Third Edition | Chapter 4

AFTER THE DEAL

STRATEGIES AND ISSUES FOR THE DAY AFTER CLOSING

BEST PRACTICES OF THE BEST DEALMAKERS

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Introduction by

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"I tell my clients and students that both corporate and financial acquirers of companies have learned that generally, the single most important ingredient to post closing M&A success is management."

Marshall Sonenshine
Chairman
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INTRODUCTION

Drawing on the experience and expertise of the "best in class "dealmakers, The M&A Advisor (http://www.maadvisor.com), together with the leading provider of virtual deal management services, Merrill DataSite® (http://www.datasite.com), publishes the quintessential dealmakers guide series – **"The Best Practices of the Best Dealmakers."** Profiling the proven strategies and unique experiences of the leading M&A practitioners, "The Best Practices of The Best Dealmakers" series is distributed in regular installments for M&A industry professionals in both print and interactive electronic media. Previously published features and chapters are also available in the online library of Merrill DataSite and The M&A Advisor. We are pleased to present **After the Deal: Strategies and Issues for the Day After Closing.** This installment examines the issues that may arise after the signing of the Purchase Agreement and close of the transaction, including balance sheet discrepancies, management issues, earn out expectations and computations, and cultural differences – with both positive and negative post-closing outcomes. Finally, we have a word about the criticality of stakeholder communication. On the following pages you'll find helpful observations provided by candid interviews with leading dealmakers, including buyers, sellers and advisors, as well as timely insights into the most current trends.

"On the Morning After, the principals must manage the immediate requirements of the deal itself, the medium needs and opportunities of the acquired business, and the longer term strategic demands for continuity and change in the life of the newly owned or combined corporation."
~ Marshall Sonenshine

After the Deal

Strategies and Issues for the Day After Closing

Introduction

It is a curiosity of the deal business that dealmakers and companies mark the completion of a transaction with a "closing" dinner at which bankers present a memento of the deal in the form of a Lucite "tombstone." Those concepts of an "ending" reflect mostly the interests of advisers, who are paid at the legal closing. Principals, by contrast, have learned – sometimes the hard way – that the real work of a merger really first starts with the closing of the transaction. Henry Kravis once said, "To understand KKR, I always like to say, don't congratulate us when we buy a company. Any fool can buy a company. Congratulate us when we sell it and when we've done something with it and created real value."[1] Just as universities convene new graduates at a "Commencement," perhaps we deal people should use that term in lieu of "Closing." This will not likely happen, as trade practice is a stubborn thing even when wrong, but in economic substance the academic term "commencement" is more apt than the deal term "closing."

What happens after the last drink has been consumed and the last farewells expressed at an M&A closing dinner? What realities commence, at least for the principals, on the fateful Morning After? This chapter addresses that important question, to which I will add my own reflections from almost three decades of deal making and one decade as Columbia Professor. On the Morning After, the principals must manage the immediate requirements of the deal itself, the medium needs and opportunities of the acquired business, and the longer term strategic demands for continuity and change in the life of the newly owned or combined corporation.

1. See Henry Kravis Quotations in Woopidoo Business and Finance Quotations, http://www.woopidoo.com/business_quotes/authors/henry-kravis/#6jGq1sKcReiY7Uze.99. See also "KKR's Henry Kravis: Any fool Can Buy a Company," in Forbes on Line Sept 28, 2011 (reporting on Kravis's comments at Bloomberg Dealmakers Summit at the Museum of Modern Art, 2011), http://www.forbes.com/sites/steveschaefer/2011/09/28/kkrs-henry-kravis-any-fool-can-buy-a-company

First, with respect to the deal itself, virtually all deals demand certain immediate tasks post close. Integration processes commence. New management agreements commence. New business directions commence. New financial reviews commence.

Private acquisitions typically have more deal-driven post-close processes than do public mergers, if for no other reason than private M&A deals have representations and warranties that survive closing. Those representations are a post-hoc test of what sellers have promised buyers, and much blood and dollars have been shed over the veracity of what was promised. Properly understood, M&A representations are no substitute for due diligence, nor should be viewed by buyers as a chance to recut price. They should ideally merely allocate risks as to issues that may affect value at the margin and that may not be entirely knowable or demonstrable prior to completion. The people who get into trouble are buyers who over relied on or sellers who over committed in representations, as this chapter discusses.

Second, and arguably more interesting to business executives, is the all-important medium term question of what a buyer should do to improve the acquired company. In corporate mergers, this topic is often reduced to the single world "synergies" and much blood and dollars have been lost in the battle for assumed synergies, which buyers often overstate.[2] Indeed, the problem of having to "pay up" for the right to try is consistent with the reality that in most markets, acquirer stocks decline initially on announcement of an acquisition, even if the acquisition is seen as strategically important. An interesting exception occurred during some periods in the first few years following the Financial Crisis of 2008, when to a greater extent than is usual some acquirer stocks increased on announcement. Here the exception proves the rule, since in that period a lack of general confidence had created a temporary lower level of aggregate M&A and competition for deals.[3] In a competitive M&A marketplace, a buyer generally must pay a full marginal price, inclusive of a significant control premium, to be the acquirer. A buyer pays for the privilege of total control. That privilege will yield only pain and loss if the buyer does not have a way to justify the premium price via operational improvement.

The requirement of operational improvement is as true for acquisitions of healthy businesses as for distressed companies. It is even true for financial as well as corporate buyers. A generation ago, leveraged buyout buyers of

2. Numerous surveys and studies suggest the problem of overstated synergies. See, e.g., Tillinghast Life Insurance CFO Survey #4, CFO Survey,2003.
3. Notably, equity prices were rising but M&A remained soft in the post crisis years. See M. Sonenshine, "The Long Pause: M&A in a Time of Uncertainty" (M&A Advisor Market Monitor published by Merrill DataSite), November 2012.

companies made their money principally through financial engineering, mostly in the form of use of greater leverage in the buyout than capital markets were used to seeing.[4] In the early 1990s, I distinctly remember LBO partners telling me if they have to get their hands dirty with operational issues, something has gone wrong. In the ensuing decades, as private equity firms proliferated and grew in size and competed with each other and with strategic acquirers for a greater share of aggregate M&A, financial buyers were forced to pay multiples that would render their increased leverage alone inadequate to the task of generating acceptable returns on equity invested. To make outsized returns, PE firms were forced to compete on operational improvements. These firms added operating partners and the best in breed executed on Kravis's mandate to "do something" with the new business to add value. Those PE firms that could add value through constructive and active business enhancement generally have created meaningfully better returns than those that relied on their capital structure to do the work of generating returns.[5] Thus, now we are all business improvers – even the financial buyers.

