Is Your M&A Attorney an Advisor or a Consultant?

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For many people, selling a business is their largest, lifetime financial transaction. And typically, it is a one-time event. And further, most people have little experience with this transaction type. Consequently, surrounding oneself with good advisors and advisory teams is paramount. An M&A sale is essentially one really large commercial transaction. Of course, the transaction is documented with contracts containing a host of legal provisions. However, the details of the agreement essentially spin around a sophisticated circumstance where 2 or more parties are negotiating a financial transaction. Hence, understanding market and what are reasonable terms within the “bell curve” of options is important to the seller.

The seller’s attorney must routinely work in the M&A space to have the current knowledge base of what is considered market. M&A is not a place to dabble. M&A attorneys must provide their clients with recommendations and suggestions – not merely options, information, and forks in the road. Reviewing complicated purchase agreements and understanding the terms is most basic; providing true counsel and advice is a must.

I have practiced in the M&A space for more than 25 years representing both buyers and sellers. My practice and my colleagues at Offit Kurman have successfully concluded hundreds of transactions by carefully subscribing to the formula of (i) educating our clients on the circumstances; (ii) making concrete and definitive recommendations; and (iii) understanding the client’s risk tolerance and ultimate objectives to assist the client with arriving at their decision. Because in the end the M&A transaction is likely the largest financial transaction for most clients.

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