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Q&A With Kirkland & Ellis' Richard Cieri

Law360, New York (July 24, 2009) -- Richard M. Cieri is a partner with Kirkland & Ellis LLP in the firm's New York office and leader of the firm's restructuring practice group. He is an internationally recognized authority in domestic and cross-border restructurings, as well as in corporate governance and fiduciary duty matters.

Recognized in April 2009 by *The American Lawyer* as one of the "Dealmakers of the Year," Cieri is best known for representing financially challenged companies, debtors and boards of directors. Some of his recent representative matters include Calpine Corporation, Charter Communications, Chemtura Corporation, Collins & Aikman Corporation, Masonite Corporation, Solutia Inc. and TOUSA Inc.

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

A: Based on sheer size, Calpine Corporation's bankruptcy is by far the most challenging case I've handled. Calpine was the world's largest producer of renewable geothermal energy and operated 92 power plants throughout North America.

At the time of its filing, Calpine's bankruptcy, which involved more than 400 entities, was the sixth largest bankruptcy case in U.S. history, and the second largest case filed in 2005. With over \$27 billion in assets, \$18 billion of funded debt, and a \$5 billion DIP loan (at the time, the largest in history), the two-year case involved a complex intersection of bankruptcy, financing, energy, regulatory and cross-border issues.

Q: What accomplishment as an attorney are you most proud of?

A: As a restructuring lawyer, I have helped my clients through some of the most difficult and stressful circumstances that a company could ever encounter. A very gratifying part of my job is assisting companies in preserving jobs and maximizing stakeholder value. I am most proud of the matters I have done for clients to keep their restructurings out of court and out of the headlines.

Q: What aspects of law in your practice area are in need of reform, and why?

A: Companies ultimately seek bankruptcy protection to restructure their operations, with the goal of emerging with a fresh start. Today, however, we are seeing more and more companies enter bankruptcy and then liquidate instead of emerging from bankruptcy as viable entities. This is in part due to 2005 changes to the U.S. Bankruptcy Code, which gives companies less time to reorganize.

The amendments included tighter time constraints for the restructuring process, adding pressure to an already stressful and difficult situation for troubled companies. The retail sector has been particularly affected due to time constraints on lease obligations. The focus needs to return to the ultimate goal of the bankruptcy process, which is rehabilitation, not liquidation.

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

A: In the current economic climate, anything can happen. The recent lending environment has made it incredibly difficult to obtain financing for distressed companies, no matter what industry or situation. Industries that will likely continue to be troubled include residential and commercial real estate developers, retailers and automotive suppliers.

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

A: Harvey Miller of Weil Gotshal in New York. Harvey is one of a handful of men and women responsible for the modern bankruptcy practice and is a legend in our industry. He is smart, creative, poised, aggressive and determined. Even at this stage in his career, he is currently leading two of the largest bankruptcy cases in history.

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

A: Two things come to mind. First, it is important to realize that the goal of a restructuring lawyer should be to handle matters outside of court whenever possible. Commencing a bankruptcy case in court should be a last resort as it can be a lengthy, difficult and expensive process.

Second, it is important that a restructuring lawyer not only understand bankruptcy law, but must also have a working knowledge of other areas of the legal practice including corporate, securities, litigation, environmental and tax law.