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March 14, 2005

Selling Your Business: Flying Solo or Finding an Investment Banker

by Lawrence M. Braun

Flying Solo – Should I do it myself?

When selling your business, some of the questions to ask yourself are: "Do I need an investment banker?" "Can I do this by myself?" Owners have handled many aspects of growing their businesses by themselves and have been remarkably successful. Why, at this most important time in their lives, do they need to rely on an unknown third party?

The short answer is that the mere existence of an investment banker in the process increases the likelihood of getting the right deal done and getting a higher value! A banker can make a market or at least create the appearance of a market. However, many owners believe that they know the "right" buyer. Experience indicates that this is seldom the case. Even if they do know the right buyer, healthy competition, or an investment banker indicating the value is higher than offered, limit the buyer's leverage.

The mere existence of the investment banker and the sale process they utilize, whether a preemptive bid, "limited" auction or "full blown" auction, tends to flush out potential buyers and maximize value. Remarkably, this can typically be done while maintaining confidentiality. Most M&A advisors have concrete examples of where the use of an investment banker in the process dramatically increased value. The fact that many buyers suggest to sellers that they do not need an investment banker speaks volumes about the benefits of using an investment banker.

Although owners negotiate constantly day in and day out, the sale of a business is a different animal with "bet your life" stakes. An owner has spent his or her entire life building and growing value and now it's payday. As with most things, experience really counts. Knowing what is "market" and how different types of buyers will behave and react are crucial to a successful transaction. Investment bankers and M&A lawyers who do this for a living and have done this countless times will help an owner get a better result. Also, as most people know, it is very difficult to negotiate for yourself. Giving your negotiating team a "higher authority" to go to is invaluable and can be a safety device too.

Now and then, I am asked why either I, as an attorney, or the owner's accountant or other advisors cannot handle the negotiation on an hourly basis as opposed to the greater contingent compensation for investment bankers. Again, these advisors do <u>not</u> make a market. Also, lawyers cannot do it because of ethical issues. Lawyers have to deal with the other party's lawyers and ethically cannot deal directly with the buyer. In addition, most lawyers, accountants and other advisors are trained to operate in a world where parties compromise frequently with a goal of trying to make everyone "feel good." Investment bankers have somehow gotten over that particular issue.

Lastly, investment bankers have untold patience (despite the fact that they are compensated on a contingent basis), and have vast experience in managing the sale process, and keeping it confidential. If you have not done it before, an owner will not be able to deal with the many "forks in the road" that will occur on a day to day basis during this complicated process. Many, many decisions are made daily during the sale process.

Selecting an Investment Banker

Once the owner has gotten over the hurdle of wanting to try to do this by himself, then one of the most important decisions to make in selling a business will be interviewing and choosing the right investment banker. The owner should enlist the help of experienced advisors who will walk him or her through the many factors to consider during the selection process.

Besides the obvious characteristics of integrity, competence and of course, charm, there are a number of other factors that should be considered:

- Type of transaction, i.e., financing vs. sell-side investment banker
- Size of transaction (and related fee size)
- Capacity and Proximity – Does the banker you are considering personally have time to handle your transaction? Does he or she have the appropriate resources to do so and will they be readily available?
- Reputation–Is the investment banker well thought of by the buyer community and their advisors?
- Successful
- Excellent negotiating skills
- Industry expertise
- Fee structure

Type

Investment bankers have a variety of skill sets. Some raise capital, others find debt sources, others sell businesses. Like with most people you hire, find an investment banker with the specific experience and expertise you need.

Size of Transaction (and fee)

There are different levels of sophistication among investment bankers. At one end of the spectrum is a real estate broker who on occasion sells a business, like a restaurant. At the other end of the spectrum are the Wall Street investment bankers who do multi-billion dollar deals. You have to find investment bankers who do your size transaction and are motivated by the size of the fee related to it. If an owner finds the right "fit," the owner will have an enthusiastic and highly motivated invest-ment banker.

