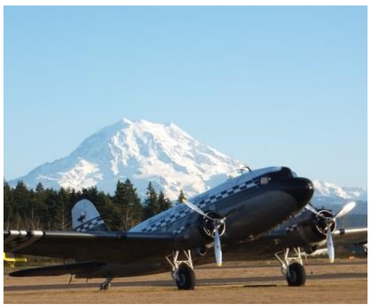
TECHNOLOGY ACQUISITION UPDATE

Top 10 Seller Mistakes



Everyone loves a good top 10 list. Presented below are the top 10 mistakes that companies make when the time comes to sell the company.

1. Trying To Sell At the Top

Timing is a key driver for getting the best price when selling a company. The ideal time to sell is when the larger companies have the greatest need for your technology or products. Trying to pick the top usually results in missing the window and not selling for the optimal price.

The market may be on a different time schedule than your company's growth curve. It is human nature to not want to sell when a business is doing well. If you wait until revenues peak, there may be little growth left.

Too many CEOs think about value in financial terms, not strategic terms. The mindset is: "If we wait, we will be worth more." For technology companies, the strategic value is almost always greater than the financial value so waiting does not necessarily increase value.

2. No Competing Bids

Talking with only one buyer is a mistake that many sellers make. They don't contact enough buyers and they don't generate competitive bids. Negotiating with only one buyer reduces your leverage significantly.

A company may have received an unsolicited offer. Don't presume that this is the best candidate. A CEO may think he or she knows the right buyers because they know their market space. The only way to identify the complete set of buyers is to execute a disciplined market exploration. Restricting the universe of potential buyers is a mistake. Even one additional buyer can make a remarkable difference in price.

3. Unrealistic Price Expectations

Unrealistic price expectations can kill a good transaction. A savvy buyer will recognize early on that a seller is asking too much and they will walk away. Buyers have learned that an unrealistic seller can be a huge waste of time.

Unseasoned negotiators make the mistake of thinking that if they ask a high price, they will be more likely to get it. This is rarely the case. In a strategic transaction there is no "true" value of the business. The business is worth what a buyer will pay for it. Get as many offers as you can and then take the highest one.

4. Not Engaging a Professional

A CEO who tries to sell his own company puts himself at a distinct disadvantage. He can't possibly view the company objectively; nor can he or she spend the significant amount of time that selling a company requires. There is no way a CEO can run the company and competently manage the sale process at the same time. Mistakes can be costly.

Every transaction needs a quarterback to drive the deal. You need to know when to push, when to be patient and when to switch gears. A driving force is critical because time is the enemy of all deals. When the CEO tries to move aggressively, he can appear desperate. And if he doesn't drive the deal, it loses momentum which also has negative consequences.

The sale of a business is a complex process with many issues both large and small that must be addressed. An experienced adviser increases the odds that the transaction will be concluded at the best price and with the fewest problems.

5. Poor Problem Solving

Every deal has problems. About 40% of transactions fall apart at least once. Overcoming these problems is an essential deal skill. Poorly solved problems can kill a deal or result in a suboptimal transaction structure.

Understand how the other party views the problem—the stated problem may not be the real problem. Strive to understand the reasons *behind* your opponent's positions.

Most problems have multiple solutions. Step outside the box and don't be too linear. Be aware of clinging to your assumptions. Use creativity. Many tough problems can be solved with out-of-the-box and imaginative solutions.

6. Unprepared for Unsolicited Offer

More and more companies are being acquired early in their life cycles. Receiving an unsolicited offer is a fairly common occurrence for technology companies. Don't presume, however, that the buyer who approaches you is the best candidate.

How should a company respond to an offer out of the blue? Should you scramble to get competitive offers? The company should review its strategic plan, examine the market, and assess the buyer. The firm must decide whether to reach out to only a few additional buyers or to numerous buyers.

7. No Exit Strategy

Every company needs a sound exit strategy. The exit strategy guides decision-making in the short term and improves the probability of a successful exit. Few companies plan for enough in advance and every firm has some elements of their exit strategy that can be improved.

A clear exit strategy improves alignment between shareholder groups and management. Exit strategy can guide product development decisions and avoid downstream problems.

Align managers' incentives prior to the sale and keep good financial and corporate records. Sound preparation can bolster the price.

8. CEO does the Negotiating

A CEO who negotiates the sale of his own company may not get the highest price for the shareholders. CEOs are experienced negotiators; however, the skills for negotiating the sale of a company are different than the skills for negotiating other business deals.

An objective third party can establish a constructive atmosphere, help defuse unreasonable claims and minimize extreme posturing. Friction can develop in negotiations. To avoid an adversarial relationship, let an intermediary handle the negotiations and be the bad guy.

If the CEO will be staying on board after the close, there may be a conflict of interest and he may not negotiate as strongly. The CEO may have a different agenda than the shareholders.

9. Neglecting Day-to-Day Operations

The time frame for selling a company may continue for six to nine months. Management must mind the store and keep the business running smoothly during this period. It is critical to keep revenues coming in, the sales pipeline full and customers happy. Declining revenues can result in a lower purchase price. In addition, if you are providing financial forecasts to the buyer, make sure that you can achieve these projections.

Management should design incentives for key employees so they stay involved and motivated during the sale process. Employees are vital assets for most technology companies and the buyer will want assurances that they will stay.

10. Intellectual Property Snags

Intellectual property is becoming increasingly important in the sale of companies. One of the biggest problems that can derail a sale is poorly documented intellectual property. The ownership of all software and technology should be well-documented. It should be evident what software is owned and what software is licensed. Have copies of all agreements and prepare schedules of all patents, trademarks and copyrights.