# Year in Review 2004

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To Our Clients and Other Friends

This past year we celebrated our 150th anniversary. How does any living thing flourish for 150 years? In the case of a law firm, it is by acting for great clients.

This Year in Review describes some of our clients’ achievements during 2004. As the world economy continued on its rebound, these companies and individuals found new opportunities, and we welcomed the opportunity to participate in their increased activity. We are proud to have played a part in their accomplishments, as we have for 149 years.

Our litigation and corporate defense practices experienced exceptional growth, as we continued to assert and protect our clients’ interests in a difficult regulatory climate for businesses and financial institutions, their executives, managers and owners. Our environmental and real estate clients were involved in the two most prominent urban development projects in the City and the nation. We assisted our corporate clients with acquisitions, private equity and debt financings and restructurings as the economy continued to improve. Our investment industry clients asked for help in structuring and implementing deals. And we continued to provide the sophisticated estate-planning and family business advice for which we have long been known.

All in all it was a great year and we look forward to an even better 2005 with our valued clients and friends.

— Carter Ledyard & Milburn LLP
Limiting Damages

After employing novel strategies, we successfully resolved a complex commercial dispute on behalf of our client Costco Wholesale Corporation. Costco had agreed to promote to its members the services of a distributor of long distance telephone and related services. The distributor alleged nearly $300 million in damages from claimed breaches of contract and commercial torts. The case reflected the increasing tendency of plaintiffs to test the limits of provable losses and speculative injury by attempting to use the large customer bases of certain defendants in order to magnify exponentially the damages traditionally available to vendors in commercial cases.

Court Upholds Shipping Client’s Immunity

The U.S. District Court for the Eastern District of Pennsylvania enjoined the Justice Department from indicting shipping client Stolt-Nielsen and its executives for criminal antitrust violations. We had assisted Stolt-Nielsen with an internal investigation and in obtaining immunity from prosecution under the Antitrust Division’s Corporate Leniency Program. Subsequently the Government attempted to void Stolt-Nielsen’s immunity. The Court ruled that the Antitrust Division had not established that Stolt-Nielsen violated the amnesty agreement and that the Government had received the benefit of its bargain. The case attracted great interest and was the subject of a series of articles in The Wall Street Journal.

First Amendment/Media Law

In 2004, CL&M assisted a wide variety of individual and business clients faced with published or anticipated defamation in news media, both print and electronic, books and film.

- We represented a former senior executive of a bank, whose termination was widely publicized by the bank in a false and defamatory press release and internal memorandum, reflecting a growing trend in which defamation, contract and employment law issues are melded together in wrongful termination cases.

- We represented two U.S. citizens in connection with statements broadcast in a major network’s TV magazine by an author claiming expertise in identifying supporters of Arab terrorism.

- We represented a direct marketer of dietary supplements fighting false charges about the safety and efficacy of the client’s products made by competitors on their websites and to regulators.

- In two separate matters, we advised clients of their rights with respect to defamatory depictions of them in bestselling novels.

Insurance Coverage

CL&M obtained a favorable ruling for client Liberty Mutual Insurance Company from the United States Court of Appeals for the Fourth Circuit in Jones v. Liberty Mutual Insurance Company, known throughout the insurance industry as Wallace and Gale. The decision preserved a summary judgment for Liberty Mutual dismissing a case for failure to prove policies, and affirmed the favorable insurance coverage ruling of the District Court.
Defending The Bank of New York

On behalf of The Bank of New York, we filed an amicus curiae brief in the New York Court of Appeals in litigation seeking to preserve the collateral structure created to secure bonds issued by the Local Government Assistance Corporation to refinance bonds issued in the mid-1970s by the Municipal Assistance Corporation. CL&M had represented United States Trust Company of New York as trustee for the Municipal Assistance Corporation bonds.

In another headline case, CL&M represented The Bank of New York as trustee in litigation involving more than $2 billion dollars of notes issued by HealthSouth Corporation. We defeated a preliminary injunction that would have prevented the noteholders from accelerating the notes because of HealthSouth’s failure to supply audited financial statements.

More Fallout From Enron

CL&M represented several dozen clients with claims against Enron or who were sued by Enron to recover payments made prior to its bankruptcy. We participated in litigation and negotiations over the terms of Enron’s plan of reorganization, finally confirmed in July.

