

M&A Midyear Review

Top Law Firm in Number Of Deals Last Year Does Business Far From Wall Street Crowd

◆ By AARON ELSTEIN

New York is usually considered the place where deals get done in this age of nonstop bank consolidation.

And to be sure, that's where you will find most high-flying investment bankers who arrange the deals along with the big ticket lawyers who help them pass the regulatory smell test.

But far from the madding crowd of Wall Street you'll find the law firm that last year provided legal advice on more bank and thrift mergers than anyone else. The firm, with offices in a renovated former bus station in Washington, is Silver, Freedman & Taff.

Founded in 1969, the 11-partner, 18-associate boutique advised on 18 bank mergers in 1996, according to Sheshunoff Information Services. Most deals are for \$1 billion or less, which means they fall below the radar screens of most Wall Street brokerage houses and law firms.

But the major players in bank M&A know all about the firm's top men, Barry P. Taff and Robert L. Freedman.

Mr. Taff "is not just there for the signing, he gets involved all the way through a deal," said J. Richard Fredericks, senior managing director at Montgomery Securities. "He's proof you don't need a Park Avenue address to get it done in this business."

"He's very knowledgeable and detail-oriented," said Ben Plotkin, chief executive at investment bank Ryan, Beck & Co. "The best M&A lawyers not only spot problems,



Barry P. Taff (left) and Robert L. Freedman, partners in a top merger firm, Silver, Freedman & Taff, Washington.

they propose solutions, and he does that."

The firm has advised on six deals through the first half of this year, including three in May.

"Three deals in one month," muses Mr. Taff. "Geez, even for us that was a lot." He joined the firm in 1972 after graduating from American University, where he specialized in tax and employee benefits law.

His more than 20 years on the bank M&A scene not only provides an institutional memory, it has taught Mr. Taff how to translate an investment banker's two-hour lecture into five minutes of simple English.

"There's a lot to be said for simplifying things, capsulizing them," he says with a grin. "For one thing, it prevents boards of directors from falling asleep."

Mr. Taff's law firm got its big break in 1975, when it advised Franklin Savings of

Austin, Tex., on the first mutual-to-stock conversion in the country under Federal Home Loan Bank Board regulations. This led to the firm's involvement in more than half of all mutual-to-stock conversions in the late 1970s and early 1980s.

"We knew that if the market was healthy, these companies would soon be buyers or sellers," he recalls. "That positioned us for M&A."

Mr. Taff's contacts in Texas came at an ideal time. The state's economy collapsed and banks and thrifts were fighting to stay alive.

"We learned to do a lot of creative transactions," he recalls, wistfully as a cowboy recalling the wild West.

If the mutual-to-stock deals and Texas economic demise boosted the firm's expertise in regulatory matters, the savings and loan meltdown of the late 1980s taught Mr. Taff and Mr. Freedman a lot about the art of dealmaking.

The two were involved in four of FSLIC's tax-assisted thrift sales in 1988. Mr. Taff also represented Shearson Lehman Hutton when it helped finance Robert Bass' controversial acquisition of American Savings Bank.

But Mr. Taff prefers to remember when taxpayers didn't get fleeced. He says his most satisfying deal came after he shoed away officials from the Resolution Trust Corp. who were prepared to seize American Charter Federal Savings and Loan

Association, a distressed thrift in Lincoln, Neb.

The ailing thrift was renting branch offices from another finance company for far more than the real estate was worth under its sale-leaseback arrangements.

"I pleaded with the RTC and FDIC not to seize the bank and told them we had a plan to restructure the thrift so it would be attractive to buyers," he said. "They listened and the plan worked. We renegotiated the rents to reflect market conditions. We got the FDIC to forgive a \$9 million debt, and performed other balance-sheet restructurings. The thrift stayed alive, was sold, and the taxpayers saved \$100 million it would have cost to seize it."

Dealmaking is calmer today. Although Mr. Taff still considers himself a specialist in reviving stalled negotiations, that usually means haggling with investment bankers over cash and stock ratios rather than fending off regulators.

Like many market observers, he believes banks and thrifts are stronger businesses than ever and, like many in his line of work, he attributes much of that to consolidation.

He believes bank mergers have become friendlier than they were four or five years ago, when companies like NationsBank Corp., First Union Corp., and Banc One Corp. were expanding their markets by snapping up other banks. "A lot of those were buyer-dictated deals," he recalls. "They came in, set the terms, and pretty much called every shot."

But now big banks have to at least give

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lip-service to keeping staff from the target bank and pay attention to being good corporate citizens in the new locales.

"Deals focus more on social issues now than four or five years ago," he said. "I would say most banks now want the world to know they are friendly buyers."

Deals have become friendlier in part because price is not sole factor in deciding whether deals happen, he said.

Recent Delaware court rulings have relaxed target bank management's fiduciary responsibility to get the best price in a sale. They now have the leeway to shop themselves around to companies they feel comfortable selling to in stock transactions.

So instead of big banks' calling on the smaller ones as happened three years ago, small banks today knock on the doors of midsize companies like Mercantile Bancorp and Union Planters Corp.

"These companies have earned good reputations as able and friendly merger partners," he said. "Small banks looking to double-dip are knocking on the doors of companies like these. Really, these companies have more opportunities than they could ever close."

Moreover, banking companies are getting choosier about their merger partners than ever because they are increasingly seeking particular lines of business.

"Charter One wanted to grow beyond Ohio and Michigan, but I don't think that deal would have gotten done if RCSB didn't have the big auto lending business," Mr. Taff said. ◇