

*Northwestern University*  
*School of Law*  
*presents the*

**24TH ANNUAL**

# **Ray Garrett Jr.** **Corporate and Securities** **Law Institute**

**APRIL 29-30, 2004**

- **KEYNOTE SPEAKER: Stephen M. Cutler**, Director, Division of Enforcement, United States Securities and Exchange Commission
- Delaware trial lawyers, **Kevin Abrams** and **A. Gilchrist Sparks III**, square off in a mock hearing on the enforceability of merger provisions before **Leo E. Strine Jr.**, Vice Chancellor, Delaware Court of Chancery.
- Former U.S. Attorney **Anton R. Valukas** leads a discussion about what to do when the FBI and SEC show up on your corporate doorstep investigating securities fraud.
- Former SEC Chairman **David S. Ruder** leads a panel of Senior SEC Officials on current issues and developments.



**357 EAST CHICAGO AVENUE**  
**CHICAGO, ILLINOIS 60611-3069**  
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# PROGRAM

## Thursday, April 29

All lectures and luncheons will take place at Northwestern University School of Law, Thome Auditorium, 375 East Chicago Avenue, Chicago, Illinois.

**8:00 a.m.**

### Registration

Continental breakfast

**8:45–9:00 a.m.**

### Welcome and Overview

**David E. Van Zandt**, Dean and Professor of Law, Northwestern University School of Law  
**Robert F. Wall**, Chair, Planning Committee; Winston & Strawn LLP, Chicago, Illinois

**9:00–10:15 a.m.**

### Disclosure and Accounting Issues

- The SEC's MD&A Interpretive Release
- Dealing with Analysts
- 8-K Amendments and Real Time Disclosure
- Non-GAAP Financial Information
- Internal Control over Financial Reporting

*Session Chair*

**John J. Huber**, Latham & Watkins LLP, Washington, D.C.

*Panelists*

**Barbara L. Blackford**, Vice President and General Counsel, AirGate PCS, Inc., Atlanta  
**Troy M. Calkins**, Gardner Carton & Douglas LLP, Washington, D.C.  
**Michael R. McAlevy**, Chief Corporate and Securities Counsel, General Electric Co., Fairfield, Connecticut  
**R. Cabell Morris Jr.**, Winston & Strawn LLP, Chicago  
**Thomas J. Murphy**, McDermott, Will & Emery, Chicago

*Commentator*

**Martin Dunn**, Deputy Director, Division of Corporation Finance, United States Securities and Exchange Commission

**10:15–10:30 a.m.**

### Break

**10:30 a.m.–Noon**

### Assessing Damages in a Class Action Securities Case Alleging Disclosure and Accounting Violations

- Damage Issues in Accounting Cases
- Use of Expert Witnesses
- Determining a Theory of Damages in Deciding Whether to Settle or Go to Trial

*Session Chair*

**Sarah R. Wolff**, Sachnoff & Weaver Ltd., Chicago

*Panelists*

**Daniel R. Fischel**, Chairman and CEO, Lexecon Inc., Chicago

**Peter G. Rush**, Bell, Boyd & Lloyd LLC, Chicago

**Jeffrey L. Willian**, Kirkland & Ellis LLP, Chicago  
*Commentator*

**Donald T. Nicolaisen**, Chief Accountant, United States Securities and Exchange Commission

**Noon–12:45 p.m.**

### Lunch

**12:45–1:30 p.m.**

### Keynote Address

**Stephen M. Cutler**, Director, Division of Enforcement, United States Securities and Exchange Commission

**1:30–3:00 p.m.**

### Senior SEC Officials: Current Issues and Developments

*Session Chair*

**David S. Ruder**, William W. Gurley Memorial Professor of Law, Northwestern University School of Law

*Panelists*

**Stephen M. Cutler**, Director, Division of Enforcement, United States Securities and Exchange Commission  
**Martin Dunn**, Deputy Director, Division of Corporation Finance, United States Securities and Exchange Commission  
**Donald T. Nicolaisen**, Chief Accountant, United States Securities and Exchange Commission  
**Giovanni P. Prezioso**, General Counsel, United States Securities and Exchange Commission

