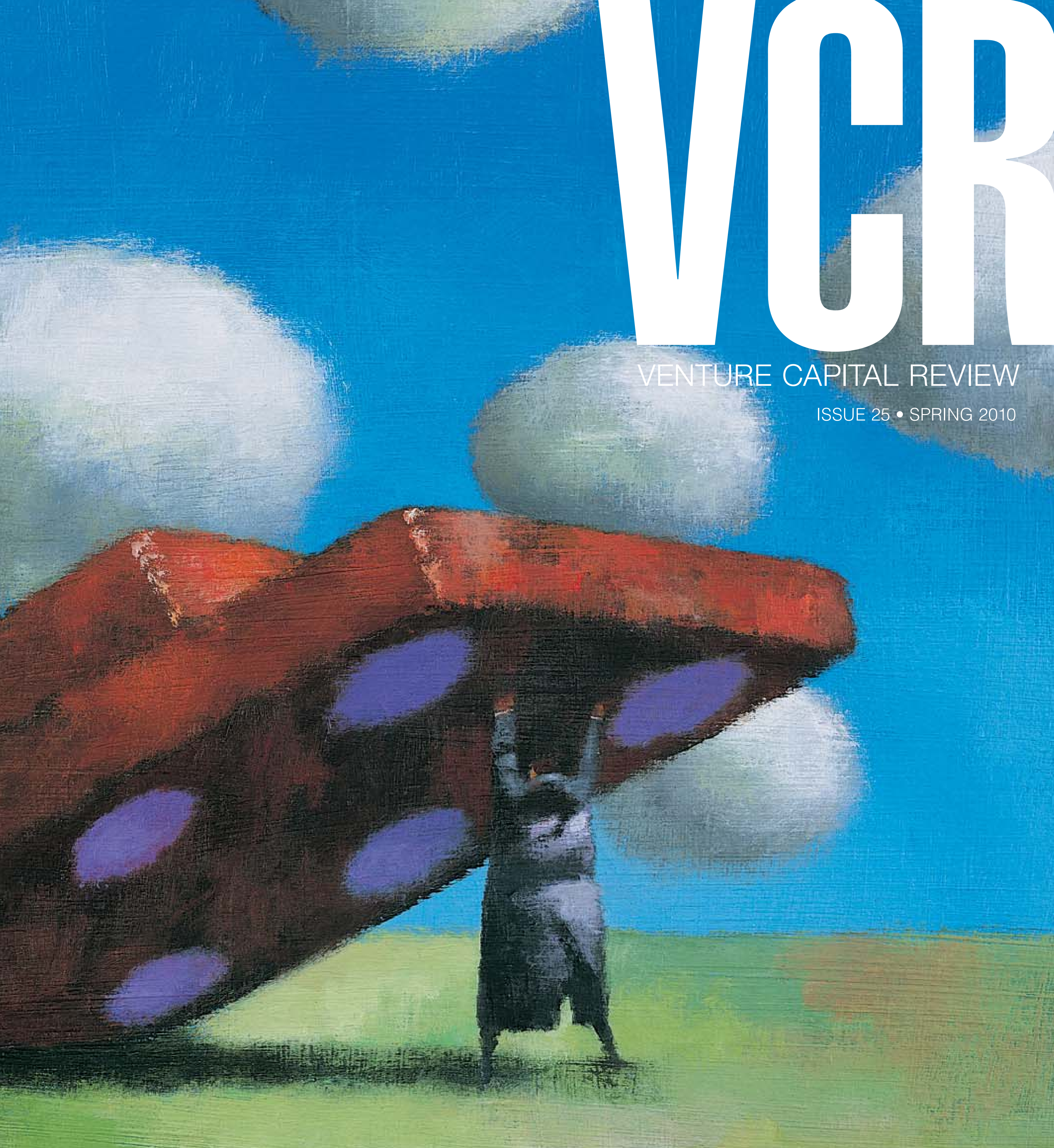
VCR

VENTURE CAPITAL REVIEW

ISSUE 25 • SPRING 2010



PRODUCED BY THE NATIONAL VENTURE CAPITAL ASSOCIATION AND ERNST & YOUNG LLP

National Venture Capital Association (NVCA)

The National Venture Capital Association (NVCA) represents more than 400 venture capital and private equity organizations. NVCA's mission is to foster the understanding of the importance of venture capital to the vitality of the US and global economies, to stimulate the flow of equity capital to emerging growth companies by representing the public policy interests of the venture capital and private equity communities at all levels of government, to maintain high professional standards, to facilitate networking opportunities and to provide research data and professional development for its members.