CL&M defended an investor in LJM2, the Enron-related investment partnership which also filed for bankruptcy after the general partner admitted he engaged in fraudulent conduct. Our client and other limited partners refused to pay capital commitments once the fraud was revealed, and are now in litigation with the bankruptcy trustee.

Defending Maritime Clients

We defended Barry Roglano & Salles in a $100 million lawsuit arising out of the bankruptcy of Renaissance Cruise Lines in Florida. We also advised shipowners and charterers, including Samsung Americas, Inc., Bowater, Inc., Polish Steamship Company and the Government of Guyana in disputed contractual matters.

Employment Law

We successfully litigated cases involving protection of confidential information, enforcement of restrictive covenants, and the extent of employees’ fiduciary duty, and consulted with clients in a wide range of industries on the protection of confidential information and the risks involved in hiring employees who formerly worked for competitors.

- U.S. Trust Corporation turned to us after a group of employees in their asset management business resigned and tried to move clients of that business to a competitor.

- We represented Cliff Schwarz Music/Video Productions, an audio and visual cable television services company that creates promotional spots for television stations, in litigation against a competitor who targeted Cliff Schwarz’s employees.

- We continued our long-standing representation of Goldman Sachs in enforcing its non-solicitation agreements.
Public Companies on the Move

CL&M advised Danisco A/S (Copenhagen: DCO), one of the world’s largest producers of food ingredients, in its announced $615 million acquisition of all of the outstanding shares of Genencor International, Inc. (NASDAQ: GCOR), a diversified biotechnology company that develops and delivers innovative products and services into the industrial, consumer, agri-processing and health care markets. The acquisition, through a negotiated agreement with Eastman Chemical Company and an agreed tender offer for all of the publicly-held shares of Genencor, is scheduled for completion in April 2005.

Pall Corporation (NYSE: PLL), a leader in filtration, separation and purification, provides leading-edge products in biotechnology, pharmaceuticals, transfusion medicine, semiconductors, municipal drinking water, aerospace and broad industrial markets. Pall purchased Ciphergen Biosystems, Inc.’s (NASDAQ: CIPH) BioSepra Process Division, which develops, manufactures and markets chromatography sorbents, for approximately $32 million, net of cash and debt. Pall also sold its investment in Oiltools International Limited to Scomi Group Berhad (Kuala Lumpur: SCOI.KL) for approximately $22 million.

CooperSurgical, Inc. celebrated its tenth anniversary serving women’s health care professionals by providing quality products and innovative solutions to enhance women’s health. CooperVision, Inc., its affiliate, is a global leader in contact lens design, materials and manufacturing, and has become the world’s fourth largest contact lens maker and is the world’s number one manufacturer of soft toric lenses. Each of them expanded their businesses through acquisitions in 2004.

Flextrade

CL&M obtained a favorable interpretive letter from the staff of the Commodities Futures Trading Commission on behalf of our client Flextrade LLC. Now Flextrade can license out its trading and order management software program, customers can use it to gather market data and place commodities futures orders, and Flextrade can collect a fee for each trade executed, all without registering with the CFTC.
Private Acquisition and Growth Financings

Brown Brothers Harriman & Co. provided acquisition and working capital financing in connection with a management buy-out of LOOK, Inc., a visual merchandising company engaged in designing, engineering and manufacturing in-store product display fixtures and signage. The 1818 SBIC Fund, L.P., a private investment fund managed by Brown Brothers Harriman & Co., completed investments in subordinated notes of Ellery Homestyles, LLC, a supplier to major retailers of window curtains, decorative pillows and throws, bedding and other private label home fashion products; Beta Drywall, LLC, a provider of painting, drywall and framing services to large homebuilders; Durcon Laboratory Tops, Inc., a manufacturer of epoxy resin countertops, sinks, and related accessories for the educational and professional scientific laboratory supply markets; and Aetea Information Technology, Inc., a multi-state provider of staffing to customers in the computer and information technology industries.

We assisted the founder of Pres:AirTrol, a private manufacturer of air, pressure and vacuum switches used in a variety of applications, in connection with a leveraged buyout transaction financed by an investor group. A tax efficient structure was employed allowing our client to continue as an investor in the ongoing business.

