers a wide range of legal services in Swiss transactional, regulatory and litigation matters. Rick L. Burdick, our managing partner for international operations, observed, "Geneva complements our existing international capabilities and strengthens our brand in international arbitration while providing us the ability to better serve clients with our added international tax capabilities."

As a global financial center as well as a nexus for multilateral diplomacy, Geneva is an ideal location for our lawyers and advisors to serve local, continental

and international clients. Our Geneva team, comprising experienced and accomplished professionals fluent in English and Switzerland's three principal languages of French, German and Italian, is prepared to offer exemplary representation not only to U.S. and international clients entering the European marketplace, but also to Swiss and European clients looking for counsel in transactions overseas.

As is the case with all of our domestic and international offices, our Geneva office is not only an individual entity offering diverse and vital services; it is also a fully integrated participant in our firmwide system of cross-border, cross-practice collaboration, a reflection and conduit of the knowledge, experience and values of the firm as a whole.



■ Enhancing Value

Forward-looking Initiatives and Innovative Programs to Better Serve Our Clients

Akin Gump's client relations are driven by the close collaboration fostered by our lawyers and advisers with the individuals and enterprises we serve. To support their efforts, we provide our professionals and, in many cases, our clients with technological support and resources that facilitate secure information sharing, streamline processes and improve the quality and cost-efficiency of the legal services we offer. We also offer clients and interested parties convenience of access to the firm's thinking through a variety of push/pull technologies.

By equipping our professionals with the latest statistical and substantive content—as well as with electronic infrastructure, such as our state-of-the-art videoconferencing centers—we bolster our ability to respond to client inquiries and manage client matters in an expeditious, comprehensive and cost-conscious manner.

Knowledge Management

To augment our long-standing transactional knowledge management program, our fund formation lawyers are deploying Exari software, which will perform several critical functions with client-side benefits. First, it will allow lawyers to collect more project-critical data initially, which has the downstream effect of minimizing the number of document drafts required. Second, it will integrate with the firm's SharePoint software to provide more elegant, algorithm-based

document assembly options that will allow newer lawyers to assemble documents for subsequent review. Third, the software will extract information from questionnaires for use in databases or reports that will allow lawyers to find appropriate funds more easily and more economically.

Enhanced Trial Services

In May, the firm launched a trial services group dedicated to providing cost-effective trial support. The services include trial graphics, presentations, illustration, video editing, 2D/3D animation and visual trial strategy, among others. We are one of the few law firms in the world to offer in-house 3D modeling, animation and rendering for the benefit of specific practices and their clients. By bringing these functions in-house, we offer clients the benefits of cost control, faster production times and a more secure environment for their information. As part of this expansion, the firm has a TrialDirector® Certified Trainer on staff who is capable of providing in-court/on-site assistance at any trial location in the world.

■ Enhancing Value

Mobile Tagging

As part of the firm's ongoing efforts to harness next-generation technologies for client benefit, we launched a program to use two-dimensional barcodes to make our public documents accessible by smartphone. Two-dimensional barcodes containing the encoded URL of a document are scanned through a smartphone's camera and opened in the phone's Web browser. These barcodes are similar to the familiar linear barcodes used to label products for inventory and sale, except they can convey up to 100 times more data than linear barcodes. They can be printed on anything from a business card to the side of a building and are intended to make online material available remotely and instantly.

In early October, the firm inaugurated its use of 2D barcodes at the Kazakhstan International Oil & Gas Exhibition (KIOGE), Central Asia's largest trade event for the oil and gas industry. Bilingual brochures for relevant practices associated with the firm's Moscow office, along with the energy practice's most recent quarterly report, were made available, not only in hard-copy form, but also through barcodes containing encoded URLs linking to online versions of these documents. The barcodes were displayed alongside graphics of the linked documents for convenience of reference.

The firm has also moved to incorporate 2D barcodes into its printed material in order to offer clients and others as broad, rich and convenient an experience of our attorneys' and advisors' work as possible by providing the equivalent of the hyperlinks one would find in a Web page. As a result, the hard-copy reader can access material referenced in the text without having to use a computer. The pilot documents for this initiative were the energy practice's *Third-Quarter Update and Year in Review*.



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To read this barcode, please open a 2D barcode reader on your smartphone and use it to scan the barcode. Two such apps are i-nigma Reader (www.i-nigma.mobi) and ScanLife Reader (www.getscanlife.com).

■ Enhancing Value

Core Competency Program

Over months of study and discussion with our associates and counsel, we developed and adopted a competency-based approach to professional development and evaluation. Akin Gump's proprietary competency framework establishes a clear roadmap for attorneys to navigate the first stages of their career along specific lines—the four core competencies of Ownership, Professional Excellence, Service and Teamwork and Client Focus—that will not only serve our associates and counsel as clear signposts in their professional formation, but also produce lawyers who are strongly oriented towards personal practices founded on responsibility, excellence and, most critically, client service.

