



Monday, October 20
11:00 am-12:30 pm

102 Anatomy of a Private Equity Sale

Jason M. Apple
Senior Vice President
Houlihan Lokey

Dave DiFranco
Principal
Blue Point Capital Partners, LLC

Steven J. Olechny
Vice President and General Counsel
Barriersafe Solutions International, Inc.

Richard Veys
General Counsel
Powermate Corporation

Faculty Biographies

Jason M. Apple

Jason Apple is a senior vice president in Houlihan Lokey's Chicago office, where he is a member of the financial sponsors coverage group. Houlihan Lokey, an international investment bank, provides a wide range of services, including mergers and acquisitions, financing, financial opinions and advisory services, and financial restructuring. Mr. Apple has nearly two decades of corporate finance, valuation and private equity experience.

Before joining Houlihan Lokey, Mr. Apple served as a senior manager in the financial advisory services practice of Deloitte & Touche in Chicago. Before that, he served as the director of mergers & acquisitions for a publicly traded software company. He also has several years of private equity experience working for Sam Zell's Equity Group Investments, where he was responsible for conducting financial modeling, investment due diligence, and industry analysis for a billion-dollar buyout fund and for a wide range of public and private companies in the manufacturing, services, and healthcare industries. He started his career as an analyst for the valuation services group at Price Waterhouse in Chicago, where he worked with various manufacturing and consumer products companies.

Mr. Apple graduated from Northwestern University and received his MBA from Northwestern University's Kellogg School of Management.

Dave DiFranco

Dave DiFranco is a principal with Blue Point Capital Partners, LLC.

Prior to joining Blue Point Capital Partners, Mr. DiFranco was a founder of a start-up company that worked with Carey International, the world's largest limousine company, to consolidate the aircraft charter industry. Mr. DiFranco also spent several years in middle market corporate banking at Bank One and in investment banking at McDonald Investments and Salomon Smith Barney.

He serves as a director of Callison Architecture, Dispatch, Dri-Eaz, and WDC Exploration.

Mr. DiFranco holds a BS from Boston College and a master's from Vanderbilt University.

Steven J. Olechny

Steven J. Olechny serves as vice president and general counsel of BarrierSafe Solutions International, the parent company to Microflex Corporation (an Inc. 500, "fastest growing

companies in America" recipient), Foodhandler, Inc., the leading food safety provider and MicroActive Corp., a developer of antimicrobial product solutions. Mr. Olechny's responsibilities include corporate secretary, board of directors, international law, employment, customs, FDA regulatory, intellectual property and mergers & acquisitions. Mr. Olechny has seen the company through several recapitalizations, acquisitions, and a dramatic extension of the brands throughout the world.

Prior to joining the Microflex team, Mr. Olechny was deputy general counsel for The Timberland Company (NYSE), assistant general counsel for United Technologies Corporation (NYSE); and in private practice as a litigator.

He serves on the board of directors of the University of Nevada's College of Business Administration, the law department purchasing consortium, and is the national chairman of ACC's Small Law Department Committee. Mr. Olechny is a frequent speaker at the ACC.

Mr. Olechny is a graduate of Cornell University School of Law and Vassar College.

Richard Veys

Richard Veys has been an in-house lawyer for over 20 years, most recently as general counsel for Powermate Corporation. Powermate is a consumer products company based in Aurora, Illinois. Formerly part of Sunbeam Corporation, Powermate was acquired by Sun Capital Partners in a leveraged private equity buyout in 2004.

Before that, Mr. Veys held senior in-house positions with several companies, including A.T. Kearney, XL/Datacomp (an affiliate of Storage Technology Corporation), and NCR Corporation. He began his legal career with the Chicago-based law firm of Ross & Hardies (now McGuire Woods).

Mr. Veys is an active member of ACC. He was an officer and director of ACC's Chicago chapter in and is currently secretary for the small law department committee.

His undergraduate degree is from the University of Nebraska-Lincoln, and he received his law degree from the University of Illinois College of Law.

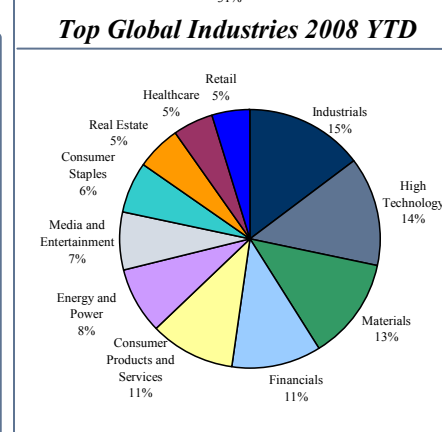
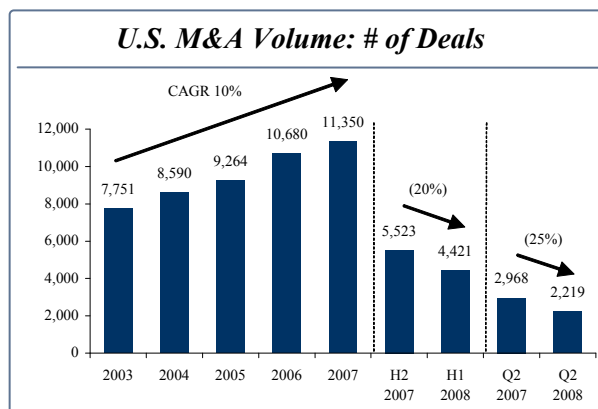
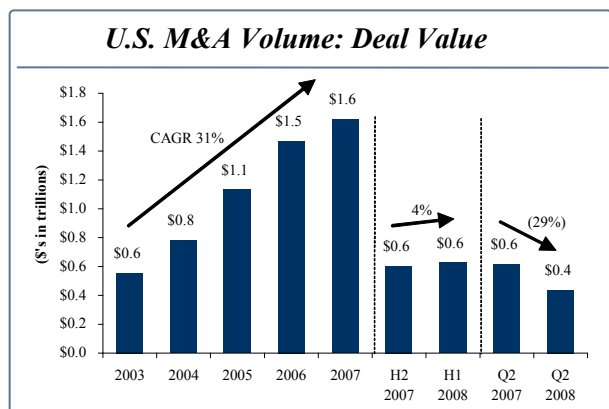
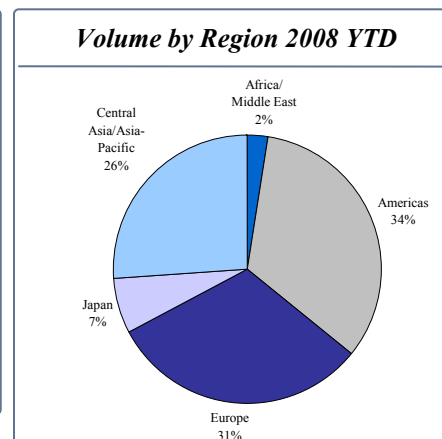
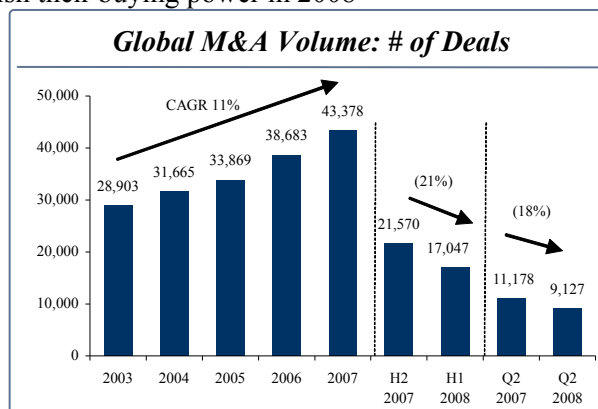
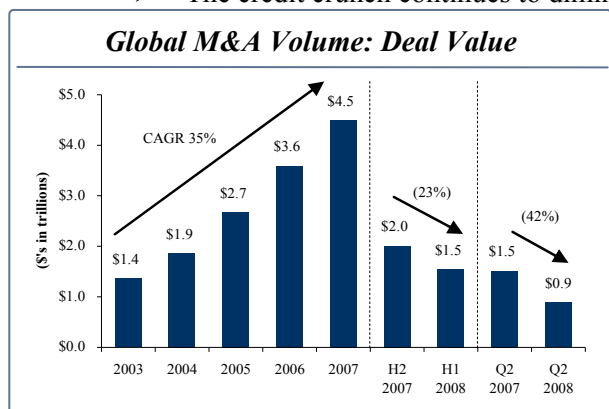


Private Equity Market Overview

Strong M&A Activity in 2007 but Slowing in 2008

❖ U.S. deal volume in 2007 was driven largely by LBO shops who purchased \$400BN of U.S. assets. U.S. LBO volume was significantly lower in 1H08 at \$70BN versus \$70BN in 2H07