*Commentators*

**John S. Chapman**, Lord Bissell & Brook LLP, Chicago  
**Robert J. Minkus**, Schiff Hardin LLP, Chicago

**3:00–3:15 p.m.**

### Break

**3:15–4:30 p.m.**

### Government Enforcement Actions Against Public Companies and Their Officers for Securities Fraud

- Criminalizing Corporate Misconduct
- Justice Department Hardball
- How the Government Conducts its Investigations
- Defense Strategies

*Session Chair*

**Anton R. Valukas**, Jenner & Block LLP, Chicago

*Panelists*

**Robert W. Kent Jr.**, Chief, Financial Fraud, U.S. Attorney's Office, Northern District of Illinois  
**Linda Chatman Thomsen**, Deputy Director, Division of Enforcement, United States Securities and Exchange Commission  
**Herbert S. Wander**, Katten Muchin Zavis Rosenman, Chicago

4:30–5:30 p.m.

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**Investigations Under the Lawyer Rules:  
Issues of Professional Responsibility**

- “Up the Ladder” Reporting
- Use of QLCC
- Supervisory Questions and Confidentiality Considerations
- Practical Application of SEC 205 Rules

*Session Chair*

**Karl A. Groskaufmanis**, Fried, Frank, Harris, Shriver & Jacobson LLP, Washington, D.C.

*Panelists*

**W. Hardy Callcott**, Bingham McCutchen LLP, San Francisco

**Mitchell Eliot Herr**, Holland & Knight LLP, Miami

*Commentator*

**Giovanni P. Prezioso**, General Counsel, United States Securities and Exchange Commission

5:30 p.m.

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**Reception sponsored by  
PricewaterhouseCoopers LLP**

## Friday, April 30

8:30–9:45 a.m.

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**Takeover Defense — Post Bubble, Post Enron  
and Post Sarbanes-Oxley**

- Implications of Oracle/Peoplesoft, ArvinMeritor/Dana, and Simon/Taubman
- How to Deter and Defend Against Hostile Takeover Activity

*Session Chair*

**Andrew R. Brownstein**, Wachtell, Lipton Rosen & Katz, New York

*Panelists*

**Daniel H. Burch**, President, MacKenzie Partners, Inc., New York

**Joele Frank**, Managing Partner, Joele Frank, Wilkinson Brimmer Katcher, New York

**Michael M. Froy**, Sonnenschein Nath Rosenthal LLP, Chicago

**A. Gilchrist Sparks III**, Morris, Nichols, Arsht & Tunnell, Wilmington, Delaware

9:45–10:00 a.m.

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**Break**

10:00–11:30 a.m.

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**Delaware Chancery Court Corporate  
Argument— Leo E. Strine Jr., Vice Chancellor  
of the Delaware Court of Chancery, Presiding**

Two top lawyers appear before Vice Chancellor Strine in a mock hearing on the enforceability of merger agreement provisions.

**Kevin Abrams**, Richards, Layton & Finger, Wilmington, Delaware

**A. Gilchrist Sparks III**, Morris, Nichols, Arsht & Tunnell, Wilmington, Delaware

**Leo E. Strine Jr.**, Vice Chancellor, Delaware Court of Chancery, Wilmington, Delaware

*Commentators*

**Scott J. Davis**, Mayer, Brown, Rowe & Maw LLP, Chicago

**Frederick C. Lowinger**, Sidley Austin Brown & Wood LLP, Chicago

11:30 a.m.–12:45 p.m.

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**Risks of Personal Liability for Independent  
Directors**

- New “Good Faith” Theory
- Independent Directors Liability Dangers
- Protecting Independent Directors
- Risks of Eroding Effective Corporate Governance

*Session Chair*

**Charles W. Mulaney**, Skadden, Arps, Slate, Meagher & Flom LLP, Chicago

*Panelists*

**Kevin Abrams**, Richards Layton & Finger, Wilmington, Delaware

**Leo E. Strine Jr.**, Vice Chancellor, Delaware Court of Chancery, Wilmington, Delaware

**Robert F. Wall**, Winston & Strawn LLP, Chicago

12:45–2:00 p.m.

