

Private Equity

Kelley Dye's Private Equity group represents private equity, venture capital and other private investment firms investing in or acquiring portfolio companies, as well as companies seeking capital from such funds. The firm has done extensive work for major private equity firms, yet is equally respected for its deep involvement with early-stage companies that benefit from the group's venture capital and private equity track record and current-market experience. Kelley Dye's team is known for its keen business sense, responsiveness and superior quality. Your matter is handled cost-effectively through the firm's attention to staffing transactions and engagements with an optimal mix of partners, associates and paralegals. Importantly, the firm's partners stay involved in your matters consistently to resolve issues and accelerate progress. In pursuing your goals, Kelley Dye brings broad industry experience to bear, including biotechnology, clothing and apparel, computer software and hardware, entertainment, financial services, health care, information technology, insurance, media, medical devices, pharmaceuticals and telecommunications.

Kelley Dye has handled a multitude of transactions for major private equity firms such as DLJ Merchant Banking Partners/Credit Suisse Private Equity, Tailwind Capital Partners, Thayer Capital Partners, Nokia Venture Partners, BD Ventures, ProQuest Investments, Hudson Valley Capital Partners, KB Partners and Cardinal Growth, among others, as well as for the companies themselves. The firm's services include the following:

- **Investments** – Representing private equity and venture capital firms or early-stage and more mature companies in structuring, negotiating and closing investments, the firm works with clients from nondisclosure agreements, letters of intent and term sheets to stock purchase, investor rights and stockholder agreements and preferred stock charter or limited liability company documents to ancillary agreements and closing documents, typically with a team of one partner and one associate involved at every step along the way.
- **Acquisitions** – Representing private equity firms or selling entities and stockholders in structuring, negotiating and closing acquisitions, including various types of debt financings in connection with such acquisitions, the firm works with clients from nondisclosure and exclusivity agreements and letters of intent to stock purchase, asset purchase, merger and recapitalization agreements to ancillary agreements and closing documents, with a partner actively engaged throughout the entire process. Even after closing, the firm's attorneys stay committed to the success of the transaction, advising clients with respect to tax filings, post-closing adjustments and earn-outs, transaction agreement compliance and business and personnel integration.
- **Portfolio Company Representation** – Representing companies post-investment or acquisition, the firm advises management teams and private equity firm professionals in connection with a wide range of legal matters, bringing to bear the firm's broad experience in any industries in which such companies operate. Drawing on Kelley Dye's strengths in other practice areas, the Private Equity group assists clients who face issues involving areas of the law such as advertising, antitrust, employee benefits, environmental, financing, insurance, intellectual property, labor, mergers and acquisitions, real estate, securities, tax and trade regulation.
- **Exit Strategies and Execution** – Helping clients plan and execute exit strategies, whether by merger, sale, strategic alliance, recapitalization or public offering and subsequent sale or distribution of

portfolio securities, the firm's attorneys are better able to provide practical guidance due to their understanding of the motivations and desired protections on both sides of such transactions.

- **Fund Formation/Investment** – Representing private investment fund sponsors or institutional investors in connection with fund formation and investments, the firm helps clients structure investment vehicles to optimize their tax and investment goals by drawing on the firm's proficiency in corporate, securities, mergers and acquisitions, tax and pension regulatory matters.

Kelley Drye's clients expect and receive real-world business approaches and proactive analysis, in addition to document drafting and review. From "idea" through "exit", the firm stands ready to offer comprehensive legal advice and practical guidance.

Representative Clients

BD Ventures, the venture capital arm of Becton Dickinson
Cardinal Growth
DLJ Merchant Banking Partners/Credit Suisse Private Equity
Hudson Valley Capital Partners
KB Partners
Nextec Investments
Nokia Venture Partners
Open Prairie Ventures
ProQuest Investments
Tailwind Capital Partners
Thayer Capital Partners
The Frankel Group

Experience

Representation of various private equity investment affiliates of **Credit Suisse**, including Credit Suisse's principal private equity arm, DLJ Merchant Banking Partners, in various investment, acquisition and divestiture transactions, including:

- Representation of DLJ Merchant Banking Partners in connection with the leveraged acquisition of The Service Companies, Inc., a janitorial services company, and affiliated companies.
- Series of lead investments in VivoMetrics, Inc. (f/k/a LifeShirt.com, Inc.), a patient monitoring device company, including additional rounds of bridge financings and a recapitalization.
- Leveraged acquisition of Thompson Publishing Group, Inc. and affiliated companies (with MidOcean Partners, LP) a publisher of various publications and developer and operator of audio and Web conferences for the legal services industry.
- Sale of Credit Suisse Private Equity's interest in Thompson Publishing Group, Inc. to Avista Capital Partners, a New York-based private equity fund.
- Series of lead investments in Sentient Jet, Inc. (f/k/a eBizJets.com, Inc.), a private jet membership company.
- Series of lead investments (with NorthCastle Partners) in CRC Health Group, Inc., a behavioral healthcare company, and acquisition by CRC of National Specialty Clinics, Inc., a national owner of methadone clinics.

