

In The Trenches_ Interview with Mario Nigro

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SPEAKERS

Mario Nigro , Steve Divitkos

S Steve Divitkos 00:00

Mario, welcome to the show.

M Mario Nigro 00:03

Steve, it's a pleasure, thank you for having me

S Steve Divitkos 00:05

We've got a lot to cover today. And where I wanted to start is preparing for a sale, because I'd like to kind of cover the entire sale process starting with preparing for a sale. Moving on to structuring the transaction, onto the transaction and the deal process itself, we'll talk about some major transaction risks, and then conclude with post transaction considerations. But before we get there, let's start with preparing for a sale. So most of the people listening to this episode are entrepreneurs or CEOs who might be looking to sell in some number of years in the future. So based on your experience, having guided entrepreneurs and CEOs through, you know, countless number of these types of transactions, for people who are looking to sell in two years, three years, four years, what are some basic things that you think these people should have in place today? Well advance of a contemplated company sale,

M Mario Nigro 01:04

One of the areas where owner operators, I will say leave money on the table. And literally sometimes it's a substantive amount of money on the table in the sales process, is the fact that they don't do tax planning far enough ahead of the sale process. And frankly, what ends up happening is they say, Well, you know, I never thought I was going to sell at that time. So I

didn't think I needed to do it. And yet the type of tax planning that can be super advantageous requires a long, extended period in order to make an effective. And so I would say, as a starting point, you know, one of the things that sadly, owner operators mistake is, if I'm getting ready for a sale, people think of it as like six months before, three months before, so a year. No, in fact, some of the low hanging fruit of an effective tax plan requires a two year window to set up the structure in order to take advantage. And this is this is the planning that's 101 is not aggressive. This is this is setting up, you know, very popular wcllients setting up the family trust creating beneficiaries for you and your family members, who all could take advantage of the capital gains exemption up to them, you know, the amount around 900,000. But no, you think about it. Like a family, even if your parents, you know, four or five, six people, Steve, that's, you know, 900,000 times six is 5.4 million, now you don't pay capital gains on 5.4 million, that's a million dollars right there. So just just literally you lose a million dollars by not doing the planning ahead of time, this is the place where if you don't give enough time, you need to you need to create this two years before closing, there is no way around it, it needs two years, we can't legally find you a way to take advantage of this planning unless you set it up two years prior to closing. So as a starting point, you know, it's just a shame, right? Like you get people who could have easily spread out their, their, their proceeds to their family members and taken advantage of this, you know, you get a very lucrative tax planning strategy. And it's just a it's not expensive to do it's you know, so tax planning is one as a general comment, I say to people, it's never it's never too early. Because there's other strategies out there that could be very effective in lowering your effective capital gains rate on the sale. And you know, you're an entrepreneur, most entrepreneurs don't want to pay tax. So the The irony is that they they go out, but I'm not selling yet. Yeah, but look, at the end of the day, if you want to try to maximize whenever that day comes, you got to do tax planning now, whether it's five years, whether it's 10 years, whether I'm never interested in a sale, I would still do tax planning, because you never know. And frankly, if something happens to you, you want to think about your children and your you know, your the people who are going to take over this business if you're gone. So the next thing is, you know, people assume a sales process is a is a kind of like a, you know, a box, you know, all come on three, six months, that kind of thing. But, but what they forget is the box, which is the quote unquote, technical sales process, that's just the process itself. But really smart sellers will plan ahead before they even start a process so they can take advantage of the process as opposed to letting the process define them. What I mean is, you know, you got a lot of companies, owner operators, they kind of run their books, their financial record books in the way an entrepreneur does right now very formal, it's not a lot of it, kinda. Listen, I get it. I don't want to spend money where I don't need to spend money. But the problem is, of course, now you want to sell your business for a premium to a buyer who of course is going to drill down on your financials because they got to Make sure they're real if they're going to pay you a premium, and, you know, people who kind of have run their business, what I would say whatever the word is, bootstrapped, you know, I don't want to spend too much money on financials, I don't want to worry too much about that stuff, I don't need to I'm the only owner, they make a mistake by not giving themselves enough time to clean up their books. And I like to say put a put, put a bow on. And that's the one place particularly that you could do a lot of work ahead of time to put a bow in your business. But more important, even than putting the bow, you can find out if there's something wrong with your numbers, that's going to show up later and affect your purchase price because the purchaser discovers it and says to you, you know what, I'm sorry, but your numbers aren't what you say they are, you'd rather know that stuff ahead of time. So you'll see it's becoming very popular, even in the lower middle market, to do some type of, you know, accounting prior to closing, people call it sell side diligence, or sell side financials where you spend a bit of time, clean up your records, but clean up your financials. And if you want to put it in simplistic terms, put a bow on so that when you go to a buyer, you kind of show them, you know, books that are clean, and ready for

sale. Obviously, from a legal point of view, we always like to say, look, buyer wants to see a clean business. You know, if you have customer contracts that are key to the business, and you don't have them written down, you know, if you have employment, employees who are key to the business, you got no, no contracts, you should you should "paper up", you should make sure if you're if you're if you're relying on certain revenue streams, a buyer is going to want underlying documentation for those revenue streams, you should spend the time before you even go to a process to clean that up. If you do the work behind the scenes to make your business ready for the sale, it will sell better, quicker. And for more money. Again, a place where owner operators leave money on the table is the fact that they think the sale process starts when they hire an advisor to help themselves.

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Steve Divitkos 07:02

Yeah, and as someone who's been on both the buying and selling side as the owner operator, one way to put a bow on the financials on your business, so to speak, is the type of engagement that you have with your accountants. So you know, broadly speaking, there's three types, the notice to reader, the review engagement, or the audit, each of which gets increasingly sophisticated and robust as you move down that list. And though paying, you know, an accounting firm anywhere between \$15,000 to \$30,000, as the case with my business per year for audited financial statements, you know, at times as an entrepreneur, you can kind of feel like you're not getting much value out of that kind of capital, it's coming out of your pocket. But when it comes time for a sale, the financial due diligence, the questions that you have to answer, the documents that you have to pull are reduced substantially because they're in part relying on the audit process as it relates to the robustness of your financial reporting.

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Mario Nigro 08:06

Agreed Steve, the more you you move towards audited, the more comfort you give a buyer.

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Steve Divitkos 08:11

So let's move on to how to actually select the counsel that you use on the legal side. So when you're selling a business, you have to hire generally, a few folks to represent you, of course, legal is chief among them. So I guess kind of a two part question for you. You know, part one, how do you recommend that a selling CEO selects their lawyer because there's the 1000s of lawyers out there from which to choose. So how does the CEO even narrow down that list. And seconds, legal is one of the larger costs that the seller will bear in selling his or her business? So how should a selling CEO think about the cost of the of the legal representation? And if, you know, obviously, every engagement is different. So every price tag is different. So if we can't provide a range, how would you at least advise them to think about, how do you put those kind of legal costs into some sort of context for someone who say, has never sold the business before?