“Akin Gump’s competency framework creates a new focus on the training, mentoring and feedback required for attorneys to advance their careers and provide a higher level of service to our clients.”

— Lauren Leyden, Chairman's Associate Group Member



■ Diversity: An Interview with Nancy Chung



Nancy Chung
Diversity Committee Chair

Q: Why does Akin Gump place such a priority on diversity?

A: Akin Gump recognizes the central role of workplace diversity in shaping a dynamic, capable organization that, in turn, can better respond to its clients' needs through the dialectic of differing viewpoints and experiences. From its founding, Akin Gump has committed itself to ensuring meaningful diversity at every level of the firm. The firm continues to live up to that commitment, as positions from managing partner and partner in charge through those on our hiring and associates committees are filled by men and women who mirror the breadth of American society.

Q: How has Akin Gump created a structure to support fully a diversity program that permeates all aspects and departments of the firm?

A: Akin Gump maintains a two-tiered diversity committee system, with both a firmwide committee and local office committees. I chair the firmwide committee, which comprises 15 partner members from across the firm's offices. The firm's diversity committees on both the office and firmwide levels reflect the diversity of Akin Gump and consist of minority, female, openly gay and non-minority attorneys. These committees provide an opportunity for attorneys and personnel to proactively communicate questions, concerns and ideas to firm management and to recommend additional means by which the diversity of the firm can be enhanced. The local diversity committees in the U.S. offices are responsible for the development and implementation of diversity-related initiatives for their location or region.

Q: What steps did the firm take in 2010 to nurture its diversity program?

A: Since diversity is a natural part of our business operations, it is incorporated into all we do on a daily basis. But there were some exciting programs we initiated in 2010, and I think those bear highlighting.

In 2010, the firm expanded its participation in The Sponsors for Educational Opportunity (SEO) Program and extended its commitment to The Akin Gump Scholar Program. SEO recruits minority college students and recent graduates nationwide who will attend law school in the fall and places them in summer internships in law firms and financial institutions. Due to the success of the SEO program in the New York office over the first two years of the firm's involvement, we expanded our participation in 2010 to stand alone among participating firms by welcoming SEO interns in three offices: New York, Houston and Washington, D.C. The firm's New York office also recently extended for an additional five years its commitment to the Akin Gump Scholar program, which provides an annual grant to a minority first-year law student at New York University School of Law and also guarantees that student a position in the firm's New York office summer program after completion of the first year of law school. In 2010, the firm also sponsored events and initiatives at a number of organizations that work to support minority lawyers, including the

Minority Corporate Counsel Association, the Asian American Legal Defense and Education Fund, the National Association for the Advancement of Colored People and the National Bar Association.

Further, 2010 has been a foundation-laying year for the second firmwide Women Lawyers' Retreat, to be held in July of 2011. Under the auspices of the firm's Women's Professional Development Initiative Committee, the two-day retreat will feature seminars on topics relevant and useful to the professional development of the firm's female lawyers.

Because of these actions and others, Akin Gump was honored to receive recognition for our efforts from advocacy, media and other organizations in 2010, including—

- **Human Rights Campaign — Top Rating on Corporate Equality Index**
For the fourth year in a row, Akin Gump achieved a perfect score on the HRC Corporate Equality Index, which rates employers on a scale from 0 to 100 percent on their treatment of gay, lesbian, bisexual and transgender employees, consumers and investors.

