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Chicago attorney helped define, refine private equity sector

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The little business that he stumbled into in the early 1970s didn't amount to much in Jack S. Levin's estimation.

Yet that little business "grew to be a mainstay of the American economy and more recently the global economy," said Levin, one of the top partners at Kirkland & Ellis.

The business that Kirkland & Ellis had not heard of until the early '70s was private equity financing. And it had a brother, venture capital.

When Levin happened onto it, the field amounted to small investments totaling in America no more than a few hundred million.

Since then, venture capital/private equity financing has grown to $70 billion in investments last year in the U.S. alone, according to Thomson Financial. Professor Josh Lerner of Harvard Business School says that private equity groups today manage $300 billion in funds.

In the mid-'70s, venture capital and private equity provided work for only one man at Kirkland & Ellis — Levin.

Since then, the field has exploded. Kirkland & Ellis now has "probably 250 to 300 lawyers spending the majority of their time on venture capital and private equity transactions in seven offices, including two in Europe and five offices in the United States," Levin said.

Highly successful Kirkland lawyers and major private equity operators and funds in Chicago and elsewhere trace their beginnings in part to the work of Levin, according to his colleagues.

This year, Chambers & Partners, the British legal publisher, called Levin "the father of private equity" and gave Levin its Lifetime Achievement Award.

Levin, 69, is the first Chicago-based lawyer to receive this award, according to Fiona Boxall, managing editor of Chambers & Partners.

"Jack is a genius," said Bruce V. Rauner, principal of GTCR Golder Rauner, a leading Chicago private equity firm. In addition to that, Levin is an outstanding salesman, Rauner said, with "super common sense, which almost no tax attorneys have."

Levin didn't start out to be a deal lawyer. He started out to be an Army general.

He grew up on the West Side near Madison Street and Kedzie Avenue where his father ran a famous restaurant, Little Jack's, founded by Levin's grandfather in 1905.

Among those who patronized the restaurant were Mayor Richard M. Daley; Jake Arvey, Daley's predecessor as chairman of the Cook County Democratic Party; Al Horan, Democratic committeeman of the West Side's 29th Ward, and lots of average families, Levin said.

For a while, Levin worked the cash register and delivered the restaurant's famous cheesecake.

But by the time the establishment closed in 1962, Levin had just graduated from Harvard Law School.

He described his route this way:

By 1950, the schools in the neighborhood around his family home at 3400 W. Washington Blvd. "were deteriorating badly."

His family sent him to St. John's Military Academy in Wisconsin where he learned "discipline and will power" and received an appointment to West Point.

His wanted to be a general, Levin related, but "my father convinced me maybe that wasn't the best career."

He went to Northwestern University, became a certified public accountant, and next chose Harvard Law School because he it was "the best."

"Couldn't you get into one of the local law schools?" a family friend asked him. "You'll never become a judge going to Harvard."

He graduated first in his class.

Early in his law career, Levin was named assistant to U.S. Solicitor General Archibald Cox and to Cox' successor, Thurgood Marshall. Levin argued eight cases before the U.S. Supreme Court in that role and 12 cases before various U.S. appeals courts,

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'Dummy,' 'dumbest' form duo

There's some humor in the story of how Kirkland & Ellis' long connection with the private equity field began.

A senior partner got a call from an official at First Chicago Corp. who said, "Hi, could you tomorrow morning send over your best venture capital lawyer…?"

The senior partners, according to attorney Jack S. Levin, had never heard of venture capital. The term was generally unknown in the early 1970s.

"Somebody said, 'Send Jack because he doesn't know much about anything, but he knows a little bit about a lot of things,' " according to Levin.

Levin introduced himself to Stanley C. Golder, head of the fledgling venture capital unit at First Chicago Corp., with these words: "Hi. What's venture capital?"

"Just my luck," Golder responded, "they send me a dummy for a lawyer."

Three hours of negotiations followed between First Chicago and a small firm in which the institution wanted to invest some venture capital. Levin, on orders from Golder, said nothing.

At lunch, Levin told Golder, "This form agreement doesn't have anything to do with the terms you're negotiating in there, and you're negotiating the terms all wrong."

Levin added, as a joke, "You must be the dumbest venture capital investor in America."

Golder suggested that Levin handle the next round. The deal was completed.

"Stan said, 'OK, you're my guy,' " according to Bruce V. Rauner, Golder's protege.

— Jerry Crimmins

and tried three cases in U.S. district courts, all tax and business matters.

He felt he'd achieved "the pinnacle of litigation" already as a young man.

So when he returned to his first employer — Kirkland & Ellis — he decided to switch his focus.

He decided to become a tax lawyer, where one case would not last for years. He said he wanted to make things happen in the future rather than quarrel over the past.

That phase lasted three years.

Levin recalled that he sometimes would develop a complex tax plan, only to hear from the transactional lawyer assigned to carry out Levin's work with the client, "The plan didn't really fit and we abandoned it."

Restless and dissatisfied, Levin decided he wanted to do transactions and butt heads.

He was 34, and had made partner at Kirkland. He announced that he wanted to make another career switch, to become a corporate transactional lawyer — albeit one with no experience.