Steve, I would say that there are three key components. And this is a generic general comment about advisors. Because if you think about the team that you have, when you want to sell your business, and it is a team, your accountant, it's your lawyer. It's your sell side advisor. That's the kind of key three people the three advisors, they bring your own team. And so what I'm about to say is kind of my best suggestion on approach is related to all three of them. You know, there are three key variables in selecting advisors. There's experience, there's fixed, and there's price. The difficulty is that a majority of owner operators first focus on price and then focus on experience. And finally focus on fit. Sadly, the best case scenario works the other way. First, focus on fit, then focus on experience, and then focus on price. And of course, the push back to me is easy for you to say, Mario, you're the guy who wants to be paid not to focus on price. But the reality is, Steve, in the lower middle market in the middle, right, it is so competitive amongst lawyers, that, frankly, all of us when we're asked to bid as though we know that there are other people in the process, we can't go crazy guy who said, I get these owner operators, and sometimes you get really focused that, you know, you know, we're overly expensive. And, you know, I try to explain to them, like, at the end of the day, if I'm expensive compared to the other guy, I'm expensive by 10, or \$20,000. So for example, you \$10 million transaction and you quote, you know, on the sell side mandate, you quote \$100,000, or to a one to one to one system, right? If I'm off, I'm off, but 25,000, I'm off by 30,000. Even 50, seems too high, I'm usually off by 10 to 20. So you get an owner operator, who then says, Well, look, you're \$20,000 more than that guy, and you're like, wait a minute, \$10 million decisions, the most important financial decision of your life, they're going to come down to focusing instead of looking for experience, and instead of looking for fit, you're going to worry about saving \$10,000 \$20,000 I can't change that. I've got sellers, who I've worked with who get it and say you're right. And I've got sellers, who will literally say I'm going to take the cheapest and I don't care even it's not even so much the cheapest. It's where they have a family lawyer or a local lawyer that they've grown up with, and they say, you know, he or she's given me a quote, The 50, you're at 100 I see this a lot, you know, I know them, they'll take care of me. And I'm like, Look, I don't do what they do. But they also don't do what I do, you know, those of us who do transactions, those of us who do sell side mandates those of us who do the counting that's necessary for we this is all we do, I do 40-50 deals a year, your local lawyer doesn't. So when you want to sell your company, it's kind of strange to have someone say I trust my local person. And I get what they're really saying I'm comfortable with my local person. My fit is what I have with my local person. And what I say to people is you're right fit this key. So keep your local person but get yourself an m&a lawyer who does this all day long. That's how you're going to protect yourself because if you don't your local person yeah they might be cheaper by 30 or \$40,000 but they're going to cost you money because in the purchase agreement there I have literally worked with sellers Steve that Miss hundreds of 1000s of dollars and I shake my head because it's not my job to tell them I'm working for the buyer but I just look back and think you know if they had gone to somebody who did this every day I never would have been able to get that and they just miss stuff that they you know in fairness they don't know it's the same point with sell side advisors you know you get people who hire these brokers that you know really are not the right fit for this this type of company because they don't want to pay the fees for the stuff you know the sell side advisors that are used to doing these deals and guess what a very as you know Steve a very good sell side advisor creates competitive tension makes a deal get get for a seller more than they planned it's a huge difference in what a sell side advisor could do you know you are you might have to pay him \$100,000 more but if it gets you an extra 2 million I mean that's a heck of a good investment. You know, yeah same thing with accounts you know, people use their local accounts and two doesn't know how to do deals to help them on deal mechanics. And they screw it up you know, they screw up the working capital

calculations and it's just you know, people say you get what you pay for in our world you get what you pay for. So I say to people first asked about experience second asked about price but make the decision in the end when those two are your comfortable, on fit.

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Steve Divitkos 14:24

Yeah, Yeah, I would agree with that. From the perspective of the CEO having gone through it a couple times, in explaining to people where to be frugal and where to pay for quality, I often make the joke that like nobody goes to the discount I surgeon willingly. And I've actually been burned by you know, representation that wasn't great. And of course that was not that was not with you, Mario because I've worked with you on both Buying and selling. But another way of saying as you said, you get what you pay for. So let's move on to Actually structuring a transaction. And what I want to talk to you about is LOIs because you know, deals, you know, in some way, you know, one could argue that that kind of real process starts after an LOI is signed. But LOIs are a little bit kind of controversial in that most of the terms contained within an LOI are non binding, except for things like exclusivity and confidentiality. But other than that, most of what is typically seen in a letter of intent is non binding. And for that reason, some people say, look, LOIs are barely even worth the paper that they're printed on. And there's, I've kind of seen two approaches to ello eyes in the past, one approach says, Get the LOI as detailed as possible. So you can get all the difficult negotiating points out of the way and done early in the process. But the other part, the other group, I should say, says, look, LOIs are barely worth the paper that they're printed on agree on price, exclusivity, structure and confidentiality, and just move on and save the key negation negotiating points for later. I guess, how should CEOs think about ello eyes in that context? And are you a proponent of either of those philosophies?

