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## Q&A With Akin Gump's Kerry Berchem

*Law360, New York (October 12, 2009)* -- Kerry E. Berchem is a partner with Akin Gump Strauss Hauer & Feld LLP in the firm's New York office and co-leader of the firm's corporate practice group.

Berchem advises financial services clients, including distressed, private equity and hedge funds, as well as insurance and reinsurance companies, in (1) mergers, acquisitions and private equity investments; (2) capital markets transactions; (3) compliance and enforcement actions, including internal investigations; and (4) reorganizations and recapitalizations. She represents a significant number of companies that are in the process of, or have recently emerged from, both out-of-court and Chapter 11 reorganizations.

### **Q: What attracted you to your practice area?**

A: As a born negotiator (to wit, at the age of five to my mother: "Can I stay up until nine?" "No, eight is bedtime." "Okay, let's make it 8:30." "Deal."), I am and have always been drawn to the verbal banter of deal-making. I enjoy working with my team(s) to delve into and understand the issues, find solutions, work out compromises and get deals done where, in most circumstances, everyone on every side is pretty happy with the outcome. Corporate transactions – whether M&A or securities – don't tend to have true winners and losers as you typically find in, say, litigation.

### **Q: What is the most challenging case you've worked on, and why?**

A: In 2004, I had the pleasure and privilege to form and help capitalize Greenlight Capital Re Ltd. (GLRE), a Cayman Islands specialty property and casualty reinsurer sponsored by affiliates of Greenlight Capital Ltd. On Oct. 5, 2006, I was advised that that the company wanted to go public.

In the spring of 2007, GLRE completed its IPO (including the exercise of the overallotment option after being 19 times oversubscribed), as well as a concurrent private placement, with total net proceeds of approximately \$258 million.

Due to the company's organization in the Cayman Islands and its unique reinsurance and investment strategies, complex corporate, tax, insurance and investment adviser issues were considered and addressed. But most challenging of the challenges? I gave birth to my son, Matthew, on Oct. 10, 2006. I am forever grateful to my Akin Gump colleagues Bruce, Alice and Kassia, Blackberry and the mute button.

**Q: What are the most challenging legal problems currently facing clients in your practice area?**

A: There are a number of challenges that confront our corporate clients. First, regulators have faced enormous scrutiny for perceived failures regarding proper oversight, and new laws and concepts are being introduced seemingly daily, particularly in the area of corporate governance.

In order to stay relevant, clients must stay apprised of all legislative and regulatory developments in this continually evolving environment. It is more critical than ever that, in our role as adviser, corporate lawyers keep up with new legislation and make sure that their clients understand how such changes will affect their business.

Second, everyone everywhere is concerned about costs in 2009 and corporate clients are no exception. This has created an environment where, to be valued by our corporate clients, we not only have to read, comprehend, analyze and advise, but we have to do so quickly and efficiently in order to monitor costs.

**Q: How do you see your practice area evolving in the next five years?**

A: That is a more difficult question than it at first appears. I think that the lack of transparency with respect to deal activity – where are the deals, who are the deal makers, will financial buyers dominate or will strategics, what will risk tolerance/aversion levels be, etc. – may cause a number of corporate specialists to become more generalist so as to be able to “eat” during times of famine. I suspect that the pool of corporate lawyers, like the pool of private equity managers and investment bankers, may shrink.

Further, I suspect that that Big-Law law firms are likely to change their structure and staff differently, either through the use of staff attorneys, outside providers or otherwise, which will impact the way deals get done. Bottom line: I won't venture to provide a definitive answer as to how corporate law will evolve in the next five years other than: It will be different. Stay flexible.

**Q: Outside your own firm, name one lawyer who's impressed you and tell us why.**

A: Jeff Marell [a partner] at Paul Weiss Rifkind Wharton & Garrison LLP. He's super bright, tough as nails and an artful opponent, but with a sense of humor. I have great respect for him.

**Q: What advice would you give to a young lawyer interested in getting into your practice area?**

A: Recognize that the practice of corporate law means being the proverbial "trusted adviser." Every client is your best client, and service cannot and should not be underestimated. You need to not only understand the legal issues that affect your clients; you need to understand your clients and their business and business objectives.

Get to know them. Be sure to pick up a phone once in a while – e-mail can be so impersonal and is often times overused by young lawyers. Put yourself in your clients' shoes. Identify and advise your clients of the legal issues that impact them. But, more importantly, provide responsive, creative, logical and business-minded solutions. Saying "No, you can't do that" – without providing a viable alternative – satisfies no one.