



SEWARD & KISSEL LLP

BUSINESS TRANSACTIONS GROUP
2009
YEAR IN REVIEW

To Our Clients and Friends

Despite the general slowdown in global transactional markets last year, many of our clients involved us in their deals in 2009. This was particularly the case for transactions involving investment management firms, where market and industry trends are leading to consolidation and some investors are pursuing attractive opportunities in these cash generating businesses. With so many of Seward & Kissel's clients being investment managers, we are constantly being asked to advise on these transactions, and 2009 reflected a clear uptick in this activity. Difficult markets in the international transportation sector also led to a good number of merger, joint venture and investment transactions involving our clients in the shipping industry. Traditional M&A, private equity, venture capital and PIPE transaction volumes were depressed, but our clients continued to involve us when they acted on opportunities last year. We are pleased that our satisfied clients continue to recognize the value we bring to middle-market transactions, and we know our success can only be measured by the results our clients achieve. The pipeline of deal activity entering 2010 makes us optimistic that we will be reporting on greater levels of successful client transactional activity in the year to come.

Seward & Kissel LLP

Investment Manager Deals

Mergers and acquisitions, joint ventures, equity investments and other strategic transactions involving investment management businesses made up the largest part of our deal activity in 2009, including:

- our client Arden Asset Management, a leading fund of hedge funds manager, announced a joint venture with JPMorgan Chase (NYSE:JPM) pursuant to which Arden will manage a \$1.1 billion proprietary hedge fund of funds portfolio for JPMorgan's investment banking division
- our client Atalanta Sosnoff Capital, an investment advisor which manages more than \$10 billion of assets for institutional, high net worth and broker advised clients, commenced discussions with investment bank Evercore Partners (NYSE:EVR) leading to the 2010 announcement of an agreement for Evercore to make a 49% strategic equity investment in Atalanta Sosnoff
- our client Pentagram Investment Partners and its principal F. Mark Turner entered into a joint venture and partnership with TIG Advisors, LLC to manage global macro and global equity funds
- our investment manager client Bayswater Asset Management entered into a strategic venture with Revere Capital Advisors, LLC involving the raising of initial seed capital and certain marketing arrangements
- our investment manager client Raven Capital Management received a minority private equity investment from Northern Lights Ventures, LLC
- our clients, founding principal Monica Walker and other employees of investment manager Holland Capital Management, acquired ownership and control rights in the firm from the founding family
- our clients, principals of the investment manager of a mid and small-cap long-short equity fund, engaged in a lift-out transaction to join an asset management firm specializing in alternative equity investments
- a registered investment adviser client, based in Los Angeles, California, acquired an investment management business based in Atlanta, Georgia
- our client Constellar Capital and its principal Ted Wong transferred management responsibilities for the Constellar Funds to Gottex Fund Management and entered into related employment arrangements



Mergers & Acquisitions (M&A)/Buyouts/Joint Ventures

Middle-market M&A, buyout and joint venture transactions our clients undertook during 2009 included:

- PR Newswire, a subsidiary of our client United Business Media (LSE:UBM), acquired, for consideration of up to \$10 million, Virtual Press Office, a provider of communications and marketing services to live event organizers, exhibitors and attendees
- our private equity fund client MissionPoint Capital Partners sold its equity investment in solar power developer Sun Edison as part of the \$200 million acquisition of Sun Edison by MEMC Electronic Materials Inc. (NYSE:WFR)



- our client Persistency Capital, an investor in oil and gas company CanArgo Energy Corporation (OTC:CANRO.PK), negotiated the prepackaged chapter 11 bankruptcy filing by CanArgo, provided debtor-in-possession financing to fund the bankruptcy, and established Blake Oil & Gas to acquire CanArgo's operating assets
- our client United Business Media (LSE:UBM) acquired for \$14.3 million the minority joint venture equity interest held by private equity fund Pegasus Partners II, L.P. in the holding company of RISI, Inc., an information provider for the global forest products industry



- an investment fund client sold its equity investment in Salvador Imaging, a provider of high-performance visible and low light imaging systems, as part of the \$13 million sale of the company to FLIR Systems, Inc. (NASDAQ:FLIR)
- an investor client made a minority investment in an information services business and entered into a related consulting arrangement