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Mario Nigro 16:17

Steve you said it super well, you really set out the tension. Okay. So the tension is that often the sell side advisor says, Let's move quickly, let's get to purchasing agreement. Let's not get too fussed on an LOI, because it's like you said, Steve, most of it is non binding anyway, so why bother getting into the weeds? when, frankly, the stuff that counts as what's in the purchase agreement, let's just push to the purchase agreement. And look, I'll be fragmented. There is some logic to that rationale in certain type of dynamics, you know, and where I would say is, I'm a seller, I have a super motivated buyer, I feel that the dynamic is in my favor. I know this buyer wants to move quickly, I get the sense of urgency. I like the price. I don't want to waste that time. You know, it's a very dynamic market stuff just going quickly. If you have an opportunity to sell quickly, you don't want to get bogged down with a lawyer on the legal term, if it slows down getting a deal done quick, right? So there's a logic to doing it that way. The problem is that's a very minor situation the majority times in that and I think this is where the CEO feels the tension CEO is told Okay, look, this is how we normally do LOIs let's just plant a lot of these points, we'll deal with them later. Let's not get too bogged down. Of course, the problem becomes hidden material points for a while. So they are told Dad, don't worry, we'll figure it out later. And, and, and the thing is, I get this, you know, over these years, I've seen Steve a lot of owners when they when they get the LOI signed they think, okay, we've gotten over the really big humps. And so when people say we're going to punch stuff later they forget to tell them actually there's a lot of big humps coming later we got to get over to we're just pushing them too late. Instead, they think, okay, that stuff all worked out a bit later, you innovate. And so they don't realize that the everything you push the later involves a negotiation later and frankly, could involve a negotiation where you and the buyer are not on the same page. And so the, the the benefit and the approach that I normally recommend, especially when I'm with sellers, unless there's some overriding reason why we should we should push stuff to the future when it comes to key terms of the deal. We should negotiate them now in the LOI because you know what, I'm an owner operator and i don't know i don't have an experience that a buyer often has and so you know, I want to know everything that's on the table you know, I want to know what I'm agreeing to and the problem becomes I see a lot of processes kind of tell an owner operator Hey you got to deal you got an LOI but the reality is you don't have a deal you might have a deal on price but you don't have a deal on all the other terms and then when they come up later the owner operator is kind of surprised and goes Wait a minute, why are we fighting you know we're clearly not on the same page and that's normal that's the connection not on reasonable that happens you can put everything in a LOI but a owner operator doesn't appreciate that right? They think this is great. I got my price I'm ready to go. Actually it doesn't work though is the use of Mario isn't steep. You know before somebody gives you that price they want to look into the darkness of your eyes right you know as you know, they buyers will will well they're gonna go and prod everywhere and poke and and I think for a lot owners that's a surprise and so I recommend a fullsome LOI or very detailed for a seller so that you make their life easier later. Because it's, you know, what's the worst experience for a seller, you start getting down and ground down in a process, you're fatigued, this thing the third and go on for four or five, six months, it keeps you away from the business, you know its going to affect your ability to even run your business because you know, this is buyer continually pushes on you, your your lawyer is your buyer or your advisor, the more you can knock out early, the better it's going to be for you later as a seller.

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Steve Divitkos 20:35

The other thing I would say is that when buyers attempt to punt things later in the process, and to your point, say hey, we'll deal with that later with the seller needs to understand is that when they say later, they're referring to a period of time under which you will be under exclusivity with them, meaning that you as the seller are not legally permitted to talk to anybody else. So from the buyer standpoint, they'd like to punt things until later. Because at that point, you won't even be allowed to talk to anybody else. So in a way, they kind of have a certain degree of negotiating leverage over you. So for sellers out there, it is something to be mindful of, you know, the exclusivity period, like I said, it's kind of one of the only parts of an LOI, that that kind of matters. And so an attempt to punt the important discussion points might be a buyers attempt to talk to you under a set of circumstances in which they have a little bit more leverage than you do.

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Mario Nigro 21:38

I couldn't agree more. You said it well, Steve, which is the seller's greatest leverage is negotiating the the yelloweye. That's the greatest point in the process. Once they got the price that they want the neology it completely reverts to the buyer, who's Of course leverage now is give me give me give me what I want, in order for me to give you what you want the price. So you couldn't have said it better. It's exactly it's the greatest leverage for sellers the LOI

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Steve Divitkos 22:05

Now, selling a business can can assume many different forms. One structural component that can change from sale to sale Now correct me if I'm wrong, but in share sales, the acquirer basically acquires the entirety of the business including all of the liabilities, whereas an asset sale, the acquire can basically kind of pick and choose the assets and liabilities that they want to acquire. And in my experience, generally buyers like asset sales and sellers like share sales. So as a seller, are there circumstances where sellers actually prefer an asset sale? I mean, how should business owners generally think about the asset versus share sale question?

M**Mario Nigro 22:53**

As a general comment, an owner operator who's selling their business, and it's, you know, Canadian controlled private corporation, controlled by Canadians will pretty much always want to share so the only time you don't want to share sell is if you if you actually have multiple businesses under the same company, and you just want to sell one piece of you know, I want to sell this business. But actually, the three businesses in the same menu can't sell with your can sell the shares because you'd have to carve everything else out, which is even more work. And frankly, the marketplace expects you to ask as a seller for a share deal. And so, you know, for a seller to give up a share sale. We often say, and I advise this to buyers when this happens when buyers say especially American buyers are more used to acid sales in the lower middle market in the States, they'll often push Yes, and I'll say look, because as we mentioned earlier, the capital gains exemption you can't use the capital gains exemption on a set on an asset sale because of course the company gets the money now you and so there are real financial differences to an asset sale and a share sale for a private Canadian Corporation you know, owned by an owner operator. And I always say fine, you know, if you've if you have a buyer wants an asset, they'll pay me for it because it's going to lead to different proceeds than I would have had if I had to share.

S**Steve Divitkos 24:19**

So for any listeners that are not Canadian, and this Canadian controlled private corporation rule does not apply to them. How should they think about the asset versus share sale?

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Mario Nigro 24:31

So, a non Canadian wants to sell shares just because they don't want anything left over they want to walk away we call it give them the keys you know, I give them the shares I walk away and that's I know it's very appealing. This is where the asset sale have become to the issue in the lower middle market. As I mentioned earlier, a lot of these owner operators that kind of got messy books. It is not unusual to have an owner operator who you know is running His or her business for 20 years, has the private club, the private school, the you know, a lot of a lot of personal expenses. I mean, if it happens, like, let's just call it for what it is, these people run all kinds of stuff through their company. Now, depending on the nature of what you're running through your company, or frankly, what you should be running to the company that you're not, right buyers gonna do their financial diligence. And if this stuff is messy, buyers gonna say, look, you know, there's a lot of tax risk here. Tax risks, that frankly, if you should didn't pay taxes, you should have paid. You know, for some buyers, I'm never going to get comfortable. I'm sorry, you obviously ran your business a certain way, you can't tell me because if I buy the share, I inherit your tax problems or potential tax problems. And so I will say that probably the number one reason to do an asset sale is that which is a lot of buyers will look at these owner operated businesses and say, Hey, I'm sorry, but you know, you've been doing a lot of funny stuff here. And I can't get comfortable with buying your historical tax risk. And for that, another one is environmental. Another one is real estate, like these are issues where the potential exposure of buying the shares, and getting the history that comes with that is not worth it. And frankly, you would say to a seller, you know, look, I'll help you, I'll buy the shares, if I don't have to take on any extraordinary historical liability. But if I do, I'm not, I'm not going to put myself at that risk.

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Steve Divitkos 26:44

And that's where the preference for the asset sale would come in. Because of when you buy an entire business, you assume all liabilities of that business, either go forward, certainly, but also historical. And to your point, if there are unknown and/or uncapped liabilities that the buyer simply can't be comfortable with, then And I suppose as a seller, an asset sale is at the very least on the table. We talked about taxes and tax structuring specifically. And, you know, look, that is an inevitable part of basically any sale transaction for selling CEO. So beyond the considerations specific to Canadian tax law, because many of our listeners are outside of Canada, you know, generally speaking, what are some of the mistakes that you've seen CEOs make with respect to taxation and tax structuring? And if applicable, what are some things that those CEOs can do now, to address some of those potential future risks?