What about management? I tell my clients and students that both corporate and financial acquirers of companies have learned that generally, the single most important ingredient to post-closing M&A success is management – whether the team that came with the acquired business or a replacement management team. And there is more: it turns out that great management is usually not about personality structure or even Vision, which inevitably is more easily stated than executed. Rather, the most important feature of management is about task – as Peter Drucker said, knowing what needs to be done and doing that.[6]

Great management is worth its weight in gold – or in M&A premia. Some years ago, Bruce Rauner, then the CEO of private equity client GTCR (and today, the governor of Illinois), told me, "bring me management team," which his firm valued more than companies. "Bruce," I said, "we are investment bankers, not flesh merchants!" But Bruce knew what he wanted – great executives, whether or not tethered to a company.

Here one must add the important insight of my friend and former client, the late Harvard Professor Abraham Zalaznick, whose work on leadership enumerated critical differences between true leaders, who think beyond parochial concerns, and mere managers, whose focus is often more parochial. Leaders are people who think for the broad whole over the broad swath of

4. See, e.g., Michael Jensen, "The Eclipse of the Public Corporation," Harvard Business Review, 1989.
5. See, e.g., Daniel O. Klier, Martin K. Welge and Kathryn R. Harington, "The Changing Face of Private Equity: How Modern Private Equity Firms Manage Investment Portfolios," in Journal of Private Equity (Fall 2009), p.7.
6. See Peter Drucker, The Effective Executive" (Harper Collins, 1967). See also Steven N. Kaplan, Mark M. Klebanov and Morten Sorensen, "Which CEO Characteristics and Abilities Matter?" (Working Paper 2008) (largely validating the task-focused insight of the iconic Drucker).

time; managers have a narrower focus as to result, constituency and time frame.[7] The question of leadership is yet another question that must survive the closing.

Leaders also need skilled followers, particularly in businesses driven by intellectual capital. In one technology deal we handled, Nokia Siemens required as a condition to close that a high percentage of employees commit to stay with the company post close. That meant soliciting commitments before closing – and thereafter the principals worked to ensure the post-close process continued employment and productivity. These two ideas are important: It is one thing to deliver jobs; it is another to deliver hearts and minds of people. It is productivity that the buyer wants, and the credibility of ongoing management from the seller side depends on delivering this. I remember when I was first confronted with Nokia Siemens' minimum delivery hurdle – I felt strangely biblical, as if my clients and I were Moses required to deliver our flock to a new promised land, without losing any to the distractions of any golden calves pre (or post) close.

Another good post close issue relates to deal communication, as this chapter will also discuss. Communications covers a wide swath – investors, employees, key suppliers, financial market participants, and the public at large. When we advised Disney on the $19 billion acquisition of Capital Cities / ABC, we spent considerable time on how Wall Street analysts should understand the merger. Disney, after all, was a large cap media stock driven by good old Earnings per Share ("EPS"). By contrast, Capital Cities / ABC as a television property could really be understood only by reference to Earnings Before Interest, Taxes, Depreciation and Amortization (EBITDA). In 1995, shifting Disney equity analysts from the first to the second seemed a challenge to be overcome – which it was, clearly quite successfully. Equally important to the communications strategy was preemptively comforting broader markets participants (including the public) that Disney's entertainment legacy would not taint ABC's news focus. This was something to explain early and demonstrate continually, well past the completion of the merger, and the combined company clearly got this part right as well.

Third, beyond the medium-term process of adding value and explaining it, is the longer-term reality that businesses and markets, as all human enterprises, are always in flux. Whatever the vision at the time of the close, the vision will change because business and life change. The most successful deals are the ones that can manage continuity and change post close. This is a particular problem

7. See Abraham Zalaznick, "Managers and Leaders: Are They Different?" in Harvard Business Review, May-June 1977. Zalaznick comprehensively discussed these ideas in The Managerial Mystique: Restoring Leadership in Business (Harper & Row, 1989).

for corporate mergers, which are generally long term, as opposed to financial acquisitions, which are generally medium term bets, but it is one that all M&A participants face to some degree.

Here's another example. In 1990, we merged air finance leader ILFC into AIG, when AIG was one of the few triple-A rated US financial institutions. This was an important "synergy" in the deal since AIG's status in the capital markets would benefit the capital-intensive ILFC. I remained in touch with my clients 18 years later, in 2008, when AIG became the largest U.S. bailout in corporate history. In the end, a chastened AIG would divest a still-excellent ILFC to air finance competitor AerCap though that divestiture would take several years (and several tries) to effectuate. The point is that the "facts" about any merger are never carved in stone. Like all things in business as in life, strategies are written in pencil and subject to revision.

Knowing what elements of a business to preserve across cycles and what (and how) to change elements of strategy is yet another post-close issue that will often separate the good, bad and ugly outcomes in M&A.[8] This too will not be celebrated at the closing dinner. It can't be, for it is a challenge for the long haul, commencing with the closing, which should have been called the commencement.

We dealmakers love to close, but if we are self-aware, we know we really are agents not of closings, but of new beginnings, as my colleagues in the chapter that follows will elucidate. Here's to New Beginnings, which start after the Close.

Marshall Sonenshine
Chairman, Sonenshine Partners
Professor of Finance, Columbia University

8. For an excellent discussion of this issue as it relates to leveraged buyouts, see Standard & Poor's article, "The Good, The Bad and The Ugly," 2007.

Part I: Buyer and Seller Post-Close: the Long Goodbye

A: Post-closing issues – financial and personal

"If we get involved post-close, it's a sign things have gone really, really bad."
– Miroslav ("Miro") Lazarov, Managing Director, D.A. Davidson & Co.

As all-too-many couples have discovered, just because you said "I do" doesn't always mean you will. You fell in love (Chapter 1), got engaged (Chapter 2) and exchanged vows (Chapter 3). Now comes the rest of your time together – for better or for worse – maybe including offspring. So goes the world of mergers and acquisitions.

The post-closing period – it could be 100 days or much longer – is the proving time for the value of the deal. Issues that were not foreseen or disclosed during the Due Diligence process may appear, prompting buyer and seller to reengage in negotiations, or possibly end up in arbitration or litigation. External market forces may change the business landscape for the new company. Customers and suppliers may demand new contracts or relationships as competitors see opportunities to gain ground. And, according to most of the M&A experts who were interviewed for this chapter – management changes, employee attitudes and work performance present some of the biggest risks of all to souring all the strategy and synergy, the diligence and negotiation and goodwill from the deal's closing.