➤ The credit crunch continues to diminish their buying power in 2008

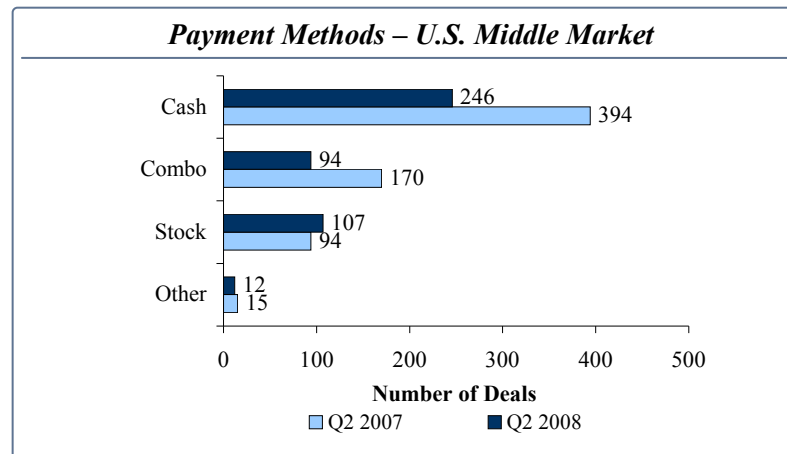
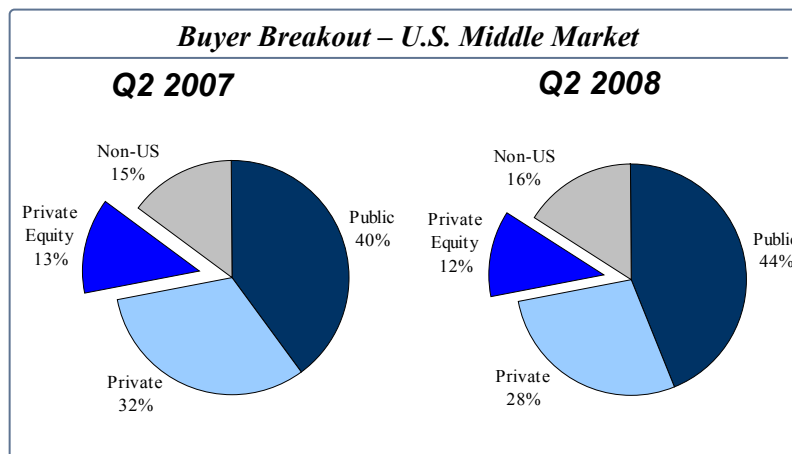
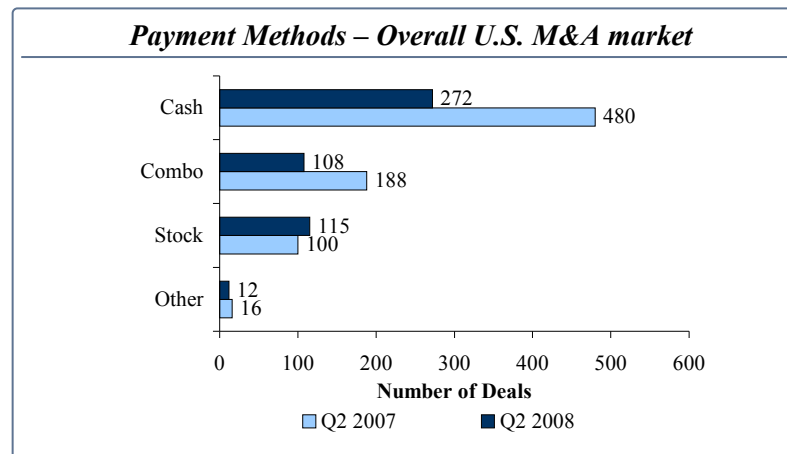
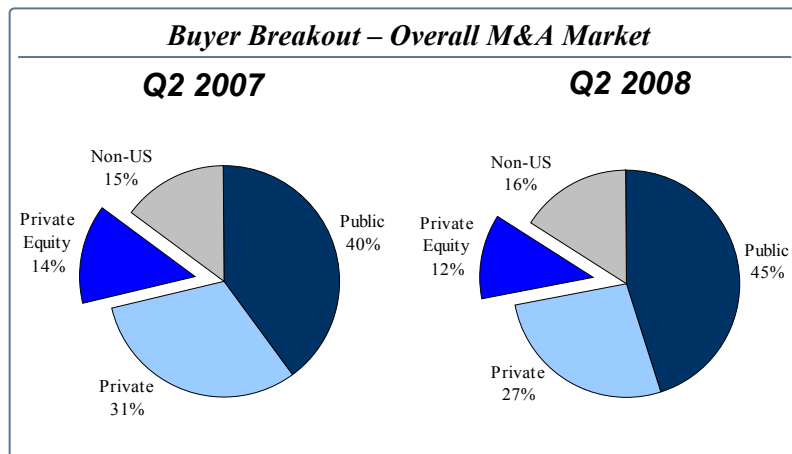


Source: Thomson One Banker, 06/30/08 (Industry breakdown is by target)



Private Equity Market Overview

Acquiror Statistics

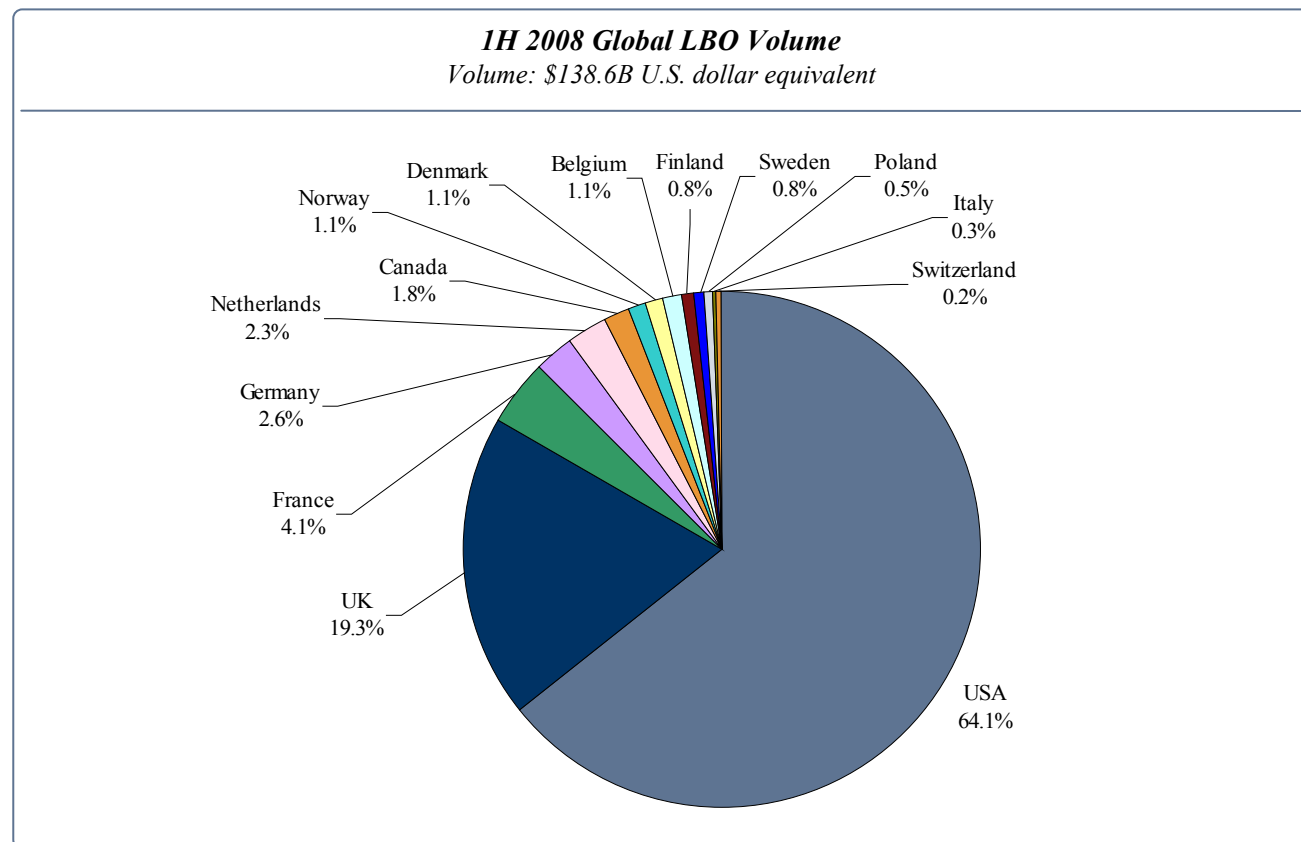


Source: Mergerstat Flashwire U.S. Monthly – July 2008 (middle market is defined as deals valued between \$1 million and \$500 million, including deals with undisclosed values for the buyer breakouts)

Private Equity Market Overview

A Global Product

- ❖ While the U.S. still accounts for a majority of LBO volume, a significant amount of private equity investing occurs internationally