National Venture Capital Association

1655 Fort Myer Drive
Suite 850
Arlington, VA 22209

Phone: 703.524.2549
Fax: 703.524.3940
Web site: www.nvca.org

Proskauer

M&A Deal Trends

By Alexander Temel, Partner, Proskauer Rose LLP

KEY POINTS

- Directors need to focus on appropriate valuations of non-cash transaction consideration.
- The right to receive entire liquidation preference in cash will yield disproportionate distributions of cash and non-cash consideration.
- Absent an explicit provision at closing, liquidation preferences may not be satisfied in full if an escrow and/or earn-out is not paid out in full.
- In distressed transactions, full general releases are in best interests of buyers and participating sellers.
- Sellers need to emphasize preserving historical director indemnity protection.

As aggregate deal volume has decreased over the past 12 months, a number of specific trends have emerged. Many of these trends relate to the nature of most of the transactions being consummated. Other than a few noteworthy exceptions, during the past year, return multiples have generally been flat or decreasing. A report released by Thomson Reuters indicated that sale transactions from venture-backed companies have decreased significantly over the past three years from 378 to 348 to 262 in 2007, 2008 and 2009, respectively. According to Thomson Reuters, only 20% of the 2009 deals yielded 4x or greater returns, and a material portion of the transactions yielded less than the amount invested. As a result of the limited number of profitable deals, sellers have been increasingly focused on the deal terms that can have a material impact on return multiples and ongoing legal exposure. This article discusses two of the topics that are garnering attention and a number of the related deal terms that have evolved over the past year: (1) the distribution of sale proceeds and (2) certain legal considerations in distressed sale transactions.

Distribution of Proceeds

I. Non-cash Consideration vs. Cash Consideration

Traditionally, preferred stock is structured as either a convertible preferred or a participating preferred security. In an actual or deemed liquidation (a dissolution or sale event), convertible preferred stock

In order to appropriately determine the application of a liquidation waterfall, the value of the non-cash consideration must be determined.

3generally yields the holder the greater of (a) the issue price *or* (b) the "as-converted" to common value of the preferred stock. In contrast, participating preferred stock yields the holder *the sum* of (a) the issue price *and* (b) the "as-converted" to common value of the preferred stock. In both structures, variations can include a number of "bells and whistles," including, among other things, accruing dividends, multiplier preferences or participation caps. In transactions where the consideration is payable in all cash, the calculation of a preferred holders payout is relatively straightforward. However, when the transaction consideration includes non-cash consideration, such as stock that is not publicly traded and/or freely tradable ("non-marketable stock"), the distribution of the transaction consideration can become very complicated and controversial. The inclusion of non-cash consideration like non-marketable stock as deal consideration potentially raises two material issues: (a) appropriately valuing the non-cash consideration and (b) determining the appropriate allocation of non-cash consideration among stockholders.

Valuations

The inclusion of non-cash assets as part of the deal consideration raises potential valuation issues. In order to appropriately determine the application of a liquidation waterfall, the value of the non-cash consideration must be determined. For purposes of this discussion, we will assume that the non-cash consideration is non-marketable stock. In certain transactions, the buyer and the seller mutually agree on a stated valuation, in many cases for tax and accounting purposes. In other transactions, the consideration is simply stated in terms of an amount of cash and a number shares of non-marketable stock (with no corresponding value included). Whether or not the transaction agreement includes a stated value, the selling entity, its board of directors and its stockholders must determine a valuation for purposes of implementing a liquidation waterfall. In situations with a stated value in the transaction documents, the board and the other selling parties often rely on this valuation without giving any material consideration to a potentially different valuation. However, in most cases, the selling entity's governing documents include provisions to determine the valuation of non-marketable stock without giving any explicit effect to any stated valuations in purchase and sale agreements.