The Rural Oklahoma Capital Alliance, L.P. applied for a license to operate a Rural Business Investment Company, in a competitive process under the Rural Business Investment Program, a new financial program initiative of the Bush administration designed to promote economic development and job creation in rural areas.

Financial Services
Clients Expand

Offshore investment fund clients continued offerings into the U.S., including deals by West End Capital, Polar Capital Paragon Fund, Fleming Investors, Stockbridge Fund Limited, First Arrow Managed Fund and other funds in Thailand, Russia and the Far East. We also assisted ICAP plc, listed on the London Stock Exchange (IAP.L), a member of the FTSE 250 Index, and the world’s largest inter-dealer broker, with a variety of general business matters.

Tullett Liberty Inc., the diversified financial services group, acquired Natsource LLC’s energy broking businesses in New York and Calgary.

Maritime Highlights

The Governor’s Island Preservation and Education Corporation selected us to assist in its maritime related activities. GIPEC is a joint agency of New York City and New York State responsible for the development of Governor’s Island in New York Harbor, which was recently transferred to GIPEC by the U.S. Government.

We also advised the mortgagee of five Navigator Gas Carrier vessels on restructuring issues in pending bankruptcy proceedings in New York, and advised a major industrial company in the successful restructuring of a leveraged lease financing of a Great Lakes ore carrier.
The Bank of New York

CL&M assisted The Bank of New York Company, Inc. (NYSE: BK) in a series of corporate trust transactions. Founded in 1784, BNY is the global leader in securities servicing for issuers, investors and financial intermediaries, and is the oldest bank in the United States.

Regulatory Investigations

We represented broker-dealers, mutual fund employees, hedge funds and registered investment advisors in connection with investigations into alleged abuses in the mutual fund industry and in other investigations and enforcement actions conducted by the Securities and Exchange Commission, the Commodity Futures Trading Commission, New York Attorney General Eliot Spitzer and the New York Stock Exchange. We also conducted internal investigations at the behest of entities concerned about potential improper or illegal conduct.

Corporate Executives

CL&M represented a number of corporate executives in connection with SEC investigations into alleged financial improprieties, and in related class actions and other civil litigation. We represented a former senior executive of Hollinger International, Inc., a NYSE-traded holding company that until recently owned such well known newspapers as the London Telegraph, Jerusalem Post and the Chicago Sun Times, and the former chief executive officer of a national, NYSE-traded retailer.

White-Collar Defense

We represented individuals under investigation or charged by US Attorney’s offices across the country with a variety of white collar crimes, including money laundering, insider trading, and stock manipulation. CL&M won an appeal before the Second Circuit of a pretrial evidentiary ruling handed down by the United States District Court for the Eastern District, thereby undercutting the government’s allegations of insider trading and perjury against a senior executive of a NYSE-traded food services company. We also represented institutions and individuals under investigation or charged by the Manhattan District Attorney’s Office, including several art dealers, purchasers and advisors in connection with allegations of tax fraud in the art world, as well as a financial institution in connection with alleged violations of foreign currency laws. We won dismissal of all criminal changes brought by the Manhattan District Attorney’s office against an officer of an internationally known modeling agency.
Money Matters

Investment Funds

The streetTRACKS® Gold Trust (NYSE: GLD) started trading on the New York Stock Exchange in late November 2004 and the Trust finished the year with over $13 billion in gold deposits. CL&M advised World Gold Trust Services, LLC and its parent, the World Gold Council, on the creation of streetTRACKS® Gold Trust, and its initial public offering of 2,300,000 shares. Its shares represent units of fractional undivided beneficial interests in and ownership of the Trust. The Trust holds gold bullion, issues shares in exchange for deposits of gold and distributes gold in connection with redemptions of shares through its Trustee. Each share initially represented one-tenth of an ounce of gold. The investment objective of the Trust is to offer investors a relatively cost efficient and secure way to access the gold market. This successful launch was the culmination of two years of structural and legal negotiations with government regulators and institutions. This included obtaining a ground-breaking ruling from the IRS permitting IRAs, 401(k) plans and other tax-qualified individual account retirement plans to invest in the shares without adverse tax consequences to the plan participants. World Gold Trust Services, LLC is the sponsor of the Trust, and The Bank of New York is the trustee of the Trust.