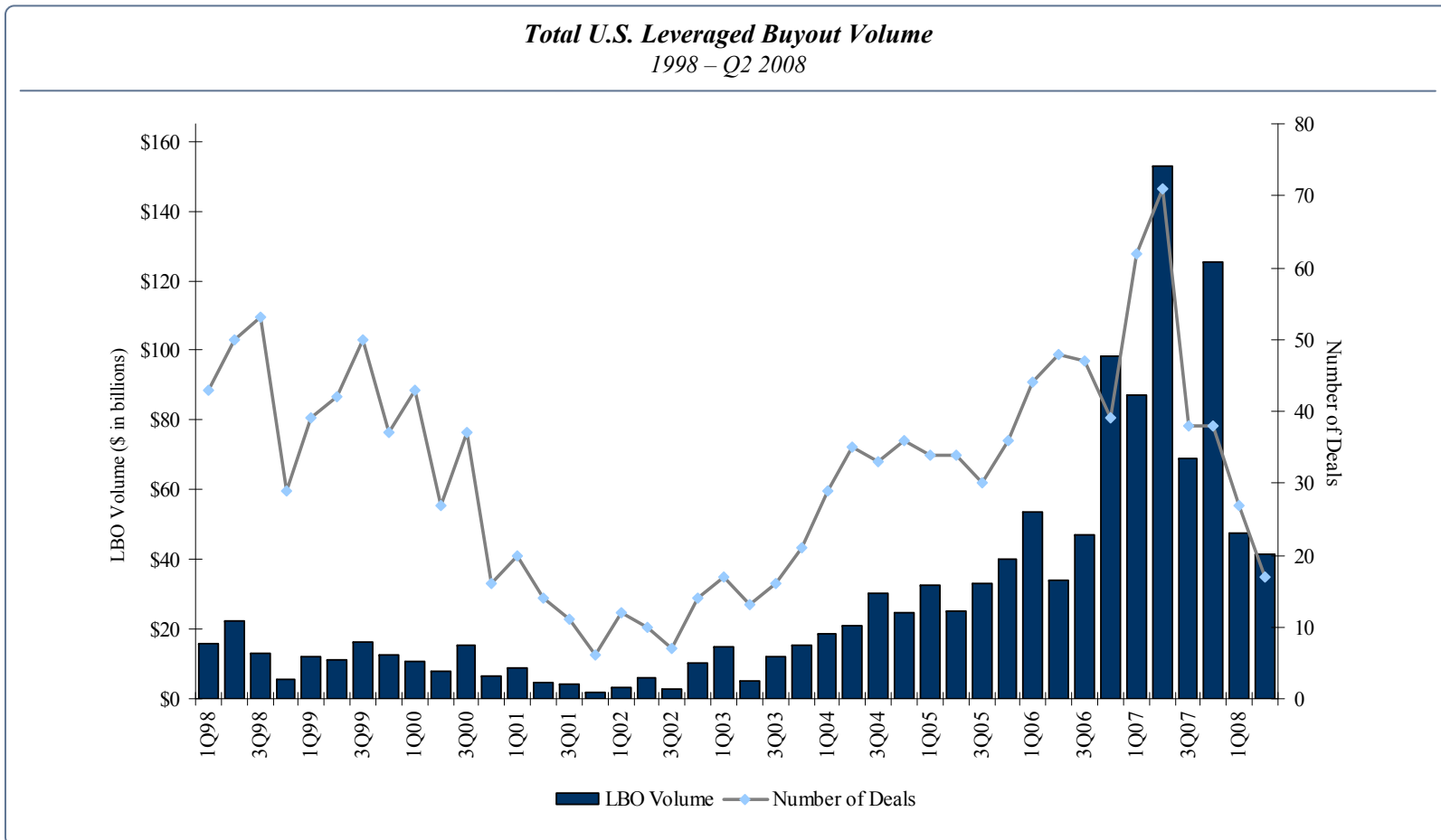


Source: Standard & Poor's Q2 2008 Leveraged Buyout Review (includes 1H08 data)



Private Equity Market Overview

Recent LBO Activity



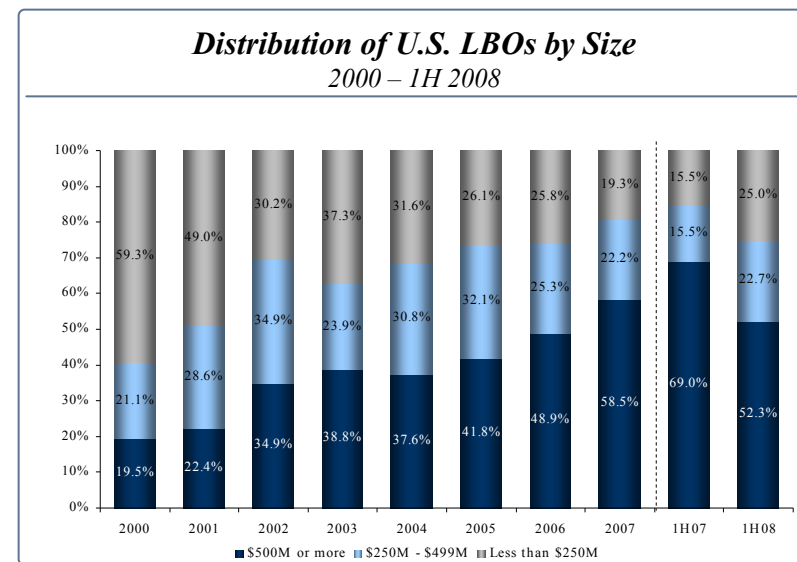
Source: Standard & Poor's Q2 2008 Leveraged Buyout Review



Private Equity Market Overview

Average Deal Size

- ❖ The average size of a leveraged buyout has been growing, but private equity is still primarily a middle market product. And after a four year run up, mega deals are declining as a percentage of overall LBO activity



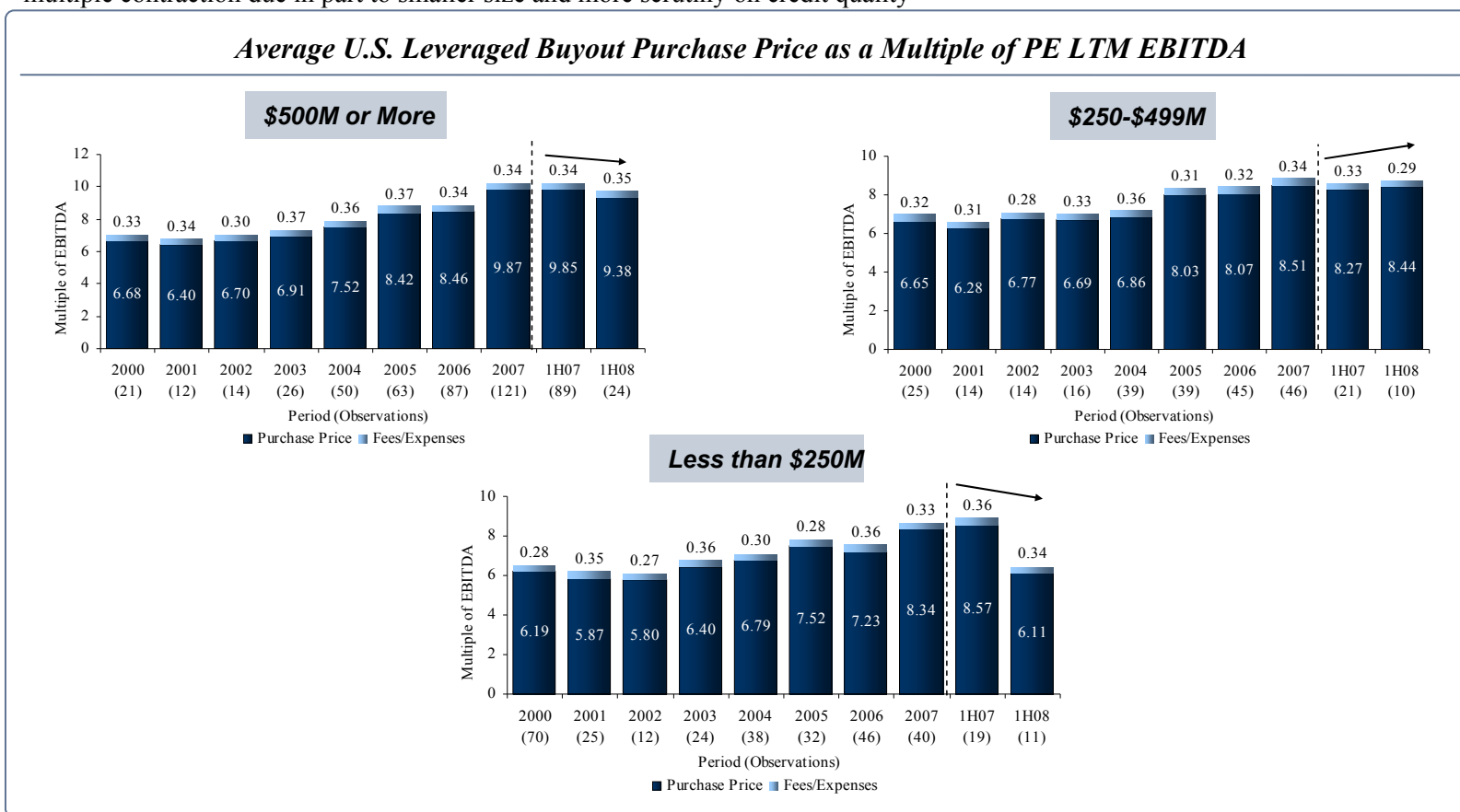
Source: Standard & Poor's Q2 2007 and Q2 2008 Leveraged Buyout Review



Private Equity Market Overview

Valuation Multiples

- ❖ While multiples are holding fairly steady at the upper end of the market, the number of upper end size transactions has declined significantly with no secondary markets to facilitate the very large buyouts. And the lower end of the market continues to experience multiple contraction due in part to smaller size and more scrutiny on credit quality



Source: Standard & Poor's Q2 2007 and Q2 2008 Leveraged Buyout Reviews



Private Equity Market Overview

Mega Private Equity Deals on the Wane

- ❖ For the first half of 2008, the average size of private equity deals in the market appears to be meaningfully smaller as compared to the last two prior years and this trend is anticipated to continue until the credit markets stabilize

