NOTEBOOK OF IDEAS FOR

DIVESTITURES
OF SECURITY GUARD COMPANIES

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GETTING TO "YES" WITH THE ABSENTEE DECISION-MAKERS

Having <u>*all*</u> *the decision-makers for the buyers and sellers at the deal making meetings, along with their advisors and a deal making mindset, is clearly a good way to start the transaction in the right direction.*

This face to face communication establishes at the outset a fluid dialogue, which helps get through the sensitive issues that usually come up in the final stages of the transaction. And when the buyer's decision-makers are back at their corporate headquarters finalizing their interest level, they can call on the mental pictures developed during the meetings. These images reinforce the attractive features of the seller's company, as well as all the other reasons for making the acquisition.

However, this direct communication between the decision-makers is not always possible or advisable. It's becoming less likely to occur since the large national and multi-national companies are now more proactive for acquisitions. The shareholders are sending messages to the executives that they want growth as well as profits, and these companies cannot achieve this growth solely through its own sales efforts.

They must buy companies. The large privately held targets have greatly diminished and are not good prospects. Their owners are usually not motivated to sell, as evidenced by their price expectations. Therefore, these large buyers have joined the still aggressive investment groups and regional companies in buying quality, well-managed smaller security guard companies.

This flurry of activity has generated a heightened spirit of competition that results in more opportunities for sellers to receive very attractive prices, as well as lucrative packages for them and their managers to stay and run thecompany.

But these new opportunities bring challenges. Sellers choosing the large companies find the negotiating factors more complex.

Unless the selling company is very large, the person (or persons) who makes the decisions at these mammoth buying corporations rarely takes an active role in the negotiations. They're busy overseeing the internal growth activities and other disciplines that are just as important as acquisitions to the success of the company. Therefore, they delegate the deal making activities to lieutenants whose authority, at best, is very limited.

When the principals have not attended the meetings, they can't use the personal relationships as leverage to overcome issues that threaten the deal. This is where the deal-managers, usually the specialized intermediaries, have to be skilled in keeping the parties on track, while not compromising the seller's interests.

Here is how we manage transactions for our clients/sellers in these situations:

§ *We identify the decision-makers*

Our first step is to determine the level of authority the buyer's agents have.

We make sure we are not working with someone whose authority is ambiguous. When we first contact a buyer prospect about a client/seller we are representing, we start at the top of the decision making chain – chief executive officer or president.

We determine if the decision-makers are taking an active role. If they are not, we ask about the decision-making authority of their lieutenants.

We determine the approval process. We find out if the decision-makers have ultimate approval authority, or if the deal must go before a board of directors.

We also find out if the buyer's bankers are integral to the decision making process. Their involvement changes the dynamics of the deal.

If the bankers are involved, additional deal managing skills are required, a subject we'll discuss in a future issue of *Divestitures.*

§ *We get (and keep) the decision-makers involved in the process*

Even if the decision-makers are not attending the meetings, we keep them involved in the process. We do not *assume* the lieutenants will maintain this level of contact.

A detailed and informative offering package is prepared as an initial step in *all* our assignments. When we know our negotiations will be with absentee decision-makers, extra steps are taken to make sure the package is comprehensive but at the same time does not reveal more than it should at this stage of the transaction. We use the package to paint mental pictures of the attractive aspects they would have learned about the sellers had they been at the meetings. The package is sent directly to the decision-makers, who then pass it to the lieutenants.

When the company is really attractive, the decision-makers initiate a direct line of communication with us as a way of checking on the lieutenants.

At the outset, the decision-makers give us their direct business, home and cell phone numbers. They ask us to call them immediately if the negotiations start to get off track, and they instruct their assistant to give our calls top priority.

They give us this direct access because they do not want to lose the business at hand. They also want to maintain direct contact with us since we are a source of their future acquisition candidates. Sellers trying to establish this direct contact with the decision-makers would not have this advantage.

Also, we keep the decision-makers on the e-mails or fax list to receive deal status memos, timelines and memos that address sensitive issues. These sensitive issues memos are directed to the lieutenants, but are primarily to let the decision-makers know that there may be some things going on that could throw the deal off track. These memos are used rather than a direct call to the decision-makers so as not to appear as though we are going over their lieutenants' heads on an issue.