We advised funds, investment advisors, index providers, financial intermediaries, broker-dealers and stock exchanges with respect to both domestic and foreign Exchange Traded Funds. Our client Finans Portfoy developed the first Turkish ETF, which tracks the Dow Jones Turkey Titans 20 Index and is listed on the Istanbul Stock Exchange. We also initiated several exemptive applications for our ETF clients to enable registered investment companies to purchase interests in their funds beyond statutory limitations. We continue to discuss and consult with international securities industry “fact-finding” groups with respect to securities laws implications involving dual listings, cross listings and public offerings of foreign securities under the US regulatory scheme.

In the wake of the mutual fund scandals that surfaced in 2003, the SEC adopted regulatory changes designed to strengthen investment company governance. We were called upon to advise independent directors of mutual funds and sponsors of unit investment trusts on the new rules, including the requirements that fund boards have an independent chair, that there be enhanced disclosure of advisory contract renewals, and that fund compliance programs be adopted, as well as best practices recommended in the Mutual Fund Directors Forum Report requested by the Chairman of the SEC.

Structured Finance

The firm increased its activity in the tender option bond market and now represents both The Bank of New York and U.S. Bank Trust, N.A. in connection with programs sponsored by issuers including Citigroup, JPMorgan Chase and Merrill Lynch. These municipal security derivative structures create short term floating rate instruments suitable for tax exempt money market mutual funds issued by trusts holding longer term fixed rate securities.

Distressed Debt

We negotiated and documented the transfer of more than $700 million in distressed debt, securities and trade claims on behalf of hedge funds, trading desks and special purpose vehicles. Our attorneys are actively involved in establishing market practice and developing standards through our membership in the Loan Syndications & Trading Association and its Forms Committee.
Rebuilding Ground Zero

The Lower Manhattan Development Corporation is carrying out, with our assistance on environmental and land use matters, the redevelopment of the World Trade Center site with both a Memorial for the victims of September 11 and a new mixed-use center of commerce, public spaces, and culture. We assisted LMDC in carrying out a lengthy public review that involved a comprehensive Generic Environmental Impact Statement under the National Environmental Policy Act, a General Project Plan under the New York State Urban Development Corporation Act and a Programmatic Agreement under the National Historic Preservation Act. We also helped LMDC successfully defend a federal court challenge to the WTC redevelopment plan, and a state court challenge to LMDC’s role in security and streetscape improvements around the New York Stock Exchange.

Redeveloping Manhattan’s West Side

In November, the Metropolitan Transportation Authority and the New York City Planning Commission released the Final Generic Environmental Impact Statement for the No. 7 Subway Extension—Hudson Yards Rezoning and Development Program, the complex planning and environmental reviews for the West Side redevelopment program. The entire plan envisions approximately 40 million square feet of commercial, residential, and retail development, 25 acres of new parks and other open spaces, extension of the No. 7 Subway Line, an expanded Jacob K. Javits Convention Center, and a new Multi-Use Facility for sports, entertainment, and exposition uses on a platform over an MTA rail yard. We are currently defending two lawsuits in the New York Supreme Court challenging the Hudson Yards program.

Lead Paint

The New York City Council passed the New York City Childhood Lead Poisoning Prevention Act in February 2004, the latest chapter in a 20-year battle to address the dangers of lead paint. In April, two groups representing building owners challenged the Act in New York State Supreme Court. The Council asked us to defend the law, and in August the court granted our motion to dismiss. The building owners’ appeals are pending.

Clean Energy

We continue to help the Long Island Power Authority and New York Power Authority meet the growing energy needs of Long Island and New York City, assisting with LIPA environmental reviews and permitting for mobile generating units to address summer emergency peak demands, a new 350-megawatt combined-cycle plant in Suffolk County and the first water-based wind turbine project to provide energy to New York residents and businesses, and assisting with NYPA air and water permitting issues and environmental reviews for clean energy projects throughout the State.