Something seemingly as simple as a brand name can upset an entire deal, says Miroslav ("Miro") Lazarov, Managing Director in Investment Banking for D.A. Davidson & Co. Lazarov has more than ten years of investment banking experience which includes mergers and acquisition execution, recapitalizations and capital raises, primarily on behalf of clients in the energy, chemicals, homebuilding, recreation and leisure, business process outsourcing and consumer electronics industries.

"From the bankers standpoint we're pretty much gone (after the closing)," he said. "Typically we might see some issues before closing. But if we get involved post-close, it's a sign things have gone really, really bad."

One of those situations developed in a $100 million strategic cross-border deal in which a European company was seeking to enter the U.S. market by acquiring a well-known company within its industry. "We had a situation

"If the buyer is not working on the transition plan post-acquisition, that's a pretty big red flag for us."
~ Miroslav Lazarov

where frankly up to day of closing we didn't know the buyer was going to change the name of company," Lazarov says. "We kept asking them before the closing, 'Hey guys, how's this going to be handled from a branding standpoint – are you guys going to change the name, or keep the name, or is going to be a division-of?' And they were like, 'we'll figure it out before we get done.' Well, they hadn't figured it out and a week later (after the closing) they changed the name – and wiped out the good will associated with that brand."

Lazarov adds: "If the buyer is not working on the transition plan post-acquisition – everything from management, website, PR strategy, employment issues – if they're not working on that post-closing, that's a pretty big red flag for us."

Sean V. Madnani is a Senior Managing Director in Blackstone Advisory Partners LP in Menlo Park, CA. Over the past decade at Blackstone he has been involved with several notable transactions including the combination of Reuters with Thomson, the dissolution of Comcast's joint venture with Insight Communications and the sale of Tribune Company. He is closely involved with the M&A activities of Blackstone's private equity portfolio companies, such as Freescale Semiconductor and The Weather Channel Companies. Prior to Blackstone he worked at Lazard Frères & Co. LLC in New York, San Francisco, and London. Madnini has advised on M&A transactions totaling more than $100 billion in aggregate value.

If a transition is going smoothly after a closing, Madnini says, it will be evident in a number of ways. "Targets are hitting the numbers. There's a sense of buy-in from all the employees, as well as new employees in terms of meeting strategic plans that were developed in advance of the transaction. You'll see cooperative activity – joint meetings. A sign of success is when you can walk into a meeting and not be able to identify which employees came from the acquisition and which pre-dated the acquisition." But if things are not going so smoothly, there are indications, he says: "One of the first signs is fall off in sales, or a negative change in sales patterns of the acquirer. Another is noticeable signs of employee disengagement – you can see people not showing up to meetings, or working different hours, or you're hearing complaints about people generally, more so than you would otherwise. These are all sort of early signs that there are problems that need to be dealt with. That's doesn't mean there are insurmountable problems, but it certainly means that things are not going smoothly."

B. Issues vary depending on the type of deal

"The damage has to be significant enough." – David Allinson, Partner, Latham & Watkins LLP

Post-closing issues vary greatly depending on the type of deal, says David Allinson, Partner at Latham & Watkins LLP law firm in New York, who is the global Co-chair of the firm's Mergers & Acquisitions Practice, and the former Co-chair of their Private Equity Practice Group and New York Corporate Department. He has broad M&A experience, encompassing both public and private acquisitions, dispositions, carve-outs, tender offers, going-private transactions, co-investments, joint ventures and general corporate matters, including corporate governance and takeover defense.

"When dealing with a pivate equity firm transaction or sometimes a company buyer, if they're buying a standalone entity you have a different set of issues than when buying a subsidiary of a public company," Allinson says. "With a financial buyer, they're just buying a company, they're going to completely rely on the operations and management team of that target company, whether it's a whole public company or a subsidiary of a public company." In that situation, he says, the issues that come up post-close really are less about integration as opposed to execution of the business plan. "They're expecting the business to do well based on how they valued it."

If the integration results in disparities in the expectations of the valuation, Allinson says that doesn't necessarily result in a dispute. "I would say the vast majority of times you actually don't have a full-blown dispute." Instead of going to litigation or arbitration, the parties will effect a purchase price adjustment, sometimes material, but more often than not less than 5 percent of the purchase price. "In a minority of cases, you do see disputes that can't get resolved by the parties talking to each other and coming to an agreement, in which case they go to arbitration. In those situations it's because the dispute relates to a much larger dollar amount in proportion to the overall value. So there you can see anywhere from 5 to 10 percent-plus of the purchase price changing."

"You can document all the reps and warranties, but the best litmus test in our intangible space is whether or not the client approves." ~ Elizabeth Bloomer Nesvold

Other disputes may arise over indemnification, Allinson said, giving as an example the owners of a company who sold their business and put some of the purchase price in escrow to be used for post-closing indemnification. "You might find out there was a major customer contract the seller had breached. The buyer goes back and seeks recourse against the seller," Allinson says, adding, "The damage has to be significant enough." He has also seen a "meaningful increase" in the writing of Representation and Warranty insurance (see Chapter 3) in the past two years to cover such potential post-closing landmines. Says Allinson: "The price (of Rep and Warranty insurance) has become much more attractive. It used to be above 4 percent of the deal value, but how the price has been cut in half – it's more affordable and more buyers are willing to use it. We have seen cases where they have actually used it, and collected on it."

Elizabeth Bloomer Nesvold, Managing Partner of Silver Lane Advisors, an M&A advisory firm specializing in the asset and wealth management industries, has advised on more than 150 deals and valuations over a 24-year span. Her clients differ from most industries in that they are primarily "intangible, people assets" who are making and managing investments for clients. She says in only a handful of cases have post-closing disputes resulted in a purchase price adjustment. "The first litmus test is whether the clients approve of the transaction – so all the clients get to vote," Nesvold says. In some cases a majority of clients must approve, in others 60 or 70 percent. "So going into the consummation of the transaction requires a lot of thinking about client perceptions… The business is the business. You can document all the reps and warranties, but the best litmus test in our intangible space is whether or not the clients approve."