A typical valuation provision in a certificate of incorporation substantively provides as follows:

> The amount deemed paid or distributed to the holders of capital stock of the Corporation upon any merger, consolidation, sale, transfer, exclusive license, other disposition or redemption shall be the cash or the value of the property, rights or securities paid or distributed to such holders by the Corporation or the acquiring person, firm or other entity. *The value of such property, rights or securities shall be determined in good faith by the Board of Directors*.

In certain cases, the above language is followed by a provision which reads substantially as follows:

> The method of valuation of securities subject to investment letters or other similar restrictions on free marketability (other than restrictions arising solely by virtue of a stockholder's status as an affiliate or former affiliate) shall take into account an appropriate discount (as determined in good faith by the Board of Directors of the Corporation) from the market value as determined above so as to reflect the approximate fair market value thereof.

It is important to note that while selling parties often use the stated values of non-marketable stock from the underlying transaction documents as a basis for their own determinations of value, it is imperative that boards not blindly rely on such valuations and consider the specific requirements set forth in each company's governing documents. In certain cases, buyers will be motivated to apply a greater or lower price than the security would actually be valued at if the sellers undertook a bona fide valuation effort. To the extent that cash and stock, whether freely tradable public stock or non-marketable stock, is distributed pro rata to stockholders, the relative valuation of the securities is not substantively meaningful from an allocation perspective because each stockholder receives a proportionate share of cash and stock. Under those circumstances, a higher or lower valuation does not impact the relative allocation of the types of deal consideration. Unfortunately, the circumstances are not always so simple or straightforward.

Allocating Non-cash Consideration

In a number of transactions, preferred stockholders have an explicit contractual right to receive all or a portion of their liquidation preference in cash. Consider the following provision for a convertible preferred security:

> Upon any liquidation, dissolution or winding up of the Corporation and its subsidiaries, whether voluntary or involuntary, each holder of outstanding shares of Preferred Stock shall be entitled to be paid *in cash*, before any amount shall be paid or distributed to the holders of the Common Stock, an amount per share of Preferred Stock equal to the greater of (A) the original issue price *plus* an amount equal to all declared but unpaid dividends on such share of Preferred Stock or (B) the value of such share of Preferred Stock on an "as if" converted to Common Stock basis.

Under the explicit terms of the above provision, holders of preferred stock are entitled to receive their entire liquidation preference in cash.[1] In an all-cash transaction, the explicit right to receive all cash has no substantive significance, because cash is the only available form of consideration. In any transaction that involves cash and stock (or any other non-cash asset), the right of a preferred stockholder to receive cash yields a disproportionate distribution of cash and stock among all stockholders. Consider a sale transaction that includes the above liquidation provision and the following assumptions:

- Aggregate preferred investment of $50 million and no declared but unpaid dividends
- Preferred represents 50% of the outstanding capital stock on an as-converted basis
- Deal consideration consisting of $50 million in cash and 40 million shares of non-marketable stock

The impact from the explicit right to receive cash and variations in the valuation of non-marketable stock is evident by showing the relative allocation of proceeds in a scenario with and without the all-cash requirement.

- Under these facts, assuming a value per share of $1.00 for the non-marketable stock, the holder of preferred is entitled to receive an amount in *all cash* equal to $50 million, which amount represents the greater of (A) $50 million [investment amount plus accrued dividends] or (B) $45 million [as converted value – 50% of $90 million]. In this case 100% of the cash consideration would go to the preferred holder and 100% of the stock consideration would go to the holders of common stock. If the terms of the preferred did not include the all-cash provision, the allocation of stock and cash among stockholders would typically be pro rata based on relative value and preference amounts. The net impact of this provision is that the preferred holders receive $50 million of cash and no stock in lieu of receiving $27.78 million of cash and $22.22 million of stock (55.5% of each form of consideration).