Manufactured Gas-Public Parks

Youth Ministries for Peace and Justice, a Bronx-based community organization, continued its efforts to obtain a full cleanup of Starlight Park, the site of a former manufactured gas plant owned and operated by a predecessor of Consolidated Edison Company of New York, Inc. Con Ed has signed a consent order with the New York State Department of Environmental Conservation to investigate and remediate wastes left at the site.
Redevelopment

We represented the Empire State Development Corporation in acquiring two-thirds of the Manhattan block between 42nd and 43rd Streets and Avenue of the Americas through condemnation. The property will be the site of a new global headquarters for Bank of America, a major New York City employer. The building will be a state of the art “green” structure with numerous public amenities. As part of the project, the Henry Hudson theater facade on 43rd Street will be preserved and a new theater will be built.

The Roosevelt Island Operating Corporation leased the historic Octagon Tower and surrounding property to a developer for construction of a 500-unit apartment development. The Octagon Tower will become the focal point of this new development, overlooking newly restored community gardens and a waterfront esplanade featuring views of the Manhattan skyline. We represented RIOC in all aspects of the ground lease.

Collegiate Church Corporation

CL&M represented Collegiate Church Corporation in its proposed sale of a Manhattan property for more than $40 million. Collegiate will put the proceeds of the sale into a new fund that would expand the Church’s ministry and its outreach and charitable programs, such as homeless shelters, poverty relief services, peace studies, day care, counseling and other religious, social and philanthropic endeavors. We provided Collegiate with advice as to the tax consequences of various alternative structures for the sale and handled other aspects of the transaction.

Collegiate Church also looked to us in connection with a mortgage loan secured by one of its downtown Manhattan office buildings. Our work included negotiating the loan documents, clearing title, bonding mechanic’s liens, transferring the property to a single-purpose subsidiary, and securing subordination, nondisturbance and attornment agreements and tenant estoppel certificates from the tenants.

Beth Abraham Health Services

CL&M represented Beth Abraham Health Services in a tax-exempt bond financing with the New York City Industrial Development Agency to provide funds for upgrading Beth Abraham’s main nursing home facilities in the Bronx, and developing an adult day health care facility in Queens. Our work included providing assistance with construction contracts and approvals from the New York State Department of Health.

We assisted Comprehensive Care Management Corporation, an affiliate of Beth Abraham Health Services, with various construction, architectural and licensing contracts, lease amendments and non-disturbance agreements, including negotiating an office lease to provide additional office space to support its Grand Street adult day health facility in Manhattan.
Trademarks

We represented Honeywell International, Inc. in a dispute with former licensee Notiplex Securite Incendie, Inc. over use of the NOTIPLEX and N Design trademarks.

Marvel Characters, Inc. achieved an amicable resolution in a lawsuit with Terry Bollea over use of the marks HULK HOGAN, HULKAMANIA, HULKSTER, HOLLYWOOD HOGAN and HOLLYWOOD HULK HOGAN.

CL&M manages trademark portfolios aggregating thousands of marks for clients including Playtex Products Inc., United Business Media, and Teva Pharmaceuticals.

We represented the Ice Theatre of New York in negotiating agent and venue contracts.

Stephen Webster prevailed in an appeal in the United States Copyright Office, obtaining copyright registration for its signature CRYSTAL HAZE jewelry line.

Allison-Fisher International LLC successfully challenged the infringement of copyrighted works and received a substantial licensing fee.

The Beadnicks Group, Inc. successfully required the shut-down of a web site that had been infringing its mark BEADNIKS.

Patents

Marvel Characters Inc. obtained design patent protection for “Hulk Hands,” toy gloves the shape and color of the fists of Marvel’s Incredible Hulk action hero character.

We handled patent due diligence in numerous substantial transactions involving medical diagnostic and treatment devices, telecommunications technology, and electronic data transfer components.

We filed patent applications for software facilitating real time on-line stock trading, and rendered patent non-infringement legal opinions to a major chemical company.

Licensing

CL&M negotiated a master software license and services agreement with a large European pharmaceuticals company for software that permits on-line data entry and management of clinical trials of new drugs.

We drafted a license permitting financial services customers on-line access to trading data for transfers of financial derivative instruments.

