



BANK OF AMERICA TAKES OVER MERRILL LYNCH

December 5, 2008 Speech By Winthrop H. Smith, 28-Year Employee Of Merrill Lynch And Son Of A Founder

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Below is an impassioned speech delivered Friday to shareholders by Winthrop H. Smith, a long-time Merrill employee and son of one of the founders, as they gave the go-ahead to merge with Bank of America. Thank you for allowing me to say a few words on this most important morning. I will say more about you in a moment, but I just wanted to thank you up front for your leadership and all you have attempted to do this past year.

Fellow Shareholders, I speak to you today as a 28-year employee, a shareholder and the son of one of the founding fathers of Merrill Lynch.

On January 6th, 1914, Charlie Merrill opened a one-man shop just a few blocks from where we are today. A year later he was joined by his friend, Eddie Lynch and the first Merrill, Lynch & Co. was launched. One year later, my father joined the firm straight out of Amherst College. Thus began a wonderful partnership and friendship that lasted a lifetime.

Like Merrill Magowan I have been privileged to know every CEO of Merrill Lynch from Charlie Merrill to John Thain. Most of them, including John, were principled leaders who never placed their interests ahead of those of the firm. Most of them valued and promoted the principles that Charlie Merrill created and most of them cared deeply for the welfare of their fellow colleagues.

Merrill Lynch grew and thrived through the tough as well as the good times. By 2001 we were one of the most successful and respected global financial firms in the world with a stock price that hit \$80 early that year. The ROI to both our employees and shareholders was superb. \$100,000 invested in the MER IPO was worth \$2.3 million in early 2001.

But Merrill Lynch was more than a profitable company. It was a family. It was a culture. Merrill Lynch to so many of us was Mother Merrill, and it is so sad that the CEO who preceded John Thain and the Board of Directors had no understanding of what that meant. Arthur Levitt, the former Chair of the SEC once commented that of all the Wall Street firms only Merrill Lynch had a soul. A soul! Can you imagine someone; much less the Chair of the SEC, saying a company had a soul? Well it did, because the tone, the culture, the ethics that we were all so proud of began that day, January 6th, 1914.

It began with Charlie Merrill's first rule that the Interests of the Customer always came first. It began with his partners' understanding that they were a Team and that no one's ego was more important than the team. It began with the knowledge that the primary assets of the firm went in and out of their door every day. They insisted on Respect for everyone. It began with an understanding that Merrill was part of a broader Community and that we had an obligation to support that community. It began with the simple belief that Integrity was everything and when a mistake was made, it was owned up to, corrected and never covered up. These principles of Charlie Merrill were passed to my father and then to Mike McCarthy, and subsequent CEOs and the culture endured because of the stories that were told to new Merrill Lynchers about our predecessors.



We knew the story of Charlie Merrill telling his clients to sell before the crash of 1929, of Don Regan testifying in Congress, saying ‘We goofed’, and then making the clients whole for our mistake. We knew the story of Roger Birk realizing we erred in selling Baldwin United annuities to our clients and making them whole. We heard the story of Dan Tully facing down a CEO bully in his office when that person insulted one of Dan's teammates. Stories maintained the culture and created a bond between the founding partners and those who worked at Merrill 80 years later.

Merrill Lynch was a brand that we were so proud to wear on our heart and even our ties. We had a swagger, and we were damn proud to be part of "The Thundering Herd." We loved being the underdog and doing things others thought we could not accomplish. We were optimists that always knew we would get better and better and be number one in whatever we chose to pursue. People like Bill Schreyer reminded us that he had never met a rich pessimist.

We even took on Goldman Sachs in the 80's and 90's, and by the time I resigned in 2001 they were damned scared that we were competing with them successfully everywhere in the world. YPF, Shanghai Petrochemical, China Telecom, Indosat, CVRD, Telefonica D'España were only some of the highly sought after privatization mandates that we won around the world. Our private client assets totaled \$1.5 Trillion. We were proud of our founders, we were proud of our leaders, we were proud of our colleagues, we were proud of what Merrill Lynch was in 2001. We were proud to be the leader in private wealth management. We were proud of our unique global footprint. We were proud of our leadership in both debt and equity underwriting as well as M&A. We were proud of our asset management business. But most of all we were proud of our principles that we inherited from Charlie Merrill.