<u>Announce Date</u>	<u>Buyer Name</u>	<u>Target Company</u>	<u>Deal Value (\$B)</u>	<u>EV/EBITDA</u>
Top 5 Deals in 2008 (1/1/08 to 6/30/08)				
30-Jun-2008	Lone Star Funds	CIT Group Inc., Home Lending Business	\$5.9	-
19-Jun-2008	Barclays Private Equity, Barclays Private Equity France SA, LBO France	Converteam Group SAS	2.9	-
02-May-2008	Nordic Capital, Avista Capital Holdings, L.P.	ConvaTec	4.1	-
17-Apr-2008	AlpInvest Partners N.V., Candover Investments plc (LSE:CDI), Goldman Sachs Group, Merchant Banking Division	Expro International Group plc	3.8	13.4x
03-Jun-2008	CVC Capital Partners Ltd.	Evonik Industries AG	3.7	5.0x
+ 7 more transactions above \$2 billion deal value				
Total Count: 12		Mean	\$3.3	11.6x
		Median	\$3.0	11.0x

<u>Announce Date</u>	<u>Buyer Name</u>	<u>Target Company</u>	<u>Deal Value (\$B)</u>	<u>EV/EBITDA</u>
Top 5 Deals in the Prior 2 Years (1/1/06 to 12/31/07)				
29-Jun-2007	Madison Dearborn Partners, LLC, Providence Equity Partners LLC, Teachers' Private Capital, Merrill Lynch Capital, Investment Arm	BCE, Inc. (TSX:BCE)	\$46.3	7.5x
25-Feb-2007	Goldman Sachs Group, Merchant Banking Division, Kohlberg Kravis Roberts & Co., Lehman Brothers, Private Equity Division, TPG, Citigroup Private Equity, Morgan Stanley Private Equity	Energy Future Holdings Corporation	44.5	8.0x
19-Nov-2006	Blackstone Real Estate Advisors	Equity Office Properties Trust	36.9	19.5x
24-Jul-2006	Bain Capital, LLC, Kohlberg Kravis Roberts & Co., Merrill Lynch Global Private Equity	HCA Inc.	33.8	8.1x
07-Apr-2006	GIC Special Investments, Caisse de Depot et Placement du Quebec	BAA Limited.	30.4	14.8x
+ 49 more transactions above \$5 billion deal value				
Total Count: 54		Mean	\$13.7	14.0x
		Median	\$8.3	13.2x

Source: Capital IQ, Press Releases (includes only transactions where a private investment firm is a buyer)



Private Equity Market Overview

Sponsor-to-Sponsor Deals

- ❖ Over the last six months prior to July, sponsor-to-sponsor deals seem to remain an attractive exit alternative

In the Upper Middle Market
Selected Recent Sponsor-to-Sponsor Deals
≥ \$500M

Target	Seller	Buyer	Size (\$M)
Biffa PLC	Invesco, FIL Ltd., Legal & General Group	Montagu PE, Global Infrastructure Partners	\$3,125
TriZetto Group	CIBC Capital, others	Apax Partners, others	1,425
Euromedic International	Warburg Pincus, GE, others	Merrill Lynch, Ares	1,230
Axcelis Technologies	TowerBrook, Soros, Sterling, Quantum	TPG	693

And in the Lower Middle Market
Selected Recent Sponsor-to-Sponsor Deals
< \$500M

Target	Seller	Buyer	Size (\$M)
LÖWEN Play	M Cap, Waterland, others	AXA PE	\$475
Civica	Alchemy, Jupiter, others	3i	434
Petroleum Place	BV Group, Catterton, Goldman Sachs, others	Vista Equity Partners	250
Clarion Events	HgCapital, Indigo Capital	Veronis Suhler	234

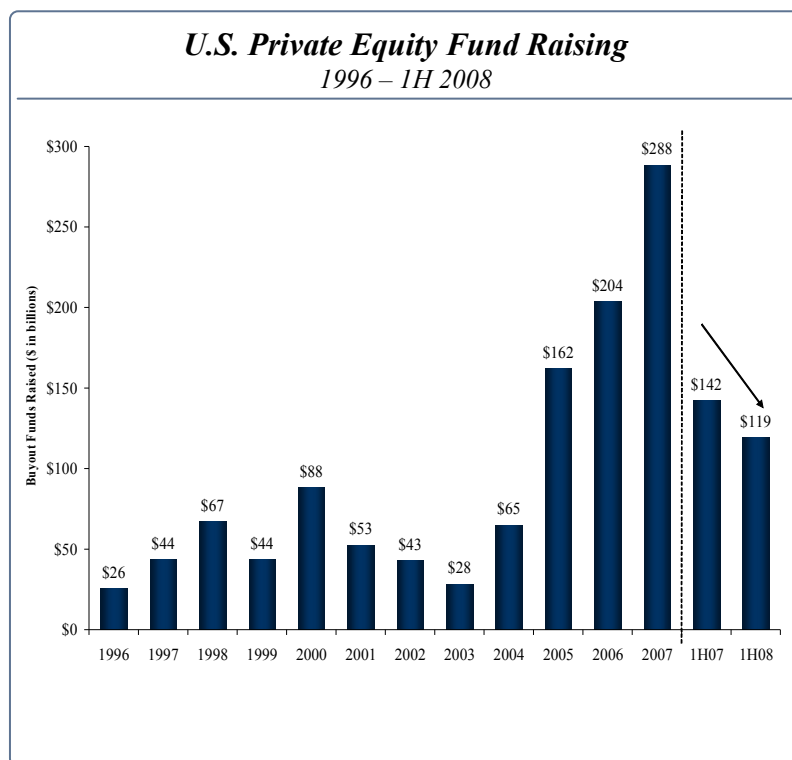
Source: Capital IQ (last six months as of 6/30/08)



Private Equity Market Overview

Private Equity Fund Raising

- ❖ While private equity was being raised and deployed at record rates through most of 2007, new fundraising continues to refill coffers albeit at a slower pace while investment of those funds has also slowed due to decline in M&A activity



Selected Recently Reported Fund Raises
1H 2008

Sponsor	Fund	Amount (\$B)
Recently closed		
Warburg Pincus	Tenth	\$15.00
Bain Capital	Tenth	10.00
Silver Lake Partners	Third	10.00
New Mountain Capital	Third	5.00
Jordan Co.	Second	3.60
Trust Company of the West	Fourteenth	2.60
Denham Capital Management	Fifth	2.00
ABRY Partners	Sixth	1.35
Currently being raised		
Blackstone Group - Capital Partners	Sixth	\$20.00
Apollo Management	Seventh	15.00
Carlyle Group	Fifth	15.00
First Reserve	Twelfth	12.00
Madison Dearborn Partners	Sixth	10.00
Welsh Carson	Eleventh	4.00

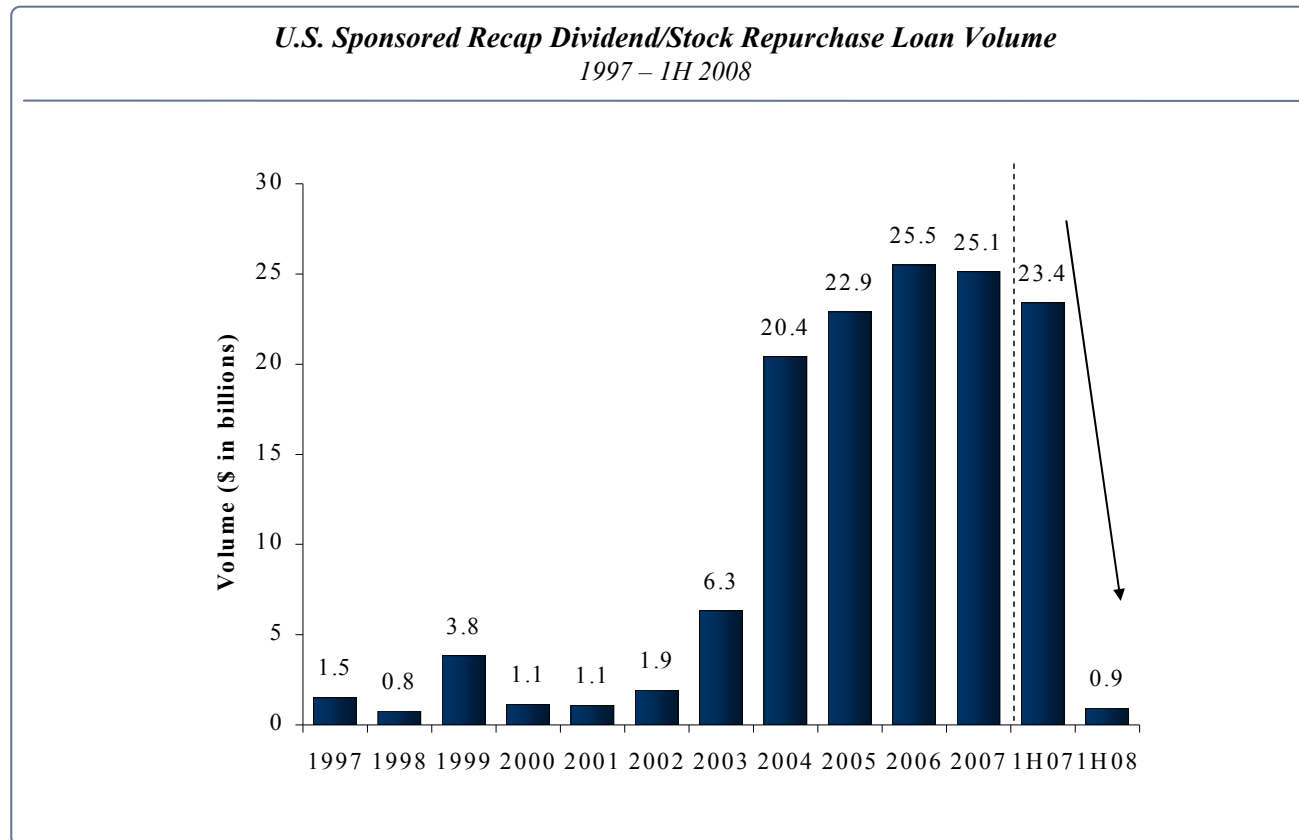
Source: Buyouts Magazine – July 7, 2008 edition (buyout fundraising reflects money raised by U.S. buyout shops)