(Box Lunch Session)

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**Dealing with the New SEC Director  
Nomination Rules and Activist Shareholders**

- Current Shareholder Environment
- Proxy Voting Guidelines
- New Dynamics in the Boardroom
- Strategies for Addressing the Issues and Dynamics of these New Contexts

*Session Chair*

**Mark D. Gerstein**, Latham & Watkins LLP, Chicago

*Panelists*

**Daniel H. Burch**, President, MacKenzie Partners, Inc., New York

**Joele Frank**, Managing Partner, Joele Frank, Wilkinson Brimmer Katcher, New York

**Phillip M. Goldberg**, Foley & Lardner, Chicago

**Ted White**, Director, Corporate Governance, CalPERS, Sacramento

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# INFORMATION

## About the Garrett Institute

The Institute was established in memory of Ray Garrett Jr., chairman of the United States Securities and Exchange Commission, a member of the faculty of Northwestern University School of Law, and a partner in the Chicago office of Gardner Carton & Douglas LLP. The Ray Garrett Jr. Corporate and Securities Institute is designed to provide private practitioners and corporate counsel with a timely analysis of current and critical securities and corporate law issues and developments confronting publicly and privately held corporations.

## Registration and Tuition

Tuition for the Garrett Institute is \$900 for one person and \$800 per person for three or more registrants from the same firm or corporation. Additional discounts may be available for groups of six or more. Registration includes an extensive set of written materials distributed at the Institute as well as lunches and breaks.

## Course Materials

Registrants will receive an extensive set of course materials either in printed form or on a CD-ROM. For an additional fee of \$50, registrants may receive the materials in both formats. Additional copies of the materials are available for purchase by registrants or non-registrants for \$250. Registrants should indicate their preference for materials on the attached registration form.

## Cancellation Policy

Full tuition refunds will be made for all *written* cancellations received by April 15. Refunds will have a \$250 administrative fee deducted from tuitions on *written* cancellations received after April 15. *No refunds will be given for cancellations made after April 22, 2004.*

## Special Hotel Rates

Registrants for the Garrett Institute are entitled to a special hotel rate at the Wyndham Chicago, 633 North St. Clair Street, Chicago (312/573-0300 or toll-free 800/996-3426), which is only a short walk from the Law School. Subject to availability, the rate is \$139 for a single or double room booked before April 7, 2004. Be sure to identify yourself as a Garrett Institute participant.

## United Airlines Meeting Fares

United Airlines is the official carrier of the Garrett Institute. To take advantage of special low fares, please call United directly at 800/521-4041 and refer to account 560 FD.

## Continuing Legal Education Credit

As a program sponsored by Northwestern University School of Law, the Garrett Institute is recognized for mandatory continuing legal education credit in many states.

Estimated credit hours are 10.75 including 1.0 for ethics for states with a 60-minute credit hour, or 12.9 including 1.2 for ethics for those with a 50-minute credit hour. Questions about MCLE should be submitted to Debra Williams, Office of Executive and Professional Education at 312/503-1145 or by e-mail to [d-williams6@law.northwestern.edu](mailto:d-williams6@law.northwestern.edu).

## Sponsor

In 1984 Northwestern University School of Law established the Corporate Counsel Center to assist corporate counsel in addressing the complex questions that confront the business community today. For more information about the Corporate Counsel Center, please contact Juliann Cecchi, Director, Professional Education, Northwestern University School of Law, 357 East Chicago Avenue, Chicago, Illinois 60611-3069, telephone 312/503-0192.

## Messages

During the Institute, attendees may receive messages in the following ways.

Fax messages: 312/503-5950

Phone messages: 312/503-8988

E-mail messages: [garrett@law.northwestern.edu](mailto:garrett@law.northwestern.edu)

## Location

The Ray Garrett Jr. Corporate and Securities Institute is held in Thorne Hall, 375 East Chicago Avenue, on the Chicago campus of Northwestern University and *not* on the Evanston campus.

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### Registration Fee

- \$900 each for one or two registrations from the same firm or corporation
- \$800 each for three or more registrations from the same firm or corporation

### Selection of Materials

**Registrants** *(One set of materials is included with registration. Please indicate preference.)*

- Printed
- CD-ROM (includes all printed materials)
- Both printed and CD-ROM format (additional \$50)

### Non-Registrants

- Printed materials: \$250
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*“It’s the law that makes  
organized life possible.”*

— Ray Garrett Jr., 1920–1980

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**April 29–30, 2004  
Northwestern University School of Law  
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