

The Samuel and Ronnie Heyman Center on Corporate Governance  
Benjamin N. Cardozo School of Law • Yeshiva University

# **Perspectives on Corporate Restructurings: The Impact of Hedge Funds in Corporate Restructuring Transactions**

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**Program**

**Monday, March 5, 2007**

The Samuel and Ronnie Heyman Center on Corporate Governance  
Benjamin N. Cardozo School of Law  
Yeshiva University - Brookdale Center  
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## Schedule

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- 12:30 p.m.**      **Welcome**  
Speaker          Eric J. Pan, *Director of The Samuel & Ronnie Heyman Center on Corporate Governance, Benjamin N. Cardozo School of Law*
- 12:40 p.m.**      **Introduction: How the Emergence of Hedge Funds is Changing the Dynamics of Corporate Restructurings**  
Speaker          Jonathan S. Henes, *Kirkland & Ellis LLP*
- 1:00 p.m.**      **Panel One: Has the Chapter 11 Debtor Been Possessed by Hedge Funds and Other Distressed Investors?**  
Moderator        J. Gregory Milmoie, *Skadden, Arps, Slate, Meagher & Flom LLP*  
Panel              Timothy Coleman, *The Blackstone Group*  
                        Chaim J. Fortgang, *Silver Point Capital Advisors, LLC*  
                        David Pauker, *Goldin Associates, LLC*
- 2:45 p.m.**      Coffee
- 3:00 p.m.**      **Panel Two: Private Equity and the Back End of the Deal: Risks and Rewards of Corporate Restructurings**  
Moderator        Gary T. Holtzer, *Weil, Gotshal & Manges LLP*  
Panel              David S. Kurtz, *Lazard Freres & Co. LLC*  
                        Howard M. Levkowitz, *Tennenbaum Capital Partners, LLC*  
                        James A. Mesterham, *AlixPartners, LLP*
- 4:45 p.m.**      Coffee
- 5:00 p.m.**      **Keynote Address: The Role of Hedge Funds and Private Equity Funds in Corporate Restructuring Transactions**  
Speaker          Harvey R. Miller, *Greenhill & Co., LLC*
- 6:15 p.m.**      Reception

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*The presentations and discussions will be on the record.*

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*We respectfully ask that audience members turn off their cell phone and blackberry ringers and refrain from leaving until the end of a presentation.*

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## Participants

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George Abrahams  
*Blank Rome*