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Mario Nigro 27:47

I mean, there's a lot of places we could talk about but I'll give you three quick ones, Steve, that I just like, low hanging fruit. People are often you know, it's a global marketplace, people doing deals across sort of doing transaction sales, relationships across borders. I'll give you one very practical for lower middle market companies. So they start doing sales in the US, whether it's on the web, and the first thing tends to be on the web. Or it's through some mechanic and guess what they don't realize they're actually doing business in a jurisdiction. California being a great example. Now they're doing business in California, they don't think to themselves that

they should register to do business in California, they don't think that they should be collecting sales tax in California. And, and so one of the things that I would say to you is, look, when you go to a jurisdiction outside of your own, you know, it's it's you said, a lot of owners think, Oh, you know what, come on, I'm just doing my sales sales, I'll bring the back home the money, I'm not in California, nothing doesn't apply to me, Well, actually, you know what it could apply to you, depending on what you're doing. It may apply to you to California, you may be considered to be doing business in that jurisdiction. And you may be required to pay tax there, you may be required to register there, you may be under the purview of that and you say, well, who's gonna know I'm just doing sales? No one really knows. Except there's one problem. When you sell the buyer knows their financial advisor who does diligence catches on to this stuff. They themselves say, wait a minute, it looks like you're doing business in California, and I happens a lot, Steve, where people kind of go Oh, really? I am. I never thought I was. And guess what, then you have to deal with exposure associated with that, because the buyer feels like again, wait a minute, there's historical tax liability, why should I take it on? So keep in mind, if you're selling outside of your jurisdiction, you should be asking yourself, do I need to get myself registered or, you know, do I subject myself to the rules of that jurisdiction? I'll tell you where this plays itself out, Steve. And this is this is the second chapter. point, I'm going to go back to the advise people's business to start to grow, grow. And they're you know, they're often using a local advisor, particularly an accountant who's got experience with local issues. And, you know, I like to say, you grow your advisors with your business, and this is related to the first part, it's gonna be related to the next point, because a lot of this stuff you you capture, if you had the right advisor, right, and so the local account that doesn't understand that you're tripping over, it doesn't understand that now you start to do business in other jurisdictions, you need to worry about what those jurisdictions offer. And so, you know, one of the things to keep in mind is, you know, if you're starting to do sales in other jurisdictions and have a physical presence there, there are tax structuring issues that come up that you may want to structure for efficient ways of doing business in those jurisdictions. If you have a good advisor, they catch on to it right? You frankly, so listen, I want us to sell in in the States, what's the best way for me to do that? Is it through the Canadian company? Should I create a US company do? How should I sell in the US, right? And, you know, people don't realize, for example, you go hire an employee in the US to our Canadian company, guess what, the IRS has the full rights to audit you as a Canadian company. And it's kind of say that the timber like what do you mean the art? Well, absolutely, you're doing business in the US, the you're now subject to the authority of the IRS, which kind of scares people but that's the reality. They don't think that oh, maybe I should have, should have incorporated a US company. So at least they protect my Canadian company from the you know, the arm of a foreign tax authority. So that's the the same idea, right? People start to grow their business, and they trip up on things that because they don't have the right advice from a legal point of view happens all the time, right? people end up not we're an IP it related world, I can't tell you how many times people trip up under licensing agreements, and, and, you know, an intellectual property agreements, they start to grow, they forget that, you know, everything has an IP component, the big one that comes up, as you probably know, from your business experiences, right, Steve, as people starting to, you know, hire people to create code or software. And of course, these people are pulling stuff off from left, right, and centers, no one ever stops to say, wait a minute, there are any rights behind any of it, like, you know, and so what ends up happening again, you get to a sale process, this stuff starts to have some value to a buyer and a buyer goes and looks behind them and says, Where did you get the authority to do all this stuff? Or even more, so just make sure that your employee doesn't have any intellectual property rights on on this? And so, you know, these are the kinds of issues that I would say, is, if they relate to how do you structure your business? How do you run it, and ultimately come down back to my earlier point, as you grow your business, you need to evolve the advice to reflect where you're at.

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Steve Divitkos 32:50

So let's move on to reps and warranties because in my experience, negotiating, you know, purchases and sales, a lot of calories are burned, negotiating the reps and warranties section of the purchase agreement. And, you know, sellers make reps and warranties to buyers, buyers make reps and warranties to sellers. But typically, sellers make more reps and warranties to buyers often because there's a large asymmetry of information between the two parties in favor of the seller. So with respect to reps and warranties, are there any frequent mistakes or stumbling blocks or, you know, areas of contention when negotiating reps and warranties? Like is there anything in particular that you think CEOs should keep an eye out for? Are there any requests from buyers that should automatically raise the red flag related to reps and warranties?

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Mario Nigro 33:44

One of the things that I see I'm always mystified by this, I don't even understand how this is humanly possible when I'm on for a buyer, obviously, to ask Steve purchaser friendly representations and warranties, because we obviously want the seller to stand behind the business. That's why we're paying we're paying them to stand behind their business. We ask the seller to stand behind the business. We kind of take it that the seller has gone through those reps and warranties in detail and is comfortable with the words on that page. And then I'm on for sellers a lot when I work with sellers on reps and warranty. It's a slog I but I say to them, I need to be sure that you understand what these words mean, because the only way I'm going to protect you is your counsel to make sure that we can say stuff. That's true. And that's one of the big flags I'll say is how many times I worked as on the buy side with lawyers who don't actually spend the time they need to to make sure their sellers understand the nitty gritty of the words of the rep or warrant you know, right you said Steve, before it's 30-40 pages, sometimes of a 6070 page purchase agreement, or they are the biggest part you look at a purchase agreement. By far. By far, there's no section in a purchase agreement that's bigger than the rep or warranties section. And if anything That's the section that the buyers where's the most? Right? No one's ever gonna sue the lawyer. If the if the buyer, you know, Oh, I didn't realize that's what it meant that's not what you go after the lawyer for right? Because it's gonna be well did you read it and they're gonna assume you signed it so you must have read. And I would say to you, you know I would say this to a seller need to go through those reps and warranties in enough detail that you understand what they mean to the point of high comfort. Related to that is, is what's called the schedules. So reps and warranties and of themselves are where you stand behind but guess what exceptions is what you put in the schedule, the schedule is your best friend as a seller. And so one other place where owner operators mistake sometimes is they think Gosh, schedules I can't be bothered to list out all my contracts. But guess what? If you don't, that's where you risk a breach. And that's not I represent sellers. I say give me the photocopier contract Give me the snow removal contract. Yes, yes, give me the contract that the sweeping floor, that's \$100. I want that too. Why? Because if you think about it, you don't disclose it, and the buyer buys a business and they have a liability that they didn't know, they're gonna say, you didn't tell me that I had this liability. Again, it's \$100 not worth it. But you can see how you miss a material liability. They're gonna say, wait a minute, I bought a business I didn't realize there was a material liability to I want to claim you got to make me hope you never told me about this. So I say to people's schedules to your friend, rep and warranty disclosures, schedules are your friends.