Many of us who have departed still get together. At one recent gathering a former senior executive of the Equity Division and now a successful executive elsewhere emailed this to the organizers. 'I thought the setting was terrific, but it paled in comparison to the people gathered. What a wonderful collection of character and talent.

Those years we had at Merrill were like catching lightning in a bottle'. Like catching lightning in a bottle! That captures so much of what our culture created and what we felt and why Merrill was so successful! We were not about brick and mortar and cold numbers. We were about character, spirit, leadership, ethics and pride. As one former CEO said to us when times got tough, 'Just remember, we are the only firm that doesn't have to compete against Merrill Lynch'.

At this point I want to make it very clear that I support the merger with Bank of America, and I am thankful for John Thain's clear and decisive leadership at that moment of crisis this fall. I am encouraged by the respect that Ken Lewis says he has for our great franchise and for the many thousands of fine professionals who are still part of the Merrill Lynch team. I do hope Ken and his colleagues at Bank of America will allow the firm that they bought to thrive under its new ownership, and that they will appreciate the strong culture that made Merrill what it was by 2001 and will also appreciate the many fine people who hung in and are still with Merrill Lynch, including members of my own family.

All of us want this new organization to succeed and become preeminent. We all know that what has occurred is the given reality and it is time to move forward. However, before we do. Some things need to be said for the record.



Today did not have to come. In the past it was Merrill Lynch that came to the rescue of Goodbody, White Weld and Becker. It was Merrill Lynch that strong and successful firms like Fenner & Beane, CJ Devine, Smith New Court, DSP in India, Midland Walwyn in Canada and Mercury Asset Management wanted to join. Merrill always thrived in times of turmoil and grew market share. Today did not have to come.

Today is not the result of the sub-prime mess or synthetic CDOs. They are the symptoms. This is the story of failed leadership and the failure of a Board of Directors to understand what was happening to this great company, and its failure to take action soon enough.

I stand here today and say shame to both the current as well as the former Directors who allowed this former CEO to wreak havoc on this great company. Shame on them for allowing this former CEO to consciously and openly disparage Mother Merrill, throw our founding principles down a flight of stairs and tear out the soul of the firm.

In the fall of 2001, I was asked to remain as Vice Chairman of Merrill Lynch. But in a private meeting it was obvious that this CEO to be had no respect for our history, for our culture and for the five principles that had served us so well. I wanted to stay. My heart said stay. But I knew I could not. I would not have been able to look myself in the mirror each morning! That was a day I never thought could happen. Shame on members of the Board for never asking any of us who loved this firm, why we had to leave rather than remain part of something we could not in good conscience support. Some of us had the means to leave. Unfortunately many others did not and they will tell you how unpleasant it was. Just ask them.

Shame on these Directors for allowing this former CEO to rid the firm of thousands of years of experience. Shame of them for allowing this former CEO to surround himself with many people who did not have the perspective of other market cycles and the experience of time. Shame for allowing this CEO to surround himself with many people who did not share the same values that made us great and appreciate our winning culture. Shame on them for allowing this CEO to cut costs and businesses so severely and bluntly for the sake of short-term earnings that he cut out future growth. Shame on them for allowing him to over leverage the firm and fill the balance sheet with toxic waste to create short-term earnings.

Shame of them for allowing good people like Dan Bayly and a few others to be used as scapegoats to settle the US Government's Enron case against Merrill Lynch and for allowing these wonderful human beings and loyal Merrill Lynchers to go to Federal Prison unjustly. Fortunately, the Court of Appeals overturned the sentence. Shame on them for not knowing the Merrill Lynch helicopter and plane and other perquisites were being used irresponsibly.

Shame, shame, shame for allowing one man to consciously unwind a culture and rip out the soul of this great firm. Shame on them for allowing this former Stan O'Neal to retire with a \$160 million retirement package and shame on them for not resigning themselves.

