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Michael Crawford, Managing Principal and Founder of The Merger Expert, Inc. with over 35 years intermediary experience says,

"Recently, I came across the article "Ten Mistakes Sellers Make with Intermediaries" by Russ Robb. With my experience in the industry, I feel he makes many valid points, and his insights are valuable in every respect. This is an informative article I wish to share."

Ten Mistakes Sellers Make with Intermediaries

Posted by Russ Robb

1. Restrictive Fee Agreement: Sellers should be willing to pay a generous retainer and accomplishment fee to not only peak the interest but to obligate the intermediary to perform. While monthly retainers of $5 to $10 thousand are the accepted norm, more than $20-$25 thousand upfront could result in some complacency by the intermediary. In lieu of the generous fees, the seller should negotiate a relatively easy exit strategy to terminate the agreement with the intermediary if the assignment is not going well, e.g., do not sign more than a six month non-cancelable clause. The size of the intermediaries' fee may seem large in dollars, but in fact it is usually small in terms of the percentage of the deal, i.e., 3-4-5 or 6% on average for middle market transactions depending on the size of the deal. While being generous with the intermediaries' fees is recommended, the seller should be sure he gets his money's worth from the intermediary. The seller must carefully oversee the process and constantly moderate the results. Don't assume the intermediary is operating on automatic pilot.

2. Unable to Supply Complete Information Upfront: The offering memorandum is obviously one of the most critical aspects of selling a company. Most intermediaries require between one to two months to produce the final documentation and maybe three months if all the information is not forthcoming. The memorandum has to be so thorough that the potential acquirer should be able to provide the intermediary with a price range before visiting the operation. Without the necessary information provided upfront, the intermediary cannot complete the memorandum in a timely fashion resulting in a stalled effort to take the company to market some of the items the sellers seem to be lax in providing are the following: financial projections, description/sales of competitors, equipment lists, analysis of sales representatives, growth strategies, competitive advantages, etc.

3. Excluding Access to Key Employees: Sellers are often paranoid about confidentiality leaks to the extent that it inhibits intermediary's access to key employees. The intermediary throughout the sales process needs to communicate with the CFO on a myriad of ongoing financial details including monthly updates, backlog, product sales mix, etc. The intermediary needs to discuss the possible acquirers with the sales manager as well as to better understand the competition.

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4. Not Pulling All the Advisors Together: The seller should form a team of advisors so the "skeletons in the closet" will be revealed by all. By working together prior to drafting a letter of intent or purchase and sale agreement, there will be a better comfort level between these advisors so future encounters will be more productive. Collaborative effort early on will help the seller and intermediary formulate their strategy up to and including the negotiations.

5. Lack of Immediate and Thorough Communication: Sellers need to be in constant contact with the intermediary returning telephone calls and e-mails that day. Rapid response will keep the intermediary motivated and diligently "on his toes." Some potential buyers can be fickle and if the communication lags, their interest wanes.. Since the intermediary is the conduit of information between buyer and seller, the seller must focus on elevating his frequency of dialogue with the intermediary whether the former is traveling, vacationing or where-ever.

6. Letting the intermediary Work on His Own: For some sellers, the tendency is to rationalize that the intermediary's job is to identify all the potential buyers. In the perfect world, the intermediary's job is to feather-out all the buyers and possibly rate them according to their strengths. Perhaps that's true, but in the real world, the intermediary needs all the help he can muster. Therefore, the seller should provide all the industry names as possibly buyers by turning over to the intermediary all his trade publications, directories, relevant records and other pertinent resources.

7. When the Going Gets Tough... Stop: The well-known expression is when "the going gets tough, the tough get going." Some sellers naturally get discouraged when a potential buyer aborts the deal or the offers are below the seller's price expectations. This is not the time for sellers to give-up on themselves nor with their intermediary. Most deals are completed in 9 to 12 months, but then again some transactions can take as long as 2 years to complete.

8. Leaving Intermediaries Out of Negotiations: Some sellers feel the intermediary's job is done when the deal reaches the letter of intent stage. Wrong! The intermediary is the one who has probably had the most personal contact with the buyer and established the positive chemistry with him. In rushing the attorneys to debate the various items of the deal, possibly an adversarial relationship develops. Oops, what happened to the personal bonding created by the intermediary necessary to get the deal back on track?

9. Assuming the Intermediary's Job is Complete Prematurely: When the letter of intent is signed by both parties, there is a reasonable chance the deal may not be finalized. Realizing this possible fateful circumstance, the seller should continue paying the intermediary their retainer and/or keep him fully engaged, because the intermediary's job is to keep the other bidders of the company alive as a fall-back position.

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10. Failing to Celebrate the Successful Closing: Successfully completing the sale of a company, particular during the last three years, is considered a notable achievement. To walk-off with millions of dollars from the proceeds of the sale without celebrating by dining-out with all the key advisors would be an opportunity lost to reward those so important to the owner's success.