We negotiated the purchase by a leading European fashion company of a trademark for a line of weather-resistant sportswear.
Media and Communications

Liberty Media

Liberty Media Corporation spun-off Liberty Media International, Inc. as a separate, publicly-traded company during 2004. Following the spin-off LMI became a holding company owning interests in broadband distribution and content companies operating outside the United States, primarily in Europe, Asia and Latin America. Through its subsidiaries and affiliates, LMI is one of the largest cable television operators outside the U.S. in terms of video subscribers. CL&M assisted in the preparation of the regulatory matters section of the Registration Statement filed with the U.S. Securities and Exchange Commission in connection with the spin-off and also handled the assignment of certain FCC licenses.

A la Carte Cable

On November 19, 2004, the Federal Communications Commission released its cable television industry report on the potential costs and benefits of “a la carte” pricing on a channel-by-channel basis, concluding it would allow consumers to pay for only the programming they choose, but few consumers would realize lower overall bills for programming as a result, and that a mandatory “a la carte” pricing model might adversely affect the diversity of programming available to consumers. In reaching its conclusions, the FCC relied extensively on comments submitted by CL&M on behalf of cable programming clients, including STARZ!Encore, the Hallmark Channel, GSN-The Network for Games, The International Channel, Oxygen and MBC (the Black Family Channel).

Telecommunications

Costco Wholesale Corporation successfully resolved long-standing litigation with a reseller of telecommunications services. Wireless Matrix Corporation resolved a dispute with another wireless service provider.

New Channels

Several new cable television programming services were launched in 2004 with the help of our Washington office, including Black Belt TV, Bridges Network, Shalom TV and TV Guide Network. We assisted in negotiating distribution agreements with major cable operators and direct broadcast satellite television providers. CL&M also represented clients offering video-on-demand and interactive programming services and negotiated distribution agreements with virtually every major distributor of multichannel video programming.

Electronic Marketing

The Federal Trade Commission maintains the national “Do-Not-Call List” for telemarketers and is also responsible for implementing the CAN-SPAM Act, which was enacted to regulate “spam” e-mail. Our attorneys counseled clients on compliance with the FTC’s “Telemarketing Sales Rule” and various related rules. CL&M also assisted a major utility holding company and a national market research organization in their efforts to ensure that their electronic marketing practices complied.
In 2004, our clients continued to work on interesting cross-border deals. We are particularly proud to have developed our international practice as a sophisticated and cost-effective alternative to larger American law firms.

**United Kingdom**

**Sea Containers Ltd.** (NYSE: SCRA and SCRB), completed a $103 million registered Senior Note offering through Citigroup Global Markets Inc., and its affiliate **GE SeaCo SRL** completed a $275 million Secured Note deal through GE SeaCo Finance SRL. Sea Containers (which owns 50% of GE SeaCo, GE Capital owning the other 50%) is a Bermuda-based marine container lessor, passenger and freight transport operator, and leisure industry investor (through **Orient-Express Hotels Ltd.** (NYSE: OEH)). Sea Containers also operates the Silja ferry service in the Baltic, GNER; the intercity high speed rail service connecting London with Leeds, Newcastle and Scotland; fast ferry services in the English Channel between England and France; seasonal ferry service in the Adriatic Sea and the Aegean Sea; and SeaStreak’s seven passenger-only fast ferries operating commuter services between Manhattan and New Jersey.

**Ireland**

Our client **Trinity Biotech plc** (NASDAQ: TRB), an Irish diagnostic equipment company, illustrated in 2004 the interaction of scientific breakthroughs in product development, access to international capital markets and growth by acquisitions. At the end of 2003, Trinity Biotech received FDA approval for its revolutionary blood test for the detection of antibodies to HIV. This enabled Trinity to complete a $22.5 million PIPE (Private Investment in Public Equities) financing in January 2004. With cash in hand, Trinity subsequently completed the purchases of Fitzgerald Industries Inc. and Adaltis US Inc., to widen Trinity’s diagnostic product offerings and expand into the lucrative diagnostic equipment business. Trinity now sells over 500 diagnostic products in over 80 countries.

