FIRST ASSIGNMENT IS UNDER WEEK 1

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Title: PRIVATE EQUITY: Fund Formation and Transactional Issues

Credit: Hours: (2)

Type: Seminar limited up to 25 upper level students.

Pre-requisites: Business Organizations.

Course Description: The course is designed to introduce upper level students to the fundamental and critical issues arising in private equity fund formation and the transactions engaged in by private equity funds. The principal focus of the course will be on understanding the legal and commercial aspects of private equity as an asset class and on introducing students to the legal documents used in the process of raising and investing capital. Pre-requisite for the course is Business Organizations. Contract, corporate, partnership, limited liability company and securities laws will be the principal legal regimes applied in the course. The course will also deal incidentally with various other laws, including tax, ERISA, bankruptcy and anti-trust laws.

Conduct of the Classes: The class will be conducted as a seminar with an emphasis on student participation based on research and the reading materials assigned for each session. Grades will be based on a take home final exam. Class attendance and participation will be important and may have a positive impact on final grade, (it raises final grades, but does not lower them).

Course Materials: The course materials will include: Private Equity as an Asset Class by Guy Fraser-Sampson (John Wiley & Sons, Ltd, 2nd ed. 2010); Selected Delaware General Corporate Law and Limited Liability Company Law; current news in Private Equity (WSJ); selected cases; and transactional documents used in the Private Equity area.

Role of the Course in the Curriculum: The course will supplement and strengthen students' knowledge of certain basic legal disciplines that are core to practicing in the transactional area of corporate law (e.g., corporate, securities, tax, ERISA and partnership law). Private Equity as an asset class is a major force in the global economy and having an understanding of how investment funds are created and operate will be valuable to students whether or not they ultimately practice in this area.

Attendance: Students will be expected to attend class and participate in class discussions.

Proposed Syllabus (14 weeks):

Week 1:
- Introduction to Private Equity
- Private Equity as an asset class: What is it? Why?
- Economic and Social Issues
- The Major Investors/Limited Partners
- Sponsors/Investment Personnel
- Investment Thesis / Internal Rates of Return
- Terminology/Jargon

Week 2:
- Fund Formation
- Legal Considerations/Issues
- Key Terms / Term Sheet
- Introduction to Marketing and Documentation
- Track Record/Finders

Week 3:
- Fund Documentation
- The Offering Memorandum
- The Limited Partnership Agreement
- The Subscription Agreement

The Brochure
Side Letters

Week 4: Investing Capital
Leveraged Buy-Outs and Management Buy-Outs
Locating Opportunities
Research
Auctions
Sponsor Coverage
Proprietary Opportunities
Corporate Carve-Outs

Week 5: Anatomy of an Auction of a Business
The Players and their Roles
Process Letter
The Confidentality Agreement
The Offering Memorandum
Management Presentations
The Data Room
Due Diligence
Deal Dynamics/Negotiations
Strategy

Week 6: The Bid Package
The Auction Contract and Mark-Up
Use of Auction Memorandum by Buyers
Equity Commitment Letter
Limited Guaranty
Debt Commitment Letters
Bid Letter
Consortium Arrangements/Shareholder Agreements

Week 7: Introduction to Debt Financing
Bank
High Yield
Mezzanine
Seller Paper
The "Recap" Structure

Week 8: Terms of the Deal/Alternate Investments
Public vs. Private
PIPEs and other Non-control investments
Equity to support acquisitions

Week 9: Management Participation
Equity "Roll-over"
Equity Investment
Options
Employment Agreements
Non-compete Agreements
Strategy

Week 10: Exit Transactions
Initial Public Offering
Sale
Secondary Buy-outs

Leveraged Build-ups or "Roll ups"

Week 11: Selected Legal Issues
Cases, e.g., Del Monte, United Rentals
Strike Suits
Anti-trust
Tax Structuring
Key Delaware Law Issues
Securities Law Matters

Week 12: Introduction to Venture Capital Investing
Valuation
Diligence
IP
Documentation

Week 13: Current State of the Private Equity Market
Fund Raising
Financing Market
Mega Deals
Regulation of Private Equity Funds
The Future

Weeks 14: Review and Discussion of Selected Issues