

## Partners Notes

### Wiley Rein Welcomes Three New Partners To Several Practice Groups

Three new partners have joined Wiley Rein in its Communications, Food & Drug and Product Safety and Aviation Practices.

Former Ambassador David A. Gross, the U.S. Coordinator for International Communications and Information Policy, joined the firm in its Communications Practice. A foremost expert on international telecommunications, Ambassador Gross comes to the firm after serving for nearly eight years as the senior United States government official responsible for representing the United States on global telecommunications issues.

Veteran Food & Drug attorney James N. Czaban joined the firm in its Food & Drug and Product Safety Practice. Mr. Czaban has extensive experience handling legal, regulatory and policy matters for pharmaceutical, biotechnology, food, medical device and life sciences clients.

Aviation expert Alan N. Hernandez,

who represents and advises U.S. and non-U.S. airlines, MROs and aircraft owners, sellers, purchasers, lessors and lessees in a broad range of transactions and matters involving aircraft, aircraft engines, aircraft parts, aircraft fractional interests, and airline and flight department operations, has joined the firm's Aviation Practice.

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The George Washington University's Graduate School of Political Management (GSPM) and the National Association of Business Political Action Committees (NABPAC) have announced that the 2008-2009 Jan Baran PAC Management Scholarship has been awarded to Ms. Tiffany Waddell, a student in the school's Political Action Committee Graduate Certificate Program.

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Wiley Rein partner H. Jason Gold, the court-authorized liquidating trustee for the bankruptcy estate of Dornier Aviation (North America), Inc. (DANA),

has announced that the bankruptcy court has approved a full and final settlement of all litigation and disputes with Hainan Airlines, a major international airline based in China. Hainan has paid the trustee \$14,950,000 in consideration of the settlement and Mr. Gold is now

moving to dismiss all legal actions filed against Hainan. The trustee had brought suit back in December 2003 and final judgment was obtained in August of last year to recover unpaid accounts. U.S. Bankruptcy Judge Steven S. Mitchell presided over the case.

### ExxonMobil

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And they will be important to a comprehensive set of solutions.

#### Editor: Are there integrated solutions to lower emissions?

**Tillerson:** Integrated solutions also hold the promise of helping reduce greenhouse-gas emissions. The first and most significant step is to continue the energy-efficiency gains mentioned earlier.

Businesses of all types, including my own, must systematically work to improve efficiency and environmental performance throughout our facilities the world over. Since 2004, ExxonMobil has invested more than \$1.5 billion in activities that improve energy efficiency with a companion reduction in greenhouse-gas emissions, and we will be spending about half-a-billion dollars over the next few years.

Through efficiency actions taken in 2006 and 2007 alone, we reduced our greenhouse-gas emissions by about five million metric tons.

Notwithstanding these types of improvements, with rising energy demand, especially in developing nations, we expect an increase in greenhouse-gas emissions. For example, by the year 2030 China's emissions will be comparable to the combined emissions of the United States and Europe.

My greatest concern is that policymakers will attempt to mandate or ordain solutions that are doomed to fail, and we will be set back even further from necessary and viable solutions.

One policy option that is intended to reduce emissions and which has received much attention is a cap-and-trade system. But before we rush to enact such a system, we must ask whether it can best achieve our shared goal of actually reducing greenhouse-gas emissions.

Such a system was put in place in the European Union. Unfortunately, the European scheme is struggling to achieve the overall reductions that its supporters had hoped for.

One of the reasons for this is that cap-and-trade systems inevitably introduce unnecessary cost and complexity that undercut their effectiveness.

It is important to remember that a cap-and-trade system requires a new market infrastructure for traders to trade emissions allowances. This new "Wall Street" of emissions brokers will take the emphasis away from the goal of reducing carbon emissions and focus its attention on trading on price volatility. For businesses and consumers, these market gatekeepers and resultant price

swings add cost and they create uncertainty.

Also, cap-and-trade systems, because of their complexity, have inherent problems with verification and accountability. They require a vast expansion of administrative and regulatory officials to ensure emissions allowances are not exceeded. This is another cost for businesses and consumers to bear.

There is another policy option that should be considered, and that is a carbon tax.

