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Selling your business: Get it Right

By Neal Aronson and Scott Pressly

You've spent many years building your business—the company is profitable, sales are increasing and there is still growth potential. But now you are at a critical juncture—both personally and professionally. Is it time to reap some of the rewards of your hard work and take some chips off the table? Should you cash out and ride off into the sunset or should you bring in a partner to help take the business to the next level and get a second bite at the apple?

Most owners will face this decision only once in their lifetime, so you have to get it right. The sale of a business is a multiple-step process that may take many months to complete. This article highlights a number of the critical decisions a seller will face and some key points to consider in order to ensure a successful transaction.

Roark Capital Group, an Atlanta-based private-equity firm, recently acquired Money Mailer, the second largest shared mail advertiser in the United States, with more than 250 franchisees. Money Mailer's owner, who founded the business 24 years earlier, had two goals in mind when considering his future. On the one hand, he loved the company that he built and the people who ran it. On the other hand, he wanted to spend more time with his family, outside interests, and charitable endeavors. Even though his company was growing rapidly and the future looked very bright, the owner decided that it was time to sell, if he could get a fair price and he could ensure the

existing management team was comfortable with their new partner and positioned to take the business to the next level. Roark satisfied both requirements. We paid a fair price, providing the owner the liquidity he desired. Based on our franchise industry experience, we also provided comfort and confidence that the management team would have an opportunity to thrive and profit from their continued success. Sounds interesting, how do you get things rolling?



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tion to be made—hire a broker and proceed with an auction or proceed with a negotiated sale where the owner deals directly with one potential buyer. While an auction can potentially result in a higher valuation, it is also time consuming, burdensome and potentially risky. Because of the time and effort involved in executing an auction the company can lose operational focus which can have a negative impact on the business and ultimately result in a lower valuation. Another challenge of an auction is maintaining privacy among employees and franchisees during the process.

For these reasons, the owner of Money Mailer decided to forego an auction and sign a Letter of Intent directly with Roark Capital. We offered what we considered to be a fair price, and our knowledge of the franchise industry enabled us to proceed efficiently and quickly through diligence, which allowed management to maintain focus on the business.

The dating stage—do I commit or play the field?

The first step is to have initial discussions with one or a few potential buyers. In these discussions, the owner should evaluate the buyer's capabilities, experience, and style. If there is mutual interest in pursuing a transaction, the two parties will sign a confidentiality agreement, allowing the potential buyer to gain access to additional information about the company.

Once the owner has had initial discussions with a potential buyer and possibly shared certain confidential information, there is an important deci-

The engagement period

Once a seller has decided to go down a path with one buyer, whether as a result of an auction or a negotiated sale, the parties will typically enter a Letter of Intent to formalize their understanding. The Letter of Intent is a non-binding agreement (similar to an engagement) that lays out the general terms of a potential deal including price, structure (asset versus stock deal), timeframe for diligence, exclusivity, and conditions of closing such as satisfactory completion of due diligence, debt financing, and negotiation of a definitive purchase agreement.

More than just agreeing on price, the Letter of Intent is a clear road map that ensures both parties are working together with the same overall intentions. Eliminating surprises at an early stage saves money, time, and aggravation, while reducing risk for all parties.

Confirming the relationship/due diligence

Once the Letter of Intent is signed, a more thorough due diligence process begins. The buyer investor employs a team of professionals to explore and understand the inner workings of the company. Accountants review the financial records, attorneys review corporate and franchise legal issues, and consultants will talk to customers and franchisees. It's expensive and time consuming but no buyer will consider a transaction without it.

The owner's challenge during due diligence is to balance responding to detailed information requests from the buyer and its representatives while continuing to manage day-to-day operations. Money Mailer has an excellent reporting systems that generated quality

and relevant information. At the same time, the CFO and general counsel dedicated a significant amount of time responding to information requests.

Concurrent with due diligence are two other significant items also simultaneously being completed, negotiating the definitive purchase agreement and securing debt financing. The purchase agreement is much more than just a price. Representations and warranties of both the seller and buyer, and protections or indemnifications that survive after the close are a few of the more important issues to be discussed. Only after all diligence is completed to the buyer's satisfaction, the purchase agreement negotiated, and financing secured, can the transaction close.

The marriage

A sale process evolves over many months during which the buyer and seller are constantly learning more about each other. While the financial aspects of the deal are clearly important, many "softer" issues actually determine the fate of most transactions. Maintaining an environment of trust

and integrity throughout the sale process helps greatly in dealing with any issues that arise. Should trust or integrity be called into question, the entire transaction could be placed in jeopardy. Roark's marriage with Money Mailer is off to a great start, as both parties spent time up front getting to know each other. Money Mailer was very well organized and prepared for the diligence process which allowed management to be responsive while continuing to run the business. Lastly, by identifying the key issues up front and building trust early on, Roark was able to work collaboratively with all constituents involved (the owner, management team, advisors and lenders) towards a win-win for everyone. [FT](#)

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