Colin Adams  
*Kirkland & Ellis*

Rachel Ehrlich Albanese  
*Weil, Gotshal & Manges*

John Albright  
*UBS AG*

Anne Alexander  
*Kramer Levin Naftalis & Frankel*

Mitchell Ames  
*Hogan & Hartson*

Rick Antonoff  
*Pillsbury Winthrop Shaw Pittman*

Anita Baker  
*Wells Fargo*

DJ Baker  
*Skadden, Arps, Slate, Meagher & Flom*

Susan Balaschak  
*Dreier*

Matt Barr  
*Milbank, Tweed, Hadley & McCloy*

Corinne Barrett  
*The Bank of America*

Howard Berkower  
*Zukerman Gore & Brandeis*

Ethan Binder  
*Blue Ridge Capital*

Alex Black  
*Kroll Zolfo Cooper*

Kenneth Blackman  
*Fried, Frank, Harris, Shriver & Jacobson*

Howard Blaustein  
*Kurtzman Carson Consultants*

Ronen Bojmel  
*Miller Buckfire & Co*

Robert Brandow  
*GMAC Commercial Finance*

Bob Burns  
*Quadrangle Group*

Eric Hyun-Sup Byun  
*The Carlyle Group*

Scott Cargill  
*Lowenstein Sandler*

Diane Casella  
*Kramer Levin Naftalis & Frankel*

Joe Cashel  
*Grant Thornton*

Michael Chaisanguanthum  
*Weil, Gotshal & Manges*

Joe Checkler  
*Daily Bankruptcy Review*

Cindy Chen  
*Kirkland & Ellis*

John Chen  
*Citigroup*

Yong Chi  
*Standard & Poor's*

Sara Coelho  
*Weil, Gotshal & Manges*

Jason Cohen  
*Cadwalader, Wickersham & Taft*

Michael Cohen  
*Kirkland & Ellis*

Duncan Darrow  
*Sidley Austin*

Dan DeBono  
*Elliot Management*

Richard DeRose  
*Houlihan Lokey Howard & Zukin*

Jared Dermont  
*Rothschild*

Douglas Deutsch  
*Chadbourne & Park*

Matt Doheny  
*Deutsche Bank*

Rina Doshi  
*Citigroup*

Rovert Dremluk  
*Seyfarth Shaw*

M. Douglass Dunn  
*Milbank, Tweed, Hadley & McCloy*

Stephen Edwards  
*Atticus Capital*

Michael Emrich  
*Winston & Strawn*

Michael Emont  
*Raycliff Investments*

Christopher Faille  
*Lipper HedgeWorld*

Josh Feltman  
*Wachtell, Lipton, Rosen & Katz*

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*The Garden City Group*

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*Milbank, Tweed, Hadley & McCloy*

Jeremy Finkelstein  
*The Bank of New York*

Adam Fitzer  
*Miller Buckfire*

Alan Fitzpatrick  
*Anchorage Capital Group*

Julia Follosco  
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William Frenkel  
*Frenkel Sukhman*

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*Olshan Grundman Frome*

Mike Frishberg  
*Kirkland & Ellis*

Michael Fruchter  
*Commerzbank*

Joseph Furst  
*Latham & Watkins*

Humberto Garcia  
*Fursa Alternative Strategies*

Matthew Garofalo  
*White & Case*

Lawrence Gelber  
*Schulte Roth & Zabel*

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*Office of the United States Trustee*

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Joseph Glynn  
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*Hogan & Hartson*

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*Katten Muchin Roseman*

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*Brookfield*

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*Willkie Farr & Gallagher*

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*Reuters*

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*Bank of America*

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*Curtis, Mallet-Prevost, Colt & Mosle*

Marc Heimowitz  
*Citigroup*

Michelle Holl  
*Mayer Brown Rowe & Maw*

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*Richards Kibbe & Orbe*

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*Covington & Burling*

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*Lehman Brothers*

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*HSBC*

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*Saybrook Capital*

Christine Jagde  
*Mayer Brown Rowe & Maw*

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*Kramer Levin Naftalis & Frankel*

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*Citigroup*

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*The Garden City Group*

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*Willkie Farr & Gallagher*

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*White & Williams*

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*Bloomberg News*

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*Citigroup*

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*Sumitomo Mitsui*

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*Cravath, Swaine & Moore*

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*Hughes Hubbard and Reed*

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*Todtman, Nachamie, Spizz & Johns*

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*Tricap Partners*

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*Sutherland Asbill & Brennan*

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*Dreier*

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*Third Avenue Management*

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*Grant Thornton*

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*Kirkland & Ellis*

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*Hogan & Hartson*

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*Columbia Law School*

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*QEDI*

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*Jaffe & Asher*

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*Latham & Watkins*

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*Kaye Scholar*

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*Richards Kibbe & Orbe*

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*Morgan Stanley*

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*Silver Point Capital Advisors*

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*Kramer Levin Naftalis & Frankel*

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*Hahn & Hessen*

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*Winston & Strawn*

Marc Schwartz  
*Morgan Stanley*

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*Mound Cotton Wollan*

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*The Wall Street Journal*

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*Grant Thornton*

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*Goldman Sachs*

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*Kirkland & Ellis*

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*Akin Gump*

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*Sills Cummis*

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*Rothschild*

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*CIT*

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*Debevoise & Plimpton*

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*Corporate Restructuring Solutions*

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*King & Spalding*

Lloyd Sprung  
*Miller Buckfire*

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*Kroll Zolfo Cooper*

Zach Stanton  
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Eric Stein  
*Cole Scholtz Meisel Forman Leonard*