Capacity and Proximity

There are many aspects to the capacity issue. An owner should hire an investment banker who is going to give your deal his or her personal attention and has the time available to do so. An owner deserves senior level attention. This does not mean the senior investment banker will be the only one involved, but rather that he or she will participate regularly in key aspects of the process and in critical negotiations which is when you need <u>that person</u>! The owner will also need to understand the quality of their support. Proximity of the investment banker to the business and the owner is a factor to consider. In some cases, a prior strong relationship or industry expertise may outweigh how geo-graphically close the banker must be. If the banker is not nearby, the owner must be comfortable that the banking team is readily available and will be present whenever needed.

Reputation

Integrity and trustworthiness are obviously important. The choice of investment banker reflects on the owner and the business. Some potential buyers will downplay an investment banker's importance in the process. These comments should be ignored. An owner should also be concerned about the investment banker's reputation in the business community. Part of the process of selling a business involves assembling a strong team of advisors. They all need to respect one another. If the buyer's advisors have an issue with an investment banker's reputation, once again, the road may be rocky.

Successful

I cannot overemphasize how important it is to hire a successful investment banker. That person will demonstrate professionalism throughout the process. Although paid on a contingent fee basis, the investment banker is <u>not</u> motivated to just get the "deal" done, but rather to do what is in the owner's best interests. Successful investment bankers genuinely care about their client and focus on getting what the client wants, not on their fee. They will assist in evaluating the characteristics of multiple buyers, analyze proposals from financial and non-financial points of view and help an owner grapple with "life after the deal."

Negotiating Skills

At the end of the day, the negotiation of a deal is one of the most important functions of an investment banker. Locating potential buyers, creating competition and driving value depend upon negotiating skills. Successful bankers with experience can negotiate well and accomplish amazing things.

Industry Expertise

This is an age old question. "Do I need someone who has expertise in my industry?" All factors being equal, the answer is "yes." But seldom are all factors equal. In making your decision, an owner will have to balance a host of alternatives. In some cases, a lack of industry expertise is nearly fatal; for example, in the defense industry it is critical to have access to key decision makers and to understand industry issues and dynamics. In other cases, relevant industry experience is not as critical. All in all, I would never suggest that industry expertise is the key differentiator.

Fee Structure

Lastly, <u>and I do mean lastly</u>, is the fee structure. First, you will find that investment bankers largely operate within a relatively narrow range. Although this is not a perfect market, most professional advisors are well aware of the range of "market" fees for investment bankers. Their fees are contingent upon the completion of a transaction, although there will be a retainer at the beginning as well as cost reimbursement. Most sophisticated bankers use the retainer to ensure that they have a willing seller and, of course, to defray certain of their costs. However, they are not "signing you up" for the purpose of getting the retainer.

A myriad of fee structures are used. These are usually the subject of detailed negotiations between the owner and the investment banker. OF EQUAL IMPORTANCE ARE THE DETAILED TERMS ABOUT CALCULATING VALUE AND TIMING OF PAYMENT THAT ARE INCLUDED WITHIN THE INVESTMENT BANKER'S ENGAGEMENT AGREEMENT. Some of these terms can dramatically affect when and how much you pay the investment banker. An experienced M&A lawyer can guide you through these issues.

There are many factors to be considered when selecting an investment banker for the most important deal of an owner's lifetime. An owner should not rely upon the fact that he or she ran into the investment banker at the golf course or sees him or her on occasion at the owner's house of worship. Rather, other advisors, such as an M&A lawyer, an accountant or a financial advisor, should help you develop a process to select the right person and company. Lastly, do not ignore one important component of the process: <u>check references</u>! An owner may not know what to ask. Let advisors and the investment bankers themselves tell you to how to handle a reference check.

THEN, AND ONLY THEN, will you make the best decision possible!

About the Author

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