

## After Forty Years at Fried, Frank Stephen Fraidin Moves to Kirkland & Ellis

The two lawyers wanted to keep their talks under wraps. So early last winter, rather than lunch at such popular Washington restaurants as say, The Palm, The Caucus Room, or Ocean Avenue, Thomas Yannucci, a partner at Kirkland & Ellis, and Stephen Fraidin, then of Fried, Frank, Harris, Shriver & Jacobson, settled for sandwiches at K&E's offices in northwest D.C. The purpose? Would Fraidin, who had spent almost 40 years at Fried, Frank, be willing to move to K&E?

K&E's interest in Fraidin is by no means surprising. This is an M&A lawyer who was present at the field's very creation. As modern M&A was coming into being in the 1970s, Fraidin represented Meshulam Riklis, the expatriate Israeli mogul — who is famous among the laity for his marriage to Pia Zadora — but known to the mergers world as one of the first contemporary corporate raiders. Since the 1970s, Fraidin has also represented Forstmann Little & Co. in the creation of a number of its leveraged buyout funds. As the 1980s picked up speed, we find Fraidin in the midst of the Revlon deal, one of the central M&A cases of all time. During that decade, Fraidin is also a player in the largest LBO and perhaps the most famous M&A deal ever — the fight for RJR Nabisco. Along the way, he has worked for such other clients as Procter & Gamble, Kirk Kerkorian's Tracinda Corp., Northrop Grumman Corp., General Semiconductor Inc. and the hedge funds Tiger Management and Gotham Partners. In short, Fraidin is a member of a select circle — a Brass Ring of sorts — of M & A advisors that includes such legends as Joe Flom, Arthur Fleischer, and Marty Lipton.

With that stellar curriculum vitae, Fraidin, who joined Kirkland & Ellis in April, fits in perfectly with the firm's goals. "One of the things that we recognized was that our New York office, while doing really well, was not yet a major player in M&A," explains Tom

Yannucci, who is currently chairing the firm's management committee. "It's hard to home-grow somebody into an M&A maven no matter how talented or hardworking they are. We're really strong in private equity and in M&A, but the M&A piece is not based in New York."

### Gravitation Toward M&A

The object of Kirkland's desire was born in Roxbury, Massachusetts. After graduating from Tufts University, he attended Yale Law School, where he now teaches a class on the law and economics of corporate control, working his way through with various jobs, including teaching English at a local college. At Yale, he befriended Alan Schwartz, who is now the Sterling Professor of Law at Yale, and who teaches with him at the law school. "Stephen was very smart," Schwartz says. "From the beginning, he was obviously a very talented guy."

"There's this Rudyard Kipling poem called 'If,'" says Schwartz, who used Fraidin as his lawyer when he was chairman of the board of Rohn Industries and the company went through a complicated debt restructuring. "If you can keep your head when all about you are losing theirs." Well, Stephen is sort of that kind of guy. He's just always very calm, very well prepared, very intelligent in every situation. I mean, he's been unflappable in class. He's handled very, very good law students. And when I saw him do deals, he was great there, too."

Schwartz also observes that his old friend "really likes to play the mentor role. In his practice, he's always taken particular care to teach other lawyers. You know, a lot of people are too busy to do it, but Stephen actually likes to teach other lawyers and help them develop and he likes to talk to law students. You know, we both teach together and I would imagine that three times as many students go to his

[office] than mine," he laughs. "So fortunately I don't get jealous about this, but he's just very open and responsive to young people."

After law school, Fraidin joined Fried, Frank, which was then named Strasser, Spiegelberg, Fried & Frank. By the late 1960s, he was representing, among others, Meshulam Riklis, who controlled Rapid American Corp. "I naturally gravitated to doing M&A work," Fraidin says. "So when the takeover boom started, I had already been representing a conglomerate that was pretty acquisitive." During the 1970s, Fraidin also represented Humana Corp. in its contested acquisition of American Medicorp, which, as he puts it, "was ultimately a very successful transaction and formed the basis for the big, successful company that Humana is to this day." Fraidin explains that the Humana/American Medicorp deal was the first successful hostile exchange offer, then particularly difficult to accomplish because of the differing timetables and regulations governing such deals.

In the early 1980s, Fraidin's partner, the legendary Arthur Fleischer, brought him in to work with the Bendix Corp. in the transaction in which Bendix and Martin Marietta tried to buy each other; in the end, Bendix was sold to the Allied Corp. Also in the mid-1980s, Fraidin, representing Forstmann Little, was front and center in the RJR/Nabisco deal and, ultimately a character in Bryan Burrough's book about the deal, *Barbarians At The Gate*. (Of the movie made from the book, Fraidin jokes, "I wanted Paul Newman to play me, but I ended up not being in the movie. I guess they couldn't get Paul Newman to play someone who was going to end up on the cutting room floor.")