The interplay between valuation issues and the right to receive all cash can create very conflictual circumstances among selling stockholders. As discussed above, when a sale transaction involves non-cash assets, the valuation of the non-cash assets takes on tremendous significance in any transaction where there is a non-pro-rata distribution of cash and non-cash assets. The heightened significance is directly proportional to the relative values of the cash and non-cash consideration received in the sale transaction. Consider the set of facts described above, but with less certainty about the appropriate valuation of the non-cash assets received. If the value of the shares were $1.50 and not $1.00, the distribution of consideration would be very different. In that instance, the holders of preferred would receive $50 million in cash plus 3.3 million shares (having a stated value of $5 million) and the holders of common stock would

1 The law is unsettled on how to address the scenario where a sale transaction does not yield sufficient cash to satisfy a cash liquidation preference. In light of the legal uncertainty of such a situation and the complexity of any such analysis, this article does not discuss how to address any such cash shortfalls.

Over the past couple of years, a number of selling stockholders have begun focusing on how escrows and earn-outs should impact the distribution of deal consideration.

receive 36.67 million shares (having a stated value of $55 million).[2]

In most cases, the realizable value of the non-cash consideration is not known at the time of the distribution of proceeds. It typically only becomes known in connection with the sale of the non-cash assets, which often does not occur until many years later. However, the lower the value, the greater the proportion of non-cash assets received by the preferred holders, and the higher the value, the lower the proportion of non-cash assets received by the preferred holders, especially in the case of a participating preferred security. As a result, the holders of preferred stock have a financial incentive for the stated value of the non-cash assets to be as low as possible, and the holders of common stock have a financial incentive for the stated value of the non-cash assets to be as high as possible. As discussed above, in most cases, the board of directors of the selling entity, which typically consists of nominees from both the preferred and common stockholder groups, is obligated to establish the value to be used in determining the value of non-cash consideration. From a practitioners perspective, to the extent that the specific facts result in a material difference in the allocation of proceeds among stockholder constituencies and the magnitude of the proceeds is sufficient to justify the expense, the board of directors should strongly consider relying on third-party experts to advise the board on the value of non-cash consideration. Some might argue that in certain situations, the use of an independent third-party advisor is necessary or at least very important in establishing a "good faith" valuation.

II. Impact of Earn-outs and Escrows

Over the past couple of years, a number of selling stockholders have begun focusing on how escrows and earn-outs should impact the distribution of deal consideration. In years past, where multiples were so much higher and a return of invested capital was taken for granted, very little attention was given to this issue. Interestingly, the vast majority of transactions with escrows and earn-outs are still being consummated without the parties ever considering whether the existence of liquidation preferences should impact the payouts to stockholders at closing. In many cases, the issue is not given due consideration as a result of a lack of appreciation for how material the impact can be. Consider the following scenario:

- Convertible preferred with aggregate liquidation preference of $40 million representing 50% of the fully diluted capital stock
- Total cash deal proceeds of $90 million
- Total escrow of $20 million

In this example, assume for all purposes that the preferred holder has the right to take the greater of a return of capital or its as-converted value of the transaction consideration. If the transaction did not include an escrow, the selection is straightforward: a return of invested capital would yield $40 million and the as-converted value would be equal to $45 million. To maximize its return, the preferred holder should elect to take its as-converted value. However, when an escrow is added to the equation, the analysis becomes more challenging. Traditionally, when a transaction includes an escrow, all selling stockholders (preferred and common) have contributed pro rata portions of their closing date proceeds into the escrow (based on percentage ownership assuming conversion of preferred) and maintain constant ownership interest in the escrow. Under that scenario, the preferred holder would elect to receive his or her as-converted value (nominally $45 million), of which (a) $35 million (50% of the $70 million distributed at closing) would

2 This calculation assumes that the $55 million of preferred proceeds is paid out based on liquidation preference and not through a conversion into common. In certain cases, the liquidation preference is not drafted to explicitly include the option of a preferred holder to take its "as converted value" as part of its liquidation preference. In those situations, in order for the preferred holder to realize the "as converted value," shares of preferred are converted into common (or deemed converted to common) as of immediately prior to the sale transaction. In the majority of those situations, an actual conversion into common stock would result in a pro-rata distribution of all forms of consideration among all stockholders.