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*Neuberger Berman*

James Stevralia  
*Hogan & Hartson*

Scott Stuart  
*Donlin Recano & Co*

Michael Sukhman  
*Frenkel Sukhman*

Alexander Svoyskiy  
*Lehman Brothers*

Robert Sweeter  
*White & Case*

David Tanenbaum  
*Smith Barney*

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*Cohen Tauber*

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*Office of the United States Trustee*

George Zobitz  
*Cravath, Swaine & Moore*

Joel Zweibel  
*O'Melveny & Myers*

## **Speaker Biographies**

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### **TIMOTHY COLEMAN**

Timothy Coleman is a Senior Managing Director in the Restructuring & Reorganization Advisory group. Since joining Blackstone in 1992, Mr. Coleman has worked on a variety of Restructuring and Reorganization assignments. These include serving as Plan Facilitator in Bidermann Industries USA, Inc.; representing AT&T in AT&T Canada, Alestra, AT&T Broadband and Excite@Home; representing Mirant Corp., Cable & Wireless Holdings, Xerox Corporation, Williams Communications, FLAG Telecom, Harnischfeger Industries, Vencor, Inc., Teligent, Inc., Russell-Stanley Holdings, Inc., Indesco International, Inc., Safelite Glass Corp., R.H. Macy & Co., Camelot Music, Inc., Barneys Inc., Plaid Clothing Group Inc., Alliance Entertainment Corporation, Geneva Steel Company, Garden Way, Inc., Big V Supermarkets, Ermis Maritime Shipping, JPS Textile Group, Inc., Molten Metal Technology, Inc., and CellNet Data Systems Inc.; and advising various creditors of Camelot Music, Inc., Edison Brothers Stores, Inc., Warehouse Entertainment, Inc., Guangdong Enterprises, Koll Real Estate, Criimi Mae, Harrah's Jazz Company, Stratosphere Corporation, Weiner's Stores, Inc., Woodward & Lothrop, Inc., Stokely USA, Inc., Supercanal Holding, S.A., Vista Properties, Inc., Caterair International Corporation, Trans World Airlines, Inc., Carson Pirie Scott & Co., Liberté Investors, and Special Committees of the Boards of Sunbeam Corp. and Hechinger Company.

Before joining Blackstone, Mr. Coleman was a Vice President at Citibank N.A. for twelve years, where he divided his time between corporate restructuring, real estate restructuring, and loan syndications.

Mr. Coleman received a B.A. from the University of California at Santa Barbara, and an MBA from the University of Southern California.

### **CHAIM J. FORTGANG**

Chaim J. Fortgang is an attorney at Silverpoint Capital Advisors, LLP. Before joining Silverpoint Capital, he was a Senior Managing Director at Fortress Investment Group, and before joining Fortress Investment, he was a Partner at Wachtell, Lipton, Rosen, & Katz. Mr. Fortgang represents institutional lenders in significant troubled debt situations, including Consec Finance, Finova Group, Comdisco, Inc., Regal Cinema, Marvel Entertainment Group, Inc., Montgomery Ward & Co., Incorporated, Evans Transportation Company, North American Car Corp., Itel Corp., United States Lines, Inc., Todd Shipyards Corp., Kaiser Aluminum & Chemical Corp., Wang Laboratories, Inc., G. Heileman Brewing, Integrated Resources, Inc., Colorado Ute Electric Association, Inc., Donald Trump, Campeau Corporation, Charter Medical, Host Marriott Corporation. He also represents international clients in significant cross-border transactions including the Creditor's Committee of Maxwell Communications Corp., a

Bank Group in Ferruzzi/Montedison Group and the Creditors' Committee of Confederation Treasury and Services, Ltd.

Mr. Fortgang is affiliated with the National Bankruptcy Conference, the New York City and State Bar Associations, the ABA Business Bankruptcy and the Committee American College of Bankruptcy. He received a B.A. (summa cum laude) from Brooklyn College and a J.D. (cum laude) from New York University School of Law.

