Success And Pitfalls in M&A

Each Stage Of The M&A Process Has Unique Successes & Pitfalls

Being disciplined about what you are looking for and efficient about where you spend your valuable resources/efforts

- EB to provide strategic buyers perspective
- Paul to provide any nuances from a PE perspective
- IB panel will get into seller readiness and process

Sourcing

LOI

Due Diligence

Legal Structuring / SPA

Integration Planning

Pitfallls at any stage of the process can create adverse deal issue

Sourcing

Assumption is that you have targets you are speaking with but now with whom to focus your valuable efforts on?

- Fish or cut bait quickly
- Preliminary discussions will be more of an outside in look
- “Trust Me” on materials / info provided by seller
- Do as much as you can so you don't trip up in DD and waste $$ / time
- Key factors
  - Character/trust; are they “good compliant operators”
  - Motivated seller vs just testing the market
  - If scale deal then identify revenue potential, cost take out
  - If scope deal then identify capabilities (tech), service offerings
  - Customer concentration risk

Is this a deal worth spending time on?

Letter Of Intent

Being transparent and addressing all the deal value related topics (headline price to equity value – "cash in the bank")

- Stock or asset deal
- Headline purchase price
- Earnouts (duration, metrics, governance)
- Deferred payments (contingent or guaranteed); Rollover equity
- Net Working Capital
- Debt and debt like items
- Material Assumptions the offer is based on
- Timetable
- Other: tax elections, escrows, rep & warranty insurance requirements, employment terms

LOI to create a "moral" commitment to its terms. As a practical matter, its terms become non-negotiable

Due Diligence

Buyer due diligence should be focused on highest value creation and risk items

Traditional Buyer Diligence Focus → **High priority Diligence Topics**

- Customer Revenue
- Accounting, Tax
- Synergies
- Operations
- Insurance
- HR
- IT
- Legal

- The sustainability of revenue (and profitability) from existing customers
- Customer concentration; spans of relationships - do you risk losing accounts if leadership is not continuing
- QoE to set a solid baseline for the business; addbacks; debt and debt like items, NWC targets – all go to value considerations
- COGS: workers' compensation expense – model under acquiror rates
- G&A / synergies
  - Comp / benefits expense
  - Footprint overlap
  - Back office payroll/non payroll savings
  - Dis-synergies : IT, comp / benefits, insurance expense
- Key person risk
- Compliance / E-Verify
- Leadership assessment / culture

De-risking the Legal Process

Legal documents tie value considerations and risk into one set of definitive documents

- Agreeing on a detailed letter of intent assures there is a meeting of minds on key business points early in the M&A process. Failure to agree allows you to walk away before too much time and money has been spent
- Have owners talk directly to solve business issues
- Get sellers to provide detailed purchase agreement disclosure schedules early in the process to avoid last minute surprises
- Have tight covenants to control seller activities between sign and close
- The definitive documents will provide for an allocation of risk regarding the seller's business. Understanding what are market terms in staffing transactions will avoid contention and maximize the likelihood of success. Rep & warranty insurance can distinguish a buyer's offer and reduce controversy
- Non-competes and non-solicits from owners and seller's senior management provide critical protection against the loss of customers and key employees
- Management retention agreements offering cash or equity can help retain the seller's key employees during the post-closing transition period

Pre-Integration Planning

Be ready to realize synergies day 1

- Engage teams early – partner integration teams with diligence teams
- Focus on key value drivers
- Be ready for all non-negotiable areas
- Address people issues early – be transparent