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Brian Levin is a Vice President at Intrepid Investment Bankers. He has worked on transactions across a variety of sectors, including manufacturing, industrials, and business services, but his primary focus is on consumer products. Within the consumer products sector, his areas of expertise include Toys & Giftware, Apparel & Retail, and Beauty & Personal Care.

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WHAT EVERY BUSINESS OWNER NEEDS TO KNOW ABOUT PREPARING FOR AND EXECUTING AN M&A TRANSACTION

DEAL EXECUTION IS A TEAM SPORT

In the M&A business, we often use a football field analogy to describe the various stages of a transaction. Getting the deal over the goal line often feels like a win for both sides. As a business owner, a full or partial sale of your company is a fundamental part of your game strategy and mode of organizational change, growth, and success. As an entrepreneur, embarking on a process to sell your business can be scary and daunting, but it is one of the most important moments your business will ever face.

The question you first want to ask yourself is why do you want to exit? The exit may take many shapes, whether it is a full sale, partial sale, or merger with another company. When we first meet with business owners, we make sure we understand their business strategy and to set goals that address their big picture objectives.

For example, is there a serious challenge to selling your business and how can you make your company a more attractive asset for a buyer? The right advisor, strategy, and valuation will get you to the championship round. However, companies often lack complete records, contracts, and information, which a buyer insists on. A buyer wants to purchase a company that has brand recognition, a great client list, excellent product offerings, a clear strategic vision, and a management team that is focused on that vision and growth. From the seller's perspective, you need to put forth good data records, address any internal management issues, have a clear strategy in place, and address any financial issues in advance. Just like a team sport requires players to work in concert with each other toward the ultimate goal, so does dealmaking. There are rules to follow, process steps to anticipate, and players to rely on for the ultimate goal of "getting the deal done."

Draft the Right Team to Achieve Ultimate Execution Performance

In football, to "win" you must start practicing, or in this case preparing, well in advance of when the game or process starts. The process starts by "drafting" your team. The key members of your team will be your investment banker, M&A attorney, wealth manager, and tax advisor/accountant. When selecting a team, we recommend to entrepreneurs that they should look at the New England Patriots for inspiration (always copy the best!). The Patriots have a strong culture and are always

QUOTE:**DEALS CAN SUFFER FROM A NUMBER OF FACTORS ... YOU WANT TO MAKE SURE THAT YOUR TEAM (INVESTMENT BANKER, M&A LAWYER, WEALTH MANAGER, AND TAX ADVISOR/ACCOUNTANT) IS WORKING TOGETHER TO EXECUTE THE GAMEPLAN YOU HAVE ALL AGREED ON.**

looking for players who fit their system. When going through the process, it is important to have a team that works well together and represents the culture of your business. Remember you will be working closely with these professionals for the next 6 to 12 months so it is imperative to find people with whom you can work well with.

After the “draft” comes the real hard work—“pre-season” practice. During this stage in the process, your investment banker (also called M&A advisor) will be learning all about your business, working with you to structure a supportable growth plan, and studying your financials to present them in the best possible light to investors. Many private businesses incur expenses that would not be typical in institutionally-owned businesses; identifying and supporting those expenses is crucial to maximizing value in a transaction. While your investment banker is preparing the materials for investors, you should be working with your legal team to make sure all your corporate documents are in order and all of your intellectual property is protected (if appropriate). The last aspect that should be taking place during the pre-season is tax planning—this is a crucial element to take place early on because often the opportunity for tax planning will be lost if you wait too long.

Play Offensively—Get Involved in the Process

With the draft and the long “pre-season” behind you, it is time to start playing the game. The game starts from deep within your end zone and you have a long way to go. We always tell our clients that the reason we do so much work upfront is to lessen their load during the process. From the entrepreneur’s perspective, the first part of the process should be a time to focus on your business and ensure strong financial performance while your team is busy executing the first part of the process (i.e., picking up first downs). The primary factor that derails a process is poor financial performance—never forget that running the business should remain your No. 1 focus!

The next stage in the process is when actual values begin to get discussed with indications of interest (IOIs) being submitted. IOIs provide the first time that investors/buyers are assigning a value to your business, but do not get too excited (or disappointed) with

these values as there is typically a wide range and they are still very preliminary at this early stage.

At this point in the process, as an entrepreneur, you get more involved in the process and begin to meet with the potential investors/buyers. It is important for you as a seller to be evaluating these potential partners for more than just the dollar value of their offer but also personality fit, shared vision for the future, resources they bring to the table, and other “softer” areas that can be harder to evaluate.

Our Apparel & Retail team recently worked with a leading designer and producer of clothing and accessories in the streetwear industry, on its sale to a global licensed apparel wholesaler. Our client’s unique vision made it the first brand to blend the previously segregated genres of art, skate, fashion, and music. This celebration of diverse interest and lifestyles has come together to create a mainstay brand. We were able to advise the company on its sale process and help them achieve a new partnership that will maintain the brand’s authenticity while supporting the future growth of the company. The eventual buyer of the business, which we found as part of the marketing process, was able to combine their world-class manufacturing expertise and deep customer relationships to reinvigorate our client’s brand.

Another recent example is a company that’s disrupting the digital marketing industry with its transformational performance-based technology platform and fully integrated end-to-end solutions. The company’s proprietary, comprehensive eCommerce platform connects consumer brands with media buyers that seek to maximize the value of their advertising with publishers. Its end-to-end service offering includes inventory management, order fulfillment, and other vital online retail support services. We ran a highly-effective process in a condensed timeframe, structuring and negotiating a transaction that will allow our client to continue on its path to building the dominant performance marketing company. Finding them the right capital partner enabled the company to secure an attractive financing package with an institution aligned with its corporate culture and committed to its growth initiatives.

Negotiate Key Deal Points Upfront

While there is still a long way to go in the pro-

cess (we are only at midfield!), the pace of the process really picks up from here. A good banker will have developed a process that continues to narrow the field of potential bidders and enables you to negotiate the key economic deal points upfront, while the seller maintains leverage with multiple parties involved. Once a seller enters into a letter of intent (LOI) and an exclusivity arrangement, much of the leverage is lost. Key economic terms you should be aware of, as the seller, include the structure of the purchase price (cash, earn-out, stock, seller note, royalty, etc.), working capital adjustment mechanism, and escrow amount and indemnification cap. Once these terms (and other non-economic terms) are agreed to and an exclusivity agreement is entered into, the buyer will have more leverage for the first time in the process.

While we work integrally with a business owner to understand their brand and help them communicate their exciting story to the market, we also assist with finding potential bidders that will become the best partner for our client and their growth strategy. Another recent client who has built a highly reputable brand and is the leader in quality for high-visibility safety wear was looking to partner with an international distributor that would help with its growth strategy and sell its products through a broad distribution network serving the safety, workwear, construction, and industrial markets. The company’s model, combining domestic manufacturing with international sourcing, and relationships with blue chip customers and key distributors, is difficult to replicate.

Once under exclusivity, you should move as fast as possible to closing, because as they say, “time kills all deals.” Deals can suffer from a number of factors including financial performance, overall economic factors, and deal fatigue, and the impact on value can be very real. During the final part of the process, you want to make sure that your team (investment banker, M&A lawyer, wealth manager, and tax advisor/accountant) is working together to execute the gameplan you have all agreed on. As the deal approaches closing, we need to get you ready to cross the goal line and score that touchdown. Hopefully, you can look back with fond memories on all the hard work and effort that you put into the draft and the “pre-season” practices that led to such a great outcome! **END**