Consider the circumstance where less than $10 million is ultimately released from escrow.

be allocated and distributed to the preferred holder at closing and (b) $10 million would be deposited in the escrow on behalf of the preferred holder. Upon release, if all of the escrow proceeds are released to the sellers, the preferred holder would ultimately receive total consideration of $45 million – the same amount that the holder would have received had there been no escrow. Note, however, preferred terms will typically state that the preferred holder is entitled to receive all of its liquidation preference prior to the payment of any proceeds to holders of capital stock ranking junior to the preferred (thus, not allowing for a distribution to the common in advance of a full preferred payout). However, this is not the most material issue relating to escrowed amounts. Consider the circumstance where less than $10 million is ultimately released from escrow. For example, if only $5 million is released and the preferred holder has a 50% interest in the escrowed amounts, the aggregate consideration received by the preferred holder is only $37.5 million – an amount that is less than the stated liquidation preference ($2.5 million shortfall) and the as-converted value (a $7.5 million shortfall). Neither of these outcomes is in compliance with the applicable preferred stock terms in most transactions.

In order to address this potential shortfall, many practitioners are recommending that preferred investors consider this issue at the time of their initial investments. For example, the form of preferred stock terms published by the NVCA includes the following sample term for consideration:

> In the event of a deemed liquidation event, if any portion of the consideration payable to the stockholders is placed into escrow and/or is payable to the stockholders of the Corporation subject to contingencies, the merger agreement shall provide that (a) the portion of such consideration that is not placed in escrow and not subject to any contingencies (the "Initial Consideration") shall be allocated among the holders of capital stock of the Corporation in accordance with [the applicable liquidation preferences] *as if the Initial Consideration were the only consideration payable in connection* with the transaction and (b) any additional consideration which becomes payable to the stockholders of the Corporation upon release from escrow or satisfaction of contingencies shall be allocated among the holders of capital stock of the Corporation in accordance with [the applicable liquidation preferences] after taking into account the previous payment of the Initial Consideration as part of the same transaction.

In most distressed sale situations, obtaining full releases from all sellers and their affiliates is beneficial to both buyers and sellers.

The purpose of the above provision is to provide preferred holders with absolute certainty that they will receive the maximum consideration available to them under a strict interpretation of the applicability of most preferred liquidation preferences. Under this formulation, a preferred holder would (a) have proceeds subject to forfeiture only to the extent that it receives its real preference in full and (b) to the extent possible have its preference paid in full out of the initial proceeds paid at closing. In many cases, this approach has the effect of delaying the timing of the receipt of all or a material portion of the proceeds potentially payable to common holders by the length of the escrow and/or earn-out period. Interestingly, the vast majority of investment transactions do not include the above provision or any variation thereof, including those where the investors actively consider the issue and the potential issues relating to omitting this type of provision. In certain cases, investors prefer not to raise this issue at the time of the original investment and choose to rely on their ability (through negative covenants or otherwise) to address this issue at the time that the sale transaction is actually consummated.

If the charter is silent on the escrow allocation issue, at the time of an acquisition, the company's board of directors will have to approve an allocation of the escrow without the benefit of a charter provision stipulating how that should be done. This creates a risk that some constituency will have grounds to complain about the board's decision, including a claim that the terms of the merger agreement are inconsistent with the liquidation provisions of the charter addressing how merger consideration must be allocated among the various series and classes of stock of the company. In many cases, this uncertainty will result in a contentious negotiation among the impacted constituents during the sale process. If the escrow allocation is not resolved at the time of the sale transaction, the financial impact of not addressing the issue with respect to ensuring proper payout of liquidation preferences cannot be determined until the time that an escrow is released and/or earn-out paid.

Legal Considerations in Distressed Transactions

In many cases, the sale of a distressed company causes a number of specific legal issues to become a focus of the negotiations among buyers and sellers. In distressed scenarios, once the deal consideration points have been agreed to, buyers and sellers often focus on certain specific legal issues, including the existence and scope of releases and the survival of existing indemnity protections for directors. While these particular issues are typically considered in all M&A transactions, they take on particularly meaningful significance in distressed deals.