Private Equity Market Overview

Leveraged Recapitalization

- ❖ Leveraged recapitalizations emerged as a robust alternative to full liquidity events between 2004 and 2007, despite several key drawbacks relative to a sale. However, since the credit crunch, leveraged recapitalizations are almost non-existent as an M&A alternative



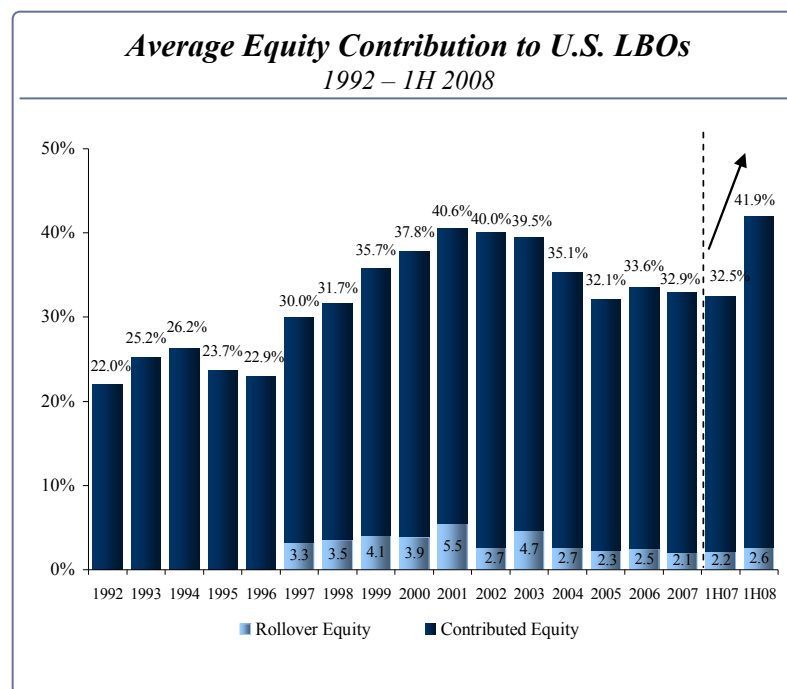
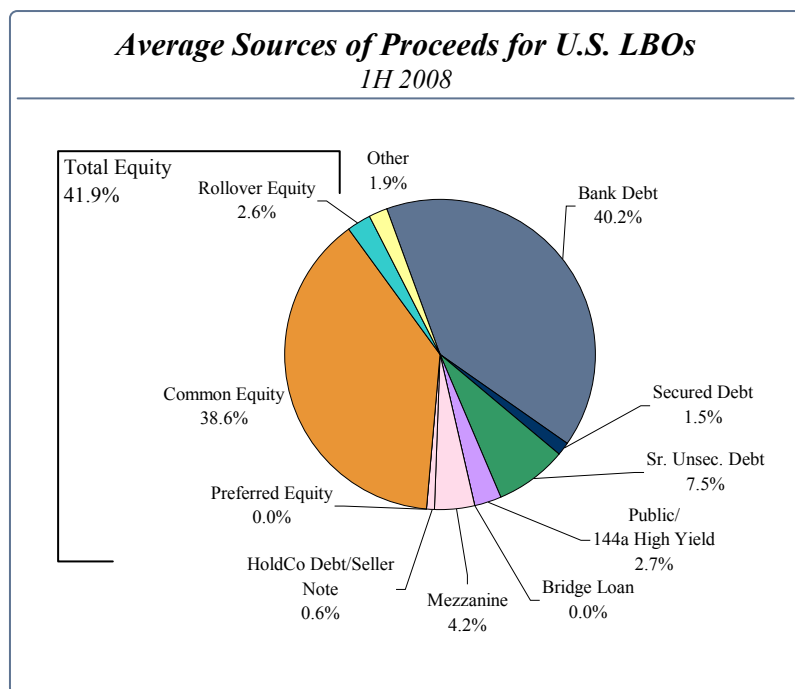
Source: Standard & Poor's Q2 2008 Leveraged Buyout Review



Private Equity Market Overview

Balance Sheet Financing

- ❖ New sources of financing complicate balance sheets but simplify the task of financing buyouts. As a result of the recent credit tightening, equity as a percentage of deal value is on the rise to bridge the gap



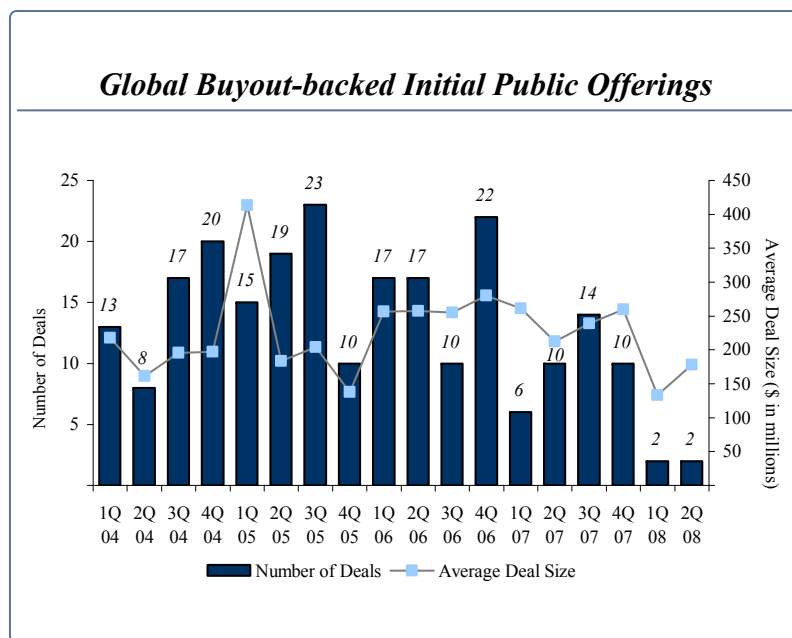
Source: Standard & Poor's Q2007 and Q2 2008 Leveraged Buyout Review



Private Equity Market Overview

Capital Market Exits

- ❖ Buyout-backed initial public offerings are subject to availability of market “windows.” In the first half of 2008, those windows have remained effectively closed as a reflection of continued economic uncertainty



Source: Thomson VentureXpert

Selected Recent Buyout-Backed Initial Public Offerings Q3 2007 – Q2 2008

Company	Amt. Raised (\$mm)	Sponsor
EnergySolutions	\$690.0	Lindsay Goldberg
SandRidge Energy	637.8	Ares Management
Orbitz Worldwide	510.0	Undisclosed
Genpact	494.1	General Atlantic, Oak Hill
CVR Energy	380.0	Goldman, Kelso & Co., Pegasus
Validus Holdings	335.4	Goldman, Vestar, New Mountain
Lululemon Athletica	327.6	Advent, Highland Capital
SemGroup	275.0	Carlyle
RiskMetrics Group	245.0	General Atlantic, P&G, JPM, others
Concho Resources	240.2	Ticonderoga, Yorktown Partners, others
Dice Holdings	217.1	General Atlantic, Quadrangle Group
MedAssets	212.8	Galen Associates, Grotech, JPM, others
Dolan Media Company	195.1	Cherry Tree, ABRY Partners, others
RHI Entertainment, Inc.	189.0	Kelso & Company, others
Verso Paper Corporation	168.0	Undisclosed, others



Anatomy of a Deal – Overview

Step 1: Soliciting Interest and the Investment Banker's role

- Confidentiality Agreements
- The Descriptive Memorandum
- Qualifying Potential Buyers

Step 2: Management Presentations

Step 3: Letters of Intent - the exclusivity issue

Step 4: Due Diligence

- The Data Room

Step 5: Final Bids

Step 6: Contract Negotiations

Step 7: Closing

Step 8: Post Closing



Anatomy of a Deal – Overview

• Why Private Equity deals differ from other M&A deals

- Financing/leverage needed to do the deal
- Exit Strategy: 3 – 6 year horizon
 - “I think about being a seller before I think about buying”
- Control after the sale: the role for management
- Equity for management



Anatomy of a Deal – Step 1

- Soliciting interest in the Target Company
 - The seller's objectives
 - Confidentiality Agreements
 - The Descriptive Memorandum



Anatomy of a Deal – Step 1

- The Descriptive Memorandum
 - Industry; Company; Products; Financials
 - The story... strategy for growth
 - “Dressing up a pig?”



