



**Private Equity,
Mergers and Acquisitions
and Corporate Transactions Practice**



Kenneth Schwartz

Founder and Managing Partner

Ken Schwartz is the founder and managing partner of Schwartz LLC, a law firm dedicated to serving investment funds, including private equity funds, hedge funds and other alternative investment vehicles, investment banks, family offices of private investors, and institutional private investors. He concentrates on mergers and acquisitions, international corporate and securities transactions, joint ventures, private equity investments, investment fund formation, investment management and broker-dealer regulation, offshore and global structuring, and corporate finance transactions. Schwartz LLC is known for its emerging markets corporate and investment transactions practice, serving investors, founders, controlling families, and fund managers in markets such as Latin America, Africa, and other regions around the world.

Ken's corporate and investment management work also extends to socially responsible investment (SRI) funds, environmental and social governance (ESG) aspects of public company shareholder engagement, private equity investing, and advice to family offices and other investment organizations that wish to implement socially-responsible principles.

Prior to founding Schwartz LLC, Ken was a partner at a well-known New York law firm and the head of its private equity and funds practice.

Ken received his law degree from the University of Miami School of Law and graduated from Fordham University with a B.A. in history.

Ken is fluent in Portuguese, Spanish and French, and has published several articles and spoken at conferences on a variety of corporate and securities law topics.

Ken is a member of the Board of Directors of the Mexican Cultural Institute of New York. His wife is from Mexico. They have two daughters and live in New York City.

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Partner

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PUBLICATIONS AND ADDRESSES

- SEC Adviser Registration & Other US Regulatory Issues for Investment Funds and Asset Managers, SERVICING THE US INVESTOR – FATCA – SEC ADVISER REGISTRATION Impact for Foreign Non - US Asset and Fund Managers, Geneva, Switzerland, May 2011.
- U.S. Regulatory Changes Affecting Private Fund Offerings in the U.S., 5th Annual Risk Manager Conference on UCITS IV RISK MANAGEMENT, Luxembourg, November 2010.
- *Perspectives on Private Equity & Emerging Markets*, conference panelist, Benjamin N. Cardozo School of Law, March 26, 2008;
- *Mergers and Acquisitions in Latin America: an Update on Recent Market Developments and SEC Regulation Initiatives*, presentation to joint meeting of the Inter-American Bar Association and the Canadian Bar Association, Ottawa, Canada, October 16, 1999;
- *Private Equity Investments in Brazil*, address to the Associação Brasileira de Analistas do Mercado de Capitais (ABAMEC), São Paulo, Brazil, 1998.
- *Private Equity in Latin America*, address to the Inter-American Bar Association, Washington, D.C., September 26, 1997.
- Co-author, with Richard L. Herrmann, *Offshore Private Investment Companies and Trusts*, in LATIN FINANCE / PRIVATE BANKING AND ASSET MANAGEMENT IN LATIN AMERICA 1997.
- *The New Mexican Foreign Investment Law and NAFTA*, address to the Tri-Lateral Commission of North American Chambers of Commerce, Banff, Canada, July 1994;
- *Las Fuentes del Derecho Norteamericano (Sources of American Law)*, address to the National Ass'n of Mexican Notaries, Ciudad Juárez, Mexico, Sept. 24, 1993.
- *Open Price Contracts and Specific Performance Under the U.N. Sales Convention and the U.C.C.*, 1 THE U. OF MIAMI YEARBOOK OF INT'L LAW 356 (1991).

CURRENT AND PAST MEMBERSHIPS

- SIFMA Compliance and Legal Society;
- American Bar Association Section of Business Law (Member, *COMMITTEE ON FEDERAL REGULATION OF SECURITIES, Subcommittee on International Securities; COMMITTEE ON VENTURE CAPITAL AND PRIVATE EQUITY, Subcommittee on Fund Formation* and Member, *Subcommittee on International Venture Capital and Private Equity*);
- American Bar Association Section of International Law and Practice (Member, *INTER-AMERICAN LAW COMMITTEE, MEXICAN LAW COMMITTEE*);
- Association of the Bar of the City of New York (Member, *International Environmental Law Committee*, past member, *Committee on Inter-American Affairs, Committee on African Affairs*)
- New York State Bar Association Section of International Law;
- International Bar Association