Nesvold says the client consent process generally begins just before the consummation of the deal. "That's when the buyer gets to start confirming that the business they think they're buying is at least the business that they'll own within a short period of time." The client consent process may run from 45 to 90 days, typically, depending on the type of fund being acquired. If the clients consent, the transaction closes. If most, but not all, consent, the buyer may ask for a price adjustment. I've only seen a couple of purchase price adjustments

– in one it was a bank that was acquired by another bank and then acquired again by another bank, and then they decided to dispose of part of their business. So it was clients who, every time the bank sold had to go through a client consent process, and by the fourth time, some of them weren't so happy. It was like four transactions over seven years – and we ended up with a purchase price adjustment. I represented the buyer so we knew that was the likely case going into it.

C. Leadership: Who's in? Who's out?

"If the clients start to defect, that's a good warning sign. Danger! Will Robinson!"
– Elizabeth Bloomer Nesvold, Managing Partner, Silver Lane Advisors

In another case cited by Nesvold, a financial services entity acquired a business that they had not been in before. "Then there was a change at the top so the guy who championed the deal was ousted," she said. "The new guy coming in said: 'Why do we own this thing? This is not our core business.' He hires McKensie. McKenzie comes in and of course validated: 'No, you shouldn't own this thing.'" Within a year there was a subsequent sale to dispose of the questioned assets. "So changing leadership – that's a Number One contributor to the fail rate."

On the positive side, Nesvold said, continued or accelerated growth and stability of the client base are important indicators of the success of a transition. "[In the] near term in our business, if you did what you said you were going to do for your clients, they'll give you the benefit of the doubt through the client consent process. Beyond that, they watch you and especially if you've got a mutual fund with institutional clients, they'll put you on the 'watch list.' If the clients start to defect, that's a good warning sign – Danger! Will Robinson! – something's about to happen."

Keith A. Maib, Senior Managing Director at Mackinac Partners, has another uniquely focused perspective on leadership post-closing. Maib co-leads Mackinac's Financial Restructuring, Transaction Advisory and Private Equity practice areas and has spent virtually his entire 30-year career in restructuring and M&A in distressed companies. He normally works one situation at a time, and usually goes into a distressed situation as a C-level officer. He gets called into distressed situations by board members or management "to augment its management team with additional expertise and talent to basically effectuate a financial restructuring and/or a turnaround of the business."

"I don't come in to just execute a transaction. I come in to clean the business up, to dispose of operations that don't make any sense." ~ Keith A. Maib

"I don't come in to just execute a transaction," Maib says. "I come in to clean the business up, to dispose of operations that don't make any sense." In the wider world of M&A, the post-settlement period can be six to 12 months, sometimes up to two years. In the distressed world, Maib says the time frame is much shorter – "30-45 days at most." In nearly all cases, the seller will exit the business, for obvious reasons. "Look, in the distressed world there's a high correlation between inefficient, ineffective management teams and distressed companies, as you would expect. So as part of a distressed transaction, usually there are a number of key management changes."

Private equity firms are the predominate purchasers of distressed companies, says Maib: "I would say those key management changes as part of a distressed purchase are the most important decisions a private equity firm make that determine ultimately the success or failure of the investment. And in my experience most private equity firms are not very good at this. They're not very good at recruiting and hiring and selecting senior management. They're deal people. They're not operating people." Maib says the successful private equity firms either engage operating people who have talent, or they use board members who have deep operating experience and know how to vet candidates for C-level positions: "But when the decision is left solely to the private equity firm and primarily to the transaction team, the risk of those new hires failing, in my view, is very high.

"In the distressed world the leaders have to modify their behavior… I say to people, 'You didn't just wake up one day and just become distressed. You spent a period of time screwing the business up. You marginalized your supply chain. You marginalized your customer base. You marginalized your talent within your organization. And that doesn't get fixed because you sold the business.' So in my world it's absolutely important that people understand the things that need to be addressed, the timetable it's going to take to address those things and the amount of capital it's going to take to support the business in the meantime."

DEAL NOTES

PlayPower Inc.: a distressed company reinvigorated

PlayPower Inc., based in Huntersville, NC, is the world's largest manufacturer and marketer of commercial playgrounds. Its products are found at schools, in municipal parks and other places. Prior to 2011, it was owned by a private equity firm, and had mezzanine financing that was owned by a large hedge fund and a banking syndicate. The company got into a distressed situation and brought in Mackinac Partners' Keith Maib in 2010 to orchestrate a restructuring.

"I spent the first 9-10 months with the management team reworking the strategy of the business, improving margins, improving cash flow, dealing with liquidity issues, discontinuing certain operations and closing down certain operations," Maib says. "So then you have a business and you say, OK, the value of this business probably doesn't reach to the equity so we need to effectuate a change in control and a recapitalization of the business.

"Oftentimes the old management is continuing forward and carrying a lot of baggage for mistakes that the company made. You've got to deal with that. If you looked at the management team that existed at PlayPower when I went into the company in 2010 and the management team that exists today – and I'm talking about the top 15 executives of the company – it's turned over 95 percent, including every C-level position."

In 2011, in connection with the restructuring, PlayPower received $45 million in new capital from Apollo Investment Corporation, which acquired 100% of PlayPower. PlayPower will earn about $375 million in revenue in the current year, and has operations in the U.S. and Europe. Maib continues to sit on the board.

D. The closing balance sheet

"When key milestones are not just met, but celebrated, those are having a very positive impact because people start seeing that, hey this is working!"
– Asish Ramchandran, principal in the Merger & Acquisition Consultative Services practice, Deloitte Consulting LLP

In most deals, 30-90 days after the closing, the buyer presents a closing day balance sheet to the seller. Depending on the purchase agreement terms, one of the parties may have to compensate the other for discrepancies; buyers typically pay sellers while sellers usually insist on downward adjustments to funds in escrow rather than paying out of pocket.

"If people are quitting before the bonus period, then you know that there is something's wrong." ~ Asish Ramchandran

"There's always surprises, unfortunately," says Maib. Particularly in the distressed world, "the biggest distinction is that the seller is going away and therefore reps and warranties aren't valid." Often this is reflected in the price. But Maib says he has also seen a big increase in the use of Rep and Warranty insurance policies. He was one of the pioneers in using the insurance dating back to 1999. "They're very applicable to bankruptcy settings because, again, there is nobody to stand behind the reps and warranties. For example, if somebody's got a serious concern about a tax rep, laying that off in an insurance policy on an insurance carrier who is going to be around will solve that problem."

