



Ambassador Sheinwald with Noel Lateef, President of the Foreign Policy Association.

Business is an influential player in our shared efforts to remove barriers to the development of international commerce and promote a level global playing field and business-friendly environment for all our companies.”

The Awards were presented by Sir Nigel Sheinwald, British Ambassador to the United States; The Hon Robert Tuttle, US Ambassador to the Court of St James’s; and Tom Glocer, CEO of ThomsonReuters, and Lead Co-Chair of the Dinner.

We are very grateful to everyone who helped to ensure the Dinner’s success, including in particular our honorees; the Dinner’s many Benefactors, Co-Chairs, Vice-Chairs and Patrons; and Sir Nigel Sheinwald and The Hon Robert Tuttle, our two Co-Patrons. ■

CO-CHAIRS OF OUR 2008 DINNER HELD ON OCTOBER 31ST WERE:

Ellen Alemany, Chief Executive Officer, RBS Americas & Citizens Financial Group; **Richard T. Clark**, Chairman, President & CEO, Merck & Co., Inc; **John P. Connolly**, Global Chairman, Deloitte Touche Tohmatsu; **Archibald Cox, Jr.**, Chairman, Barclays Americas; **Dinyar Devitre**; **Samuel A. DiPiazza**, Chief Executive Officer, PricewaterhouseCoopers LLP; **Alan S. Elkin**, Chairman & CEO, Active International; **Michael Feldberg**, Partner, Allen & Overy LLP; **Timothy P. Flynn**, Chairman, KPMG; **Daniel S. Glaser**, Chairman & CEO, Marsh Inc.; **Thomas H. Glocer**, Chief Executive Officer, Thomson Reuters; **Rich M. Kruger**, President, ExxonMobil Production Company; **Raymond J. Milchovich**, Chairman & Chief Executive Officer, Foster Wheeler Ltd.; **Rupert Murdoch**, Chairman & CEO, News Corporation; **Duncan Niederauer**, Chief Executive Officer, NYSE Euronext; **Regina M. Pisa**, Chairman & Managing Partner, Goodwin Procter LLP; **Sir Nigel Sheinwald** KCMG, British Ambassador to the USA, British Embassy; **Neil Smith**, Founding Partner, EHS Partners LLC; **Kevin Sneader**, Director & Managing Partner, Mid Atlantic Offices, McKinsey & Company; **Sir Martin Sorrell**, Chief Executive Officer, WPP; **David F.M. Stileman**, Chief Executive Officer, Americas, Standard Chartered Bank; **Sir Howard Stringer**, Chairman & CEO, Sony Corporation; **Peter Stringham**, Chairman & CEO, Young & Rubicam Brands; **Simon Talling-Smith**, EVP, Americas, British Airways; **The Hon. Robert Holmes Tuttle**, US Ambassador to the Court of St. James’s; **Nicolas C. Walsh**, Executive Vice President, AIG; **R. Paul Wickes**, US Senior Partner, Linklaters, LLP.

NEWS FROM NEW YORK MEMBERS

To Buy or Not to Buy – Legal and Regulatory Concerns in the Acquisition of a US Securities Broker-dealer

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Although the US securities industry is in tatters, many see this as an opportunity time to own a US securities broker-dealer. While purchasing an existing broker-dealer is a shortcut to gaining a foothold in the US securities industry, this point of entry is fraught with several legal and regulatory issues that need to be fully understood before a final decision is made. A snapshot of a few of those issues follows:

The statute of limitations for a regulator to bring charges extends up to two years beyond the termination of the broker-dealer’s membership and it is not uncommon for charges to be brought three or more years after the underlying event took place; civil statutes of limitations vary depending on the allegation but can be several years, too. The upshot is that the newly acquired broker-dealer could be financially responsible for both defending itself and paying any penalties for

actions that took place well before the acquisition. Even if the purchase agreement requires the seller to fully indemnify the buyer, the buyer could very easily find itself having to sue the seller to compel indemnification. This lawsuit will only consume more of the broker-dealer’s resources. Additionally, an indemnification clause is a risky proposition because it assumes that the seller will have sufficient funds to meet the indemnification requirements when needed.

Aside from the tangible financial implications of fighting the charges, the disgorgement any ill-gotten gains, as well as paying any fines for acts that took place before the ownership change, this disciplinary history could also result in lost business opportunities. It is impossible to explain to potential clients about a disciplinary history that was derived from behavior that preceded the new ownership when those clients never even contact the broker-dealer because

they learned of the checkered past and have taken their business elsewhere. Moreover, any future penalties imposed by regulators could be enhanced because of this disciplinary history. Finally, the ability to sell the broker-dealer in the future or to command a premium for the sale could be dramatically impacted by this disciplinary history.

In short, serious consideration should be given before purchasing an existing US securities broker-dealer instead of starting your own in light of the attendant risks from unknown liabilities. Regardless of whether you elect to start your own broker-dealer or purchase an existing one, skilled counsel can provide you with the necessary corporate and regulatory advice.

Kevin S. Koplin is a partner in the Broker-Dealer Securities Regulatory practice group of Barton Barton & Plotkin, LLP. ■