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Know Your Middle-Market Deal Team

It takes a village.

by David Working

A transaction process is a unique undertaking in the lifecycle of a business owner. It is often accomplished once, and the implied lack of experience and familiarity with the process is a meaningful source of discomfort. In such a state, most people would be expected to hold tightly to people or relationships that they trust, and we see many business owners doing exactly that. But the truth is that the highest-functioning advisory team for an operating company and the highest-functioning transaction team are not the same, and feature unique elements. Far from advocating that a business owner upset closely-held relationships, we instead advise owners to augment their close personal circle with professionals that bring value to the deal process.

We have written before [Creating Effective M&A Teams, 2018] about how to foster cooperation in a team of deal professionals. As a prequel to that discussion, we thought it worthwhile to highlight the key members of a successful middle-market M&A team and the roles they play in a transaction. As a note – many advisors (ourselves included) find it valuable to engage with business owners over a long period of time, far before the contemplation of a transaction and after the execution of the deal. We also encourage shareholders to engage other professionals throughout the process as personal advisors – most notably for wealth, tax, and estate planning purposes. But for simplicity's sake, we'll narrowly consider here the roles in the business transaction itself.

INVESTMENT BANKER

The investment banker is the quarterback of the process, understanding and advocating for the seller across deal points and throughout the sale of the business. Bankers gather, organize, and prepare materials that explain the company to a market of buyers; handle initial contact and presentations to potential buyers; lead discussions and guide buyers' fact-finding process; and negotiate price and terms of the final deal. Bankers serve as the point of contact for all communications – they manage the needs and requests of other team members as a "traffic controller" on behalf of the owners. Other team members' findings and suggestions are put in context with the whole of the deal so that individual deal elements aren't considered or negotiated in a vacuum. The goal is to present key decisions to owners within a framework of supporting information and implications so they can make critical decisions without headaches. [A quick acknowledgement: of course an article about deals written by an investment banker is going to highlight our own importance. But truthfully, an orchestra needs a conductor, and someone who stays deeply involved in that role throughout the entire process is invaluable.]

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LAW FIRM

The law firm plays many roles and often includes many different professionals along the process. The key M&A lawyer and their supporting staff play the critical role of translating negotiated business terms and deal language into accurate legal language, in the context of their active experience across many deals. In addition to the core deal team, other professionals will weigh in on buyers' areas of inquiry around litigation history, transaction structure, entity formation, tax implications, employment, environmental, or IT, and so on. In complicated transactions, a firm that has all of the different subject experts and the M&A team leader to coordinate their input and involvement is quite valuable. The legal team works very closely with the banker and owner in the negotiation of the deal in order to capture quickly changing negotiation elements throughout the process in a way that reflects the specific, unique aims of the seller.

The better-presented and more detailed the support, the more likely a buyer will accept (and pay for) in the deal, either in pure economic terms or other associated elements of the deal structure.

It is impossible to overstate the importance of a lead deal professional whose main practice is middle-market business M&A, as that market context and experience enables the inclusion, exclusion, and language of key deal terms, and overall supports a faster, cleaner, and smoother process. Additionally, the seller's law firm needs to be able to match the buyer's legal representation in both expertise and deal team resources. Large national firms have expectations around pace and approach that, if not met by the seller, can overwhelm and cause challenges at very critical stages of the deal.

ACCOUNTING FIRM

An outside accounting firm can also play many roles in the process. Many regional accounting firms offer the capability of providing a Quality of Earnings study to support a transaction process; a "QoE" was rare not long ago, but is now very common in middle-market transactions for both buyers and sellers to commission. On the sell-side, this provides a framework and detailed support for how someone should think about the run-rate profitability of a business and highlights financial issues that can be mitigated if found in advance of a buyer's due diligence process. It can be critical for providing a consistent story through the marketing process, as well as having grounded answers for when potential buyers commission their own reports. Additionally, outside CPAs who compile, review, or audit annual financial statements can be called on to provide context or background to their findings early in the process as the investment banker works to put together a comprehensive understanding of the business.

TAXES

A special subset that can include professionals from law firms, accounting firms,

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or independent advisors is for taxes and the implications of a transaction structure on an owner's tax bill. More than just explaining what the tax implications will be of a certain deal structure, a tax advisor who can collaborate with the lawyer and banker on the front end to suggest structural alternatives for the transaction is valuable. This advisor may or may not be the company's current tax advisor, and most regional or larger law and accounting firms have professionals who specialize in tax planning and transaction structuring.

CONSULTANTS

Much more deal-specific are the roles that special consultants can play in supporting the deal process. Some deals benefit by commissioning a study on a particular element of a marketplace, the competitive landscape, the behavior of a large key customer, or other elements that are particularly make-or-break from a buyer's perspective. Some consultants even step in and fill a management role throughout the transaction process (most commonly in a CFO or VP of Finance role that the company might not already have). Other consultants can provide an outside opinion about unique components of a transaction – real estate, special assets, environmental considerations, dealer/manufacturer relationships, permitting and regulatory impacts to name a few – that are critical to helping a buyer become educated about the risk (or lack thereof) of a certain deal element.

MANAGEMENT

Finally, the management of the company plays a critical role throughout the process. Questions about the business's past, present, and future – and both the quantitative support and narratives that create the body of knowledge that a buyer will consider in a transaction – have to ultimately be supplied and articulated by the management team. The CEO or business leader, the CFO or head of accounting and finance functions, the chief sales and marketing officer, and the COO or operations leader all play important, time-consuming roles in the months leading up to and continuing through a transaction. While the investment banker can be valuable in optimizing and focusing these professionals' time and energy, it is impossible to fully divorce the transaction process from the people who play key management roles.

In totality, this is quite a team, and we find it is usually deeper than a business owner first expects. Far from being frivolous, the key focus of the team's job is to provide potential buyers with a thorough, consistent, and convincing story about the present condition and future direction of a business, for which multiple skill-sets are best-suited. The better-presented and more detailed the support, the more likely a buyer will accept (and pay for) the business in the deal, either in pure economic terms or other associated elements of the deal structure. **ZS**

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ABOUT ZACHARY SCOTT

Since 1991, Zachary Scott has assisted owners of privately-held businesses in the greater Pacific Northwest to plan and execute major business or ownership transitions by offering sell-side M&A and acquisition and investment advice. For more information on Zachary Scott, go to **ZacharyScott.com.**

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