

M&A MVP: MoFo's Robert Townsend

By **Andrew Strickler**

Law360, New York (November 25, 2013, 10:45 PM ET) -- Morrison & Foerster LLP's Robert S. Townsend played his mergers and acquisitions cards well this year and pulled in winning stakes for clients like Caesars Entertainment Corp., Pinnacle Entertainment Inc. and Intel Corp., earning him a spot on Law360's list of M&A MVPs.

Even among all those wins, it was Townsend's central role in SoftBank Corp.'s landmark \$21.6 billion takeover of Sprint Nextel Corp. that earned him the loudest accolades among deal makers.

From the outset, Townsend said, the team's strategy for SoftBank entering a U.S. wireless industry in flux was to leverage the Tokyo-based telecommunications company's capital and make an early, multibillion-dollar commitment to Sprint, funds Sprint could put toward the continuing build out of its wireless network while a deal progressed.

Townsend, working with MoFo Japan partner Kenneth Siegel, a fellow Law360 MVP this year, put together an initial offer to buy 70 percent of Sprint for \$20.1 billion.

"We structured it up front to emphasize a significant investment into Sprint basically from the day we announced the deal, knowing that investment would be somewhat at risk" if a deal wasn't made, he said.

That move to differentiate SoftBank among suitors for the Kansas-based wireless carrier put it in position when an interloper — Dish Network Corp. and its chairman Charlie Ergen — tried to disrupt the deal with a higher competing offer for Sprint and subsidiary Clearwire Corp.

While also handling a U.S. Department of Justice inquiry, Ergen's play meant the MoFo team had to respond to "plenty of gamesmanship" as the Dish chairman lobbied the Federal Communications Commission, state regulators, shareholders and others to delay or derail the SoftBank deal.

But rather than try to hold Sprint to initial agreement provisions limiting their ability to negotiate with others, Townsend called for waivers allowing Sprint to go ahead with Dish talks, which Townsend hoped would "flush out" a shaky Dish position.

"A lot of people would take the opposite approach and say to the target company that you can only do what you're allowed to do under the contract ... but we took an opportunity and said, 'Go ahead and do what you need to do and let's see if they'll come up with a serious higher bid,'" he said. "And then we

waited.”

Townsend and the team then made a countermove, upping SoftBank’s offer for a bigger controlling interest, and got agreements on a hard time-frame for Sprint to receive a formal Dish offer. The tactic worked: Ergen folded and Dish withdrew.

In July, SoftBank announced the completion of the takeover and the acquisition of about 78 percent of Sprint's shares, which closed the day after Sprint finished its acquisition of Clearwire. Shortly afterward, Clearwire shareholders also voted overwhelmingly to approve another transaction Dish was challenging, paving the way for Clearwire to become a wholly owned Sprint subsidiary.

As part of the merger, SoftBank has invested \$21.6 billion in Sprint, including about \$16.6 billion to be distributed to Sprint stockholders and an aggregate \$5 billion of new capital to strengthen Sprint’s balance sheet.

Counteracting DISH’s delay tactics and pushing the pace of the deal “was to our benefit, yes, but it was also to the benefit of the company’s shareholders and the board’s to figure out if DISH could come up with a superior bid or not,” Townsend said.

Townsend’s winning year also included advising long-time client Intel on its roughly \$4.1 billion in investments in Dutch chipmaker ASML Holding NV, aimed at accelerating development of cutting-edge chip production through a technique called extreme ultraviolet lithography.

Townsend, a career MoFo transactions specialist who has served stints in the Philippines and as managing partner of MoFo’s Tokyo office, also represented Pinnacle Entertainment in an all-cash, \$2.8 billion merger with Ameristar Casinos Inc., more than doubling the number of Pinnacle’s number of gaming properties.

And if that wasn’t enough transactional poker for 2013, Townsend also advised an independent committee for Caesars Entertainment Corp.’s board and helped set the stage for the spinoff of a new venture, Caesars Growth Partners LLC, with at least \$500 million from Apollo Global Management LLC and TPG Capital LP, in a bid to raise growth capital and stabilize the debt-burdened company.

--Editing by Elizabeth Bowen.