

PEOPLE MOVES

Michael Weinsier Joins Pryor Cashman As Co-Head of Private Equity Practice

By Robin L. Barton, *The Hedge Fund Law Report*

Michael Weinsier has left Troutman Sanders to join Pryor Cashman's New York office as a partner and co-head of the private equity (PE) practice. In addition to Troutman Sanders, Weinsier previously worked at Hughes Hubbard & Reed, where he chaired the PE practice for 10 years.

For commentary from another Pryor Cashman attorney, see our three-part series on closing a hedge fund to outside investors: "[Factors to Consider](#)" (Jan. 21, 2016); "[Operational Considerations](#)" (Jan. 28, 2016); and "[Mechanical Considerations](#)" (Feb. 4, 2016).

At Pryor Cashman, Weinsier will continue to represent a wide range of PE funds, family offices and other financial sponsors, as well as their portfolio companies. Mergers and acquisitions (M&A) comprise a significant part of Weinsier's transactional practice, in which he represents PE sponsors, as well as public and private operating companies, including strategic buyers and sellers.

See "[Anatomy of a Private Equity Fund Startup](#)" (Jun. 22, 2017).

Being a member of the American Bar Association's PE and venture capital committee and the M&A committee has allowed Weinsier to stay on top of market trends, he said. For example, he observed that business valuations remain very high and, in the case of private companies, are often understated from the levels reported by buyers due to the ways in which they calculate the earnings multiples actually paid. "There continues to be a lot of money on the sidelines looking for and chasing after quality assets, and the demand exceeds supply," he noted. "It is still very much a seller's market and the competition is fierce, so it is tough for sponsors to find quality businesses at a price point where their risk-adjusted target rates of return on invested capital are reasonable."

One trend driving valuations is the increased use of competitive auctions. "Years ago, a deal had to be a decent size for it to warrant a competitive sale process managed by an investment banker," explained Weinsier. "Now, even small businesses are routinely being sold through banker-

managed auctions." As a result, PE sponsors are struggling more than ever to source deals on a proprietary basis to avoid that competitive process. He noted that firms are now hiring seasoned, partner-level business development people to pursue proprietary sourcing deals and otherwise generate new investment opportunities for the sponsor.

Pressure for co-investment opportunities for limited partners (LPs) is another trend Weinsier has observed. "More LPs want the right to co-invest with PE sponsors and have certain portions of their PE-invested capital go directly into deals either free of the '2-and-20' fees charged by PE sponsors or at least subject to significantly reduced fees," he remarked. "So, more sponsors are under pressure to offer their LPs co-investment options as part of the sponsors' upfront fundraising process for their new funds."

For more on issues related to co-investment opportunities in PE funds, see "[Private Equity in 2017: How to Seize Upon Rising Opportunity While Minimizing Compliance and Market Risk](#)" (Jun. 8, 2017).

A further trend identified by Weinsier is what he calls "longer holds." "Suppose a PE fund has a quality asset that is performing well," he explained. "While the fund might typically cash out of that investment, it instead opts to continue to hold onto that asset and further build the portfolio company's business with a view toward generating a successful investment return out of that asset over a longer period than it would have in the past." After all, there is no guarantee that the next business the sponsor acquires is going to perform as successfully as the one the sponsor may currently own, particularly with the high valuations that new acquisition targets are commanding, he noted. "Plus, you will never know a new business as well as the one you have already successfully owned, operated and intimately lived with for years," he added.

Toward that end, Weinsier said he has seen more PE funds include mechanisms that allow them to extend the PE funds' lives a little longer than in the past. Those mechanisms may

include single-year extension periods that can be exercised on multiple occasions or, in some cases, potential multi-year extensions. “Rather than being forced to exit an investment that is doing well or at a time that may be a bit premature, these extensions give PE funds the ability to follow an investment through to fruition, plus enjoy successful returns over a longer period,” he explained.

In M&A deals, Weinsier has also seen an increase in buyers’ use of representation and warranty insurance. “PE firms were at the forefront, which gave them an advantage by making them more nimble and able to get deals done more quickly and on a more seller-friendly, limited or even non-recourse basis than strategic buyers, who much less frequently use that type of insurance coverage,” he observed.

“There is some cost associated with procuring that type of insurance policy, but it enables financial buyers to narrow the strategic gap from the price advantage that strategic buyers typically enjoy,” noted Weinsier. “As more insurance companies have begun offering representation and warranty policies, the market has matured and become more competitive, with policy prices coming down and a now-developed claims history providing comfort to those procuring coverage that carriers will pay valid claims when asserted.” He added, “The downside for PE sponsors, however, is that strategic buyers are now more willing to utilize that insurance coverage in their deals.”

For more on the types of insurance available to fund managers, see [“How Recent Data Breaches Have Affected the Cyber Insurance Market for Fund Managers”](#) (Aug. 3, 2017); and [“What D&O and E&O Insurance Will and Will Not Cover, and Other Hot Topics in the Hedge Fund Insurance Market”](#)