REPRESENTATIVE TRANSACTIONS AND EXPERIENCE

Private Equity and Venture Capital

- Multiple foreign family offices as private equity real estate investors and guarantors in a \$3.8 billion office tower development (acting as of counsel to former firm), including negotiation and delivery of New York and foreign law opinions to Blackstone on \$1.8 billion in mortgage and mezzanine loans (other law firms involved: Gibson, Dunn & Crutcher, Sullivan & Cromwell, Fried, Frank, Harris, Shriver & Jacobson).
- General partner of a private equity fund in connection with complex partial secondary sale of private equity fund interest by institutional limited partner to secondary private equity fund in connection with a team spin-out from private equity arm of a bulge-bracket investment firm (spin-out team / secondary buyer represented by Fried, Frank Harris, Shriver & Jacobson LLP).
- Brazilian private equity fund manager in structuring and successful formation of landmark US\$100,000,000 Brazilian private equity pledge fund with family office, Deutsche Bank (Bankers Trust Co.), and Nederlandse Financierings Maatschappij voor Ontwikkelingslanden N.V. (FMO) among LPs.
- Served as outside counsel to the Brazilian private equity fund, acting as point person for interaction with family office and institutional LPs, including Nederlandse Financierings Maatschappij voor Ontwikkelingslanden N.V. (FMO) 1998-2014.
- Negotiation of investor consents in club-deal portfolio company exits (LPs represented by in-house counsels and Kirkland & Ellis LLP).
- Various fundless independent venture capital sponsors: formation and offering of interests in various venture capital limited partnerships and club deal syndicates.
- Restructuring of various offshore private equity holding companies and limited partnerships for South American private equity fund (institutional LP represented by Skadden, Arps, Slate, Meagher & Flom LLP).
- Advise Financial Advisory and Private Equity firm focused on the US Hispanic Market on various investments and syndications.
- Independent sponsor of venture capital limited partnership in consent solicitation, amendment and offering of a series of partnership interests participating in a venture capital investment in an Internet company led by Softbank Latin America Ventures, L.P.
- First-time African private equity manager on formation of proposed private equity fund.

Other Private Investment Funds, Asset Management, Investment Management and Financial Services

- Structuring, establishment and offering of mini-master-feeder fund with British Virgin Islands (BVI) feeder fund and BVI limited partnership master fund for U.S. and Latin American sponsor.
- Representation of hedge fund manager in negotiation of a seeding investment by a family office.
- Formation of a commodity futures trading fund as a professional fund in the Bahamas, including ongoing compliance with U.S. securities laws, CFTC rules and requirements, and tax laws, on behalf of a São Paulo, Brazil based commodity futures trading firm.
- Design and establishment of a master-feeder multi-class umbrella fund in Bermuda and Delaware, including sub-classes for investment in an Iraq IPO, on behalf of a U.S. and U.K.- based frontier emerging markets management firm.
- Structuring and establishment of a real estate limited partnership in the Bahamas and underlying holding companies in Malta for investment in Libyan real estate, serviced office/co-working, and related businesses, on behalf of a U.S. and U.K. based frontier emerging markets management firm.
- Establishment of single-investor private family investment fund for a foreign UHNW family.
- Swiss bank and London merchant bank in connection with structuring Latin America-focused investment banking operations in New York and Latin America (team spin-out from major investment bank).
- Negotiation of a seeding structure with an investment banking group specialized in seeding boutique institutional firms, on behalf of founding principals of a New York investment bank focused on Latin American debt capital markets (confidential/undisclosed).
- Investment banking affiliate of Swiss bank and London merchant bank: various investment banking, advisory, placement and restructuring engagements as well as U.S. broker-dealer regulatory matters, OSJ arrangements and Rule 15a-6 agreements.
- Financial Advisory Agreements, NDAs and memoranda of understanding between Latin American M&A advisory boutique and bulge-bracket investment banks.
- Coordinate compliance by various offshore funds, fund advisers and broker-dealers with Securities and Investment Business Act, 2010 of the British Virgin Islands (BVI).
- BVI fund-of-funds in Irish Stock Exchange delisting and updating Information Memorandum.
- Sponsor of BVI private fund on U.S. securities law aspects of private offering to U.S. investors.

- Offshore fund-of-funds: U.S. securities law restrictions on investments in other investment companies and publicly traded companies under Rule 12(d)(1) of the U.S. Investment Company Act and Rule 13(d) of the U.S. Securities and Exchange Act.
- Proprietary securities trading firm on restructuring as a hedge fund.
- On behalf of hedge fund manager, coordinate enhanced KYC-AML due diligence, with assistance of criminal defense lawyers, on complex ownership structure and prior transaction history of a proposed investor presenting 'red flags'; define prophylactic procedures for communications pending resolution of due diligence.