As a businessman it is hard to speak favorably about any new tax. But a carbon tax strikes me as a more direct, a more transparent and a more effective approach. It avoids the costs and complexity of having to build a new market for securities traders or the necessity of adding a new layer of regulators and administrators to police companies and consumers. And a carbon tax can be more easily implemented. It could be levied under the current tax code without requiring significant new infrastructure or enforcement bureaucracies.

A carbon tax is also the most efficient means of reflecting the cost of carbon in all economic decisions – from investments made by companies to fuel their requirements to the product choices made by consumers.

In addition, such a tax should be made revenue neutral. In other words, the size of government need not increase due to the imposition of a carbon tax. There should be reductions or changes to other taxes – such as income or excise taxes – to offset the impacts of the carbon tax on the economy.

Finally, there is another potential advantage to the direct-tax, market-cost approach. A carbon tax may be better suited for setting a uniform standard to hold all nations accountable. This last point is important! Given the global nature of the challenge, and the fact that the economic growth in developing economies will account for a significant portion of future greenhouse-gas emission increases, policy options must encourage and support global engagement.

#### Editor: Do you have any final comments?

**Tillerson:** The American people have made clear they want to make energy a national priority. Our government must play an important role in this effort. First, our country's tax and regulatory framework should be stable and consistent to promote the long-term investments that are required. Second, our country should continue to allow more access to domestic reserves. And, third, our country should press forward with free trade.

### Kelley Drye Advises Rwandan Government In Negotiating Major Foreign Investment

Kelley Drye & Warren LLP partner, Stephen W. Stein, working through the International Senior Lawyers Project and in collaboration with fellow volunteers from Hogan & Hartson LLP, has been assisting the Ministry of Infrastructure of the Government of Rwanda over the last three-and-a-half years in developing projects to increase the power generation capacity of the country. This is necessary for the development of local industry and the economy as a whole, as well as providing the population with access to reliable and affordable electricity.

On March 2, 2009, the Rwandan government signed a Gas Concession Agreement and a Power Purchase Agreement, as well as related agreements, with an affiliate of Contour Global, an American company that specializes in energy investments, to build, own and operate a gas production facility and a natural gas-fired power generation plant with a total of 100 MW of installed capacity.

The electricity generated by the plant will be sold to the Rwandan electric distribution company, Electrogaz. The agreements have terms of 25 years. The first phase consists of 25 MW, which will come on-stream in 2010. The second

phase will bring an additional 75 MW online by the end of 2012. Phase one will cost about US \$100 million, and the entire project will cost approximately US \$325 million. This is the first independent power project developed in Rwanda. Mr. Stein and his colleagues drafted and negotiated the agreements on behalf of the government. In addition to providing advice to the Ministry of Infrastructure and Electrogaz, they also worked with the Ministries of Finance and of Justice.

The unique source of fuel for the power plant is methane gas that is trapped in the bottom layers of Lake Kivu, a deep water lake on the western border of Rwanda. Extracting the gas not only provides an environmentally friendly and sustainable source of power generation, but also greatly mitigates the environmental hazards and risks associated with an uncontrolled natural release of the lake gases.

Rwanda currently has an available peak capacity of about 60 MW. Thus the project will result in a substantial increase in the country's electrical generation capacity and will allow the country to increase the number of Rwandans with access to electricity from 6 percent to 16 percent.

### Duff & Phelps Publishes 2009 Risk Premium Report

Duff & Phelps Corporation, a leading provider of independent financial advisory and investment banking services, announced that it has published the Duff & Phelps Risk Premium Report for 2009. The report is designed to assist finance professionals in making better cost of capital estimates for purposes of business valuation, capital budgeting, feasibility studies and corporate finance decisions.

The Duff & Phelps Risk Premium Report provides data on the observed relationships between risk measures and

realized returns actually experienced by equity investors. The data can be a useful tool in improving measurement of risk of a subject business and matching that risk with the appropriate expected return or cost of equity capital. The report contains returns based on company size and upon fundamental company risk.

New this year are expanded data on small companies. The Duff & Phelps Risk Premium Report is available for purchase through Morningstar, Business Valuation Resources and ValuSource.