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Steve Divitkos 36:46

So it comes to reps and warranties. And for those who aren't familiar, these are basically legally binding promises that certain things are true. And to your point, you know, absolutely, the seller needs to err on the side of you know, full and complete disclosure, because these are things that the buyer is relying on in making their investment decision. Now for whatever reason. Let's say that there is a breach. A tool that seems to be emerging as a more popular one these days is something called rep and warranty insurance, and specifically a tool that's being used by sellers. with increasing frequency it seems these days. So can you tell us, what is rapid warranty insurance? And second, why would a seller ever consider using it as a tool?



and Steve I'll even add a third, this product traditionally has not been used in the lower middle market, but it's becoming used with frequency in the lower middle market, which makes it incredibly appealing for middle market owners who want to sell. So this product is a product that started 20 years ago, Australia and the UK were really in the early market leaders on this was a product where insurance companies will basically provide you an insurance policy. So that as a seller, remember what I was saying you have to stand behind the business. And you do that by all these these statements that you put in 20 30 or 40 pages of a purchase agreement where you kind of say, this is you know, this property clean, it doesn't have contaminants. These are the contracts you notice there's no breaches, you know, you stand behind the business. Well, the insurance companies came up with a product that basically says, well, let's instead of having the buyer make a claim to the owner for a breach of a rep warranty, why don't we create a policy where the buyer will make a claim if there's a breach to the rep a warranty insurance provider, to the to the policy? And so what it does is it replaces the need for the buyer to be on the hook for a claim under the purchase agreement if there's a breach of one of the reps that he or she made and why it's very effective. because traditionally, when a buyer makes reps and warranties and a purchase agreement how they stand behind it is they have to put money in escrow and they have to obviously put a portion of their purchase price at risk to cover a breach right make sense you know i breach I breach my contractual you gotta you know I'm an owner will say Listen, I want to put some money in escrow because you know, what happens if a buyer tries to get rid of their money so they never have to, you know, worry about a situation where you sold them damaged goods, you know, so there's a claim and then they go after the seller and the seller is like the money is gone. That problem the money's gone problem. Well, now, there's this product that's become super popular, frankly, all around the world where and it's becoming increasingly of the product for these type of deals. Where basically the buyer buys an insurance policy. If the seller when they make their their claims, and the purchase agreement breaches them, the buyer doesn't even go and rely doesn't even go and make a claim to the sellers and rely on money put aside for those claims by the seller, instead, it goes to the policy, and only to the policy. And that's what's what's unique. That's the evolution of it used to be that it was just the first source of recovery. Now it's become the sole source of recovery. What's also interesting is, you know, traditionally, this policy was used for bigger deals. But now we're starting to see this policy for smaller deals. What does this really mean a buyer buys a policy for \$5 million of insurance, it costs about \$150,000. Then, then there's also a fee for the, the advisers to do diligence, because the the, the insurance company's going to have its own advisers. So let's say for \$5 million of coverage, it's \$200,000. Often it's split between the buyer and the seller, but it's actually becoming even more so now paid by the buyer as a feature to kind of make it more attractive. And so let's give you this context. Historically, if you had an owner operator do a \$10 million deal. It wouldn't be unusual for them to put five to 10% of their purchase price in escrow, so half a million to a million dollars. The rep & warranty insurance policy allows them not to have to put any money in escrow so get all their money at closing? Well, there's a potentially what's called the deductible because these policies have a deductible to or which tends to be 1% of the purchase price. But the nice advantage of these policies is why it's now an alternative source of recovery, so that the seller doesn't have to worry about claims. Two, In the old days, the seller had to put money in escrow because of course, you know, the buyer had a claim they were worried about the seller running away with the money. Now it makes deals easier to negotiate because now for sellers sees that a buyer can go after insurance instead of going after them. Right, you can see they negotiate the reps a little more lightly, whatever the word is more we like to say to the buyer, who has a rep or warranty insurance policies do for more fulsome reps from the seller. Because right the seller doesn't have to worry, they're not going to ask them to sell now they have to go after the policy. And that's no policy in this market. And I'll show you how popular

it's becoming. It's becoming the sole source of recovery for all general reps. And even now, for fundamental reps. So traditionally, in these policies, we limited to general reps. So that for general reps, you can only go after the policy for fundamentals, for example, seller doesn't own the shares, you can still go after the seller. But the evolution of this product is that now a lot of people in the market are relying solely on the insurance for any claim against the seller.

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Steve Divitkos 43:11

Yeah, and I will say that as somebody who used rep and Warranty, so I use rep and warranty insurance in selling my company and three points that you mentioned, represent benefits that ultimately accrued to me. So first of all, a much smaller percentage of the purchase price held in escrow the the only amount that we held in escrow was the amount that we thought might be needed to fund the working capital adjustment a month or two after close so more money upfront like you said, number two, just like a negotiation process with a lot less friction around the reps and warranties you said, you know, accurately reps and warranties can be 40 pages of a 70 page agreement. I found that relative to my experience buying a business this negotiation was a lot faster and kind of cleaner because we knew that the insurance policy was kind of underlying the negotiation so to speak. And then lastly, I'd say for selling CEOs there is a certain sleep at night factor that you know can't be ignored. Knowing that there is a safety net if I can loosely use that term behind your reps and warranties there is just a certain sleep at night factor that I found to have value as a selling CEO

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Mario Nigro 44:28

You brought out one of the things that made the policy the most attractive to seller it wasn't originally intended that way but we but it kind of makes sense the which is when kneel before rip are warranted because we do a deal we have what's called fundamental lapse. And of course they they lasted forever. They were fundamental they were of such a nature that there'll be a fight about what a fundamental rep is. But often, you know things like tax or there would be certain Multiple key elements of of a business that you'd have to stand behind forever. Of course, you know where this is going to go. And owners used to say, wait a minute, it means I'm never going to get comfortable with my money because you could come after me, what? 10 years? 20 years? Yes, that was the idea, right? If you if 20 years from now somebody comes and says you never own the business is 20 years from now revenue Canada comes and says, you know, you have this, you already took an aggressive tax position. And I want to, you know, \$10 million. Yeah, we can come after you. So owners always say, Well, I can never sleep a night now. So do my business, but I can never enjoy my money because I don't know if you're gonna come and we're back. Right? That was risk was very small. But it turns out where the policy has been very attractive is getting over that hump, where especially the way it is now. Which is, you know, you can say to a seller, alright, so tell you what, you could walk away, we call it a walk away policy, you could walk away, you know, you could literally walk away with no liability after closing. Now, obviously, other than fraud

S**Steve Divitkos 46:07**

Yeah, that's right. It moving on to kind of the deal process itself in the kind of small to medium sized business market, as you've alluded to, either the buyer or the seller, at times can look across the table and see unsophisticated legal counsel. Now, in your view, if you're selling a business, when you're dealing with a buyer who has unsophisticated counsel, or if you're buying a business, and you're dealing with a seller, who has unsophisticated counsel, a) should you think about that as a good thing or a bad thing? And b) regardless of the answer, what are some of the best practices that you've learned, in your personal experience when dealing with less sophisticated counsel on the other side of the table?