Anatomy of a Deal – Step 1

- Identify/Qualify potential buyers
 - Expression of interest; range of values
 - Limitations/carve-outs
 - Making the cut
- The buyer's perspective
 - Evaluating the opportunity
 - Deal diagnostics; financing



Anatomy of a Deal – Step 2

- Management Presentations
 - What to present. Who to present.
 - Review the presentation; prep the presenters
 - Buyer's evaluation of management
 - Management's evaluation of buyers



Anatomy of a Deal – Step 3

- Letters of Intent/Exclusivity
 - **Buyer** wants the right to secure the deal before investing heavily in due diligence
 - **Seller** wants to maximize value with robust, competitive auction



Anatomy of a Deal – Step 4

- Due Diligence
 - Preparation: the Data Room
 - Managing the process
 - “Materiality” issues (anticipating contract reps & warranties)
 - Privileged Information



Anatomy of a Deal – Step 5

- Final Bids
 - Yield: How much \$\$
 - Timing of payment
 - Certainty to close



Anatomy of a Deal – Step 6

- Contract Negotiations
 - Purchase Price adjustments
 - Reps & Warranties
 - Schedules
 - Key personnel



Anatomy of a Deal – Step 7

- Closing
 - Updating the schedules with pre-closing material events



Anatomy of a Deal – Step 8

- Post Closing: After the storm...
 - Lender/stockholder agreements
 - outline covenants
 - Governance regimen
 - New board
 - Corporate maintenance
 - minute books/stock ledger
 - entity info



Practical Tips

- Red Flags
 - Buyers who don't ask good questions/
send junior people to key meetings
 - Buyers who don't spend money on due diligence



Practical Tips

- How to “blow up” a deal
 - Miss your targets/budgets during process
 - Can't respond to due diligence requests
 - Find “surprises” during due diligence
 - Breach confidentiality
 - Losing the lender at the altar



Practical Tips

- Use existing tools to prepare for and manage due diligence
 - Contract management
 - Matter management
 - Risk management
 - Compliance management



Practical Tips

- Use Due Diligence as a learning process
 - Identify/remedy shortcomings in existing policies and practices

CONFIDENTIALITY AGREEMENT

This Agreement entered into this ___ day of _____ 2008, by and between _____, (hereafter referred to as "INTERESTED PARTY" or "IP") and _____ (the "COMPANY").

Background

IP has received and will continue to receive certain confidential information from the Company.

The Company desires to provide such confidential information regarding the Company to IP for the purpose of allowing IP to consider a possible transaction between the Company and IP.

Disclosure of this confidential information regarding the Company, except as provided for in this Agreement, may cause injury to the Company.

NOW THEREFORE; in consideration of the mutual covenants and promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. The Company shall furnish certain information to IP regarding operational and financial affairs.

2. IP shall treat confidentially (i) all such information and any other information the Company or its representative furnish to the IP, whether furnished before, or after the date of this Agreement, and (ii) all notes, analyses, compilations, studies or other documents, whether prepared by the IP or its representatives, which contain or otherwise reflect such information, (hereafter collectively referred to as "Evaluation Material"). However, IP shall have no obligation with respect to any of the Evaluation Material that:

- a) is known to IP at the time of disclosure; or
b) is independently developed by IP, provided IP can show that such development was accomplished by or on behalf of IP without any wrongful act or use or any reference to the Evaluation Material; or
c) becomes known to IP from a source other than the Company without confidentiality restriction on subsequent disclosure or use; or
d) is or becomes part of the public domain through no wrongful act of IP; or
e) is disclosed pursuant to any judicial or governmental request, requirement or order; provided that IP takes reasonable steps to give the Company sufficient prior notice in order to contest such request, requirement or order.

3. IP shall use the Evaluation Material solely for the purpose of evaluating or implementing a possible transaction between the Company and IP.

4. IP shall not, without prior consent from the Company, disclose to any other person; (i) that the Company has provided the Evaluation Materials to the IP, or that the IP has inspected any portion thereof; (ii) that discussions or negotiations are taking place concerning a possible transaction between the Company and IP; and (iii) any of the terms, conditions or other facts with respect to any such possible transaction, including the status thereof.

5. IP shall destroy the Evaluation Materials and any written materials, memoranda, notes, and other writings or recordings whatsoever, prepared by the IP or its Representatives based upon the Evaluation Materials if requested by Company in writing.

6. IP further agrees that it will not, without obtaining the prior written consent of the Company, directly solicit for employment by IP or by any wholly- or partially-owned subsidiaries of IP, any of the current employees of the Company so long as they are employed by or subject to a non-competition covenant in favor of the Company, during the period in which there are discussions about a possible transaction conducted pursuant hereto and for a period of one year thereafter,.

7. This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.

8. This Agreement shall expire one (1) year from the date of execution, but the obligations arising hereunder before such expiration date will survive thereafter.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

THE COMPANY

INTERESTED PARTY

By _____

By _____

ABC Company

Due Diligence Document Request List

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Due Diligence Document Request List

In connection with the proposed financing, please collect, organize and provide the following documents. In the event that no responsive information exists or the request is not applicable, please indicate in writing. A handwritten notation on a copy of this request list under the applicable request is sufficient. Unless the context requires otherwise, all requests include the "Company" and all of the direct and indirect subsidiaries and affiliates, with financial information on a consolidated basis.

1. Organization; Qualification; Good Standing

1.1 Charter Documents

1.1.1 Certified copies of the Certificate of Incorporation and Bylaws (or other charter documents) of the Company (and any corporation in which the Company has an equity interest) since inception.

1.1.2 Current corporation licenses and tax certificates for each company.

1.2 Qualification

A list of states and countries in which the Company is qualified to do business as a foreign corporation. Please describe briefly any activity by the Company in each state in which it is not qualified to do business.

2. Subsidiaries

A description of all entities in which the Company directly or indirectly controls or owns any interest and the relationship of the Company with each such entity.

3. Capitalization

3.1 Capital Stock

3.1.1 A copy of the stock books with respect to each class of capital stock interests issued by the Company since inception.

3.1.2 A summary of the classes and series of capital stock interests authorized and the number of shares/interests of each class or series issued and outstanding.

3.1.3 A sample of stock interests certificates and any other outstanding securities.

3.1.4 All agreements, warrants, options, pledges or other rights to purchase or acquire any shares of capital stock or other securities of the Company, and any commitments with respect to any of the foregoing.

3.1.5 All agreements or other instruments pursuant to which capital stock has been issued.

3.1.6 Any permits or a description of the exemptions relied upon (federal and state) for issuance or transfer of securities.

3.2 Shareholder Information

3.2.1 A schedule of all issuances of capital stock and grants of any stock options, warrants or convertible securities, listing the names of the issuers or grantees, the amounts issued or granted, the dates of the issuances or grants and the consideration received.

3.2.2 A list of all current shareholders (record holders as well as beneficial holder, if different), including address and number of shares held.

3.2.3 Lists of all option, warrant and other security holders (record holders as well as beneficial holders, if different), including address and number and type of shares issued or issuable upon exercise or conversion.

3.2.4 All agreements among security holders, or between any security holder and the Company, with respect to voting, grants of proxies, dividend declaration or payment, rights of first offer or first refusal, cosale or participation rights, observation or information rights, distributions to shareholders or sale or other disposition of shares.

3.2.5 Annual reports and any other communications to shareholders during the last five years.

3.3 Offering Circulars/Business Plan

Any copies of offering circulars or prospectuses and other documents relating to the sale of capital stock or debt.

4. Conflicts With Documents

A list of any violations, conflicts, breaches or creation of liens as a result of the transactions contemplated by the sale of the Series A Preferred Stock and Guarantee with:

Articles of Incorporation or Bylaws.

Any financing agreement, material lease or other agreement.

5. Governmental Consents

A list of all governmental consents required in connection with the sale of the Series A Preferred Stock.

6. Financial Statements**6.1 Financial Statements**

All financial statements for each of the past five years and interim statements, with a comparison to the year earlier period and budget.

6.2 Capital Expenditures

Documents for the capital expenditures program for each of the last five years and on its future capital expenditures program, showing what future expenditures are already committed.

6.3 Correspondence With Accountants

Copies of all correspondence with accountants for each of the last five years, including management letters.

6.4 Attorneys' Letters

Copies of any attorneys' letters to accountants for each of the last five years.

7. Undisclosed Liabilities; Changes**7.1 Undisclosed Liabilities**

A list of any debts, liabilities or obligations of any nature, whether accrued, absolute, contingent or otherwise, that are not included in the Financial Statements provided under Item 6.

7.2 Changes in Financial Condition

A description of any material transaction since the date of the Financial Statements provided under Item 6, including

7.2.1 any change in the condition (financial or other) of properties, assets, liabilities, business or prospects of the Company;

7.2.2 any increase or change in the compensation to any directors, officers, managers, employees, salespersons, or agents;

7.2.3 any material change in the accounting methods or practices followed by the Company;

7.2.4 any material debt, obligation or liability (whether absolute or contingent) incurred by the Company (whether or not presently outstanding);

7.2.5 any sale, lease, license or other disposition of any property, including intellectual property or other intangible asset;

7.2.6 any labor condition;

7.2.7 any change in the contingent obligations by way of guaranty, endorsement, indemnity, warranty or otherwise;

7.2.8 any waiver of a valuable right or a material debt owed;

7.2.9 any direct or indirect loans to any member, manager, shareholder, employee, officer or director, other than advances made in the ordinary course of business; or

7.2.10 any declaration or payment of any dividend or other distribution of the assets of the Company.