I. General Releases

Buyers and sellers in a distressed sale transaction must consider whether it is appropriate to obtain a release and acknowledgement from some or all of the current stockholders of the target company. The essence of a release in this situation is that all parties receiving consideration contractually agree that the transaction consideration is the full package of rights that they are entitled to receive with respect to its equity interests in the target and their historical relationship with the company. In most distressed sale situations, obtaining full releases from all sellers and their affiliates is beneficial to both buyers and sellers. Receiving a full release provides the buyer with the comfort that, absent a claim arising under the purchase and sale agreement, under no circumstances will the selling stockholders have any trailing rights with respect to the buyer and/or the target company. Absent a release, a buyer has no contractual assurance from the sellers that they do not intend and/or have the right to pursue claims against the selling entity. Receiving full releases provides the sellers with the comfort that no individual seller acting on its own accord has the ability or desire to pursue a future claim against the target company or the sellers arising out of the sale transaction other than the documents delivered in connection with the sale transaction. This protection has two purposes. First, it eliminates the potential for suits by one seller against another for matters such as the seller's role in the operation of the business, the seller's participation in the sale process and/or the distribution of sale proceeds. Second, the release cuts off any claims by a seller against the company which could result in an indemnity claim by buyer against the sellers as a collective group. For these reasons, sellers that have approved and are going to participate in the transaction should be willing to agree and acknowledge that, upon receipt of the transaction consideration to which they are entitled, they will not pursue any claims against the buyer or the underlying entity which do not arise under the transaction agreements.

The specific items that should be addressed in the release include the following:

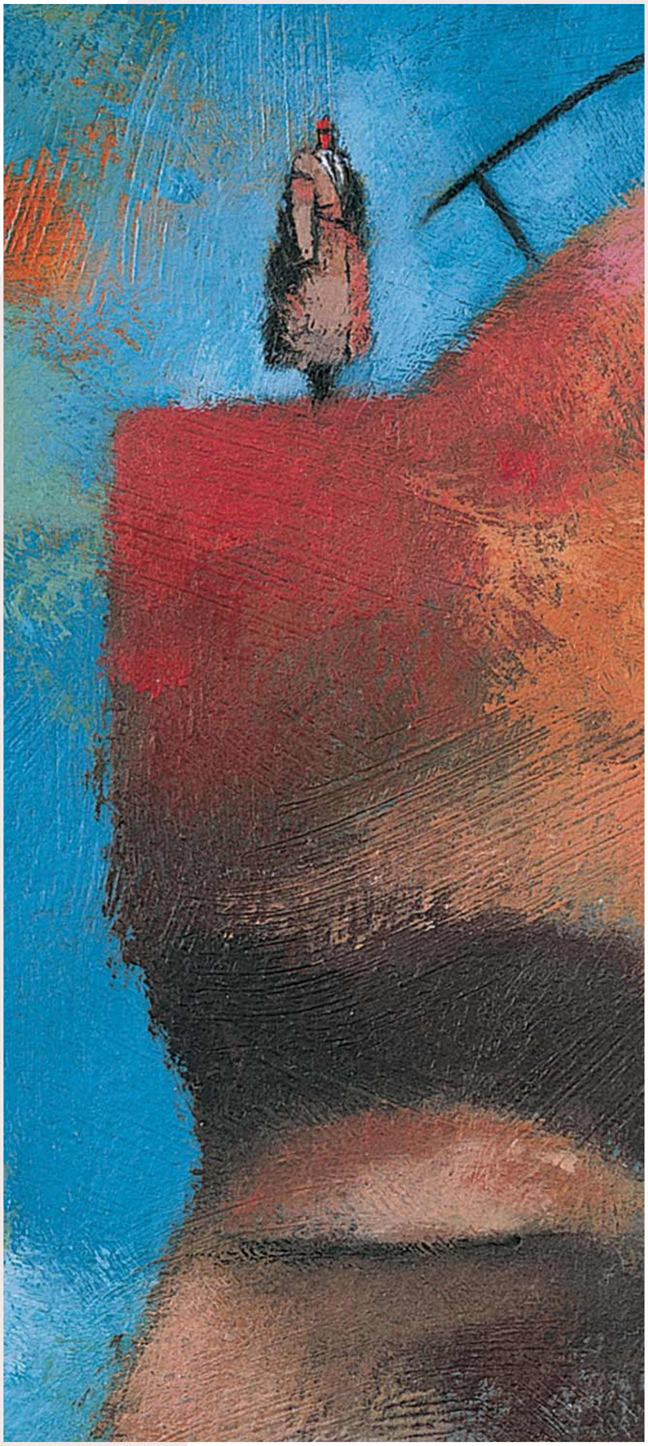
- A broad general release with respect to all matters relating to the ownership of equity of the seller and all business dealings relating to the entity being sold
- Covenant not to sue the buyer, the company, or their respective directors, officers, members, and stockholders (and any of their affiliates) for released claims
- A statement of the sufficiency of the consideration for the release
- A statement that the stockholder has received adequate information and has had an opportunity to consult with an attorney

