



Dealmakers Q&A: Saul Ewing's Eric Orlinsky

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(September 18, 2014, 11:33 AM ET) – Eric G. Orlinsky is the chairman of Saul Ewing LLP's private equity/venture capital practice and concentrates his practice in general business and securities law. He counsels clients in private equity and venture capital investments, public and private offerings of debt and equity securities, and mergers and acquisitions. Orlinsky has advised buyers and sellers in mergers, asset purchase and sale transactions, and stock purchase and sale transactions. His clients include private companies, public companies and real estate investment trusts, and he has handled many international and cross-border transactions.

As a participant in Law360's Q&A series with dealmaking movers and shakers, Eric Orlinsky shared his perspective on five questions:

Q: What's the most challenging deal you've worked on, and why?

A: I worked on a transaction for a private equity firm about two years ago that was a fairly complex transaction. We negotiated (1) the acquisition of a hi-tech manufacturing company in Maryland, (2) a Series A preferred equity raise, (3) a mezzanine subordinated debt transaction, and (4) a senior bank debt transaction — all at the same time and within a three-week period. We were essentially running four deals at once in an extremely compressed time frame. That was among the more challenging deals in which I have been involved. Another that comes to mind is our firm's recent representation, as co-counsel with Skadden, in connection with the hostile takeover of Commonwealth REIT. While not technically a transaction, that was a particularly challenging representation over the course of about one year.

Q: What aspects of regulation affecting your practice are in need of reform, and why?

A: I would say that the area of broker-dealer regulation is in need of reform. In the middle market, many boutique business brokers facilitate purchases and sales of businesses in both asset form and stock form. These business brokers do not have custody of securities and only advise companies in buying and selling other companies. Under the current U.S. Securities and Exchange Commission regulatory regime, however, they are regulated (if they properly register as broker-dealers), much the same as Goldman Sachs or Morgan Stanley. This level of regulation is really excessive for many of these smaller boutique investment banks. And many firms simply don't register and don't comply.

I would like to see the SEC adopt a separate regulatory scheme that addresses the needs, risks and effect of these firms on middle-market transactions in a way that would contemplate registration, but with significantly reduced regulatory requirements. The SEC did recently issue a no-action letter that provided some greater flexibility for business brokers in these types of transactions, but I still believe more complete regulatory reform in this area is needed.

Q: What upcoming trends or under-the-radar areas of deal activity do you anticipate, and why?

A: I think one of the hotter areas in M&A transactions and capital-raising transactions right now is in the cybersecurity area. With all of the recent cyber attacks and data breaches occurring across the country (with Target and Neiman Marcus being two high-profile examples), I believe businesses that provide services to corporate America to help them prepare for and defend against these attacks are going to see dramatic growth in the next several years. What I expect will soon follow is consolidation in that industry where we will see a lot of larger, more established companies acquiring many of these smaller fast-growing cyber-related businesses. Our firm recently launched our own cyber response service offering and it's just one example of what we are starting to see many law firms, accounting firms and consulting firms doing over the last year or so.

Q: What advice would you give an aspiring dealmaker?

A: The first piece of advice I would give is to double-check the math and always double-check the dollars involved in a transaction. I remember, as a young associate, an associate at another firm left three zeros off of a security agreement and, when the bank he was representing ended up with a \$100,000 security interest on a \$100 million loan, I don't think the bank was very happy. I think the associate actually was fired in his first year. So, as a cautionary tale, I was told that story as a young associate and I have repeated it over the years to many young associates.

The second piece of advice I would give is never substitute your business judgment for the client's business judgment, unless asked. I often see lawyers trying to kill a deal because they think it might not be the best business deal for their client. I view myself as a dealmaker and not as a deal breaker. I never try to stand in the way of a deal getting done. I think this is important advice for an aspiring young dealmaker to keep in mind.

Q: Outside your firm, name a dealmaker who has impressed you, and tell you why.

A: I think one of the people in my career that has impressed me the most is a partner named Jim Hanks at Venable. Jim has impressed me because, during the course of his career, he has essentially created an entire legal market in Maryland for REITS. Jim, at an early stage in his career, convinced many of the bankers on Wall Street and the premier law firms throughout the country that Maryland was the premier place to form real estate investment trusts. His work in this area created a market for legal services in Maryland where none previously existed. Today, many Maryland firms enjoy the benefits of the work Jim did in creating this market. Jim has also been a mentor to me and to many other young lawyers as well, helping them build their careers and develop as lawyers both within his firm and at other competing firms. All of that, collectively, has impressed me.

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