8. Intellectual Property**8.1 Intellectual Property**

A list of all patents, patent applications, trade names, trademarks, trademark applications, trade dress, service marks, copyright, trade secrets, information, proprietary rights and processes ("*Intellectual Property*") necessary for the Company's business as now conducted, or as proposed to be conducted.

8.2 Licenses

A list of any options or licenses relating to the Intellectual Property, either granted by the Company or by a third party, or by which it is bound.

8.3 Violations of Intellectual Property Rights

A list of all communications alleging that the Company is violating, or by conducting its business as proposed, would materially violate, any of the intellectual property of any other person.

8.4 Employee Obligations

A description of any employees obligated under any agreement, or subject to any judgment or order, that would interfere with the use of such employee's best efforts to promote the interests of the Company or that would conflict with the Company's business as proposed to be conducted.

8.5 Confidentiality Agreements

All confidentiality, secrecy and nondisclosure agreements with any member, manager, employee, officer, director, shareholder or consultant. Where standard forms are used, a copy of each such form and description of any deviations from or exceptions to any such form.

8.6 Invention Agreements

All agreements with any employee, officer, director, shareholder or consultant relating to assignment of property to the Company, including, without limitation, inventions, patents, copyrights or other intangible property.

9. Litigation**9.1 Past Litigation**

A description of all litigation or threatened litigation concluded or settled within the past five years and all material documentation (including court files, significant correspondence, settlement agreements, decrees, orders and judgments).

9.2 Current Litigation

A description of all current or threatened litigation and all material documentation, including litigation files.

9.3 Waiver of Claims

A description of all waivers or agreements canceling or surrendering claims or rights of substantial value.

10. Defaults

A list of any defaults under the Articles of Incorporation, Bylaws or any material agreement, or with respect to any order of any court or domestic or foreign governmental agency.

11. Tax Matters**11.1 Tax Returns**

Federal, state and local returns from the past 5 years, plus the work papers for the 2000 tax year extension payment (assuming one was made).

11.2 IRS Matters

A list of all audit adjustments proposed by the Internal Revenue Service for the last five years which have been audited and a list of any pending tax matter, including audits, extensions of time, waivers of statutes of limitations, deficiency/assessments, etc.

11.3 Tax Liens

List of any tax liens.

12. Management/Personnel**12.1 List of Managers, Officers, Directors and Key Employees**

12.1.1 A list of names, ages and addresses of managers, officers and directors and a description of present and proposed management structure.

12.1.2 A list of members of the Board of Directors (the "**Board**") by year for each of the last five years, including names and addresses as well as telephone, fax and email numbers.

12.1.3 A list of managers, key officers and employees and a description of each person's role in the business.

12.2 Compensation

12.2.1 A list of the amounts of total annual compensation and the forms of compensation (salary, commissions, personal benefits, annuities, options, bonuses, etc.) paid during the past year and to be paid in the current year to each manager, officer, director and key employee, and to any other employee if his or her total annual compensation for the last year or this year exceeds \$75,000. Include compensation from any source paid or made available on behalf of the Company.

12.2.2 A schedule of perquisites available to any person listed above.

12.2.3 A payroll roster of all employees as of a recent date.

12.3 Director and Consultant Fees

A schedule of all fees paid to any member of the Board or any consultant to the Company during the last five years.

12.4 Transactions With Management

A brief description of any transaction (other than compensation described above), and copies of any material contracts or agreements, with or pertaining to the Company and to which any member, manager, director, officer, key employee or shareholder (or family member of any such person) is directly or indirectly a party, an obligor or a beneficiary.

12.5 Employees

12.5.1 An evaluation of employee turnover rates.

12.5.2 A list of any key employees intending to terminate.

12.6 Employment Contracts

All employment and consulting contracts. When standard forms are used, include standard form and deviations therefrom.

12.7 Employee Benefit Plans

All employee benefit plans or rights, including stock plans, stock option plans, pension plans, incentive plans, ERISA plans and executive or management bonus, sales bonus, general profit-sharing, medical, life and accident insurance, retirement programs and all agreements related thereto and information as to funding of any of the foregoing.

12.8 Unions

All union contracts. Also include any other material information relating to the Company's relationship with any union and any union organizing activity during the last five years.

12.9 Immigration Status

A list of all key employees, managers, officers or directors who are not citizens of the United States and their immigration status.

12.10 Labor Matters

A description of any labor problems the Company has experienced or reasonably expects to experience in the near future, including work stoppage.

13. Financing**13.1 Credit Agreements**

All agreements (together with all amendments, documentation and correspondence) relating to the borrowing of money, including bank lines of credit, letters of credit, indentures, notes, term loan and revolving credit agreements and debt instruments issued thereunder. All recent evidence of compliance with lending agreements.

13.2 Bank Accounts

A list of all bank accounts and safe deposit boxes and names of all persons authorized to draw on them or have access thereto.

13.3 Loans to, or Guarantees of Obligations of, Third Parties

All agreements relating to loans by the Company to, or guarantees of the obligations of, other persons or entities.

13.4 Guarantees

All guarantees by management, shareholders or others of debt or performance of or by the Company.

13.5 Security Agreements

All currently effective security agreements (including a recent UCC search) covering assets of the Company, such as mortgages, pledges, liens or security interests in significant personal property, such as receivables, inventory or equipment.

13.6 Notes Receivable

Copies of all notes receivable, together with all related guarantees and security agreements.

14. Customers

14.1 Credit Agreements

Forms of agreement, and any deviations, for providing credit purchases to customers and a schedule of all accounts in excess of \$25,000.

14.2 Accounts Receivable Analysis

An accounts receivable analysis and aging study, including a 3 year charge-off analysis.

14.3 Warranty Claims

A description of any warranty claims and status.

15. Other Agreements

15.1 Marketing and Distributorship

All marketing and distributorship contracts, agreements or arrangements.

15.2 Joint Ventures or Partnerships

All joint venture or partnership contracts, agreements or arrangements.

15.3 Royalty and Commission

All contracts, agreements or arrangements pursuant to which the Company pays or receives a royalty, commission, brokerage fee or agency fee.

15.4 Sales Contracts

All product sales or supply contracts, agreements or arrangements (including government contracts) with customers, including standard form sales contracts.

15.5 Purchase Contracts

All contracts, agreements or arrangements for the purchase of products for resale.

15.6 Management and Service Contracts

All management or service contracts, agreements or arrangements for management, maintenance or servicing of any facilities.

15.7 Facilities

All contracts, agreements or arrangements for construction of facilities and a description of any performance guarantees or special agreements relating to financing, performance or operation of such facilities.

15.8 Advertising Contracts

All advertising contracts, agreements or arrangements.

15.9 Supply Contracts

All contracts, agreements or arrangements with suppliers.

15.10 Acquisitions, Sales and Mergers

All documents relating to any acquisitions, sales, mergers or other dispositions of companies, operations or facilities now pending or made since inception. A description of any such transactions.

15.11 Computer Systems

License agreements for computer systems, service and maintenance agreements related thereto, and any other contracts, agreements or arrangements relating to the Company's computer systems and communications systems.

15.12 Noncompete Provisions

A description of any provisions which purport to restrict the Company's ability to compete, whether imposed by agreement, court order, oral understanding or otherwise.

15.13 Contracts Outside Ordinary Course of Business

All contracts, agreements or arrangements outside the ordinary course of business.

15.14 Other Significant Contracts

All significant contracts, agreements or arrangements other than those already enumerated.

16. Property

16.1 Real Property--Owned

A schedule of real property acquired or held during the last five years, including each parcel's location, a brief description of its use and function (i.e., factory, warehouse, office), the date of its purchase, description of how title is held, description of any title insurance and the amount and nature of any mortgage, lien or other encumbrance.

16.2 Real Property--Leased

16.2.1 A schedule of real property leased during the last five years, including each parcel's location, a brief description of its use and function, copies of any lease term sheets or letters of intent and copies of the current lease and any amendments thereto.

16.2.2 A description of any proposed or anticipated leased real property, including copies of any term sheets or letters of intent and copies of any draft lease documentation currently under consideration or negotiation.

16.3 Real Property--Options

Copies of any option agreements, earnest money agreements or other agreements that involve the purchase or sale of real property.

16.4 Environmental/Structural Reports

Copies of any memos, reports or other information relating to structural, environmental or other problems with any owned or leased facilities or real property.

16.5 Furniture or Equipment Leases

Documentation of any leases for furniture or equipment or other personal property.

16.6 Capital Leases

Documentation of any leases for capital assets, including any sale/lease-back agreements and financing leases.

16.7 Conditional Sale Agreements

Documentation of any conditional sale agreements, mortgages or similar arrangements relating to the acquisition of assets on an installment basis.

16.8 List of Defaults

A list of any encumbrances or defaults by any party with respect to any agreements relating to property or assets or the Company.

17. Insurance

A copy of all insurance policies covering the Company, its assets, operations or any employee, manager, officer or director of the Company.

18. Minute Books

18.1 All minutes of meetings (and consents in lieu of meetings) of the Board, permanent committees of the Board, and shareholders since inception.

18.2 All Board packages, including meeting agendas, resolutions, consents, plans, budgets and explanatory materials during the last five years.

19. Compliance With Laws; Permits

19.1 Permits

All permits for conduct of business, including any current or pending governmental permits, licenses, grants and tax concessions or certificates.

19.2 Citations

All citations for each of the last five years for failure to comply with any applicable law.