We also advised clients in litigations outside the U.S. about opportunities under U.S. law to get wide ranging discovery in the U.S. in aid of the non-U.S. litigation. Our client **Pioneer Investment Management Ltd.**, an investment manager based in Ireland, was in litigation in Ireland with its insurer over the extent of coverage under an insurance policy. We helped Pioneer apply to the Federal court in New York to take discovery from the Irish insurer’s affiliate in New York. The foreign litigation was resolved shortly after the U.S. court allowed much of the discovery requested.

Founded by Gerard Moore in Ireland in the 1990s, **Spectel Limited**, an internet voice and data teleconferencing firm, expanded into the U.S. with its acquisition of MultiLink, Inc. in 2000. Spectel grew rapidly and profitably, but the bursting of the Internet bubble derailed a planned public offering in 2002. In 2004, Spectel saw that its competitors were being acquired by major telecom companies. In October 2004, CL&M assisted with the successful sale of Spectel to Avaya, Inc. for approximately $103 million.
Canada

The Canadian energy market continued to thrive in 2004 and our Canadian clients were particularly active in cross-border financing and mergers and acquisitions. It was our pleasure to assist issuers and underwriters in numerous financings and several acquisitions.

CL&M assisted issuers and underwriters in more than five dozen Canadian cross-border financings and several M&A transactions, typically private placements, IPOs or follow-on offerings done in Canada and elsewhere outside the United States as offshore transactions pursuant to Regulation S under the U.S. Securities Act, with a portion of the offering placed in the U.S. under Regulation D or Rule 144A. The Canadian energy fund sector continues to thrive, with one recent report indicating that it has continually surged in market capitalization from US $1 billion to US $33 billion since the mid-1990s. During 2004, we assisted several energy trusts in their formation or in subsequent financing or M&A transactions, including Advantage Energy Income Fund, Crescent Point Energy Trust, Paramount Energy Trust, Pengrowth Energy Trust, StarPoint Energy Trust and Shiningbank Energy Income Fund.

We worked with Boardwalk Equities Inc., a New York Stock Exchange company, with an enterprise value of CDN $2.3 billion to convert it into Boardwalk REIT (TSX: BEI. UN), a real estate investment trust, which is the largest owner/operator of multi-family residential housing in Canada.

Israel

Advising Individuals & Institutions

Personal Planning
Clients created hundreds of trusts, including charitable lead and remainder trusts, qualified personal residence trusts, intentionally defective grantor trusts and grantor retained annuity trusts. One client remarked that thanks to our planning with grantor annuity trusts he had successfully transferred over $2,500,000 to trusts for his children, tax free, over the past two years.

CL&M prepared and filed federal estate tax returns with a value over $240,000,000, and including such assets as Kentucky race horses, Texas orange groves, closely held businesses around the world and a famous collection of eighteenth century American furniture and silver. CL&M also advocated for clients before the IRS, argued in Tax Court, and wound up estates having a total value of over a billion dollars.

Tax-Exempt Organizations
We assisted a U.S. citizen resident in the U.K. with a substantial gift to a major U.S. museum through a U.K. charity, subject to the condition that he maintain management control over the funds for a period of years, hiring an investment advisor of his choosing. We coordinated the complex interaction of U.S. and U.K. tax laws to maximize the value of this client’s charitable deduction.

Employment
Goldman Sachs, ICAP International, GFI Group Inc. and Financial Dynamics sought advice to minimize liability risks associated with employee movement and competition and negotiating severance agreements, particularly in the wake of mergers and large-scale employee force reductions.

International Tax Planning
We advised StarPoint Energy Ltd. and E3 Energy Inc. on their arrangement and conversion into StarPoint Energy Trust. We advised Boardwalk Equities Inc. on its conversion to Boardwalk REIT and a NYSE-listed Canadian company on the U.S. tax aspects of a potential multi-billion-dollar acquisition. Conversion to trusts have become a common tax-planning strategy for Canadian companies, especially in the oil and gas industry. The Internal Revenue Service proposed regulations with a provision that could have had negative tax consequences on many Canadian transactions. CL&M submitted a comment letter to the IRS asking that the provision be either clarified or removed from the proposed regulations. As a result, the IRS reissued the proposed Treasury Regulations without the offending provision.