M**Mario Nigro 46:54**

The difficulty with unsophisticated counsel is that they get caught up with issues in our marketplace that we would normally not consider deal issues or they want to resolve an issue that's outside of what we would call market, typical way of resolving an issue. And, and effective deals are done by staying within market. And what is my market is just, you know, years of experience, we don't have a lot of transparency in our marketplace. But there's some studies about typical terms for deals of this size, the nature industry, and we all try to kind of play with what's the unit, you hear it a lot in our world, these are market terms, markets, and you say, Well, why market terms? Why? Because for those of us who work in the space, if I give you market terms, then I kind of discipline you to give me back market terms. So we negotiate but within a bandwidth that's kind of accepted. Because if we don't do it, that way, we get into the problem of dealing with somebody who isn't used to market or is it hasn't used deal terms, the way we often use them in terms of repair, repetition and seeing a lot. And what they do is they bring out points where you're like, that's not in market. And of course, the tension like anything is, once you get outside of market, you're in the wild west, anything goes everything takes longer, and people start to get ground down, you know, the number one way a deal will die is just let it take so long that it dies a slow death. You know, it's not because people disagree. People think deals die because they don't they die because they take so long, people just get the recipe and and they give up. It's understandable, especially for an owner operator, he's got to run his or her business, right at some point to kind of just say, look, I gotta get back to my company, this is taking too long, you know. And that's where, you know, a lawyer doesn't do enough of this doesn't have that experience to be able to drive the deal forward. And, you know, I always say to my clients when I'm on the sell side, and I get pushback from my clients, because they'll say I want you to fight to the end, you know? And I say no, that's not our job. My job is to get you a deal and keep the money in your pocket. But at the same time, if nine out of 10 times people in this deal, are giving on this term. I'm not going to fight to the end to get to something the nine out of 10 people get nine out of 10 buyers get this term. You know what, five years from now, if you actually breached this kind of typical that you know you would pay for it. It's not a fight to win every point. That's not how we view it. First of all, there's three problems. One that takes too long to they don't want to pay for it. They kind of if you end up doing that, it's it's three, four times the amount of costs. And three, you know, our world is what you give if you get you you push hard, they push hard back, and that's the problem, right? You say I want all these little deal points that are outside of Market. Guess what, What they say fine want to play that game, the buyer comes back to you outside of market because they saw where you went that way. So can I just create a discipline to deal for and in fairness, that lawyer doesn't have a lot of experience doesn't know that we have to manage. So how do we manage it, you have to doubly engage. So often, you know, we don't necessarily get on calls

with the lawyers from the other side, we don't, we don't have you know, lawyers are working away clients or working away advisors or working away on a deal. But when we see that people are starting to go left and right then all over the place outside of where we need to be to get a deal done. You have to spend a lot more time, intense time with reining people in on the phone, working stuff out hash. So let them go. Wild on you, they'll go wild on you, you have to really refocus and make it practical to them. You can't you can't, you know, I would never say to a lawyer doesn't have experience, you don't know what you're talking about. Can't do that. That's not fair. You know what this seller hired their advisor that's important to them, you have to kind of get them on the phone and work stuff out together. Because this is the you This is the we if you can't This is not a finger pointing, you know that they're outside of market, but it's very huge. Any generally try to say that, well, you know, when we do these deals is kind of what we are. But you can't you can't make them you know, about you know what happens? I get defensive to get aggressive to turn back and say you won't be like that. Okay, then you then you're really in trouble.

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Steve Divitkos 51:24

Yeah, you mentioned which I thought was really interesting, which was when you said the number one reason why you've seen deals fall apart is because they just take too long, and all of the parties involved, you know, frankly, just lose altitude, lose steam lose energy, you know, however you want to put it, you know, in my experience, both buying and selling that, you know, acquisitions can fall apart for basically an infinite number of reasons. They could be commercial, legal, financial, economic, whatever the case may be. So in your experience, you know, let's call it post LOI, what are the two or three most common reasons that you've seen deals fall apart? And is there anything that sellers can do to kind of manage those or or I should say, prevent those risks from happening?

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Mario Nigro 52:14

Number one, reason why deals fall apart is it isn't legal. I must tell you, it was elliptic, I was that important? Usually we can work it out. To the point, you know, to kind of full circle Steve to where here we started, right? There's a look at their business, and they see their bottom line, they make assumptions, they don't really test the assumptions, of course, the buyer who's going to pay you a premium is going to test the assumptions. And remember, they're there, they're looking at it from a, you know, GAAP or kind of financial metrics, you know, they're looking for an objective. And it's hard because what when they do their financial diligence, and they and the business doesn't stack up to their metrics, or some issues that arises, it's very hard for a seller to understand that, you know, the nature of their business now, like the some of the fundamentals of their business, a big question. And, and that's where I'd say the number one place for deals die, you know, some of it is completely justifiable, right? The buyer does their diligence and, and discovers that, you know, the revenue stream isn't as secure as it is, or the cost structure isn't as, and, you know, sellers have a hard time with that. You know, people fall in love with their purchase price in an LOI. But they forget that the buyer hasn't done their financial diligence, all their purchase prices based on the financial statements, you gave them a bit of data, they haven't drilled down on all the data points. And I keep saying this to sellers, it's hard for them. So listen, people don't pay you a premium without, you know, prodding you and really pushing you and wanting to make sure this thing is real. And so that I mean,

