

Private Equity Group Of The Year: Ropes & Gray

By Benjamin Horney

Law360 (February 6, 2019, 5:37 PM EST) -- Ropes & Gray LLP advised on close to 250 private equity deals over the past year, including helping Bain Capital complete its controversial, multibillion-dollar acquisition of Toshiba Corp.'s memory business amid a trade war between the U.S. and China, landing the firm on Law360's list of 2018 Private Equity Groups of the Year.

The firm's private equity practice is about 175 attorneys strong, although Ropes & Gray says that most of its more than 1,200 lawyers find themselves doing some kind of PE-related work for a client list that includes major industry players like Advent International Corp., The Blackstone Group and TPG Capital.

"It's hard to find a lawyer in our firm that doesn't do something in the PE space for clients," said Will Shields, a partner at Ropes & Gray and co-chair of the firm's PE transactions practice group. "It's a firm-wide focus for us."



One of the biggest matters at hand for Ropes & Gray during 2018 was guiding Bain Capital's complicated acquisition of Toshiba Memory Corp. to completion. Under the terms of the arrangement, a special purpose acquisition vehicle formed and controlled by Bain bought all the shares of TMC. Bain led an international consortium of buyers, and the other parties involved in the transaction were Japanese optical products manufacturer Hoya Corp. and South Korea's SK Hynix, along with a group of U.S. investors like Apple Inc., Kingston Technology Corp., Seagate Technology PLC and Dell Technologies Capital.

While the roughly \$18 billion agreement was signed in September of 2017, there was plenty of work to be done in 2018 in order to make sure it crossed the finish line. Ropes & Gray helped structure the deal so that U.S. antitrust authorities would not have issues, Shields said. For instance, the deal saw the SK Hynix investment put into a vehicle with limited rights, while Bain received favorable economic rights. Thus, Ropes & Gray was able to put to bed any worries that U.S. regulators might have concerning SK Hynix using the transaction to unfairly compete.

However, as late New York Yankees legend Yogi Berra famously said, "it ain't over until it's over." The transaction also needed approval from the Chinese Ministry of Commerce, but before that could occur, President Donald Trump launched a trade war with China, which complicated matters.

"That was the last big hurdle for us," Shields said. The trade war put the whole transaction on hold, with questions as to what might shake things loose."

The parties spent the next two and a half months working to get the deal cleared in China, finally receiving the necessary approval just before the start of this past summer.

"That deal showcased why we have built our footprint around the world to line up with where our PE clients are transacting," Shields said. "Frankly, I don't think there's another law firm in the world that could have executed that deal the way we did. Another firm just wouldn't have the same capabilities in the right places, particularly in Tokyo."

A few months after Ropes & Gray helped settle the Bain-TMC situation, the firm found itself counseling Bain yet again, this time on an agreement with Pfizer Inc. that involved the creation of a new biopharmaceutical company focused on central nervous system disorders called Cerevel Therapeutics LLC.

"The Cerevel deal involved multiple practice areas, and it was a really unique transaction that's received positive attention in the life sciences community," Shields said.

The impetus behind the deal was that Pfizer had a set of neuroscience assets that it wasn't planning to develop. According to Shields, however, they deserved to be developed "for the benefit of patients around the world." The portfolio includes several compounds that aim to address a range of central nervous system disorders like Parkinson's disease, Alzheimer's disease, epilepsy, schizophrenia and addiction.

The assets were potentially commercially viable, but Pfizer just wasn't planning to develop them," Shields said. "Bain, with our help, put together a really interesting structure.

That interesting structure saw the formation of Cerevel, and Bain and Pfizer agreed to a shared economics plan. The agreement included a \$350 million commitment from Bain, with Pfizer holding a 25 percent in Cerevel.

"The structure could be a model for life sciences industry deals, and it could be replicated," Shields said. "It's got some normal hallmarks of a corporate carve out, but it's a mix of a carve out and a startup."

Ropes & Gray also used the past year to prove its capabilities as they relate to dealing with Brazilian regulators, having advised Advent International on a deal to buy a majority stake in Walmart Inc.'s business in the country.

Under the terms of the agreement, which was announced in June, Advent took an 80 percent stake in Walmart Brazil, with Walmart holding on to the remaining 20 percent of the business.

"That was a unique and important deal," said David Blittner, a partner at Ropes & Gray and co-chair of the firm's PE transactions group. "There is so much complexity that can come into play when dealing with multijurisdictional transactions, especially when they involve a country like Brazil.

One of the unique components of the deal was that Walmart wasn't outright selling the Brazilian unit, but instead sought to retain a 20 percent stake. Thus, not only did Ropes & Gray have to coordinate its counseling across multiple jurisdictions, but it had to take into account some complicated particulars of

what the Walmart Brazil ownership structure would look like once the deal has been completed. As part of the final version of the deal agreement, Walmart will receive royalties for the use of its global brands.

"You had a situation where a PE firm is buying a big and challenged business from a strategic, but also keeping that strategic on as an equity partner and as both a short-term and long-term partner for IT, sourcing, and branding," Blittner said. "That created a number of business and legal challenges, many of which needed unique solutions given the complexities and unique nature of Brazilian law and custom."

Thanks to the counsel provided by Ropes & Gray, Advent and Walmart were able to close the deal in August, just a couple of months after it was first announced.

The above-mentioned deals represent a mere drop of water in the ocean of transactions Ropes & Gray advised on over the last 12 months. The firm also came through for longtime clients like Partners Group and CVC Capital, while handling matters for relatively new clients such as Intermediate Capital Group and WayPoint Capital Partners.

Blittner said that Ropes & Gray's ability to handle all these complicated deals in a timely manner for clients comes down to one thing: a deep and sophisticated bench of lawyers who are focused on helping clients achieve their goals.

"There's no such thing as 'A' and 'B' teams at Ropes & Gray," Blittner said. "It's one big quality team."

--Additional reporting by Chuck Stanley and Chelsea Naso. Editing by Alyssa Miller.