"Whoa!" other partners said, Levin recalled. "You're going to have to work for third-year associates, and they're going to tell you what to do."

At first, Levin took orders from third- and fourth-year associates. And "every weekend, I took home books about [Security and Exchange Commission] law, about mergers, books about public offerings" until, after two years, he rose in his new field to play the role of a senior partner.

Thus, when fate called in 1972, he was ready.

His law firm sent him to advise Stanley C. Golder, head of First Chicago Corporation's small venture capital subsidiary, about an investment in a small company with a new idea.

For most people in those days, Levin said, "The words venture and capital didn't fit together…. The words private and equity didn't fit together…. It was like saying tuna fish elephant."

However, he said, a few financial institutions like First Chicago, Continental Bank and Prudential Insurance Co. in New York were making small venture capital investments, $250,000 to $500,000, to buy equity in a small or startup firm.

The original investment on which Levin represented the late Golder — who was himself an extraordinary pioneer — was a company that wanted to make throw-away plastic bedsheets for hospitals.

The idea failed. But the relationship of Golder and Levin took off.

In the late '70s, with Levin's help, Golder lobbied the U.S. Department of Labor to change its interpretation of the "prudent man" rule of the Employee Retirement Income Security Act that governed pension fund investing.

The new interpretation in 1979 allowed pension funds to invest some money in small or new companies and venture capital.

This, Rauner said, released "a tidal wave of capital."

Today, a quarter to a third of the money in VC/PE comes from pension funds, according to Levin.

Levin and Golder were involved in several such lobbying efforts in Washington, some of which involved IRS regulations, Levin said.

VC/PE expanded from startup transactions into leveraged buyouts, growth-equity investments in existing companies, turnaround investments, industry consolidations and exit strategies for those investments, and — very important — the formation of venture capital, private equity and buyout funds run by full-time professionals.

Levin "invented many if not most of the legal mechanisms that people still use in private equity investing today," said Kevin R. Evanich, a Kirkland partner. Levin trained Evanich starting in 1983 when the firm's private equity group had only five lawyers.

All of these VC/PE deals "were new types of transactions presenting a number of very complicated and difficult issues, both tax issues and SEC issues and other regulatory concerns," said Kirk A. Radke, who started working for Levin full time in 1984.

"Jack, because of his energy and intellect, was able to thread the needle through all these different areas of the law and get things done for the investors," Radke said.

"He was not only representing the guys doing the deals," commented John G. Quigley, a former Kirkland associate, "but he was representing the institutions providing the money to launch some of the pioneer LBO and venture capital firms throughout the U.S."

Levin represented Golder when Golder and colleagues started their own private equity/venture capital firm in 1980, Golder Thoma Cressey.

Today that firm is GTCR Golder Rauner and has $6 billion in assets.

Levin represented First Chicago when John A. Canning Jr. took over the venture capital unit and it expanded to a $2.6 billion operation. Then Levin represent Canning when Canning and others founded Madison Dearborn. That firm today manages more than $6 billion in private equity investment funds.

"We picked up Continental Bank's venture capital unit, and then, after a spinoff, guys from there left and became Willis Stein Partners," Levin said, "and many, many others."

Levin estimates that he has represented "somewhere around 200 venture capital and private equity firms."

Levin's influence and legal advice was sought beyond Chicago. For instance, Quigley said of New York's Kohlberg, Kravis, Roberts & Co., founded in 1976, "Their early investors were all from Chicago and Jack was representing them."

Similarly, Levin was heavily involved in structuring Clayton, Dubilier & Rice Inc., another New York private equity firm whose initial funds, Quigley said, were largely from Chicago.

Quigley is today a principal in Nassau Capital LLC, a firm that exclusively invests capital on behalf of Princeton University's endowment fund.

Levin and other Kirkland & Ellis lawyers helped set up and structure Nassau, Quigley said. "They're still my first call.'"

Today, Levin said, Kirkland "probably forms 50 to 100" private equity funds a year.

Venture capital people move fast, the way Levin likes. He said they "will typically negotiate and consummate a transaction in a few weeks or at most a month or two."

Usually just two or three people at the venture capital firm handle the deal. No corporate bureaucracy interferes, Levin said.

Radke, who later helped found Kirkland's New York office, said, "So many lawyers see the big picture and can't understand the details, or vice versa. Jack had the unique capability to do both and a unique capability to understand the tax world and the corporate world."

"Jack started back in the days when it was venture capital, industry consolidation and the beginning of the buyout era," said Avy H. Stein, name partner of Willis Stein & Partners, a $2 billion Chicago private equity fund. "Jack has been a trusted adviser to the largest and most successful firms in all those areas."

Levin teaches part time at Harvard and the University of Chicago. As language evolves, he said, today "venture capital means investing in early stage companies. Private equity now means investing in more mature, later stage companies."

He also wrote the books.

He is the author of "Structuring Venture Capital, Private Equity and Entrepreneurial Transactions," republished annually by Aspen/Panel Publishers. He is co-author with Martin D. Ginsburg of "Mergers, Acquisitions and Buyouts," republished semi-annually by Aspen/Panel Publishers.