understandably so the number one issue with that I think people have a hard time with on the sell side is that the purchase price in an LOI way isn't fixed. Yeah, it's strong in the sense of that. It's, it's, you know, it's what the buyer intends to pay, but it's subject to them doing all their work, you know, it's you know what I mean? They don't know what they don't know what the time to do the LOI. So that's the number one thing. The number two thing is days and like I can't tell sellers, what to disclose, but some, some sellers don't want to disclose things. And you know, one of the biggest reasons why deals dies is that there's a broken down trust, and a buyer bases their purchase price, they base the entire rationale for the business, buying the business on trust. If you think about it, I don't know much at this stage of the LOI. They spend months with you, and then all of a sudden a seller, who didn't tell him something has to tell him something because it comes out of the closet buyer finds it out on their own. It's interesting, there's this issue here. Why didn't you bring up? Why don't you tell him? I didn't think it was material, I could tell you what the buyer is going through as the buyer's advisor. They're not even caring about the issue. They're going. Is this a trustworthy person? are they holding out other stuff? Are they not telling me what I need to know. And so, I would say to number two is trust, right? The seller should be like I always say to sell, they say very What should I disclose? Everything, everything, everything, everything, everything I tell you. I say again, you know, the snowplow contract for \$50 a month, whatever. Yes, the grass cutting, the flower person comes in once a week to spray the flower to flower, the flower, yes, you admire feel comfortable that you're giving them full disclosure. If you don't, then they find out later, and they think it was important, they're not going to trust you anymore. Deals died because of a lack of trust. Finally, peculiar enough, Steve, just a quick comment about working capital, is still hard for sellers to understand when they sell their business, they have to sell it with enough money to keep running it sometimes have a hard time getting that figured out. And they say wait a minute, I can suck everything out before closing? Well, no, you're selling an ongoing business, it's got to be ongoing to closing with the expected amount of money that would normally be, you know, amount of working inventory and, and money in the business that would make it a working business. So you're not just giving the keys over, you're giving the keys over of a business that's running the same way you ran it the day before closing, anyway, and they sometimes really have a hard time when they see a buyer come back to them and say there's a working capital adjustment that decreases the purchase price by X amount, because you didn't leave me enough in the business. And deals do die on may actually die doesn't understand that he has to leave or she has to leave a certain amount of capital in the business. And and then all of a sudden their purchase price goes down by 10% or some material amount and they say No way. I'm out here. But in fairness, that's a failure of the advisors. Not to say that this is an adjustment that normally happens in a deal. And that's that's another third reason.

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Steve Divitkos 57:11

You know, it seems as if both the working capital downward price adjustment, and the negative due diligence, surprise, ultimately leading to a purchase price adjustment, you know, if these are two of the three most common reason why what why deals die, it's you know, it's a lot about, you know, changes in price relative to expectations. So I actually heard a really interesting tip from a book I read, which I'll put into the show notes, it said before you get to an LOI and before the purchaser has proposed a price, write down your walkaway price as the seller on a piece of paper, stick it in an envelope and hide it in your you know, in your office desk and don't look at it. And the reason so let's let's use an example. Let's say it's \$15 million, and then the LOI comes, and actually the purchaser has proposed \$20 million. So you have \$5 million of upside surprise, you signed the LOI 20 million, then the purchaser does more diligence and says hey, there's a tax liability that we weren't aware of, actually, we're going to revise the price down to 17. Now, if a business owner is kind of unprepared, they be very upset, because now their mind is anchored on 20 and 17 is 3 million less than 20. However, a simple tool as simple as going back to your walkaway number in your desk will show you that hey, when you were thinking clearly and you had no cognitive biases and you weren't anchored on a number proposed by somebody else, you said that you would accept 15. 17 is actually higher than 15 this is still assuming it's a reasonable request from the buyer. This is still something you should accept so a tool as simple as that I thought was really interesting because you know these negotiations are so personal they're so exhausting. They're so tiring that it's very easy to get anchored on a number like 20 even though six months ago you would have been happy with 15

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Mario Nigro 59:16

A fundamental of deals is an owner operators sees the number in an Li gets gets hooked on it. And then number one issue for an owner operators how much money on getting at closing. If they think they're getting one thing when they sign the loi they're getting another thing when they close. It has a huge huge impact on whether they do the deal or not huge.

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Steve Divitkos 59:35

Another thing that I know sellers are often particularly of small and medium sized businesses, they're worried about, hey, when I sell my business is the acquirer going to terminate my employees often the seller has a relationship with these employees. They want to make sure that they're taken care of but when you look at it from the buyers perspective, you know buyers let's assume a share sale they inherit the employment contracts of the existing employees, you know, most of the time and also the liabilities associated with those employment contracts. So for example, if your company have 30 people, the average tenure is 15 years of employment, that's a lot of employment liability that the buyer is assuming. So some buyers might try some kind of creative structuring or creative mechanisms to eliminate that risk for them. So for a CEO who's considering selling, and they're worried about the buyer, them in such a way that they want to actually terminate their employees without actually disclosing that that's their intent, is there anything that sellers should look out for any kind of tricks that buyers might play, or any kind of curtains that they might hide behind that might actually show their intent?

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Mario Nigro 1:00:48

Steve sighs as a, you know, take a step back, if you are selling your business to a buyer, I mean, they, they believe they're paying, you know, probably a premium to be able to control the business. And so there's a tension, the fundamental tension to say, after closing, I can do what I want. With with the issue you're talking about, I care about my employees, I want to make sure they're taken care of. There's some mechanical ways to do this, we could put in a purchase agreement some some some covenants that the buyer makes not to terminate people for a year. Notice, I didn't say five years, because the buyers never gonna agree they're gonna say, wait a minute, my business post close. But a lot of times, buyers will be willing to make what I call soft covenants, loss commitments to say, for a period of time, I'll leave the employees the way they are. What I would say to sellers, is, look, if you really care about your employees at this, and you're worried about what happens to them, you really got to spend time with the buyer to understand their vision for the business. And that's the only way you're going to get what I would call the real truth out of a buyer, but what their plans are. So give me an example. You can, you can imagine, if a buyer has already operations in Canada, and they're This is what's called a bolt on, they're adding this company to their current operations, you kind of have a pretty quickly an assumption that there is going to be, you know, some rationalization, right? Like they got to a different offices, they got two different staff doing the same thing. Frankly, that's part of the justification for paying the purchase price, because they're going to have savings by bringing them together. So I would say to people, you know, who are looking at a buyer in a sales process and trying to figure out how are they going to take care of my employees? One, you could put something in a purchase agreement. But and be honest with you that you can't you can only do so much, right? You know, they are the owners of the business post close is their business, they paid for it, they paid a premium for it. So you can do a little bit there. But you know, there's, there's a lot that goes on before deal is done in terms of conversations and relationships between a seller and a buyer. And oh, and there's management presentations. And there's no I always say this, the sellers, they say, you know, spend time with the buyer, look deep into their eyes, find out what they want to do with this, you know, credible business you've created and make sure you're aligned in their vision and their strategy and their approach.

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Steve Divitkos 1:03:09

Let's let's move on to post transaction. You know, a non compete is pretty standard part of any sales process and something that selling CEOs should expect to see as one of the negotiated agreements in an exit. What are some key terms that selling CEOs should keep their eyes out for when when signing a non compete? And Are there any kind of general areas that let's say you've seen CEOs agree to certain terms that they later come to regret agreeing to generally what should CEOs keep an eye out for when evaluating a non compete?