## **JONATHAN S. HENES**

Jon Henes is a partner in the Restructuring Group of Kirkland & Ellis LLP. Mr. Henes was recognized as one of the nations' outstanding young restructuring lawyers of 2005 by *Turnarounds & Workouts*. Mr. Henes' practice involves representing debtors (including portfolio, privately-held and public companies), creditors' committees and distressed investors (including hedge funds, private equity funds and companies) in acquisitions, restructurings and bankruptcy cases; advising boards of directors and senior managers of financially troubled companies regarding fiduciary duties and restructuring strategies; providing advice in connection with legacy, environmental, mass tort, retiree and pension liabilities of financially troubled companies; structuring acquisitions, financings and other commercial transactions; and advising investors in connection with the purchase of distressed assets and securities.

Mr. Henes has spoken at Harvard Business School and New York University regarding distressed investing, has published articles on, among other things, distressed debt trading and corporate decision making and was mentioned in, among other publications, *The Deal*, on April 23, 2004, in an article entitled "*After They Stopped Laughing*," which discussed Mr. Henes' involvement in the negotiated resolution of AT&T Latin America's complex chapter 11 case.

In addition to his restructuring practice, Mr. Henes has represented and counseled clients with respect to transactions related to the purchase or sale of teams in the Pacific Coast League and the Atlantic League of Professional Baseball.

He received a B.A. in History from Union College and a J.D. (cum laude) from the Benjamin N. Cardozo School of Law where he was Managing Editor of the *Cardozo Law Review*.

## **GARY T. HOLTZER**

Gary Holtzer is a partner in the Business Finance & Restructuring department of Weil, Gotshal & Manges LLP. He concentrates his practice in the representation of creditors and debtors undergoing restructurings in and out of Chapter 11 of the Bankruptcy Code.

Mr. Holtzer has represented General Electric (GE) in complex restructurings, distressed sale

transactions and bankruptcy litigation and has overseen numerous debtor-in-possession/exit loan transactions. Significant GE matters he has led include Sea Containers, Calpine, Montgomery Ward, Kmart, Comdisco, Conesco Finance, Budget Rent-A-Car, Questron Technologies, Orion Refining, Galey & Lord, Viskase, Xerox, E-Z Serve Convenience Stores, and Clark Retail Enterprises. Mr. Holtzer has represented a variety of debtors in various industries including Silicon Graphics, Parmalat, Velocita Corp. and Genesis Health Ventures, Inc.

Mr. Holtzer is an adjunct professor of law at the Benjamin N. Cardozo School of Law.

Mr. Holtzer received his B.S. from Cornell University and his J.D. from the Benjamin N. Cardozo School of Law.

## **DAVID S. KURTZ**

David Kurtz joined Lazard as a Managing Director in the Restructuring Group in 2002 from the Chicago office of Skadden, Arps, Slate, Meagher & Flom, where he was a senior partner, and became Global Co-Head of the Restructuring Group in 2006. His restructuring assignments at Lazard include the representation of Adelfia Communications Corp., Northwestern Corporation, Xcel Energy Corporation, Rural Cellular Corp., Safety-Kleen Corp., Oglebay Norton Company, American National Power, Calpine Corporation (Creditors' Committee), Northwest Airlines (Creditors' Committee), United States Air Transportation Stabilization Board (in connection with US Airways, ATA Airlines, America West Airlines and Aloha Airlines), and Lufthansa in connection with the United Airlines bankruptcy and LSG Sky Chefs. Prior to joining Lazard, he served as lead counsel in several of the largest corporate restructurings of the past decade, including McLeodUSA Incorporated, Polaroid Corporation, Washington Group International, Inc., Montgomery Ward & Co., Inc., Trans World Airlines, Inc. (first reorganization), Morrison Knudsen Corp., Favorite Brands International, Inc., Philip Services Corp., ICG Communications, Inc. and Tokheim Corp.

