# Mergers & Acquisitions: Potential challenges during business sales - by Achim Neumann

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A typical sale of a business is not simply facilitated by a business broker or an M&A advisor. As a matter of fact, a successful transfer is always a team effort. A well-functioning interaction between the three professions will guarantee the best outcome for all parties involved.

Unfortunately, realities are often different.

With the M&A advisor having facilitated the introduction between buyer and seller, this professional also has typically the best personal relationship with both parties–quite different than the attorneys or CPAs who only join the transfer process in a later stage and can only converse with their respective principal on the buy or sell side. Quite often, this ends in ‘political jockeying’ by the principal advisors, often resulting in sub-par advice to execute a transaction – one of the worst examples being an attorney generating $100,000+ billing for a small transaction of $2 million.

Within the seller’s preparatory context, it is very important that the owner selects a qualified transaction attorney well ahead of any contemplated transaction, preferably right after the business valuation is received and the decision to move forward with a sale of the business is made. Certainly, such early consultation will result in some expenses, but this step will pay off handsomely in the end. The focus here must be on the transaction, not on the attorney. Like any other field, the legal profession is highly specialized, and for example, the seller will derive little benefit of hiring a former county prosecutor representing him or her in a $10 million business sale. Such an attorney will know very little about commercial business transactions and will therefore either slow down the process or completely kill the deal.

By far, the most toxic combination for any deal is a seller who refers all questions to an attorney, especially if that attorney perceives being hired is to focus solely on protecting the client and not to move towards a deal closing. In this type of situation, a deal will never be closed. The attorney will always find yet another aspect to be secured in a deal—all along generating more legal fees—in a never-ending negotiation attempt.

Similar challenges exist for recruiting tax advice. The business’ current CPA is well aware that after the closing of the transaction, his/her services are no further needed as in all likelihood, the buyers will bring in their own accounting team. Thus, the implication is that–at times–a considerable revenue stream for the CPA firm will no further exist. No question, some CPAs will tend to ‘prolong’ the negotiations or in a few scenarios, even attempt to undermine the transfer.

In sum, within the context of selecting the right advisors, a seller (or buyer) must ensure to take an active role in all aspects of the transfer. The objectives of a legal or tax advisor are not always completely aligned with the objectives of the principals and ignoring these facts can have a devastating outcome–despite all intentions and motivations to close a deal.

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