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Mario Nigro 1:03:48

I think the first thing to do is get understand is your premium for your business, right? They're not they're not buying book value, right? They're buying a premium. You know, I have a right to tell you not to compete against me not to be involved in this business, that's what I'm paying for they look they look at their purchase prices, including a right to tell you not to do anything in this space. And so, you know, as a starting point, I always say to sellers, you know, you should be prepared to go to market to give a five year non compete because the buyers paying for it, because I think there's no you know, you get owner operators, especially these days a lot of owners selling earlier than you know, in the olden days, they'd sell it, you know, at a lot owners in their 60s or 70s. But now with the tech and all the tech or new owners in their forties and they're like, wait a minute, I have some ideas about things I want to do, frankly, the reason why I'm selling this to the entrepreneur, something else and I say Look, that's fine. That's okay, we could build that into the process you want to carve up if there's something specific you want to do. That might be you know, tangentially related to the business, let's just disclose it, let's be honest and open. But if you don't disclose it early on, then don't expect later a buyer to kind of give it to you

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Steve Divitkos 1:05:11

Yeah, and I would just say, in my own experience, like, you know, from a seller's perspective, as you correctly point out, you have to understand appreciate that the buyer kind of needs a certain level of comfort, and there are certain standard things that I think you should expect. So non solicit clauses, meaning that, you know, you're not going to try to take employees, or you're not going to try to take customers post close, I would say a couple areas that at least present some room for negotiation is, of course, the length of the non compete, it could be three years, five years, 10 years, could be in perpetuity, I mean, this is a negotiated transaction. So theoretically, anything's possible. But I would say the two areas in my non compete that that I paid a lot of tension to was number one, the scope of the area, within which I was no longer able to compete. So for example, in in my instance, I'm no longer allowed for the next five years to operate within a particular vertical of the software market, but it doesn't mean that I can never work in any software vertical. So you know, how do you define this scope of the area in which you can no longer compete? And then also, what are the things that you're no longer allowed to do? So if you're not allowed to found another company? Can you be an advisor? Can you be a board member? Can you be an investor, these things are all negotiated. But those are two areas for me that I think CEOs should pay attention to. Because they do present, I would say, a bit more gray area than something like a non solicit clause.

M**Mario Nigro** 1:06:53

Well, though, you hit on the key points, you got to bring those points up early, you got to be clear, and you've got to, you've got to be precise. You know, I've seen owner operators, try to get carve-outs to non competes that are too generic, and they just scare a buyer. You know, if you're getting too close to the boat, buyer is going to say, What am I paying for sounds like you're gonna come after me, right? That's what they start thinking. So, you know, for those sellers who want to keep in the space, be specific, like you said, be detailed, and tell people. People challenge, okay, if you're not, if you're not competing in an area that goes to the core revenue, if you want to do something, but it's really not material or it's not going to, you know, ultimately go into like, what are they? What is the buyer worried about, you're going to have to core revenue, you're going to hinder their growth, you're going to you're going to hyphen off stuff, is allowing you to frame it in a way that's not going to do that. But again, don't bring it up at the end. A lot of times I say it's always, like, if you're bringing it up at the end, something's wrong, because it creates a perception that you're holding out on something. I agree with that. Like, it's kind of weird. If you really wanted to do something that in this space, and you bring it up a few weeks before closing, it kind of makes buyers very nervous. So bring it up early, be clear, do your homework and say to a buyer, this is what I want to do. This is what I'm looking for. Are you on board?

S**Steve Divitkos** 1:08:17

So last, last question for you, Mario, before we conclude, it's a bit of an odd one. But hopefully, you can think of an answer if you could shout, one thing from the proverbial mountaintops. And every entrepreneur and CEO of every small and medium sized business in the world could theoretically hear what you've said and fully digest it. What What would you say and why?

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Mario Nigro 1:08:41

And, Steve, what I love about some of the stuff, you know, we've known each other for many years, what do you what are you focused on and I know you and I have talked about this, which is creating educational forums for owner operators, CEOs of SMBs to have data points, knowledge. One thing we don't have in Canada, in the lower middle market in the middle market spaces is enough information for owner operators, right? There's in the US, they have a slew of like, it's incredible. There's so many different arms because it's a bigger market and they just do more deals, generally speaking. And I would say to owner operators that the best thing you can do in this space is look out for like minded people who are because it's not a big community, you really got to go out look for them, and learn from them because there is no 101 course. You know, I mean, you're doing some great stuff, Steve, to kind of add, you know, education and innovation and ideas to the market. I mean, that's the reason why you're doing this. That's why you and I do what we do, right. We try to get out there and give owner operators the tools and I would say to owner operators, There is no one place to go, which means you kind of got to go and build on a network. You know, what's one of the things I say to owner operators are looking at selling is one thing you got to start doing now is start talking to other sellers, people who sold before you, it's a community, it's out there, you got to find that you and ask your friends, I mean, you're in the bay, ask your advisors, I want to, I mean, I've done that. My clients have said, Listen, I'm some my business, can you introduce me, you know this? What do you think I just talked to some other sellers, I'll introduce you to some, they'll be happy to talk to you, it's a small community, knowing what they went through is huge for you. And you can do enough of that talk to, and frankly, every advisor will talk to you for free to give you some ideas, do your own, almost create your own educational course, go out there, start taking notes learning be always learning, because the sad part is there is no place you can go for a course, you gotta go roll up your sleeves, get in there. And people sometimes underestimate how many people they know who can add valuable advice on selling a business. You know, I was saying, your commercial banks or your lawyers, your accountants, people, you know, your friends, if you say to them, thinking about ideas that people I can tell the number one thing you should be doing is talking to other people who've done it, and who are working in this space, and asking them and then what you do is you start to see a threat. You're looking for the threads, right? Where people started telling you similar things. Okay, you know, I've talked to a lot of people that all seem to say the same thing, I must be on to something here. That's how we all learn. That's what market is. And that's what I recommend owner operators do. You should not be talking to people, the day you want to be selling your business should be talking to people years before you want to sell your business and building up a network and relationships include supports, and it's going to make this so much better, and it's going to protect your assets so much better.

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Steve Divitkos 1:11:58

Yeah, so true, especially because, you know, most entrepreneurs will only ever Sell a Business once in their life, if they're lucky. So almost everybody, by definition is inexperienced, and the most expensive mistakes you can make are mistakes that you make firsthand, might as well learn from other people's mistakes instead of your own. And of course, as you stated a few times already in our conversation today, start early. Start well before you ever contemplate selling, even if you're never contemplating selling, you should still operate the business as if you are. Mario, thank you so much for your time and for your experience today. We really appreciate it.

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Mario Nigro 1:12:41

Steve, thank you for having me. And thank you for all the work you're doing to really raise the flag for the community. It's just really appreciated. And like I said, it's still think there's enough data points and information for CEOs and owner operators in the lower middle market in the middle market and the more that you do, the more I can help solve. So thank you.