Mr. Kurtz has over 25 years of restructuring experience and is a frequent lecturer on bankruptcy and reorganization related topics. Mr. Kurtz is a member of the Board of Directors of the American College of Bankruptcy and was named as the Bankruptcy Dealmaker of the Year 2001 by the *American Lawyer* magazine.

He received a B.A. and a J.D. from Case Western Reserve University.

## **HOWARD M. LEVKOWITZ**

Howard M. Levkowitz is a Co-founder and Managing Partner of Tennenbaum Capital Partners, LLC (TCP), a leading private investment firm with over \$5 billion of committed capital. Mr. Levkowitz is President of TCP's Opportunity Funds and head of TCP's public markets

investments. He has served on the boards of both public and private companies and has served on a number of formal and informal creditor committees. Prior to establishment of the Firm, Mr. Levkowitz was an attorney specializing in real estate and insolvencies.

Mr. Levkowitz received a B.A. in History (magna cum laude) from the University of Pennsylvania, a B.S. in Economics (magna cum laude) from The Wharton School, and a J.D. from the University of Southern California.

## **JAMES A. MESTERHARM**

Jim Mesterharm specializes in developing financial and operating strategies for companies emerging Chapter 11 and troubled companies. He has significant expertise in crisis management, cost reduction plan development and implementation, cash management, capital structure refinancing, and business plan development for acquisition and restructuring purposes. Mr. Mesterharm has served in senior management positions in turnarounds in roles such as Chief Restructuring Officer and Chief Financial Officer.

Mr. Mesterharm is currently leading the AlixPartners team that is serving as Restructuring Advisor to a leading plastic packaging company. Recently, Mr. Mesterharm led AlixPartners' team as Restructuring Advisor to Silicon Graphics, Inc. ("SGI"), a pioneer and leader in high performance computing. At SGI he led a team which developed and implemented broad sweeping cost reduction initiatives which have generated over \$130 million in cost savings, secured incremental financing, and negotiated a pre-arranged bankruptcy restructuring. These initiatives allowed SGI to emerge from bankruptcy in approximately five months with a right sized cost structure, significantly reduced leverage, while enabling SGI the flexibility to pursue new growth opportunities.

Prior to joining AlixPartners, Mr. Mesterharm was a manager in the Financial Advisory Services practice of Ernst & Young. He graduated with honors from Northwestern's J.L. Kellogg School of Management with an MBA degree in finance, strategy, and organizational behavior, and holds a B.S. in accounting and management from Purdue University. Jim is a Certified Public Accountant and is a member the Turnaround Management Association.

## **HARVEY R. MILLER**

Harvey R. Miller is currently a Managing Director and Vice Chairman in Greenhill & Co., LLC. He was previously a senior partner in the New York City based international law firm of Weil, Gotshal & Manges, LLP where he had been a member of the Firm's Management Committee for over 25 years and created and developed the Firm's Business Finance & Restructuring Department specializing in reorganizing distressed business entities, a Department that grew from 3 attorneys to over 100 attorneys.

Mr. Miller has taught at New York University Law School, Yale Law School and Columbia University School of Law. He is an Emeritus Member of Board of Visitors Columbia University School of Law, a Member of Dean's Council at Columbia University School of Law, a Member of National Bankruptcy Conference, a Fellow of American College of Bankruptcy, a Fellow of the American Bar Foundation, a Trustee of the Committee on Economic Development, and an advisor to Business Bankruptcy Committee of the American Bar Association Section of Business Law. His recent articles include "Chapter 11 Reorganization Cases and the Delaware Myth" and "Does Chapter 11 Reorganization Remain a Viable Option for Distressed Businesses for the Twenty-First Century."