19.3 Compliance Programs

A brief description of the measures, if any, being taken to ensure compliance with applicable laws.

19.4 Investigations

A description of any current or threatened investigation by any government authority and all documentation.

19.5 Environmental Matters

A summary of any environmental issues arising from or related to the business operations or facilities and properties, and copies of any related documentation and correspondence.

19.6 Reports to Governmental Agencies

Copies of any reports to or correspondence with any federal, state or local governmental agency for each of the last five years.

20. Registration Rights

All contracts and agreements or understandings regarding the registration of securities of the Company under federal or state securities laws.

21. Other Information

21.1 Brochures and Literature

Documents on all brochures, reports, studies or publications relating to or describing the Company and its products, including sales and marketing literature.

21.2 Press Clippings and Releases

Press clippings, articles and releases relating to the Company and the industry for each of the last five years.

21.3 Analyses and Reports

Analyses of the Company or its industry prepared by investment bankers, engineers, management consultants, accountants or others, including marketing studies, credit reports, geological reports and other types of reports, financial or otherwise.

21.4 Schedule of Proceeds

A schedule of the currently projected uses of proceeds to be obtained from the offering of securities.

22. Reports to Governmental Agencies

Copies of any reports to or correspondence with any federal, state or local governmental agency for each of the last five years.

**ABC COMPANY
DUE DILIGENCE CHECKLIST**

ITEM	WHO/TIMING	STATUS/RESPONSE
GENERAL:		
Company Background/History		
Financial Projections		
Corporate Customer References		
Corporate Vendor/Supplier References		
Resume/Personal References for (key executive)		
UCC Lien Search Info Sheet		
Organization; Qualification; Good Standing:		
Certificate of Incorporation		
Bylaws (or other charter documents)		
Corporation Licenses/Tax Certificates		
List of states/countries qualified to do business as a foreign corporation		
List of Subsidiaries (and description):		
Capitalization:		
Copy of stock books		
Summary of the classes and series of capital stock interests authorized; issued and outstanding		
Sample of stock interest certificates and any other outstanding securities		

ITEM	WHO/TIMING	STATUS/RESPONSE
All agreements, warrants, options, etc., with respect to the purchase of any shares of capital stock		
All agreements pursuant to which capital stock has been issued		
Any permits/description of exemptions relied upon for issuance or transfer of securities		
Shareholder Information:		
Schedule of all issuances of capital stock and grants of any stock options, warrants or convertible securities, listing the names, amounts and dates of the issuances.		
List of all current shareholders and contact data		
List of all other security holders, including address and number and type of shares issued		
All agreements among security holders		
Annual Reports and any other notices to Shareholders in the last 5 years		
Offering Circulars:		
Conflicts with Documents:		
A list of any violations, conflicts, breaches or creation of liens as a result of the transactions contemplated by the sale of the Series A Preferred Stock with: Articles of Incorporation; Bylaws; any financing agreement; material lease or other agreement		
Governmental Contracts:		
A list of all governmental consents required with offering		
Financial Statements:		
All financial statements for the past 5 years and any interim statements		
All documents for the capital expenditures for the past 5 years		
All correspondence with accountants for the past 5 years – including management letters		
Copies of any attorneys' letters to accountants for the past 5 years		

ITEM	WHO/TIMING	STATUS/RESPONSE	ITEM	WHO/TIMING	STATUS/RESPONSE
Undisclosed Liabilities:			Tax Matters:		
List of any debts, liabilities or obligations – not included in Item 6			All federal tax returns since inception		
			All state tax returns since inception		
Changes in Financial Condition of the Company:			All local tax returns since inception		
Any historical change in the condition (financial or otherwise) of properties, assets, liabilities, business or prospects of the Company			A list of all audit adjustments by the for the past five years; and a list of any pending tax matter		
Any change in the compensation of any directors, employees, etc.			A list of any tax liens		
Any material change in the accounting methods or practices					
Any material debt, obligation or liability incurred			Management/Personnel:		
Any sale, lease, license or other disposition of any property, including intellectual property or other tangible asset	1		A list of names, ages, addresses of all managers, officers and directors and a description of present and proposed management structure.		
Any change in labor condition	2		A list of members of the Board of Directors by year for the last five years, including names, addresses, phone, fax and e-mail		
Any change in contingent obligations by way of guaranty, endorsement, indemnity, warranty or otherwise	3		A list of all managers, key officers and employees and a description of their role in the business		
Any waiver of a valuable right or a material debt owed					
Any direct or indirect loans to insiders			Compensation:		
Any declaration or payment of any dividend or other distribution of assets			A list of amounts and forms of total annual compensation paid during the past year and to be paid in the current year to each individual compensated in excess of \$75,000		
			A schedule of prerequisites available to any person listed above		
Intellectual Property:			A payroll roster of all employees as of a recent date		
A list of all patents, patent applications, trade names, trademarks, trademark applications, trade dress, service marks, copyright, trade secrets, information, proprietary rights and processes	2		A schedule of all fees paid to any member of the Board or any consultant during the last five years.		
List of any options or licenses regarding Intellectual Property	3		A brief description of any transaction, along with material contracts or agreements with or pertaining to the Company to which any person (or family member of any person) is directly or indirectly a party, an obligor or beneficiary.		
A list of all communications alleging any Intellectual Property violations			Employees:		
A description of any employees obligated under any agreement, or subject to any judgment or order that would interfere/conflict with the Company's business			1 Evaluation of employee turnover rates		
Any confidentiality agreements with insiders			2 List of any key employees intending to terminate		
Any invention agreements			All Employment Consulting Contracts		
			All Employee Benefit Plans		
Litigation:			All Union Contracts		
A description of any <i>past</i> litigation within the past five years			List of all employees who are <u>not</u> US citizens and their immigration status		
A description of any <i>current</i> litigation			Description of any labor problems		
A description of any waivers or agreements canceling or surrendering claims or rights of substantial value.					
Defaults:					
A list of any court order defaults under the Articles of Incorporation, Bylaws, or any other agreement					

ITEM	WHO/TIMING	STATUS/RESPONSE	ITEM	WHO/TIMING	STATUS/RESPONSE
Financing:			Copies of any option agreements, earnest money agreements or other agreements that involve the purchase or sale of real property		
All credit agreements and evidence of compliance			Copies of any environmental/structural reports		
A list of all bank accounts/safe deposit boxes and names of all authorized persons with respect thereto			Documentation of any furniture or equipment leases		
All agreements relating to any loans, guarantees of obligations of, third parties			Documentation of any leases for capital assets		
All guarantees by management, shareholders or others of debt or performance			Documentation of any conditional sale agreements		
All security agreements (including recent UCC search)			A list of any encumbrances or defaults by any party with respect to any agreements relating to property or assets		
Copies of all notes receivable			A copy of all insurance policies		
Customers:			Minute Books:		
Forms of all credit agreements and a schedule of all accounts in excess of \$25,000			All minutes of meetings of the Board, committees of the Board and shareholders since inception		
An accounts receivable analysis and aging study			All Board packages, including agendas, resolutions, consents, plans, budgets and explanatory materials during the last 5 years		
A description of any warranty claims and status					
Other Agreements:			Compliance with Laws; Permits:		
All marketing and distributorship contracts, agreements or arrangements.			All permits for conduct of business, including any current or pending governmental permits, licenses, grants and tax concessions or certificates		
All joint venture or partnership contracts, agreements or arrangements			All citations for each of the last 5 years		
All contracts, agreements or arrangements pursuant to which a royalty, commission, brokerage fee or agency fee is paid or received			A brief description of compliance measures		
All product sales or supply contracts, agreements or arrangements with customers			A description of any current or threatened investigation by any government authority and all documentation		
All contracts, agreements or arrangements for the purchase or products for resale.			A summary of any environmental issues and all documentation and correspondence		
All management or service contracts			Copies of any reports to or correspondence with any governmental agency for the last 5 years		
All contracts, agreements or arrangements for construction of facilities and a description of any performance guarantees or special agreements relating to the financing, performance or operation of such facilities.			Registration Rights:		
All advertising contracts or agreements			All contracts and agreements regarding the registration of securities under federal or state securities laws		
All supply contracts or agreements			Other Information:		
All documents relating to any acquisitions, sales or mergers			All brochures, reports, studies or publications relating to or describing the Company and its products, including sales and marketing literature		
All license agreements for any computer systems, including service and maintenance agreements			All press clippings and releases for the last 5 years		
A description of any noncompete provisions			All analyses or reports prepared on behalf of the Company		
All contracts, agreements or arrangements outside the ordinary course of business			A schedule of the currently projected uses of proceeds to be obtained from the offering of securities		
All other significant contracts or agreements					
Property:					
A schedule of real property acquired or held during the last 5 years					
A schedule of real property leased during the last 5 years					
A description of any proposed leased real property					

For further information on Private Equity markets and M&A deals:

Buyouts, a bi-monthly magazine published by Thomson Reuters.
(www.buyoutsnews.com)

Private Equity Analyst, a news service of Dow Jones Financial Information Services.
(<http://www.fis.dowjones.com/products/privateequityanalyst.html>)

The Daily Deal, a daily e-mail service published by The Deal, LLC.
(www.thedeal.com)

Mergers & Acquisitions, the Dealmaker's Journal,
a monthly publication of the Association for Corporate Growth.
(<http://www.acg.org/PressandPublications/MergersAcquisitionsJournal/tabid/109/Default.aspx>)