Art Law
The Expert versus the Object: Judging Fakes and False Attributions in the Visual Arts, edited and partially written by CL&M’s Ronald D. Spencer, was published by the Oxford University Press in March 2004.
Civic Priorities

Banana Kelly
We represented Banana Kelly Community Improvement Association, Inc., a New York not-for-profit corporation, on a pro bono basis in the rehabilitation of its Housing Development Finance Corporations and its current portfolio of buildings. After considering its options for dealing with a debt-burdened property in foreclosure, Banana Kelly’s board sought and obtained a post-judgment agreement with the New York City Department of Finance and Department of Housing Preservation and Development, in order to halt the foreclosure of the property by the City of New York. We later assisted with the negotiation and closing of a sale of the property. We also represented Banana Kelly in connection with a number of litigations.

Olmado Hidalgo
CL&M represented Olmado Hidalgo in overturning Mr. Hidalgo’s conviction for the homicide of a bouncer at the Palladium nightclub in November 1990. Evidence discovered after trial showed that a member of a Bronx gang, not Mr. Hidalgo, committed the crime. Evidence implicating the Bronx gang members was known to the prosecution but not made available to the defense attorneys at trial. A hearing in the New York Supreme Court is scheduled in the spring of 2005. The case has been the subject of attention in the press, including an hour-long episode of Dateline.

Big Brothers Big Sisters
CL&M helped Big Brothers Big Sisters of New York City take on additional space at 245 Fifth Avenue to meet the increasing demand for youth mentoring services, negotiating existing leases for its offices housing the agency’s Workplace Mentoring Program, Center for Training and Professional Development and recruitment. Allan Luks, Executive Director of Big Brothers Big Sisters NYC noted the firm “was wonderful in representing our interests.”

Bronx Wills Project
For more than 20 years our trusts and estates department has been helping the poor in the Bronx with estate planning and simple wills. This award-winning program has been specially recognized by the NYS Bar Association. During 2004, CL&M lawyers traveled to the offices of Bronx Legal Services monthly and devoted more than 300 hours to the program.

Human Rights Watch
Our partner Steve Kass completed 20 years as a member of the board of Human Rights Watch, where he has chaired HRW’s Policy Committee and its Americas Advisory Committee, and served on many missions to investigate human rights conditions around the world, most recently in Tashkent, Uzbekistan.

Clean Air Monitoring
We represent, pro bono, the Environmental Integrity Project, Natural Resources Defense Council, Sierra Club and others in a federal court challenge to EPA’s relaxed rule for monitoring emissions from industrial sources where that monitoring is necessary to assure compliance with emissions limits.
Our Firm celebrated a milestone in 2004: we have practiced law for over 150 years! Our founding partners began to practice law in 1854, at 66 Wall Street, and we are still on Wall Street all these years later.

Last winter, at the start of our anniversary year, we presented a few early photographs from the family photograph album in our 2003 Year in Review: John G. Milburn crossing Wall Street with his client John D. Rockefeller as they discussed the antitrust case against Standard Oil, the 1907 letter offering a job to Franklin D. Roosevelt (“the first year without salary”), a Thomas Nast cartoon celebrating James Coolidge Carter’s campaign to reform New York City government and his victory over the corrupt politician “Boss” Tweed. We also presented more recent photographs of Andy Warhol (provided by our client The Andy Warhol Foundation for the Visual Arts, Inc.), Shea Stadium (we prepared its first lease to the New York Mets baseball team), and Times Square (we act for several New York City and State agencies that are redeveloping New York City). To see these images online, go to www.clm.com/yir2003.pdf; we would be pleased to send you a hard copy if you contact us.

How did we celebrate our anniversary year? Most importantly, we helped our great clients do vital and interesting things, as we had been doing for the first 149 years. We hope that this report gives a sense of the scope of our practice.

When we weren’t working, we partied. We had a great reception for Firm alumni at the Puck Building in May and a party for our administrative staff at the South Street Seaport in September. And we gave back to the Wall Street neighborhood, making donations to New York City to help light the bridges over the East River, to the Fraunces Tavern Museum, the South Street Seaport Museum, and the Museum of American Financial History.

Our second 150 years have now begun. At a Partners’ Retreat a few weeks ago, we renewed our commitment to excellence in every aspect of representing our clients. We are grateful to all those Carter Ledyard lawyers who have come before us, and especially grateful to the clients whom we have had the privilege to serve.
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