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Dealmakers Q&A: Husch Blackwell's Jim Ash, *Law360*

James M. Ash leads Husch Blackwell LLP's food and agribusiness group. He has guided some of the world's most visible food and agriculture companies, along with their investors and financiers. Ash's first exposure to agribusiness came during his formative years growing up in a California farming community. He also worked as a plant manager for the citrus cooperative Sunkist, where he accumulated additional perspective on the food industry.

Jim's engagements in the food and agribusiness industry cover a range of issues, including mergers, international expansion, governance, securities and various general corporate matters. He twice was asked to serve as interim general counsel to a Fortune 1000 company and understands his clients' operations with an insider's perspective. His projects have included advising on the \$2.2 billion merger of Applebee's and IHOP, advising on the \$1.2 billion merger of American Italian Pasta and Ralcorp, advising on the acquisition of Russell Stover Candies by Lindt & Sprüngli, representing pork producer-owned Triumph Foods, leading a multinational, multiparty transaction involving a series of acquisitions, joint ventures and exclusive supply arrangements to realign U.S. and EU interests in a specialty manufacturing sector, and acting as lead attorney on several early telecommunications industry transactions, including the \$1.2 billion sale of Illuminet to VeriSign.

As a participant in Law360's Q&A series with dealmaking movers and shakers, Jim Ash shared his perspective on five questions:

Q: What's the most challenging deal you've worked on, and why?

A: It seems I may have had more than my share of challenging deals. Simply from an emotional standpoint, the two deals I was leading on Sept. 11, 2001, were extremely difficult. One was a \$1 billion-plus telecom deal that found my team scattered across the country in various diligence and negotiation

sessions, unable to find ways to return home, in some cases for several days. In the other deal, one set of counsel and investment advisers were officed in the Twin Towers and it was several days before we confirmed the tragic fate of our colleagues.

From a pure “deal” point of view, I remember a multinational transaction that required a majority of the board of directors to take control from recalcitrant management. I felt like Henry Kissinger as I was asked to engage in shuttle diplomacy back and forth from the West Coast to the East Coast, with Toronto serving as our “neutral site.” Ultimately, the deal was closed and the resulting business was one of the best-performing stocks in the market over the next five years.

But I think the most challenging deal was the four-party transaction that realigned an entire manufacturing industry across the United States and Europe. We had to coordinate the interests of Swedish, German, Italian and U.S. parties, the workers councils at plants in Germany and Italy, the Italian government and the EU competition commission. Multiple time zones and languages (including my client’s strong Southern accent) exacerbated matters. And the entire structure hinged on our pushing through the European Union competition commission approval of what at the time was the longest exclusive supply agreement ever allowed.

Q: What aspects of regulation affecting your practice are in need of reform, and why?

A: From an M&A standpoint, two issues come to mind. First, the U.S. Securities and Exchange Commission needs to address the outdated timeline for disclosure of stock accumulation under Rule 13d. Second, we need to find a way to stop the inevitable strike suits filed on almost every public company deal. I don’t see why the people who press these should be able to levy a tax on every deal.

Q: What upcoming trends or under-the-radar areas of deal activity do you anticipate, and why?

A: If I had to bet on future deal trends, I would put my money in these places:

1. Foreign investors buying U.S. prime real estate, not just in New York or the West Coast. The U.S. still looks to be the safest haven for investment, and those with a long-term outlook will realize that U.S. commercial real estate (including agricultural land) is a great place to be.
2. Further consolidation in the logistics industry and the convergence of online retailers and distribution/logistics business. The world’s economy grows and the need to take inefficiency out of the process of getting goods and materials from their production site to their use site grows with it.

3. Increased investment from China focused on controlling U.S. businesses for the purpose of exporting operation and production know-how to China. Not everything is about computer technology or robotics. Growing economies need dependable financial institutions, infrastructure and food sources. There are world leaders in each of these areas in the U.S., and acquiring the know-how to deliver these “backbone” resources allows one to bypass the “learning time investment” and jump ahead to the implementation of proven delivery systems.

Q: What advice would you give an aspiring dealmaker?

A: The deal is not about you. Your role is (1) to be sure your client understands the upside and downside of the transaction, and (2) to negotiate the best allocation of risk given your client’s position and perspective. Your client should be equally pleased whether a good deal gets done or a bad deal is avoided. And in either case, parties and attorneys should be able to shake hands and wish each other well.

Q: Outside your firm, name a dealmaker who has impressed you, and tell us why.

A: Phil Gelston at Cravath Swaine & Moore LLP. Phil is extremely bright, very thoughtful, pragmatic and genuinely a nice guy. He is a strong but professional advocate and is able to present complex issues in easily understood “client speak.” I have worked with Phil on takeover defense strategies, battling predatory shareholder activism, proxy battles, and market-leading M&A deals. In every case, his instincts were great, his legal advice was right on, and his practical and unflappable approach a breath of fresh air.