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Q&A With Ungaretti & Harris' Gary Levenstein

Law360, New York (January 08, 2010) -- Gary I. Levenstein chairs the corporate, securities and finance group at Ungaretti & Harris LLP and is a member of the firm's executive committee. He concentrates his practice in the areas of mergers and acquisitions, corporate finance, securities regulation, and corporate governance.

An experienced transactional attorney, Levenstein's clients include privately and publicly held corporations; private equity funds; financial institutions; family offices; emerging growth companies; and boards of directors, directors and officers of publicly held corporations.

Q: What attracted you to your practice area?

During high school, college and law school, I focused on business, accounting and finance courses. I also worked for several accounting firms during my scholastic career. Fortunately, I passed the exam to become a certified public accountant in the state of Illinois during my senior year of college. During interviews for summer associate positions while in law school, I expressed an interest in practicing corporate law.

As I progressed in the practice, I successfully used my legal and business education and accounting skills to handle transactions. Early in my career, I came to the realization that a successful corporate attorney is equal part technician, business person, actor and psychologist. Many attorneys can draft contracts and close transactions, but the truly successful practitioner has to be capable of working with various personalities, making certain the deal is fair for all parties, serving as a trusted advisor to and advocate for clients and identifying situations and opportunities that can avail them of an economic benefit.

It is important to note that I enjoy learning about various industries, understanding the business operations of clients, being an instrumental player in a transaction and working with intellectually stimulating clients and attorneys. The practice of corporate law addresses these interests.

The most exciting part of the practice is recognizing an opportunity that may be of interest to one of my contacts and playing matchmaker. I spend a great deal of time making numerous introductions of buyers and sellers to one another, financing sources and borrowers to one another, investors and companies to one another and advisors and clients to one another.

This is done as a courtesy to our contacts and results in legal work related to any transaction that may occur. In the event nothing results from the introductions our contacts feel that we have thought about them and brought them a viable opportunity.

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

During my career, I have been involved in numerous challenging situations and serve as chairman of a group that has one of the largest middle market transactional practices in Chicago. Most deals stand out for different reasons so it is very hard to identify one particularly challenging deal compared to others.

It seems that any one of several deals that I am working on at the moment is the most challenging because each has a combination of complex business issues, legal matters, financing scenarios and interesting personalities.

An example of this type of transaction is my recent role overseeing a large team of lawyers which provided counsel to an international logistics company that is over 100 years old with a widely recognized trade name. It was owned by a large number of shareholder/agents and actively governed by a large board of directors with divergent agendas.

Over the past two years, the client incurred severe economic distress. Several successful large shareholder/agents wanted to take control of the company. This would have alienated numerous smaller shareholder/agents who indicated that they may leave the system. I advised the board that it had a duty to all shareholders to investigate various strategic alternatives.

Nonetheless, it was important to placate the group that wanted to take control while considering other opportunities for a sale or merger. Outside interested parties became aware of the distressed situation and made proposals which would have virtually destroyed the system and caused many shareholder/agents to be ousted from the system and lose equity.

I actively participated in designing a program to recapitalize the company with the successful agent group leading the effort, syndicate a raise of equity among all shareholder/agents, alter the governance to involve shareholder/agents at all levels, restructure the balance sheet by settling with numerous creditors at a discount, renegotiate the credit facility with the lender that threatened to terminate its relationship and orchestrate a sale and leaseback of the main building. These tasks were accomplished over a 10-month period.

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

The economy has had a dramatic effect on clients. This type of circumstance creates legal issues. The lack of debt financing does not allow companies to conduct business in its customary fashion.

Restructuring of balance sheets and negotiations with creditors are common occurrences. However, opportunities arise out of adverse circumstances. Clients with available funds are pursuing strategic transactions.

Also, alternative transaction structures are becoming more prevalent, including seller financing of a portion of the price, a rollover of a portion of seller equity into the surviving entity, and earnouts and investments in exchange for minority interests in an entity based on negotiated terms.

Q: Where do you see the next wave of activity in your practice area coming from?

I believe that there will be a new wave of merger and acquisition activity that will start to gain traction in the second quarter of 2010. The reasons are as follows:

— There is a tremendous amount of equity that has been raised by the private equity funds that is sitting on the sidelines. — Potential sellers will adjust their expectations to receive a sales price at a reasonable level. — Distressed circumstances present great opportunities. — Lenders will get back into the market in order to generate activity and profitability. — The economy has created rifts among owners that may be solved by entering into transactions.

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

I started my career at a law firm in Chicago named Rudnick & Wolfe which became one of the primary building blocks of DLA Piper. Perry Snyderman was a preeminent transactional lawyer based on his energy, ability to communicate and network with business contacts and the respectful manner in which he treated his peers.

By watching Perry in action, I learned that no good deal ever fails for lack of funding; you can't make a good deal with a bad guy or bad deal with a good guy; successful lawyers are excellent technicians or great marketers but the best attorneys combine both skills; and to succeed in corporate law you have to be a deal maker not a deal breaker.

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

A career in corporate law offers opportunities to interact with fascinating people and deal with challenging matters. You must enjoy business and finance and fully engage in

the corporate practice as early as possible in your career. As with all aspects of life, you must be passionate to succeed. Your network and contacts will be essential to your success and lead you to numerous opportunities.