§ *We identify in the signed Confidentiality Agreement the personnel in the buyer's organization who will know about the pending sale*

As a general rule, the more people with a need to know about the pending sale, the greater the chances are that the word will leak out. Having to work with several lieutenants may compromise this confidentiality. Therefore, we determine who within the buyer's organization will be taking an active role in the negotiations and identify their names or positions in the written Confidentiality Agreement. This agreement is executed before the negotiations begin and stipulates that the person executing the agreement notify the persons listed about its requirements.

§ *We do not take the company off the market until we know the transaction has the support of the decision-makers*

At a certain stage in the negotiations, the buyers usually want the sellers to sign a "stand still" agreement. This is part of the Letter of Intent and is an agreement between the parties that the sellers will not entertain sale discussions with other buyer prospects for a designated period of time. This agreement and its timing are crucial for the buyers *and* sellers.

When managing a transaction where the decision-makers have not taken an active role in the negotiations, we want them to see the pertinent information, support the price and terms, and have a commitment to the deal before our client signs the "stand still" agreement.

In working through a board of directors, this verification is usually not possible, unless it is an informal board where the decision can be obtained through a series of telephone calls. When it is not possible or feasible, we time taking the company off the market so it closely coincides with the board meetings. This protects our seller / client from an unusually long "stand still" period. If the board does not approve the transaction, the stand still agreement terminates, we then quickly contact an alternate buyer prospect.

§ *We set time limits for accepting proposals and counter proposals*

The momentum of a transaction often determines how successful it will be; however, without it, some deals fall apart entirely. We're not talking about momentum that's so intense it does not give the parties time to make prudent decisions. We're talking about the kind that lets each party realize that a prompt response means there is interest from the other side.

Of course, having to go through lieutenants to get to the decision-makers (unless we use our option to call the decision-makers directly) can have a slowing effect on the momentum.

We also recognize that there are times when buyers use negotiating through lieutenants as a tactic, rather than a necessity. In other words, they deliberately slow the process down to gain certain leverage. This type of negotiating is not uncommon, and designed to determine the seller's or the buyer's (if used by the seller) real bottom line. An example of this is when a buyer's lieutenant might say to the seller that they will agree to the price if the seller will take a note for nine months instead of six – subject of course, to the approval by the decision-makers. The seller agrees to these terms, the meeting is adjourned, and the seller waits to hear back from the buyer. The buyer is now operating from a position of strength.

When the sellers let the buyers know they are willing to accept something less by giving better terms, they send a message to the buyers. The message is that the sellers are anxious to do a deal and they may concede further. Therefore, the buyers try to use the passage of time to leverage an even better deal.

Whether the momentum is being slowed down deliberately, or simply because the decision-makers are busy on other matters and cannot be reached, the slow down is a threat to the success of the transaction. We overcome this by giving the lieutenants deadlines for getting our proposals or counterproposals approved by the decision-makers. The length of the deadlines varies and depends on the availability of the decision-makers. For instance, if we know one decision-maker is out of the country and will not return for two days, we pick three days as the deadline.

We set time parameters for the buyers to give us their written offer (usually in the form of a Letter of Intent) or to respond to our questions and counterproposals. If they do not respond by the designated time, we perceive the delay as a lack of enough interest necessary to consummate a transaction. We then concentrate on other buyer prospects.

§ *We keep our perspective*

We constantly remind ourselves that the offer we have in hand is the best our client will receive. Even though the negotiations require special handling because we are not able to deal directly with the decision-makers, the end result will justify the efforts.

This article is not to imply that negotiat ing absent the decision-makers is *always* less effective than face to face communication. The dynamics of the negotiations may be such that it is advantageous to slow down the activities by actually having a series of meetings followed by a time of contemplating positions and decisions. Decision-makers may not be effective at face to face communication. They may be very good managers and decision-makers, but may not have the people skills necessary to establish the ever-important confidence factor. In that case, lieutenants may be better ambassadors for the buyers. Lieutenants may also want the seller's company in order to build their area, and thereby increase their compensation. They will therefore *promote* the deal to the decision-makers – a situation that will actually be better for the seller than face to face meetings.

This periodic informational letter is published by:

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Established in 1977, we are the recognized specialists in the sale and valuation methods for security guard companies. We have successfully represented over 100 sellers of security guard companies located in the United States, Canada, Western Europe, the Caribbean and South America.

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