II. Preserving Historical Indemnity Coverage

To the extent possible, selling stockholders should make all efforts to contractually retain indemnity protection for their board nominees, if any, of the selling company. In most transactions, conceptually, preserving indemnity coverage for a departing director is not a controversial issue. Typically, the negotiated item relates to whether the buyer or sellers should bear the cost of a tail policy. The cost of these policies is relatively low – usually less than $75,000. In many cases, the parties negotiate over the appropriate length of the policy. Given that the difference in cost between a 3-year and 6-year tail is normally very minor (less than $10,000 in many cases), it is strongly recommended to maximize indemnity protection and obtain the longer tail. A customary provision is set forth below:

> The Company, the Stockholders and Buyer agree that all rights to exculpation and indemnification existing in favor of, and all limitations on the personal liability of, the directors, officers, employees of the Company and its Subsidiaries ("Indemnified Persons") provided for in its Charter and by-laws and the organizational documents of its Subsidiaries, as applicable, as in effect as of the date hereof with respect to matters occurring prior to and through the Closing, specifically including the transactions contemplated hereby, shall continue in full force and effect for a period of [six (6) years] from the Closing; *provided, however*, that all rights to indemnification in respect of any claims (each a "**Claim**") asserted or made within such period shall continue until the disposition of such Claim. Prior to the Closing, the Company shall purchase an extended reporting period endorsement under the Company's existing directors' and officers' liability insurance coverage for the Company's and its Subsidiaries' directors and officers in a form acceptable to the Company which shall provide such directors and officers with coverage for six (6) years following the Closing of not less than the existing coverage under, and have other terms not materially less favorable to, the insured persons than the directors' and officers' liability insurance coverage presently maintained by the Company. This section is intended to benefit each of the Indemnified Persons and their respective heirs and personal representatives, each whom shall be entitled to enforce the provisions hereof. *Following the Closing, Buyer shall not, and shall not permit the Company or any Subsidiary to, amend or modify its Charter or by-laws or other organizational documents, as applicable, except as required by applicable law, if the effect of such amendment or modification would be to lessen or otherwise adversely affect the indemnification rights of such Indemnified Persons as provided therein, and Buyer shall cause the Company or any Subsidiary to advance expenses to each such Indemnified Person in connection with any proceeding involving such Indemnified Person to the fullest extent so permitted upon receipt of any undertaking required*

Typically, the negotiated item relates to whether the buyer or sellers should bear the cost of a tail policy.



by law or in the Charter or by-laws of the Company or the organizational documents of such Subsidiary, as applicable. In the event that the Company or any Subsidiary transfers all or substantially all of its properties and assets to any Person, then and in each such case, proper provision shall be made so that the transferee of such properties or assets shall assume the obligations of the Company or such Subsidiary, as applicable, under this section.

In many circumstances, the italicized language becomes a point of controversy. The provision contractually prohibits the buyer from amending a selling entity's governing documents in a manner which purports to retroactively diminish a director's indemnity protection. At a theoretical level, this type of language appears to be a reasonable request on behalf of a departing director and the sellers that nominated such director. However, many buyers object to the inclusion of any provision that purports to contractually limit their ongoing ability to amend a target company's governing documents in any manner even where, as is the case above, the restriction on amendment is expressly limited to, in effect, the directors of the company at the time of the sale transaction. Eliminating the italicized language may be acceptable where a solid and lengthy indemnity tail policy is obtained, but the better position is to include the italicized language because the buyer presumably does not intend to do a post-closing amendment which reduces indemnification for pre-closing directors.

