

## M&A Group Of The Year: Cravath

By Elise Hansen

*Law360 (January 13, 2020, 3:41 PM EST)* -- Cravath Swaine & Moore LLP helped steer some of 2019's biggest deals, including energy company Occidental's \$57 billion Anadarko acquisition and the \$30.5 billion reunion of CBS and Viacom, landing the firm a spot on Law360's 2019 Mergers & Acquisitions Groups of the Year, a distinction earned eight of the last nine years.

Cravath helped ink multibillion-dollar deals across a range of industries, from energy to health care to media and entertainment. Partner Thomas Dunn said Cravath's tendency to train its associates on a range of corporate matters, not just mergers and acquisitions, gives attorneys an edge in thinking through complex transactions.

"I think the strong, multidisciplinary foundation we all have ... helps us be creative and nimble, as we often encounter in these very complicated transactions very unique, novel situations where we have to problem-solve," Dunn said.

One such deal was Occidental Petroleum Corp.'s rollercoaster takeover efforts for Anadarko Petroleum Corp., which ultimately yielded a \$57 billion acquisition deal, including debt.

Occidental had been wooing the Texas-based energy company but was seemingly thwarted when Anadarko inked a takeover bid with Chevron Corp. in April. Occidental revised its terms, topping Chevron's cash offer and securing a \$10 billion side deal with Berkshire Hathaway to help finance the bid.

"There's always an extra layer of unpredictability in contested transactions like that," partner George Schoen said.

Another challenge in negotiating the deal was inking the sale of Anadarko's assets in Africa to Total SA before the Occidental-Anadarko merger deal closed, Schoen said.

"Structuring that arrangement so that we were comfortable we could enforce it against Total was somewhat novel, because we're basically agreeing to sell assets that we had not acquired ownership of yet," Schoen said. "There was some creative thinking that went into how to structure that at that point in time with Total."



Cravath later helped fend off a lawsuit over the Occidental-Anadarko deal. Funds affiliated with activist investor Carl Icahn spearheaded a bid to get hold of additional deal records to support a proxy fight but were denied by the Delaware Chancery Court in November.

Cravath's work was on display again in July, when client Mylan NV announced an all-stock tie-up with Pfizer Inc.'s generics and off-patent branded business, Upjohn. The resulting company is expected to become a global pharmaceutical player with roughly \$20 billion in assets, according to the deal announcement.

The firm employed a reverse Morris trust in structuring the deal, a relatively uncommon and tax-favorable structure that requires nuanced and precise execution.

"[Reverse Morris trusts] are highly complex, and there's a whole lot of moving pieces in pulling one of them together," Dunn said. "You have to negotiate a carveout transaction plus negotiate a merger, all in the confines of a very complicated tax structure."

The firm also had to pull the structure off within about six weeks, Dunn said, a feat he described as "quite a heavy lift."

"I don't think it's really possible [to do that] unless you have a close connection with your client and you know your client really well — which we do with Mylan — and are able to move very swiftly because of that close relationship," Dunn said.

Cravath also helped bring home the much-anticipated \$30.5 billion merger between Viacom Inc. and CBS Corp., which closed in December. The firm represented the special committee of Viacom's board tasked with overseeing the deal, which had been the subject of many media reports and two previous attempts to reunite the companies after more than a decade of separation.

"Any time you have media speculation or the press reporting on nuggets they pick up here and there, that can make things really difficult," partner Damien Zoubek said. "There was an additional layer of complexity because there were controlling shareholders on both sides," he added. "It's not every day that you work on a deal with two public, controlled companies."

In this case, National Amusements Inc., which is in turn controlled by media mogul Shari Redstone, was the controlling shareholder for both companies.

The exchange ratio for Viacom and CBS stock was one of the key points of negotiation, as was the resulting company's governance structure, Zoubek said. "The deal took a long time to come together, but when you look back at how much work went into it, it's easier to understand why," he said.

While Cravath took a leading role in many of 2019's mega-deals, the mergers and acquisitions group has also cultivated a diverse deal flow that Zoubek said highlights the group's overall strength and staying power.

"[The practice] is not just concentrated on huge deals," Zoubek said, adding that the firm has cultivated "top-to-bottom strength" in its practice.

"I think the proof is in the pudding regarding the strength of the M&A platform as a whole," Zoubek said.

--Additional reporting by Chelsea Naso, Joseph Boris, Vince Sullivan, Rose Krebs and Benjamin Horney.  
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