LAWDRAGON

Lawyer Limelight: William Fogg

A Conversation With a Leading Member of Cravath's Renowned Corporate Department

Photo by Laura Barisonzi

By Katrina Dewey

Few firms offer the depth of Cravath's Corporate department, which boasts 44 partners who regularly are called upon to handle the world's most sophisticated deals. The firm has provided counsel to the entrepreneurs, bankers, inventors and executives who have built the U.S. economy for nearly 200 years, from handling the financing to build the nation's railroads to restructuring the nation's auto industry.

Cravath demonstrated its corporate clout across the board in the past year, with blockbuster deals in M&A, securities and banking. The firm advised Royal Dutch Shell as U.S. counsel in its $70B acquisition of BG Group; and Cigna Corporation in its pending $54.2B merger with Anthem. In the securities arena, Cravath represented the underwriters in connection with the $5B offering of Actavis. And it represented JP Morgan, Mizuho and Wells Fargo in one of the largest acquisition financings ever – a $36.4B bridge credit facility in connection with Actavis' acquisition of Allergan.

A deal that was particularly challenging and high profile was Ferrari's $982M IPO, in which Corporate partner William V. Fogg led the firm's representation of the underwriters, led by UBS Investment Bank and BofA Merrill Lynch. We recently discussed that deal, and how Cravath has built such a deep corporate bench.

Lawdragon: Tell us a bit about the Ferrari IPO last October. IPOs were already hitting the doldrums then, but Ferrari had a great performance.

William Fogg: It was a great deal to work on. Fiat Chrysler had previously announced that it was doing an IPO of 10 percent of the shares of Ferrari, and spinning off the remaining 90 percent. We went to Italy for five days in July 2015, to Maranello, which is a Ferrari company town, to get the filing and diligence completed. The five days were pretty grueling, with meetings starting on a Sunday and going on constantly until we filed.

The tours of the plant were fascinating and it gave us a sense of the rich history of the company and the power of the brand. The company people were great hosts and of course took us to the test track where the drivers took us around in a few of their high-end models. That was fun. The initial filing happened pretty quickly after the deal started and we ended up with a very successful IPO and Ferrari re-domiciled as a Dutch company with all its assets in Italy.

LD: How did you get involved in that deal?

WF: Through a series of transactions following the Chrysler bankruptcy and government bailout, Fiat became a 60 percent owner of Chrysler. The other 40 percent was owned by the VEBA, a trust set up to fund post-retirement benefits for former Chrysler workers.

Fiat wanted to buy the whole company, but they couldn't come to agreement with the trustees on a valuation for the price of VEBA's stake. And the trust had a liquidity right – an IPO right. I got involved when the trustees delivered their notice to do an IPO of Chrysler, and JP Morgan called.

All along we suspected the Chrysler IPO would not happen and that as it got closer to being priced the road show would move the parties together on the valuation of Chrysler. That is exactly what happened, Fiat bought the remaining stake and then after that we did a few debt deals for Chrysler, now a subsidiary of Fiat, and then for FCA (as Fiat had renamed itself). Later they decided to do an IPO of Ferrari (a subsidiary of FCA), and by then we had developed a great relationship with the company and the Sullivan & Cromwell team, who were terrific to work with.

LD: Is this the type of deal you hoped to do when you joined Cravath after graduating from Columbia Law School?

WF: I grew up around the law; my father (Blaine 'Fin' Fogg) was one of the early partners at Skadden, so I grew up around lawyers, bankers and clients. I majored in political science and economics at Brown, then spent a summer in the Sullivan & Cromwell mailroom. I also spent summers at Bear Stearns in the brokerage operations back office and at Merrill Lynch in investment banking. I thought about doing a JD/MBA, but realized during law school that I was ready to get to work. I considered litigation, but after my first-year summer at Shereff Friedman, where I did litigation, research and writing, I knew in my gut I was going to be a corporate lawyer. Then I spent my second-year summer at Cravath, splitting between corporate and tax. I liked the deal flow, sitting in negotiations. When Cravath made me an offer, I accepted.

LD: Can you explain the training a corporate lawyer goes through at Cravath?

WF: Our rotation system is unique. On the corporate side, lawyers are expected to master a wide range of corporate issues as they rotate through our banking, securities and mergers and acquisitions practices. I joined full-time in September 1991 and spent my first year in commercial banking, working on some big leveraged deals. I worked for Allen Parker (now presiding partner of the firm) and Jim Cooper, who did more investment-grade credit work.

I worked on leveraged finance with Allen, who's one of the guys who invented it. One of my first deals was Time Warner buying Six Flags. It was a leveraged acquisition and Time Warner had to borrow money from our client, Chemical Bank (now part of JPMorgan), to do the deal. I had been at the firm for three months and handled the collateral part of the deal, while Pat Moriarty (now a Senior Attorney) did the credit agreement with Allen. The collateral work wasn't sexy, but it was important. You get a lot of experience here right out of the box.

LD: What about your second year?

WF: That year I rotated to one of our securities groups, and worked for Kris Heinzelman and Collier Kirkham (now retired). We mostly handled high-yield deals for First Boston, which is now part of Credit Suisse, and also did some IPOs.

In my prior bank work, we basically negotiated the terms of the loan. In securities work, we also negotiated the terms of the debt (bonds) but also had to do due diligence and write disclosures about the company. I found it interesting to listen to CEOs talk about their business. I'd sit through the diligence presentations and then read the corporate minutes. I learned to write disclosures about the company, including risk factors. I enjoyed the business aspect of that.