About the Author

Alexander B. Temel *is co-head of the Private Equity Group at Proskauer, with a transactional practice focusing on advising clients in connection with leveraged recapitalizations, management buyouts, public and private mergers and acquisitions, early and late stage private equity investments and secondary transactions. He also serves as outside general counsel to a number of privately held companies.*

Ernst & Young is a global leader in assurance, tax, transaction and advisory services. Worldwide, our 144,000 people are united by our shared values and an unwavering commitment to quality. We make a difference by helping our people, our clients and our wider communities achieve their potential. For more information, please visit www.ey.com. Ernst & Young refers to the global organization of member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients.

About Ernst & Young's Strategic Growth Markets Network

Ernst & Young's worldwide Strategic Growth Markets Network is dedicated to serving the changing needs of rapid-growth companies. For more than 30 years, we've helped many of the world's most dynamic and ambitious companies grow into market leaders. Whether working with international mid-cap companies or early-stage venture-backed businesses, our professionals draw upon their extensive experience, insight and global resources to help your business achieve its potential. It's how Ernst & Young makes a difference.

Proskauer (www.proskauer.com) is a leading international law firm with over 700 lawyers that provide a range of legal services to clients worldwide. Our lawyers are established leaders in the venture capital and private equity sectors and practice in strategic business centers that allow us to represent fund sponsors and institutional investors globally in a range of activities including fund structuring, investment transactions, internal governance and succession planning, acquisitions and sales of interests on the secondary market, liquidity events, distributions, tax planning, regulatory compliance, portfolio company dispositions, management buyouts and leveraged recapitalizations, risk management and compensation and estate planning for partners.

Headquartered in New York since 1875, the firm has offices in Boca Raton, Boston, Chicago, Hong Kong, London, Los Angeles, New Orleans, Newark, Paris, São Paulo and Washington, D.C.

Liquidnet is the premier institutional investment community, bringing together the world's largest asset managers and public companies on a single network that directly connects traders, portfolio managers, analysts and corporate issuers. Liquidnet enables members of its community to achieve greater performance by moving from investment idea to implementation faster, ultimately retaining more alpha throughout the entire institutional investment cycle. Launched in 2001, the Liquidnet community extends to 30 equity markets across five continents. Liquidnet is headquartered in New York with offices in Boston, London, San Francisco, Chicago, Toronto, Tokyo, Hong Kong, Sydney and Singapore. For more information on the Liquidnet community, its liquidity, block executions, and additional investment capabilities, visit www.liquidnet.com.

Sonnenschein Venture Technology Group, a Top 10 national venture law practice as ranked by Dow Jones *Private Equity Analyst*, is renowned for providing nimble, fast-paced counsel at the convergence of finance, strategy, policy and law to cutting-edge emerging growth and Fortune 500 technology and life sciences companies moving at breakneck speed in competitive markets. For high potential entrepreneurs, our recently expanded *Sprout* Incubation/Acceleration Initiative has been a growth catalyst for more than 100 successful start-ups from Silicon Valley to Boston and New York and around the globe. Our success is driven by a multidisciplinary team comprised of more than 200 attorneys and other professionals specializing in venture capital, incubation services, IP and patent litigation, licensing and IT transactions, corporate governance, Recovery Act and legislative strategies, M&A and strategic advisory, fund services, capital markets/IPOs and outsourcing/Asia. Sonnenschein Venture Technology Group leverages its deep expertise in IT, life sciences, and medical devices, digital media, clean technology, telecommunications, health information, technology and data privacy, along with a global network of venture capital and investment banking firms to remove hurdles to your success.

Probitas Partners is a leading independent knowledge, innovation and solutions provider to private markets clients globally. It has three integrated global practices that include funds placement, portfolio management and secondary fund advisory within the private equity, venture capital, real asset and hedge fund markets. These services are offered by a team of employee owners dedicated to leveraging the firm's vast knowledge and technical resources to provide the best results for its clients.

Ernst & Young
Quality In Everything We Do

NVCA
National Venture Capital Association