Asish Ramchandran is a principal in the Merger & Acquisition Consultative Services practice of Deloitte Consulting LLP in Los Angeles, with 15 years in the M&A business. He is also the Global M&A and Restructuring Technical Services Leader and been recognized as a recipient of M&A Advisor's "40 Under 40 Award." Ramchandran has led more than 150 transactions, resulting in more than $4 billion in savings and $20 billion increases in market share. "We're soup to nuts – advisory to implementation, pre- and post-closing," Ramchandran says. "When we look for problems we look for milestones and deadlines getting missed, and there being no rational explanation for missing them. In our world we call this 'blueprinting' – when a deal is being done we do a blueprint for the entire deal. In that blueprint we'll identify key milestones that are critical to the success of the deal. If those milestones start getting missed, that is an indication and that something's going wrong."

Ramchandran also keeps a keen eye out for employee behavior. "If people are quitting before the bonus period, then you know that there is something's wrong. If they're quitting two months before they are supposed to get a 30 percent bonus, you know something's off – they're so frustrated with the situation that they'd rather quit than stay." Another way to identify disenfranchisement, he says, is a measurable drop in productivity. "You should measure individual team performances against the same quarter the year before – if you see a dramatic movement downward, you know that people are not engaged in the process." He adds that "The Street" is also a good source for indicators on public companies – "Analysts' commentaries, rumors, people talking to each other… where there's some smoke there's generally some fire."

Then there are the deals that going well or better than planned. "When things are going well, you see people confidently and plainly identifying issues that they think need to get resolved because they are now part of the process," Ramchandran says. "They believe that they can help. So when you see people escalating issues for resolution because they believe that when you take the roadblock out they can increase the speed of the integration – those are signs that things are going well. When key milestones are not just met, but celebrated, [they have a] a very positive impact because people start seeing, 'Hey, this is working!'"

Ramchandran sees post-closing balance sheets differing from pre-closing on a frequent basis: "The most frequent reason is an economic downturn. It has less to do with the deal itself, it's got to do with the fact that assumptions around the deal parameters changed. As an example, what happened in 2007 and 2008. Or what is happening in the oil and gas space right now with the oil prices plummeting. In the standard M&A deal in oil and gas they weren't necessarily thinking that oil was going to fall by 50 or 60 percent in less than six months. So those are external factors you can't control, or acts of God." Another factor, he says, is hidden costs, which happens frequently in high-tech businesses. "There are product roadmaps that they think are valid but then the customers demand changes so quickly that the product is unsellable," Ramchandran says. He says a recent example is wearable devices, such as imitators of the iWatch or Google Glass. "They may be very good devices today, but for some reason they don't strike the fancy of the consumer. So they do a deal, the premise is 'I'm buying this company because they've got this new wearable technology,' but it doesn't meet the expectations of the market."

Part II: Integration: the Venus Fly Trap of M&A

A. The first 100 days

"Increasingly these transition services agreements are very, very important. I think of them as being the equivalent of complicated outsourcing deals."
– C. David Goldman, partner and head of the International Corporate Advisory Practice Group, McDermott Will & Emery LLP

Getting a deal signed and closed is never enough. The post-close integration strategy and its execution often make the difference between a transaction's success and failure in terms of value capture. Miscalculations, poor integration plans or external factors result in at least half of M&A deals failing by most estimates. The buyer has to integrate the acquired company into the parent company or make sure it can continue to operate as a standalone business. This is often easier said than done. Examples abound of post-close integration assumptions gone awry.

C. David Goldman is a partner in the law firm of McDermott Will & Emery LLP (MWE) in New York, and head of the Firm's International Corporate Advisory Practice Group (including M&A, Private Equity, Capital Markets and Restructuring & Insolvency). In his 38 years as an M&A attorney he has participated in all types of deals, large and small, public and private. He says the post-closing transitional period varies with the type of buyer – a corporate buyer who is buying for a strategic reason; a corporate buyer who is buying for a new operation or a new geography; a private equity buyer; and a fourth category that MWE sees – the family wealth buyer. "Now there are a number of very large family offices built by wealthy individuals who have created their own captive private equity fund and they're doing private equity type investing but not through [traditional PE] funds," Goldman says. All of these buyer types have very different types of motivations, agendas and issues in post-closing."

As an example of the types of transitional services that may be needed after a closing, Goldman cited a deal he is currently working on – a large international corporate buying a global operation of another large corporate, but taking the buyer into a new but related product line, and in new geographies. "So even though they are in same basic industry – food – there are administrative and operational things that the seller does that the buyer had not done before. Some of those were done by the parent of the seller, and so therefore the buyer will be entering into a 'transitional services agreement' under which for a number of

"Wealthy individuals buyer type has very different types of motivations, agendas and issues in post-closing."
~ C. David Goldman

months the seller will continue to provide services on contractual basis. If you think about the different types of potential buyers as I described them – let's take the private equity buyer doing a platform acquisition, or a family doing an acquisition in a new industry – they may not have an infrastructure or IT, or finance, or legal. They may be buying the factories and the salesmen, but that doesn't mean they are buying the administrative infrastructure of the seller because the seller may only be selling a division or a subsidiary. So increasingly these transition services agreements are very, very important. I think of them as being the equivalent of complicated outsourcing deals. It's an area in which I think many law firms don't devote enough attention to. They don't treat these agreements as important as they should."

Deloitte's Ramchandran highly recommends the development of a 100-day plan to be put into effect upon the deal's close. "The plan needs to be very well-thought-out, and a very discreet plan, with a view to the customers, the employees and the suppliers. So you have a 360 degree focus on all of these, and you actually have a named sponsor to lead the post-merger integration," Ramchandran said. He recommends a senior sponsor who is visible to the CEO to lead the process – "someone within the organization who's highly respected, someone who's an up-and-comer, who's been groomed for a more senior role. You want to put your best people on that job immediately after the close so that in the next 100 days you maintain that momentum and then some more." Other sponsors may be middle management in various divisions or departments such as finance, IT, supply chain.

A real danger during this period, Ramchandran says, is underestimating the competition. "When a deal gets consummated, everybody expects – and the competition expects – that you're distracted. That's when they really start going after your customers, saying 'Hey, this company is in the midst of this internally focused activity – their eyes are not on you. I, on the other hand, only care about you. I want to make sure you get what you want.' Customers are susceptible to it. They are worried about the fallout because they have heard that most M&A deals don't work."

“The best buyers organize the 100 day plan before the closing so that everything is seamless,” adds MWE’s Goldman. “So they’ve already been talking to customers, to suppliers, to employees. They don’t want to have surprises at all.”