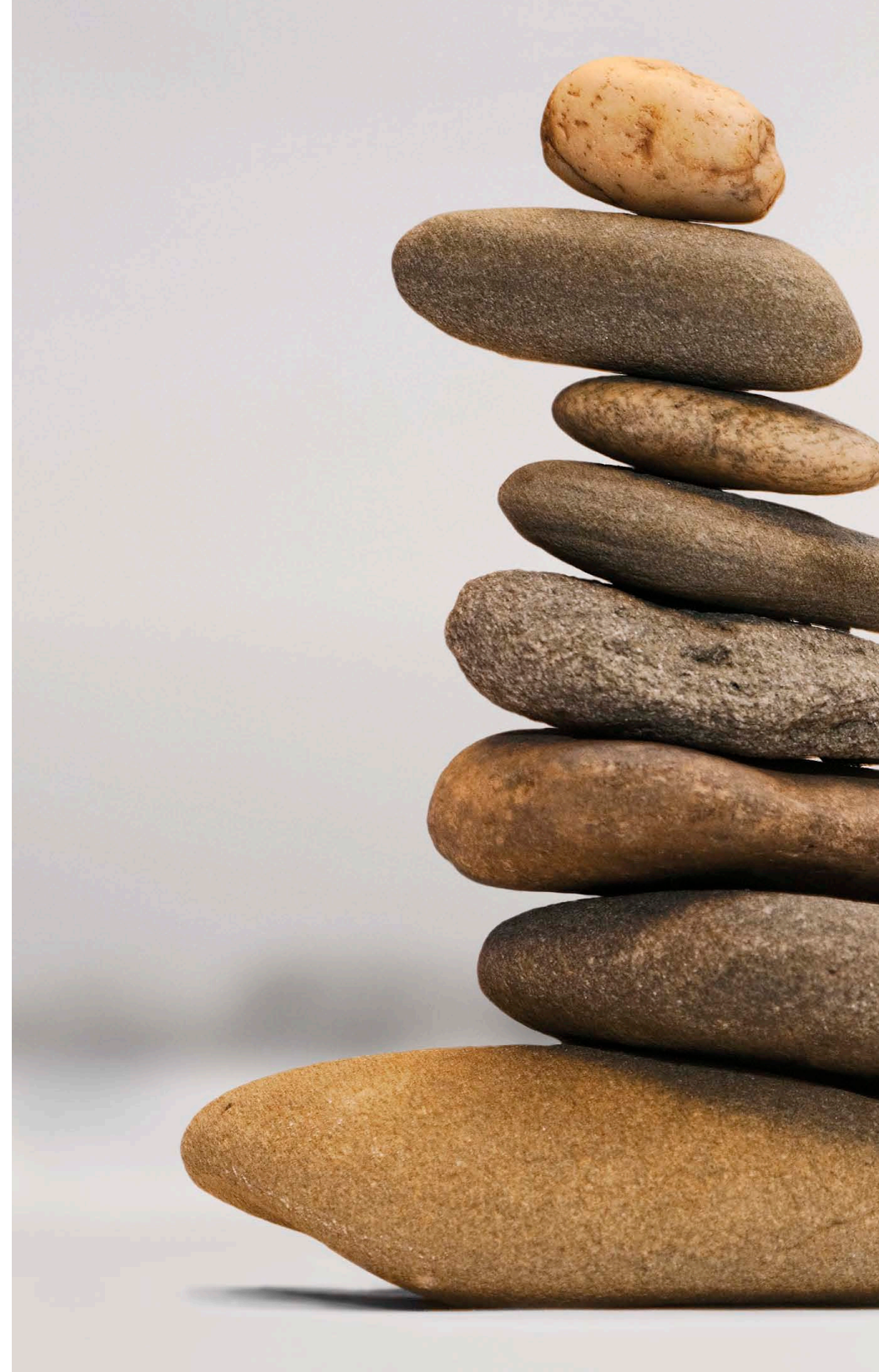
■ Diversity


- **Coca-Cola Company — Living the Values Award**

Akin Gump was the recipient of the Coca-Cola Company's Living the Values Award. Established in 2006, the award recognizes the law firm that best demonstrates its commitment to diversity with creative and innovative solutions that advance the Coke legal division's diversity goals. A dinner was held in Akin Gump's honor where the award was presented. Accepting on behalf of the firm was U.S. Managing Partner Kim Koopersmith.

- **Thomas A. Mars Pathmaker Award**

Kim Koopersmith has been named by *InsideCounsel* magazine as the recipient of the Thomas A. Mars Pathmaker Award. This prestigious award, named after the executive vice president and chief administrative officer of Walmart U.S., recognizes a law firm managing partner or law firm senior leader "whose courage, unyielding vision, integrity, conviction and authenticity has carved a groundbreaking path and laid a new foundation to accelerate the economic empowerment of attorneys of color or women in law firms."





“Like Coca-Cola, Akin is itself a venerable brand that has woven diversity into its institutional fabric by its management’s willingness to be held accountable for progress, its innovative recruitment and retention models and for its passion for excellence in this area. From the diversity in its firm leadership, to its innovative recruitment, retention and development strategies to its longstanding external engagement, Akin Gump “lives the values” and we are proud to call the firm a business partner.”

—Geoffrey J. Kelly, Senior Vice President and General Counsel of The Coca-Cola Company

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■ Photography Credits

Photography by **Harvey Duze**

Nearly every image shown in our *2010 Annual Review* was taken by Harvey Duze, a member of our in-house design team. His various interpretations of focus within a photograph echo the importance of focus not only as the framework for this year's annual review, but, more importantly, in the way we approach each client engagement.



Old Fishing Pier
Woodland Beach, Delaware
front cover



Trafalgar Square
London
page 19



Dupont Circle Morning Snowfall
Washington, D.C.
page 42



Tree Line
Washington Crossing Historic Park, Pennsylvania
inside cover and page 1



George Washington Bridge
Manhattan, New York
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Cherry Blossoms
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Wollman Ice Rink
Central Park, New York
page 4



Flight No. 1, White Egrets
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