



2014 Practice Group of the Year

M&A

Kirkland & Ellis LLP's mergers and acquisitions team structured some of the most innovative deals of 2014, including the unorthodox partnership between Bill Ackman's Pershing Square Capital Management LP and Valeant Pharmaceuticals International Inc. on their \$55 billion hostile bid for Allergan Inc., landing Kirkland among *Law360's* M&A Practice Groups of the Year.

The much-talked-about deal saw the unlikely pairing of an activist investor with a stake in the target company team up with a would-be suitor to launch a hostile takeover bid.

While the deal didn't yield a successful bid — Allergan found itself a white knight in rival drugmaker Actavis PLC, which put in a \$66 billion offer to thwart the Pershing Square-Valeant bid — it was a first-of-its-kind pairing that activist investors began seeing as a potential blueprint for future activist-related transactions and that other attorneys took notice of for its sheer boldness.

And success can be measured in different ways. Kirkland's client Pershing Square still walked away with a multibillion-dollar payday from Allergan's deal with Actavis.

No one will dispute the fact that the approach to the deal — setting up the partnership between Valeant and Ackman's Pershing Square — was creative, Daniel E. Wolf, an M&A partner in Kirkland's New York office, told *Law360*.

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“Ordinarily, if a client showed up and said it wanted to partner with Valeant to make a bid, most people would've said that's never been done before and that'd be the end of the discussion,” Wolf said. “But that's the opening for a discussion for us. That reflects our attitude of not saying there isn't precedent so we won't do it. Somebody's got to be the first to do it. More often than not, that's us.”

The Pershing Square-Valeant bid dominated headlines, but it was just one of many complex, multilayered transactions that Kirkland's 85-attorney M&A team tackled in what was another standout year in M&A for the firm that has included work for Burger King Worldwide Inc., Bristol-Myers Squibb Co. and private equity firm Vista Equity Partners.

Kirkland's top brass say their attorneys, who work punishing hours yet still maintain a high level of energy and motivation to stay ahead of the curve, make up a corporate M&A team that has earned a reputation in the market for going after complex — and seemingly untouchable — deals.

“We really have a great group of people who are happy working with each other to expand the practice and have a good dynamic and good

energy,” David Fox, a leading member of Kirkland’s corporate practice and a member of the firm’s global executive management committee, told *Law360*. “We’re doing very cutting-edge deals and it’s not a cookie-cutter practice. It’s a great atmosphere where creative work is being done and that’s what makes us proud about our practice.”

More than four years ago, Kirkland devised a novel deal structure to help a private equity consortium acquire Burger King Holdings Inc., guided Burger King’s 2012 go-public transaction, and last year negotiated a blockbuster \$11 billion merger between Burger King and Canadian coffee shop chain Tim Hortons Inc. in a much talked-about inversion that will see Burger King move its legal home to Canada and skirt the U.S.’ 35 percent corporate tax rate in the process.

“Everyone was announcing and pronouncing the end of inversions,” Wolf said. “To do a deal of that sort that took into account the new inversion regulations, addressed Canadian securities issues and tax concerns, again was a reflection of our creativity and diversity of practice.”

The firm also advised Bristol-Myers Squibb Co. in its \$4.3 billion sale to AstraZeneca PLC of its stake in the companies’ joint venture aimed at developing diabetes treatments.

Under the deal, which closed in February 2014, AstraZeneca agreed

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to make an upfront payment of \$2.7 billion to Bristol-Myers Squibb, with potential regulatory- and sales-based milestone payments of up to \$1.4 billion, and to make royalty payments based on net sales through 2025. In addition, AstraZeneca will make payments of up to \$225 million if and when certain assets are subsequently transferred.

Kirkland also represented technology-focused private equity firm Vista Equity Partners on its \$4.3 billion acquisition of California-based Tibco Software Inc., a global leader in infrastructure and business intelligence software. Under the terms of the agreement, Tibco stockholders will receive a total of approximately \$4.3 billion, including the assumption of net debt.

Kirkland followed that up in November by guiding Vista Equity in another buyout, this time of Advanced Computer Software Group PLC, a British health care and business software maker, for £725 million (\$1.14 billion).

While favorable market conditions and long-lasting client relationships certainly contributed to Kirkland’s banner year in M&A, the firm’s recent successes also trace back to its diverse range of practice.

“It’s really a testament to the diversity of our practice — from a geographic standpoint, an industry standpoint and deal-size standpoint,” Wolf said. “We weren’t dependent on inversions for our place in the M&A market. We’re not dependent on the mega cross-border deal or the all-stock deal. Our strength is consistency of performance across the full range of deals.”

After such a mold-busting year in deal-making, Kirkland says the aim is to continue to sustain the high level, innovative transactional work it has become so widely known for in the legal industry.

“We are always vigilant,” Fox said. “We’re performing at a very high level in quality and volume and we work very hard every day to keep going at the same level and continue to grow.”

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