- an international business media client entered into a long-term agreement to license certain valuable trademarks registered in Japan in connection with the sale of a Japanese events business
- our publicly-traded client focused on businesses in West Africa entered into a joint venture to operate an animal feed business and participated in the repurchase of a partner's joint venture interest in a cement business
- a multinational corporate client underwent an organizational restructuring involving the merger, entity conversion and ownership transfer of various subsidiaries



Shipping Industry Transactions

Seward & Kissel's leading position with shipping industry clients in connection with all types of M&A, joint venture, capital markets and lending transactions led to substantial activity in this sector during 2009, including:

- our client Aries Maritime Transport Limited (NASDAQ:RAMS) entered into a transaction whereby Grandunion Inc. contributed three capsized drybulk vessels to Aries in exchange for shares representing a controlling minority equity stake in the company, together with a related bank refinancing and the issuance of \$145 million of Aries senior unsecured convertible notes
- our client Omega Navigation Enterprises, Inc. (NASDAQ:ONAV) entered into a joint venture with Topley Corporation, a wholly-owned subsidiary of Glencore International AG, to establish Megacore Shipping Inc.
- our client Excel Maritime Carriers Ltd. (NYSE:EXM) sold \$45 million of stock and warrants to a major shareholder in a private placement transaction
- our client Aegean Marine Petroleum Network Inc. (NYSE:ANW) agreed to acquire Verbeke Bunkering N.V., a leading physical supplier of marine fuel in the Antwerp-Rottendam-Amsterdam region, the world's second largest bunkering market
- an investor client participated in the \$165.22 million mandatorily convertible preferred stock issuance by Navios Maritime Holdings Inc. (NYSE:NM)
- The CEO of our client Eagle Bulk Shipping Inc. (NASDAQ:EGLE) entered into a bulk carrier joint venture with private equity investor Kelso & Co.





Private Equity and Venture Capital Investments by Fund Clients

- a roll-over equity participation in the going private transaction of AIM-listed AsianLogic Limited, an Asian-focused gaming company
- a client participated in the strategic majority equity investment led by Star Avenue Capital in J Brand, a rapidly growing premium denim company
- a \$4 million investment in secured convertible notes, with an option to purchase preferred stock and warrants, in VIRxSYS Corporation, a privately-held biotechnology company
- a \$2 million investment in the common stock of American Farmland Company
- the sale of shares in Micrel, Inc., a leading manufacturer of IC solutions for the worldwide analog, ethernet and high bandwidth markets
- formation of a special purpose vehicle to own a company that will construct and operate a facility for the production and sale of resin coated prop-pants for use in the pressure pumping oil and gas services industry
- the purchase of senior secured notes and warrants in Workstream Inc. (WSTM.OB) from another Workstream investor
- the sale of debentures and shares in IOL Chemicals and Pharmaceuticals Limited, a manufacturer and supplier of industrial chemicals and bulk drugs
- the sale of a client's portfolio of PIPE investments
- the sale of senior bank notes of Washington Mutual Bank



Private Investments in Public Equity (PIPEs)

Placement Tracker ranked Seward & Kissel the 6th most active legal counsel to investors in the PIPE market in 2009 based on the number of transactions we handled. Some of our PIPE transactions included:

- representing Centennial Energy Partners in connection with its investment in a \$43.6 million common stock PIPE offering by BPZ Resources, Inc. (NYSE:BPZ)
- representing Lansdowne Partners in connection with its investment in a \$4 million common stock PIPE investment in Response Genetics, Inc. (NASDAQ:RGDX)
- representing Manatuck Hill in connection with its investment in a \$26 million common stock PIPE offering by Axion Power International (AXPW.OB)
- representing Conus Partners in connection with its investment in a \$5 million senior unsecured convertible note and warrant PIPE offering by Etruscan Resources Incorporated (Toronto:EET.TO)
- representing Peninsula Capital Management in connection with its \$25 million common stock and warrant PIPE investment in WSFS Financial Corporation (NASDAQ:WSFS)
- representing Brightline Ventures in connection with its \$2.5 million senior secured notes and warrant PIPE investment in Z Trim Holdings, Inc. (ZTHO.OB)





Contact Us

For more information about Seward & Kissel's Business Transactions Group or the contents of this Review, please contact your relationship attorney, Jim Abbott or Craig Sklar.

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