Mergers and Acquisitions

- Brazilian founders as sellers of auto after-market parts and accessories manufacturer in sale of controlling stake to Stoneridge, Inc. (NYSE:SRI) in exchange for restricted stock and cash (Tucker Ellis LLP represented buyer, and I worked under instruction from Mattos Filho, Veiga Filho, Marrey Jr. e Quiroga Advogados ("Mattos Filho Advogados") and Veirano Advogados, representing sellers).
- U.S. buyout firm in a bid for Mexican assets of a division of a Fortune 200 consumer products company in auction managed by Lazard Frères.
- Private equity arm of a major financial institution as prospective MBO sponsor/investor in proposed spin-off of a division of a NYSE-listed media company (Hughes, Hubbard & Reed LLP represented seller).
- Advise European bidder on proposed acquisition of divisional services business of State Street Bank & Trust Company.
- Portfolio company of major private equity fund on proposed sale of Hispanic media division to another private equity fund.
- Controlling shareholder of a major international airport operator in acquisition of beneficial stake in the company from Ogden Corporation (Covanta Energy Corporation), represented by Cleary, Gottlieb, Steen & Hamilton LLP.
- Private equity fund's proposed investment in U.S. engineering and construction management business.
- Major infrastructure group on potential buyout of stake in South American infrastructure joint venture (on behalf of M. & M. Bomchil).
- Argentine management group in buyout of Argentine oil-drilling operations from major U.S. natural resources company.
- Argentine sellers in spin-off of a courier business to United Kingdom interests.
- \$6.6MM investment in Mexican transportation company.
- \$50,000,000 investment in Mexican cable TV company by U.S. cable TV company (represented by Holme, Roberts & Owen LLP – now Bryan Cave's Denver office).

- New York Stock Exchange-listed financial information and technology company on Latin American legal aspects of acquisition (and post-acquisition) of U.S. target with operations in Mexico, Brazil and Costa Rica (acting as Latin American specialist counsel under direction of the buyer's principal counsel, a major East Coast NLJ350 law firm).
- Sale by founders of U.S. surgical device company to strategic buyer (represented by O'Sullivan, Graev & Karabell – now O'Melveny & Myers).
- Latin American private equity fund on sale of call center business (with Mattos Filho Advogados).
- Latin American private equity fund on sale of private-label credit-card processing company (with Mattos Filho Advogados).
- Controlling shareholders of a major Latin American agricultural commodity firm in private shareholder consent solicitation in connection with proposed management buyout.
- Due diligence for \$1 billion proposed investment in Mexican cellular company by U.S. consortium.

Capital Markets and Lending

- Major South American television network as issuer in \$200,000,000 Euro-Commercial Paper Program guaranteed by Cayman Islands subsidiary, through Bank of Boston as dealer (represented by Chadbourne & Parke LLP) and Bankers Trust Company as fiscal and paying agent.
- Latin American private equity fund on IPO of dental health management company (with Mattos Filho Advogados and Simpson, Thacher & Bartlett LLP, as issuer's counsel, and Barbosa, Müssnich e Aragão as underwriter's counsel), and earlier restructurings of holding entities and amendments to club deal shareholders' agreement regarding orderly sales and other matters (Skadden, Arps, Slate, Meagher & Flom LLP representing one investor).
- Institutional lender in secured export loan to U.S. subsidiary of Argentine steel wire manufacturer. The loan was backed by accounts receivable of a major U.S. customer and supported with credit insurance provided by Euler Hermes.
- Major private investor in renegotiation and unwinding of \$400,000,000 in principal amount of Leveraged Structured Notes linked to various emerging market sovereign issuers, arranged by Lehman Brothers.

Agribusiness and Timber

- Emerging markets private equity forestry fund in structuring proposed sustainable timber private equity investment in Angola.
- South American agro-industrial group in cross-border acquisition of feed plant in Andean country.

- Principal in a proposed green coffee exporting joint venture with an affiliate of a major commodities trading house.
- Private equity fund on proposed investment in Latin American fruit-growing joint venture.

Project Finance, Renewable Energy, Infrastructure

- International consortium of developers of solar PV mini-grid projects in Sub-Saharan Africa.
- HNW private venture capital investor as capital provider to domestic solar company in connection with proposed partnership flip tax transaction.
- Renegotiation analysis of South American toll-road joint venture and concession agreement for European infrastructure construction and engineering firm sponsor.

Manufacturing, Operational, and Industrial Transactions

- Nogales, Mexico plant lease renewal for a major U.S. company.
- Spanish paper mill: organization of U.S. subsidiary.
- Spanish paper mill: prepare various commercial agreements.
- Spanish textile mill: restructuring of minority interest in U.S. distribution joint venture.