I am not alone in these sentiments. So many former and present Merrill Lynchers share this anger - this sadness about what was allowed to occur. Just this week a former Merrill Lynch senior women executive emailed me and said, 'It is heartbreaking to see what greed and the absence of principles did to MER, one of the finest companies in America'.

What breaks my heart even more is to see the financial damage that has been inflicted on so many families that devoted their life to the Firm and to all our stakeholders.



Where is the accountability? No wonder that the Main Street that learned to trust Merrill Lynch in the 1940's has lost faith in Wall Street in 2008. Merrill Lynch is not alone in this. But in the past Merrill Lynch rose above the crowd and distanced itself from the greed that brought others down. Our principled leaders steered us through many challenges, and we emerged stronger because of them.

But I must give the Devil his due. I applaud the Board for selecting John Thain. John inherited a mess, but he did so many of the right things. He reached out to the past; he reached out to the people of Merrill Lynch around the world and showed them his humanity as well as his intelligence. John had the intellect, the experience, the humility, the common sense and the integrity to pull it off had not the markets melted down this past fall. Then he had the wisdom as Kenny Rogers sang to know when to fold them so that Merrill did not go the way of Lehman.

We thank you John, not only for what you tried to do and what you did do. We thank you because we know you knew what Mother Merrill really stood for. As a competitor at Goldman Sachs you respected our past and our present and you were serious about restoring our valued principles once you became our leader.

I am personally pleased that you will be leading the new Merrill Lynch that will operate under the Bank of America umbrella. So many of us are hopeful that the brand will survive, that the strengths in Global Private Wealth Management and Global Investment Banking in particular will be recognized and maintained. We hope that you and your colleagues will continue to tell the stories that will maintain the principles and the culture that all began just down the block on January 6th, 1914 and enabled Merrill Lynch to be the firm it was in 2001.

Merrill Lynch has always been Bullish on America. Now we hope that you, John, and Ken Lewis will make sure that Bank of America will not only be Bullish on Merrill Lynch but will carry forward the Merrill Lynch principles along with those of Bank of America and continue a 'Tradition of Trust' that will help to restore Main Street trust in Wall Street once again.

There are many parallels today with the world and the economy that existed in 1940 when Charlie Merrill and my dad and their talented teammates set upon the course of taking Wall Street to Main Street.

In 1999, Warren Bennis and Dan Heenan, two distinguished professors of business wrote a book called 'Co-Leaders'. One chapter was about the remarkable partnership and friendship that existed between Charlie Merrill and my father.

The closing two paragraphs read as follows:

'When Charlie Merrill and Winthrop Smith entered Wall Street, Americans were wary stock buyers. At most only 15% of households were in the market. Today almost half of the adult population has money socked away in equities. The financial world has changed, in large part because of these farsighted co-leaders. Investor confidence is at an all-time high. More people have money in the stock market than ever before.

Working together, Merrill and Smith made ordinary people bullish on America. Thanks to them, people's capitalism is a reality. Besides democratizing investing, they helped provide the US industry with much-needed capital for expansion. In tandem they were truly, in Merrill Lynch's famous catch phrase, 'a breed apart'.



Now new co-leaders in the form of Ken Lewis and John Thain have that same golden opportunity - in fact the responsibility - to restore the trust and the confidence that Main Street must have in Wall Street as this time of turmoil. There is no reason why this new partnership of Bank of America and Merrill Lynch and its co-leaders of 2008 can not achieve for America and the World what Charlie Merrill and my father did 68 years ago.

While today did not have to come and should not have come, it did! So, I wish all at Merrill Lynch and their colleagues at Bank of America the best of fortune in the years ahead. This new firm can and should be the leading global investment firm in the years ahead. It should be great and make all of you who will be part of it as proud as we were of the Merrill Lynch we knew and loved!

I will end by saying to my many Merrill Lynch friends, my extended Merrill Lynch family around the World. Thanks for the memories.

No one can ever take those away.

It was a Hell of a run!
Winthrop H. Smith