My first securities offering was a high-yield deal for Sealy, the mattress company. In the early '90s, the SEC had not yet adopted Rule 144A, providing a safe harbor from the registration requirements for some securities sales. So every deal then was registered. First Boston had written commitments and had to use a lot of their capital, including on a funded bridge for Sealy. Our deal helped First Boston get its money back.

LD: And then in your third year, you rotated to London?

WF: Yes, in September 1993, and then I kept extending and extending so I stayed until the end of 1995. We treat London as a normal rotation, which is 15 to 18 months. Mine was longer because of some great deals I was working on.

On my second day in London, the partner, John Young, a wonderful man and one of my mentors at the firm, tells me we have a major European privatization.

I had no idea what that meant. So I'm a third-year associate and basically need to figure out what a privatization is, which is when a government sells off an asset, and then be the senior associate on the deal.

At the time, the EU was requiring its states to privatize certain functions, including their telecom and postal services. The Dutch government took their postal, telecom and cable TV monopolies and put them into one corporation called KPN. We represented KPN in two deals while I was in London. The first was the initial listing in Amsterdam. We sold off one-third of the company and did a 144A offering in the U.S.

Then, right when I was supposed to leave London, they announced they were going to sell a second tranche and also do a NYSE listing and U.S. registration. So I stayed and handled that.

LD: Did you like living in London?

WF: I loved London, both personally and professionally. The travel was great. I liked living in a foreign country, and working on cross-border securities deals was fascinating. You have to make local rules work with U.S. law and figure out the different accounting. It really hones your skills.

Especially back then, you'd have to spend a lot of time explaining how to do a U.S. securities offering in a simple way to foreign clients who had never done one. That teaches you how to explain complicated things in an understandable way.

LD: Did the rotation continue when you returned from London?

WF: I rotated in to M&A for a couple of years when I returned in 1995. That was a pretty busy time. I worked with Allen Finkelson and Rob Kindler. Right away, I was thrown into a merger of equals between Ultramar and Diamond Shamrock. That was really memorable because Rob treated me as the senior associate and I had never done M&A before. It was a little daunting but I learned a ton. I also worked on deals for IBM and CBS.

I found that my prior training in banking and securities prepared me for M&A, both because I had learned deal management skills and because M&A involves a lot of issues where securities and banking are implicated.

LD: How long does the rotation system last, and what do you see as its enduring virtues?

WF: Our corporate associates rotate their entire time as associates. It's great training; we just think it trains better lawyers. It's awesome for the lawyer and for the firm. It creates more well-rounded lawyers who can advise clients on a range of issues. We have great associates and sometimes it can be a bummer for a partner when someone rotates out who that partner has come to rely on, but that is the way we do things. In the long term it's better for everyone.

LD: Do you ever wonder if it would be more efficient to not have such a long rotation?

WF: Never because I drank the Kool-Aid. It's incredibly valuable to work with a wide variety of lawyers, who have different styles and different ways of doing things. It's great training to work with as many partners as possible. And we think it helps us select the right people for promotion because we have a more informed view.

It also makes the firm more nimble in changing economic times. For example, in the latter part of last year into this one, when securities was slower, some of the younger securities partners helped out on M&A. So while the various groups in Corporate may have an expertise they are most associated with, we're all capable of doing most any type of corporate work. We chip in and help each other.

LD: I can certainly understand how the rotation system plays a huge part in the collegiality and unique culture of Cravath.

WF: It does. I value the collegiality among our partners and consider some of my partners among my closest friends. One of them also happens to be my wife (Julie North). The lockstep compensation also plays a huge part in it. Every lawyer in the same class makes the same money and we have never busted that.

That means that the client gets the best resources placed on their matter. If I have a client doing something I'm not an expert in, I don't have to worry that if I call my partner for help, I will make less money. Our system takes out a lot of the "not fun" side of doing our jobs.

We've got a deal with just this happening right now. One of my clients is looking at doing a funky forward-derivative thing that I've never done, but my partner Andy Pitts is an expert in. So when the clients call and say "we want to do this," instead of engaging in "learn and risk screwing up" I call Andy and everyone's happy.

LD: How does the rotation system carry over once you become partner?

WF: When you're a partner, we organize in groups, basically as a bunch of little firms inside a big firm that have rotating associates assigned to us.

We're generally set up along subject-matter lines, so in Corporate we have three securities groups; two banking groups; three M&A groups; a real estate group; and a corporate governance group; and a few specialized groups, including IP and environmental. We change the groups over time to address changing client needs.

LD: Can you talk about a few of the most interesting deals you have handled, and explain what made each deal interesting to you?

WF: That's a tough one. When you do this for 25 years there's a lot to choose from. KPN was formative and Ferrari was fun. The capital raises for banks during the financial crisis were pretty hairy. I always like the IPO issuer side, because you help give birth to a public company. I've handled two issuer IPOs in the last few years. Evolent Health was an interesting private company formed by a partnership between the University of Pittsburgh Medical Center and The Advisory Board Company, a public company in the healthcare space. TPG later invested in the company.

They came together to form a healthcare analytics company. They have a complicated structure, a so-called "Up-C," that was challenging to set up and required a lot of negotiation among the company and the major shareholders.

The other recent issuer IPO was for CyrusOne, a REIT. Our longstanding client, Cincinnati Bell, had a few data centers and bought a data center company, CyrusOne. We helped them to combine these assets and then did an IPO in a complicated so-called "Up-REIT structure."

I feel lucky to have been at Cravath my entire career. From the minute I walked in the door, I was given cutting-edge, complicated deals to work on and that taught me how to be a corporate lawyer. That's why I find this question so hard to answer. There have been so many transactions over the 25 years I have been at the firm. Generally I have found that the more complicated a deal is, the more value you can add. And for us, the more complicated the better. That's where Cravath excels.

Cravath, Swaine & Moore LLP