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**Blueprint for Success: Negotiating Key Lease Provisions
and Making the Deal Happen**

Fashion & Apparel Confabs

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Blueprint for Success: Negotiating Key Lease Provisions and Making the Deal Happen

Presented by:
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In the Beginning....

- Important Factors to Consider at the Beginning of the Lease Negotiation Process
 - The Letter of Intent
 - The Role of the Broker in Negotiating and Finalizing the Letter of Intent
 - The Role of the Attorney in Negotiating and Finalizing the Letter of Intent
 - The Impact of Leverage in the Negotiation

Retail Tenant Leasing Issues

- Delivery of Space (compliance with law, hazardous materials, landlord delays)
- Approval Criteria for Tenant Improvements (control over design and construction of interior)
- Hazardous Materials
- Utilities (capacity/emergency)

Retail Tenant Leasing Issues

- HVAC (after hours)
- Verification of Square Footage
- Commencement and Extension of Term (peak selling periods)
- Continuous Operations & Going Dark
- Restrictions on Landlord (kiosks, sidewalks, visibility)

Retail Tenant Leasing Issues

- Non-Compete Clauses
- Carve-outs from Percentage Rent (including exclusions from gross sales)
- Common Area Maintenance (CAM) & Operating Costs
- Impact of Landlord's Renovations and Remodeling on Tenant Operations

Retail Tenant Leasing Issues

- Impact of Landlord's Renovations and Remodeling on Tenant Operations
- Tenant's right to change trade name, signage and storefront during the term (branding)
- Assignment, Subletting, Recapture, and Relocation
- Defaults (grace periods, opportunity to cure assignee, sublessee, landlord default)

NYC & CA Specific Concerns

- Landmark Buildings (exterior landmark, interior landmark, on landmark site, within historic district)
- Rent Tax
- CA Proposition 13

Current Average Retail Leasing Information - Manhattan

Total Manhattan Rentable Square Footage increased from approximately 1.03 MM rentable square feet in January '06 to approximately 1.06 MM rentable square feet in January 2008. Retail current averages varied according to the location of the space.

Manhattan – Overall Average of \$133 per sq. foot^[1]

Midtown – Average of \$137 per sq. foot (REBNY) ^[2]

Downtown - Average of \$109 per sq. foot (below 14th street)^[3]

SoHo - Average of \$271 per sq. foot^[4]

^[1] Collected from the website of NAI Direct (http://www.naidirect.com/market_research/pguide2007/newyorkcity.pdf)

^[2] See footnote 1

^[3] Collected from December 16, 2007 Report of the Real Estate Board of New York (www.rebny.com),

^[4] Collected from the October 2007 Report of Cushman & Wakefield

Specific area rental rates

- 5th Avenue between 52 and 59th street-Average of \$1350 per sq. foot
- Broadway between 42 and 47 - Average of \$797 per square foot (REBNY)
- Broadway in Lower Manhattan - Average of \$160 per sq. foot
- Madison between 57 and 72 – Average of \$902 per sq. foot
- Broadway in SoHo – Average of \$288 per sq. foot
- Times Square- Ground Floor - Average of \$400 per sq. foot

Collected from the website of NAI Direct (http://www.naidirect.com/market_research/pguide2007/newyorkcity.pdf)

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PRACTICE AREAS

- Finance
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INDUSTRIES

- Financial Services
- Hospitality

OVERVIEW

Michael Leake is an associate in the Real Estate Practice Group in the firm's Del Mar Heights office.

Areas of Practice

Mr. Leake has experience in real property financing, purchase and sale, and leasing. He has represented lending institutions and borrowers in real estate secured financings for purchase of real property and construction of improvements on real property. Mr. Leake has also represented real estate investment funds in the acquisition, leasing, financing and disposition of real estate assets and residential real estate developers in purchase and sale transactions and post-acquisition site development and cost sharing agreements. In addition, Mr. Leake has represented a variety of building owners and tenants in the structuring, documentation and negotiation of office, retail and industrial use leases and related occupancy and build-out agreements in suburban office park developments and downtown commercial district buildings.

EDUCATION

- J.D., Harvard Law School, 1999
- B.A., Montana State University-Billings, 1995

MEMBERSHIPS

- Member, California State Bar Association
- Member, Real Property Section, American Bar Association
- Member, Real Property Section, San Diego County Bar Association
- Member, NAIOP