THE AMERICAN LAWYER
An ALM Publication
americanlawyer.com
APRIL 2011

TOP TRANSACTIONS LAWYERS 2011

DEALMAKERS OF THE YEAR

Photographs By Paul Godwin

PROP STYLING BY JEFF STYLES

It sounded simple enough: Take Sweden's iconic car company out of American hands *and sell it to the Chinese.* **But for Volvo, the road out of Detroit was full of twists and turns.**

INVENTORY REDUCTION SALE

By D.M. Levine

HOGAN LOVELLS CORPORATE PARTNER William Curtin III knows exactly how tough it can be to do business in China. As the lead lawyer on Ford Motor Company's sale of Volvo Car Corporation to Zhejiang Geely Holding (Group) Co., Ltd., a private Chinese company, last year, the New York–based Curtin oversaw the first-ever takeover of a global automotive manufacturer by a Chinese company.

Ford began discussing the idea of selling Volvo with Curtin in 2007 as part of its "One Ford Global Strategy," in which the automaker endeavored to close or sell nearly all of its branded subsidiaries. In addition to putting Volvo on the block, this meant selling Aston Martin to a consortium of investors for $848 million in 2007 (Skadden, Arps, Slate, Meagher & Flom advised Ford on that transaction), and selling Land Rover and Jaguar, which were bundled in a single $2.3 billion sale to the Indian company Tata Motors Limited in 2008. (Curtin advised Ford on the Jaguar–Land Rover sale at his previous post as head of Hogan & Hartson's European corporate practice in London.)

Curtin first started working with Ford in 2006 on relatively small transactions, but he had a strong ally inside Ford—general counsel David Leitch, who had once been a partner at Hogan & Hartson. Ford's early discussions of a Volvo sale progressed into formal plans in 2008 and 2009. A consortium of private equity firms, among others, was also vying for Volvo. By the fall of 2009, Ford had settled on Geely as the buyer.

As experienced as Ford had become at ridding itself of subsidiaries by this point, the divestiture of the Volvo business presented its own set of challenges. For one thing, Ford was looking to sell Volvo at one of the worst periods in the history of the American automotive industry (Chrysler LLC and General Motors Corporation had both filed for bankruptcy in 2009). "We had a clear set of goals from the Ford Motor Company at the highest levels," says Curtin. "And we were asked to accomplish those goals in as challenging an economic circumstance as we had seen in 75 years."

But an even bigger complication was the cultural divide between the Chinese buyer and the American seller. "A lot of our tried-and-true methods were challenged by the opposite party, because they'd say, 'That's not how things work in China,' " says Ford business development director Geoff Dukas.

Curtin says that part of what made the Volvo deal a challenge for him is that Chinese law, which is itself complicated, is also full of what he calls "regulatory surprises"—unexpected hurdles in enforcement and regulation. As a result, Curtin had to make sure that the sale contracts for the transaction were broad enough at every level to allow leeway for unanticipated obstacles in obtaining approvals and financing, and for delays in scheduling official consultations.

"It's so easy and almost common now for people to note that China is the emerging muscle in the world economy," Curtain says. "But China doesn't have the experience that major industrialized nations have in transacting international business deals."

Often Curtin had to be creative. At one point, for example, Ford had to find a way to guarantee that, in the event of any unexpected problems with the deal's financing, Geely had a reliable alternative source of working capital. Curtin helped come up with the idea of negotiating an agreement in which Geely agreed to secure backup funding from a Chinese bank to provide working capital for Volvo, if the original bank financing it preferred was not secured by the deal's closing date.

In the end, the workaround was not needed, and the sale closed in August 2010. Geely paid $1.3 billion in cash plus a $200 million note (in a last-minute change, the purchase price was cut from $1.8 billion as slightly larger liabilities were found in Volvo's working capital, pensions, cash, and debt). But the point was made: "To do a deal like this in China," Curtin says, "you don't get to just go to your laptop and pull down the template for an M&A deal."

E-mail: dmlevine@alm.com.

DEAL IN BRIEF

VOLVO SALE

VALUE	$1.3 billion
FIRM'S ROLE	Target's Counsel