DEAL NOTES

The emerging “Family Equity” firms

C. David Goldman McDermott Will & Emery elaborates on what he cited as a growing offshoot of private equity investing – family offices. “It’s an area that we care about a whole lot. There are all these terribly rich people today. Wealthy families have traditionally been big investors in private equity funds. They would put their $100 or $200 million into the private equity funds and watch them make money. For three reasons we’re seeing less of that. One is the returns on private equity aren’t as crazy-wild as they used to be. Two, the wealthy families are getting a little bit tired of the fees being paid to the private fund managers. Three, the private equity funds, when they’re doing acquisitions, have an investing horizon of say, five to eight years. They’ve got to be in and out because part of their contract with their investors is that they’ll be liquid within five to eight years. The wealthy families think a little bit differently. Their time horizon is 100 years – they don’t care about the five or seven year thing. They’re not looking for liquidity; they’re looking for constant cash flow. So the basic theory of the private equity fund doesn’t comport with what the wealthy families are thinking.

Also, Goldman said, today’s wealthy families today are not like the Rockefellers, whose roots in trade date to the 19th century. “They may be in the first or second generation of wealth. A guy built a big business and cashed out. He’s thinking about what his children are going to do. So a lot of times they’re buying businesses so their children and grandchildren have something to do. Also, the fourth generation of Rockefellers may not have an expertise in this industry or that industry. But that guy who sold his business for a billion dollars – maybe he was in the beer distribution business – he probably feels he knows something about distribution, so he says I’d like to be dabbling, or investing in this industry, and if I just go to a private equity firm, they don’t have that particular industry expertise that I have. Or there may be the guy who says he wants to invest the next 20 years in green technology because I really care about that. So the family wealth in my view is migrating away from private equity. They’re still doing controlled investments and buying 100 percent of companies, and they’re building infrastructures internally that look at lot like private equity funds.”

"Earn outs are the biggest issue for the selling shareholders."
~ Miroslav Lazarov

Globally, Goldman said, the recent wealth buildup in emerging markets like China and Russia has also created demand from wealthy families to move assets out of their countries to avoid country risk. Ten years ago, MWE was seeing very little of this activity, but today it's a material part of its business, Goldman says. Thus, MWE created a separate practice area two years ago. "The reason why we're doing it is because we have what most people agree is one of the top wealth planning practices in the world," Goldman says. "So we already represent a large number of these very wealthy families and we understand the kinds of issues that these wealthy families have, whether they're tax issues, succession planning issues, governance issues, all those things that we're dealing with every day. And we also have what most people will accept as one of the top tax practices in the world, which is relevant to these types of investments. And we have a very strong corporate group – private equity group. So combine all those and we have something we don't think other firms have."

B. Post-closing issues of sellers

"The more complicated the earn out and the more complicated the financial metric, that really increases the chance of disputes." – David Allinson, Latham and Watkins

"Earn outs are the biggest issue for the selling shareholders," says Miro Lazarov of D.A. Davidson & Co. "If you look across the board at probably 50 percent of the companies, the sellers don't end up collecting a portion of the earn outs. Part of that is driven by what kind of metrics you are using for your earn outs. If your earn out is based on EBITA, how is that going to be calculated post-closing?" Lazarov asks. "You'll be surprised how many times we've seen deals where's it not really calculated beforehand – it's one of those things where they think they'll just figure it out. The second thing is when you're selling the company you try to put the best foot forward and so you put projections out that in reality don't always happen. Sometimes those projections are not frankly achievable and so the earn outs aren't paid, at least not 100 percent of the earn outs."

David Allinson of Latham and Watkins law firm sees disputes over earn outs correlating to how complicated the earn outs are structured. "Earn outs come in a lot of different flavors," he says. Common ones are achieving a certain EBITDA threshold in years 2, 3 and 4. Or it could be a revenue test, a contribution test or a growth margin test, he says: "Take EBITDA – you have to agree on what counts and what doesn't count. Those become highly negotiated. And also there's language on how you run the business post-close. The seller's always afraid that the buyer won't operate in the ordinary course and that will impact their ability to get their earn outs. The more complicated the earn out and the more complicated the financial metric – that really increases the chance of disputes."

Lazarov says many merger partners overestimate the synergies that they think will come with a deal. "Things kind of look good on paper or in a PowerPoint presentation. The reality is it takes a lot longer to digest a potential deal or acquisition," he says, adding that, on the balance sheet, you shouldn't be seeing anything that's surprising "unless the bankers and accountants are doing their job horribly through the due diligence process," or that the post-closing balance sheet may be impacted by a sudden change in the economy or the industry. But typically, Lazarov says, there "shouldn't be major discrepancies between what's said before the closing."

In a situation where a public company buys another public company or a division of a public company, Allinson says, the post-closing issues usually relate to operational matters and synergies. "Did the buyer who determined value based on achieving X amount of cost synergies or revenue synergies really achieve it? For a public company it's very important because their valuation, which hinged on those metrics and assessments, usually become public. In subsequent quarters the analysts will ask them how the integration is going, have you been able to achieve those cost synergies. It's important for the public company to explain to the market how they're doing it and how that's reflected in the balance sheet because whether or not they achieve it will start to have an impact on the value of their stock," he says.

Turning to examples of good synergies, Lazarov cites a situation in which the buyer delivered what it promised before the close. "You would think that would always be happening," Lazarov says. "From day one this buyer had enough trust in the management team they acquired that they actually provided them the budget they needed and new facilities they needed. If you go back and talk to the management team maybe a year later, usually those buyers end up being very happy with the management team they acquired. A lot of my clients are

"A lot of times managers who saw themselves as the king of the castle suddenly realize they have someone else to answer to."
~ David Allinson

entrepreneurs and with those guys when you're freed up from the day-to-day issues – like being the guy that has to sign off on every bank loan – that's pretty important. So as soon as you remove those bank guarantees, a lot of these guys who might have been building their business the last 20 years all of a sudden are very excited again about really growing and expanding the business."

Lazarov cites another positive example: A company in the oil and gas space. The owners spent 4-5 years building the company before they sold it last year, just before the peak of the U.S. oil boom. "These guys built the company literally from zero to $100 million," Lazarov says. "I was talking to them yesterday and they said, 'Gosh, we're so happy that now we're part of a publicly traded company, because we may have a downturn coming in our industry and we actually – instead of worrying what's going to happen to the company or what's going to happen to the payroll – we can actually take a strategic view of the business five years from now and actually go out and acquire some smaller competitors that are privately owned. So having that support from a larger corporate parent – if it's a nurturing corporate parent – usually means the benefits come down the line."