## **J. GREGORY MILMOE**

J. Gregory Milmoie is a partner of Skadden, Arps, Slate, meagher & Flom LLP who has played a leadership role in numerous restructurings, acquisitions and financings. Mr. Milmoie (who co-leads the Firm's Corporate Restructuring Group) brings to his practice wide-ranging corporate experience including with in-court and out-of-court restructurings, hostile and negotiated mergers and acquisitions, leveraged buyouts and corporate financings including initial public offerings. He draws on this experience to help fashion pragmatic, sometimes novel, solutions to complex problems that frequently blend and adapt techniques from various legal disciplines. For example, Mr. Milmoie represented the consortium which successfully "bailed out" Long Term Capital.

During his career, Mr. Milmoie has led the Firm's representation in numerous significant matters including: Refco, Inc. (debtors), Aurora Foods (debtors), Vlastic Foods (debtors), Exodus Communications (debtors), Genuity Inc. (company), ICG Communications (debtors), Alamosa (company), Revlon Inc. (company), Fairfield Manufacturing (company), Mirant (company), ITC DeltaCom Inc. (company), Radio Unica (debtors), Viatel Inc. (debtors), e.Spire Communications (debtors), Abraxis Petroleum (creditors), Verizon Wireless in its acquisition of Nextel, McKesson in its acquisition of Foxmeyer Corp., Fortress Investment Group in various acquisitions and investments including Pinnacle, Brookdale and NBA, and Dean Foods' acquisition of assets from Parmalat USA.

Mr. Milmoie lectures on fiduciary and restructuring issues for legal and business audiences. He is listed in the *K&A Restructuring Register*, the peer group listing of the top restructuring attorneys and financial advisors in the United States; is listed as a leader in the corporate restructuring and insolvency field in both *Chambers Global* and *Chambers USA*; and has been named by *Turnarounds & Workouts* to its list of the top dozen restructuring lawyers in America.

Mr. Milmoie received an A.B. from Cornell University and a J.D. from Fordham University where he was Articles Editor of the *Fordham Law Review*.



## **PROF. ERIC J. PAN**

Eric J. Pan is Assistant Professor of Law and Director of The Samuel and Ronnie Heyman Center on Corporate Governance at the Benjamin N. Cardozo School of Law.

Before joining Cardozo, Prof. Pan was an attorney in the Washington, DC office of Covington & Burling, where he worked in Covington's corporate, securities, and international practice groups. His practice consisted of mergers and acquisitions, public and private securities offerings, securities regulation, general corporate advisory work, and public and private international law matters. Before his time at Covington, he was a Jean Monnet Lecturer in Law at Warwick University, England, and served as director of Warwick's Programme in Law and Business. He was also a visiting fellow in international law at Cambridge University, England.

Prof. Pan is an Associate Fellow of the Royal Institute for International Affairs (Chatham House) in London and a term member of the Council on Foreign Relations. Prof. Pan received an A.B. in Economics from Harvard College, a M.Sc. in European and International Politics from Edinburgh University, Scotland, and a J.D. from Harvard Law School.

## **DAVID PAUKER**

David Pauker is a managing director of Goldin Associates, LLC, a restructuring advisor to underperforming companies or their creditors or lenders. He recently concluded an assignment as chief restructuring officer of Refco Inc. Mr. Pauker has acted as interim CEO, COO or chief restructuring officer during numerous bankruptcies, including Vlastic Foods International, Grand Court Lifestyles, Pharmacy Fund and Monarch Capital Corp. He has advised debtors, creditors committees, lenders and principal investors in diverse restructurings including MCI/WorldCom, Northwestern Corp., Drexel Burnham Lambert, Rockefeller Center Properties, RAB Holdings, Redding Life Care, Trump Taj Mahal, Crystal Brands and United Merchants & Manufacturers. Mr. Pauker has overseen the investigation of claims and the conduct of litigation in numerous bankruptcies, including PSI Net Consulting, Granite Funds, Power Company of America, SmarTalk Teleservices and First Interregional. He assisted the audit committees of AboveNet/Metromedia Fiber and Impath to investigate financial irregularities in connection with their bankruptcies.

Mr. Pauker is a graduate of Cornell University and Columbia School of Law.