- Series of lead investments in American Biophysics Corp., maker of Mosquito Magnet biting insect traps.
- Co-investments in:
 - Raymedica, Inc., a prosthetic spinal disk manufacturer.
 - Totality Corp. (f/k/a MimEcom Corporation), a systems management company.
 - Convergent Technologies, Inc., a provider of packet-based infrastructure products for telecom carriers.
 - Pluris Networks, Inc., a developer of Internet routers.
 - eMed Technologies Corporation, a provider of image management, teleradiology and Web technologies for radiologists.
 - Network Elements, Inc., a developer of optical networking modules.
 - Oxagen Limited, a U.K. provider of genetic data (U.S. counsel).
 - Arriva!, a developer of maintenance systems for Internet networks.
 - Multiplex, Inc., an optical components and subsystems supplier.
 - Keystroke Technology Solutions, Inc., a lending technology company.
 - Medivance, Inc., a developer of therapeutic temperature management systems.
 - eGenera, Inc., an Internet data center company.

Representation of **Den-Mat Holdings, LLC**, a DLJ Merchant Banking Partners portfolio company, in connection with a distribution, license and manufacturing arrangement with Remedent, Inc., a provider of oral care and cosmetic dentistry products.

Representation of **RathGibson, Inc.**, a DLJ Merchant Banking Partners portfolio company, in the acquisition of Mid South Control Lines, Inc., a provider of specialty metal tubing products to the oil and gas industry.

Representation of **Tailwind Capital Partners LLC**, in connection with various buyouts and investments in the healthcare, technology and business services, and media and communications industries, including:

- Co-investment (with Telegraph Hill Partners) in Freedom Innovations, Inc. and Applied Composite Technology, Inc., companies specializing in the design and production of prosthetic devices.
- Investment in PetMedicus Laboratories, Inc., a specialty pharmaceutical company created to develop and commercialize medicines for companion animals.
- Leveraged acquisition of VersaPharm Incorporated, a pharmaceutical development and marketing company.
- Leveraged acquisition of Aircast Incorporated, worldwide manufacturer and distributor of healthcare

devices for orthopedic injuries.

- Sale of Aircast Incorporated to dj Orthopedics.
- Leveraged acquisition of Trover Solutions, Inc., a NASDAQ-listed provider of insurance subrogation outsourcing services.

Representation of **VersaPharm Incorporated**, a Tailwind portfolio company, in the acquisition of the generic drug business of Allan Pharmaceuticals.

Representation of **Hudson Valley Capital Partners, Inc.** (an LBO group), including:

- Leveraged acquisition of Helmac Products Corporation (now known as The Evercare Company), a manufacturer and distributor of home and clothing care products.
- Leveraged acquisition of Advanced Duplication Services, Inc., a manufacturer and distributor of outsourced compact disc, diskette-duplication and fulfillment services.
- Leveraged acquisition of Techno-Aide, Inc., a manufacturer and distributor of accessory products for the medical imaging market.
- Acquisition of retail business of H.B.D., Incorporated (a home care products company) by The Evercare Company.
- Acquisition of Provac Disc Media Corp. (a manufacturer and distributor of DVD and VHS products and services) by Advanced Duplication Services, LLC.

Representation of **Becton Dickinson and Company**, a medical device company, and its venture subsidiary **BD Ventures LLC**, in connection with various investments, co-investments and potential investments in the healthcare area, including representation as lead and co-lead investor in various companies, and advice and representation with respect to "down rounds".

Representation of **ProQuest Investments** funds, healthcare venture funds (with an emphasis on oncology-related areas for Funds I and II), including:

- Formation of ProQuest Investment II, L.P. and its affiliate fund and formation of ProQuest Investments III, L.P. (currently in fund-raising).
- Lead investment in Optimer Pharmaceuticals, Inc.
- Lead investment in ActivX Biosciences.
- Lead investment in Cypress BioScience.
- Lead investment in Palatin Technologies.

Representation of **BioDevelopment Ventures, L.P.** (in fund-raising), a drug development venture fund.

Representation of **Cross Atlantic Partners** as lead investor in a liver cancer drug development company.

Representation of a large hedge fund, including a series of debt investments in Preferred Retreats and Distinctive Retreats, a vacation membership company.

Representation of **Warburg Pincus LLC** in connection with co-investments in **The Feedroom Inc.**, a broadband news network company, and other matters.

Representation of **KB Partners LP**, including:

- Lead investment in Corona Optical Systems, Inc., including a “down round”.
- Lead investment in NetRegulus, Inc., including several additional rounds of bridge financings and a “down round”.
- Lead investment in Cobotics, Inc.
- Lead investment in Exact Technologies, Inc.

Representation of **Cardinal Growth LP**, including:

- Lead investment in a bridge financing for TWG, Inc., an insurance commission finance company.
- Additionally, KDW represents various portfolio companies of Cardinal, including DMS Group, Inc., a direct marketing services company, National Data and Sales of Chicago, Inc., a marketing fulfillment company, Municipal Sewer Services, Inc., a sewer cleaning company and Concourse Communication Group, LLC, an independent wireless infrastructure for quasi-governmental facilities company.

Representation of **Transervice Logistics Inc.** and its affiliates ("Transervice") in the sale of a controlling interest in Transervice to The ZS Fund L.P., a New York-based private equity fund.

Representation of the owners of **CJ&M Transport, Inc.**, an automotive transportation company, in the sale of the company to Innovative Equity Partners, a Wisconsin-based private equity fund.

Representation of the owners of **GenServe Inc.**, a company specializing in the service and repair of generators, in a sale of the company to Anvil Capital L.L.C., a New York-based private equity fund.

For further information about Kelley Drye's Private Equity practice group, please contact:

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