C. Management changes – private and public

"A lot of time managers who saw themselves as the king of the castle suddenly realize they have someone else to answer to." – David Allinson, Partner, Latham & Watkins LLP

"This town ain't big enough for both of us," the old western movie cliché goes. The M&A landscape is littered with casualties of post-merger management integrations. In the case of private deals – a private equity firm buying an enterprise, managers who founded or ran the business often find themselves in a new situation, with a new board, stringent new reporting requirements and milestones to be rigorously met. The private equity firm usually has a 5-8 year time horizon before it re-sells the business to meet its liquidity obligations to its limited partners.

"They're not public company shareholders who just sit back and look at earnings from quarter to quarter. They are very active managers," Allinson

"Continuity of management is important to the success of a deal. Make sure the managers stay on that the buyers want to stay on." ~ C. David Goldman

says. "They themselves are on the board of directors and the will expect management to report up to the board in a way that is not like a public company, it's much more thorough and exacting. So a lot of time managers who saw themselves as the king of the castle suddenly realize they have someone else to answer to, and those people they're answering to own 95 percent of the company. You do see situations where there are growing pains. Good managers get used to it and realize that's the kind of scrutiny they're going to have because that's part of the bread and butter of how they make money."

With public company deals, particularly mergers-of-equals or near equals, the question becomes which management survives? "Before the close you see all kinds of arrangements, the CEO of one company is going to stay. The board may get mixed up – half from one company or three-fourths from one company," Allinson says. "The winning CEO usually has a dramatic impact who's going to be winning management across the board, but it's not always the case. If you have a merger of equals, there's always a view of who's a little bit more of the acquirer. And if that's not fully accepted, it does create a bad political environment because no matter what, even with a merger of equals, someone's going to have the advantage. And if it's acknowledged that one group is going to be in control, it usually goes better."

D.A. Davidson's Lazarov adds: "You've got to be cautious that you're not eliminating some of the talent that you should be keeping on. That's why it's important for your Due Diligence team to bring in not just the financial guys, but also HR and everybody else that's key in the organization."

Lawyers get involved in these types of management issues, says MWE's Goldman, adding that continuity of management is important to the success of a deal. "Make sure the managers stay on that the buyers want to stay on," he says. "The types of issues can really sideline a transaction and are relevant to the post-closing period: how much cash are the key management and employees of the seller taking off the table in the deal? And if they're taking out a lot of money, do they have any incentive to stay? So part of the negotiation sometimes is incentivizing the key management to stay. Secondly, what kind of upside plans will there be for the management who's staying? Increasingly, a lot of the diligence is around post-closing compensation and benefits for the employees so how to deal with that is very important."

D. Other post-closing surprises

"I think the real issues are around people." – C. David Goldman, McDermott Will & Emery

Post-closing disputes make good newspaper headlines but are not as common as they may seem. "Lawyers spend countless hours and pages in a document on how to deal with post-closing claims," Goldman said. "They do come in a certain percentage of deals. You avoid them by doing really complete diligence – you don't want to be in a post-closing dispute situation. It's no fun. And sellers want certainty – they don't want to find out they sold their business for a certain amount and now they're going to be chased to get some of that back by those rotten buyers forever. Our goal as lawyers on the buy side is to build a structure through diligence to reduce the number of surprises that can come up post-closing."

Buyers and sellers need to think about where surprises may come from. Examples include intellectual property problems, lawsuits, and environmental problems. Goldman says those are all matters that should be discovered in Due Diligence. "I think the real surprises come with the people," he added. "Are you getting the people that you really wanted? Are they committed to stay? Are they part of your team? Will they work with you? That's where the surprises come."

Real surprises come up when corporate cultures don't match up – where the buyer expects the management plans to be submitted weekly and management is not used to such scrutiny. "The typical private equity buyer will have its hands in the management," Goldman says. "If the seller's management is not used to that, if they're used to just managing without having 28-year-old experts getting in the middle, that can be a cultural problem. Or if the buyer's a Chinese company and the seller's a U.S. company, there can be cultural problems. So I think the real issues are around people."

Silver Lane's Nesvold notes that management egos can take a significant bruising in the M&A process. "It's often very humbling when you're built this

"It's important for companies to understand and define who their stakeholders are. I don't think it's always apparent."
~ Sean Madnani

great money management company but then somebody's kicking the tires and wants you to rep and warranty to a bunch of stuff," she says. "This is the part where there's the most angst for our clients. On the sell side they certainly enjoy the wooing and the courting process where buyers are putting together their proposal and trying to say 'pick me, pick me.' That's the fun part. And then you get to the documentation and you see that first draft – we warn them in advance that it's sort of a humbling process."

"With big egos it's often very difficult to consummate a transaction," Nesvold added. She's seen cases where the heads of firms "just thought they were the cat's meow. And they never could get to the terms that they felt one should get to for their prestigious empire. And invariably those firms saw erosion because invariably you have to have the next generation of talent team building. So we've seen cases where the firm could have seen growth with a partner but didn't because an ego got in the way of really listening to the buyer about how they might grow the business."

Part III. Bringing down the curtain – and communicating to stakeholders

"You don't want to run into the Shakespearean quote 'Methinks the lady doth protest too much.' – Elizabeth Bloomer Nesvold, Managing Partner, Silver Lane Advisors

The strategies and synergies are agreed to; due diligence is done; purchase agreement and closing – check. What have you done about communicating with your stakeholders? In successful deals, the buyers and sellers begin their communications plan in the very early stages. Part of this is defensive – what if word leaks to employees or customers ahead of schedule. Worse, what if it gets into the media with the wrong messaging?

A good communication plan will capture the "who, what, when, where, why and how" of the deal – the five Ws and the H, as they teach in some journalism schools. The plan will communicate clearly, avoiding complexity and obfuscation. Managers will think of "worst case scenarios", address them, and write their messaging points into the plan. At the end of the day, a bad communications plan, a public gaffe by the new CEO, or a not-so-thoughtful post on social media by a company insider could – and have – wrecked the best-conceived deals.

"It's important for companies to understand and define who their stakeholders are," said Blackstone's Madnini. "I don't think it's always apparent. So – investors, Wall Street analysts, customers, suppliers, employees, the general media, the families of employees – there's a lot of people you could argue are either direct or indirect stakeholders in your company."

Madnini says all constituents that will be impacted by the deal need to be reached with "a base message around why it's happening and why it's good." He continues to say: "But then too you need a message for each individual constituency and be proactive in the communication so that you're out in front of any issues sooner rather than later with a defined plan of why this transaction happened, what you're hoping to accomplish, how you're going to accomplish it and how you're going to incorporate the interests of those stakeholders."