On a more serious note, Fraidin says, "Forstmann Little was interested in exploring the situation and was an active participant in the auction. And

they put together a group of potential partners in the bid and explored the situation, then ultimately decided that the company wasn't worth the price that was being proposed."

"Teddy Forstmann was resolutely opposed to junk bonds," Fraidin explains. "And what Forstmann Little did was stick to its principles and didn't overpay. Had Forstmann Little bought it, it would have been a bad deal. So it was a brilliant move by Teddy. He stuck to his principles and it was very, very smart."

In 1990, Fraidin assisted Forstmann Little in its acquisition of General Instrument Corp. "That was a big, complicated deal," Fraidin recalls. "Forstmann Little was able to acquire the company without an auction. And the approach that we used was that we kept our tender offer open for an additional few days, so as to permit anyone who wanted to come in with a competing bid to do so, during that additional period of time. The case was litigated and we won."

The following year, Fraidin represented the hedge fund Tiger Management in its proxy contest for representation on the board of Cleveland-Cliffs Inc. "They had a significant investment in Cleveland-Cliffs and wanted to get representation on the board," Fraidin explains. "Tiger didn't want it to be a contentious, highly litigated proxy fight but they wanted representation, and we conducted a sort of dignified proxy fight that was extremely successful. They got representation on the board and it wasn't one of those messy, heavily litigated situations." In 1996, Fraidin represented Tracinda Corp., owned by Kirk Kerkorian in its bitterly fought acquisition of Metro-Goldwyn-Mayer. Several years later, Fraidin represented Gotham Partners in its successful proxy contest for control of First Union Real Estate Investment Trust (see *The M&A Journal* Vol. 1 No. 8).

The 1990s saw what Fraidin describes as one of his most gratifying deals: Forstmann Little's acquisition, turnaround, and sale, of Gulfstream Aerospace Corp. "I handled the acqui-

sition of Gulfstream from Chrysler Corp. For a couple of years after the company was acquired, Gulfstream was struggling," Fraidin says. "And then Teddy Forstmann became the CEO of Gulfstream, and with the help of his partner, Sandra Horbach, and a terrific new management team that included Chris Davis, the company was totally turned around. It was made into an investment that resulted in billions of dollars of profits for its investors."

"Originally, Forstmann hired professional managers to run it, which is what private equity firms typically do," Fraidin continues. "The managers did not do a good job — they certainly weren't successful, and the company was struggling. And so Teddy came in himself and took it over and turned the situation around. It was great to work with him on that project, and it was incredibly satisfying to see how he created billions of dollars of value for his investors. He created thousands of jobs. He developed an American product that was competing successfully with foreign-subsidized products. It was just a fantastic achievement. The company was not a post-closing event."

### Enter the Millennium

The year 2001 was very busy for Fraidin. For one, he represented Metro-Goldwyn-Mayer's acquisition of 20 percent ownership interest in Rainbow Media. Later that year, he helped his client FLCC Holdings Inc. with its acquisition of Citadel Communications and also aided longtime client Procter & Gamble with its acquisition of the Clairol business. He also represented Northrop Grumman with its purchase of Newport News. "We developed a very unusual part-cash, part-stock bid," Fraidin explains. "It was a quite complex offer, but it worked."

As busy as he was at Fried, Frank, however, by the end of 2002 and the beginning of 2003 Fraidin was considering moving on. "I was thinking about

what I wanted to do for the balance of my career, and had explored some alternatives, talked to some other really wonderful firms," he relates. "But nothing was exactly right. I was pretty close to having decided that I was not going to change. But then Kirkland approached me and were very, very aggressive and incredibly welcoming. And really I just couldn't turn them down."

"Kirkland's been important in mergers and acquisitions, but it hasn't been one of the top three or four firms in mergers and acquisitions," Fraidin says. "They are terrific lawyers here. And this firm is somewhere between number one and number two or three in virtually every other major practice area that they're involved in — litigation, intellectual property, tax, private equity, bankruptcy — and they'd like to be as important in mergers and acquisitions, and I'd like to try to help."

When Fraidin met with Tom Yannucci in Washington last winter over lunch, Yannucci recalls, "We spent a couple of hours talking about what we wanted and what he was looking for and it became pretty clear that this looked like a good match. We didn't want to buy a group. It is not Kirkland's style to do big deals with other law firms or to merge. We've never done that. But we wanted his skills, judgment and experience," Yannucci stresses. "We needed a guy at the top of the list. We have the talent, and we have the depth. But we didn't have the headliner. We were looking for the right guy who could open doors and have instant credibility."

"And I'll tell you what really strikes me," Yannucci adds. "Fraidin really wants to be a lawyer. He is not into just managing accounts or setting up meetings and having everyone else do the work. He still likes to sit in the room and do the deal."

Yannucci pauses, "We didn't want to buy his Rolodex. We wanted to buy his brain."



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