Whether you are a corporation looking to sell off a non-core business holding, or an owner looking to sell the company you've built, you want the same thing:

First, to intelligently consider, compare and evaluate all your options.

Then, if it is a sale you desire:

To sell at an optimal value.

To ensure your employees are fairly treated.

To achieve the sale without endangering the business, its competitive position, or its intellectual property.

To canvas all the possibilities with utmost discretion.

To do it all in a time- and resource-efficient way.

To get back to your core business. . .

. . . or to your new life.

Then there are the many tactical questions and considerations.

The following are only some of the questions and concerns we have gleaned from our clients and personal experiences over the years, as advisors, principals and private company executives:

What is my company worth?

If need be, how do I increase the value of my company?

When is the right time to market and sell the company?

How do I do it, exactly?

What is the optimal process for me?

Where do I start?

What are the key steps?

How do I protect myself and my company?

How disruptive will this process be?

Can I do it with my team, or do I need an advisor?

What are the costs of this process and the terms of engagement?

What are the timelines of this process?

Which of my employees do I bring into the loop?

Are the market conditions right for a deal?

What are the current deal terms?

How should I structure the transaction, cash vs. shares for example?

What can I be doing now to get prepared?

Where do I go from here?

Over the next ten instalments, we will attempt to provide insights on many of these and other important questions.

We can't cover all the bases here, but hope we can illuminate the topic of selling your private, mid-sized company and planning for the exit, and providing insights on areas for further examination.

Watch for upcoming instalments, and happy reading!

Buyers coming back out of their holes . . . carefully

The numbers point to overall mergers & acquisitions activity rebounding this year after a significant dip.

Up until the Covid-19 hit, corporate tuck-under acquisitions had been generally strong for some time and trending upward, with overall growth in the smaller segments of the market even stronger, both in dollar terms and transaction volumes.

But also more volatile.

It is still difficult to parse exactly what’s going on now in the smallest end (companies with $25 million or less in sales), as the data in this segment is always sparse and sketchy.

But the overall mood of buyers is defensive and nervous. This makes it very tricky for sellers.

Corporate venture capital (“CVC”), a still-small but growing niche wherein large companies invest in early stage and small- to medium-sized private companies as strategic add-ons to their core product or service offerings, is looking to become more readily available again.

Large companies are starting to resume the urgent search for sales growth and 'good news' stories for the public investor audience.

CVC can range from minority investments to outright acquisitions.

Bottom line, looking forward there will still be many scenarios whereby a small to mid-sized private Canadian business may find itself in the sights of a giant corporation.

Defense is your best . . . defense

Everything is for sale at the right price, but how do SMB owners increase the chances of getting the right price against a much larger, more well-resourced party sitting across the table, particularly in these tremorous times?

Many a company being pursued by a household, even iconic, Fortune 100 or TSX 60 name, tends to presume the company is too big and too established to play rough and dirty.

"It won't screw me, it's got a storied reputation to uphold and a board of directors watching it closely, right?"

Wrong.

Under this misconception, many small- to medium-sized private companies answer any question they ask, show them whatever they want to see, and let them talk to whomever they want — customers, employees, investors.

It can frankly be intimidating to push back against a multinational corporation, which has experts in everything and endless resources against your relatively meager retinue of employees who are too busy trying to do their day jobs, even if they did have personal experience with M&A transactions.

So, you may badly want to do a deal for various reasons, but being too deferent isn't a good idea.

Protecting yourself in a sale process always tricky

But there are ways you can protect yourself:

First, you are under no obligation to use the buyer's "standard" documents, hue to their "standard" process, or to their "standard" terms.

Everything is negotiable.

If the acquisitor says the deal is "take-it-or-leave-it," but the terms and/or due diligence process seem too onerous, call its bluff.

All this being said, find out what the terms are as early as you can in the process. This is critical to your getting a good deal.

Also, do not presume their motives are pure.

In many cases, large corporations tie small targets up with negotiations to knock them off their game, study and copy their technology, poach superstars, or just to gain market intelligence.

They can get super-nasty.

Too often, SMBs will show suitors their core software code or full customer list — the last, most sensitive step of the buyer's due diligence — to then have the deal momentum mysteriously vaporize.

This can be a nightmare scenario.

The buyer has reviewed your business and its prospects carefully, and appears serious enough to warrant an unfettered look under your hood before sealing the deal.

Discussions and due diligence have gone on for some time, and the buyer may have expended significant legal and other professional resources.

What could go wrong?

Plenty.

You are now at the buyer's mercy, with your "special sauce" in a petri dish in their lab under a microscope.

The putative buyer may be having their engineering department reverse-engineer your product to decide whether to buy you . . . or just copy your technology.

Or their sales team may be pouring over your customer list to develop a plan to poach key customers.

Non-disclosure agreements and even detailed, formal letters of intent are some protection, but require a significant legal budget to enforce.

Something few small businesses have.

Watch for the warning signs for a deal going wrong

Nonetheless, there are signs for which you should keep your eyes open, such as:

— awkward periods of silence where your calls are not being returned;

— extensions of pre-set timelines without good reason;

— more and more technical people from the buyer entering the picture, fixated on a particular issue or feature;

— lack of interest in your sales and marketing strategy or assessment of your market;

— too-quick fixation on your customer list; or

— reticence on the part of the buyer to talk about financial deal terms or timelines, or issue a letter of intent with some meat in it regarding these things.

The bottom line

All this terrifying stuff is not to say that a relationship with a major corporation can't be highly successful and mutually profitable.

Often, they can be willing to pay generous prices and move very quickly for targets they consider critical to meet a strategic need. And this need will be intensifying looking forward into this tough economic picture.

Bottom line, to fight in this new, intensifying game of cat-and-mouse, SMBs need to arm themselves with relevant M&A deal process and negotiation experience and associated legal expertise on their team, whether in-house or external.

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If you want to discuss selling your company further with us, contact:

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