What not to do, Madnini advises: "If you don't communicate to a certain group of stakeholders, or if you communicate in such a vague or opaque way that they have no clarity as what what's really happening, why it's happening or how it's going to impact them, in the worst case people just shut off or assume the worst."

Silver Lane's Nesvold has seen the good, the bad and the ugly of stakeholder communication. "It's so critical. I cannot emphasize this piece enough," she says. "In our world (financial services), the first level of stakeholders are younger partners who may not be privy to what's going on until the later stages of the transaction because the majority rules. And so the majority will run through the process. We try to make sure that the right messaging is out there because it's hard to let them know too early because if something doesn't come to fruition, why get people all riled up for nothing? But [if] you have younger partners and employees… anytime you say 'merger' or 'acquisition' the natural instinct is to worry.

"Beyond that you have the clients and the prospects and the competitive marketplace who will try any bad messaging to their advantage to scoop up

"It's just a good practice to develop a public posture statements."
~ Elizabeth Bloomer Nesvold

prospects or your own clients. So at each phase of the transaction, you've got to be mindful of what's the messaging. A lot of times we tell clients early on that we need to think through the public posture statement, and what happens if somebody gets wind, what do you say to somebody? Because if it comes up, you don't want to run into the Shakespearean quote, 'Methinks the lady doth protest too much.' 'Oh, no, no, we're not doing anything. We're not going to do anything.' And then you do something and nobody feels happy that you lied to them."

A great deal of prep work goes into a stakeholder communications plan, including drafting of a press release, a key questions and answers document, talking points for the CEO and other spokespeople. Decisions need to be made – who will make the stakeholder phone calls and when? Who will communicate internally with the employees?

"And even if there is no leak," Nesvold says, "it's just a good practice to develop a public posture statement, because when the deal happens you're already going to be ready to embrace how you're going to do the messaging when the clients get you on the phone. They want to know that it's good for you, it's good for me. You can't tell them nothing will ever change, and it has to be true because clients, again, will give you a little bit of time but if you lied to them that's a bigger factor for defection. The best answer is, 'Everything you liked about us we're going to continue to do,' or 'you wanted to see opportunities for our junior employees; we're going to be able to do that with our new partner.' The messaging is absolutely critical."

Early in her career, Nesvold said she received some "forced PR training." A prominent transaction involving two financial services firms in Boston was in the works. "Three weeks before the deal was to be consummated, the Boston Globe put it in the paper. And it turned out the CEO's wife, who knew, told her garden club. So we try to discourage pillow talk."

Conclusion

The M&A Advisor is proud to have presented the "Best Practices of the Best Dealmakers" for a third edition. The art of dealmaking continues to evolve and, as we've seen in 2014, show resilience and value to the global economy. This chapter examined the issues that can arise after the close of the transaction, including balance sheet discrepancies, management issues, earn out expectations and computations, and cultural differences – with both positive and negative post-closing outcomes. Finally, we had best practice advice from professionals on stakeholder communication and its criticality. We invite our readers to send us thoughts and comments for further development of "Best Practices of the Best Dealmakers."

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David Allinson is the Global Co-chair of the Latham & Watkins's Mergers & Acquisitions Practice and the former Co-chair of the Private Equity Practice Group and the New York Corporate Department. David has broad mergers and acquisitions experience, encompassing both public and private acquisitions, dispositions, carve-outs, tender offers, going-private transactions, co-investments, joint ventures and general corporate matters, including corporate governance and takeover defense. David also focuses his practice on the representation of private equity firms, including The Blackstone Group, Blue Road Capital, Charterhouse Capital Partners, Columbus Nova Partners, CCMP Capital Advisors (JPMP), Consonance Capital Partners, Irving Place Capital, The Carlyle Power Group, One Equity Partners, Ospraie Special Opportunities Group and Panda Power Funds. He has also represented a wide range of public and private companies such as AMC Entertainment, AOL, Cogentrix Energy, Covanta Holding Corporation, etc. David was recognized in the Financial Times 2013 US Innovative Lawyers Report for his representation of Blackstone Group in its US$1.5 billion equity investment in Cheniere Energy Partners. He was also recognized as a leading lawyer in the 2008 IFLR 1000 guide and for his work in private equity transactions in The Legal 500 US 2012 and 2008 guide, and Chambers USA 2009.

Elizabeth Bloomer Nesvold is Managing Partner of Silver Lane Advisors, an M&A advisory firm specializing in the asset and wealth management industries. She has advised on more than 150 M&A, valuation and strategic advisory assignments over her 22-year career. A well-recognized expert in the wealth management industry, Liz co-founded the first M&A advisory group for the sector in 1998. Other clients have included trust companies, multi-family offices, institutional and alternative managers, investment counselors, financial planners, investment consultants and financial technology firms. Liz is a frequent speaker at investment management industry conferences and seminars, and has authored several articles, including "Who'll Be Left Standing" and "How to Make Money in Wealth Management," Trust & Estates, and "How to Sell the Family Business (Without Losing Your Sanity)" for Private Wealth Management. She is also writing her first book for McGraw-Hill on business valuation. Liz earned a B.A. in Political Science with a minor in Economics from Binghamton University and an MBA in Finance, with high honors, from Fordham University Graduate School of Business. She is also a General Securities Principal.

Sean V. Madnani is a Senior Managing Director in Blackstone Advisory Partners LP. He is based in Menlo Park. Since joining Blackstone, Mr. Madnani has been involved with several notable transactions including the combination of Reuters with Thomson, the dissolution of Comcast's joint venture with Insight Communications, the sale of Tribune Co, the merger of Opnext with Oclaro, the sale of BrightPoint to Ingram Micro, the reorganization of Covalent Materials (Japan), and many others. In addition, Mr. Madnani is closely involved with the M&A activities of Blackstone's private equity portfolio companies, such as Freescale Semiconductor and The Weather Channel Companies. Before joining Blackstone in 2005, Mr. Madnani worked at Lazard Frères & Co. LLC in New York, San Francisco, and London, where he provided investment banking and strategic advisory services for clients in the technology, media, and telecommunications industries. During his career, Mr. Madnani has advised on M&A transactions totaling more than $100 billion in aggregate value. Mr. Madnani received a B.A. in Economics with a minor in Business Administration from the University of California, Berkeley. He graduated as an IBM Thomas J. Watson Scholar and a Cal Alumni Scholar. Mr. Madnani is currently a member of the Board of Directors of the Citi Performing Arts Center in Boston.

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