

Timothy M. Sullivan

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He/Him

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About Tim

Tim is an experienced transactional lawyer who has orchestrated numerous mergers and acquisitions, managing compliance with federal and state securities laws and regulations, as well as ERISA, tax, labor, and environmental matters.

He provides general and compliance advice to publicly traded corporations on federal and state securities laws, including counseling on Securities and Exchange Commission (SEC) requirements related to annual reports, Form 10-K, proxy statements, private placement memoranda, and executive compensation plans such as stock appreciation and restricted stock.

Tim advises clients on insider trading restrictions and reporting under Section 16(b) and Rules 144 and 145, and has served as issuer's and underwriter's counsel in various public offerings and private placements of securities.

Additionally, Tim counsels corporations on corporate governance issues, particularly regarding those organized under Delaware or Illinois law, including corporate governance and day-to-day corporate matters. He assists public companies in developing charters for various board committees (e.g., governance, audit, compensation) and governance policies that comply with the requirements imposed by the SEC, NASDAQ, and NYSE. He provides similar support to privately held corporations.

Areas of Focus

Industries: Banking & Financial Institutions; Cannabis ; Financial Services;
Private Equity & Private Fund Formation

Services: Business Formation, Governance & Commercial Contracts; Commercial Finance; Corporate & Transactions; Due Diligence ; Mergers & Acquisitions; Securities

Experience

- Served as transaction counsel in a sale between a national insurance wholesaler, excess and surplus lines facility, insurance agent, and broker company.
- Represented a Delaware corporation in a series of sales of vacant platted residential land and farmland, by a combination of private sales and auction.
- Represented a client's affiliated limited liability company in the purchase of a single-tenant commercial property.
- Represented a limited liability company in refinancing a commercial loan for real property acquisition purposes.
- Assisted a privately held company that provides services to the casino industry in becoming a public company. The Hinshaw team engineered a "reverse acquisition" allowing the client's shareholders to exchange their shares for 95% of the stock of an SEC-registered company that had not conducted operations for several years. The client became a wholly owned subsidiary of the public company, and the shareholders took control of the public company. The work on the reverse acquisition included drafting the acquisition agreement, preparing convertible notes and warrants, drafting a stock option plan, and filing initial Form 3s and Schedule 13Ds for the officers and directors of the client. The client undertook a private placement to raise up to \$7 million, and Hinshaw handled the Form SB-2 ownership registration filing for the insiders, warrant and noteholders, and private placement purchasers.
- Assisted a \$750 million NASDAQ client in a tax-free stock exchange to acquire a closely held company valued over \$130 million. The SEC determined that the stockholders of the closely held corporation made their investment decision upon signing the acquisition agreement, categorizing the exchange as a private placement. Following the closing, Hinshaw's client filed a Form S-3 shelf registration, allowing stockholders to sell their shares for one year, after which they could sell under Rule 144. The client also provided stockholders with demand and piggy-back registration rights for three years post-shelf registration. The Hinshaw team drafted all acquisition agreements, including the registration rights and investment agreements, and the S-3 Registration Statement.
- Assisted a client in its acquisition of all the stock of a NASDAQ-listed company for \$430 million. The Hinshaw team filed an S-4 Registration Statement to register the common shares issued in the transaction. Due to the nature of the transaction, the client's shareholders also had to approve the acquisition, and the registration statement included a proxy statement for that purpose. The acquisition also involved a lock-up option for the buyer, which permitted the client to acquire up to 19.9% of the seller's issued and outstanding common stock if a third party made a hostile offer for the seller. The team drafted all the acquisition documents, including the registration statement and the lock-up option, reviewed the seller's and buyer's benefit plans to facilitate the merger of these plans or the termination of the seller's plans, and assisted in various aspects of the due diligence process. Hinshaw also provided the tax opinion for the transaction.

- Assisted in selling a \$250 million, NASDAQ-listed holding company for \$53 million following an extended, SEC-supervised proxy fight with a dissident shareholder. The Hinshaw team handled all filings and communications with the SEC during this proxy fight. The team also represented the client in a number of special factors relating to the sale, including securing funds to cash out employee stock options and terminate an employee stock option plan (ESOP), which held more than \$2 million of stock that had not vested, securing buyer approval of “golden parachute agreements” held by key management personnel, and preparing the proxy statement relating to the shareholder vote on the sale of the company, including SEC review and mailing to the shareholders.
- Assisted in selling two clients in a leveraged buy-out for a total of \$28 million, plus the assumption of approximately \$8 million in debt. The sellers, located in Iowa, process ham and turkey for major meat-packing companies. The transaction was consummated by merging one of the selling companies into a wholly owned subsidiary of the buyer, and by the buyer acquiring substantially all the assets of the other selling company. The acquisition agreements contained extensive indemnification provisions and required the sellers to establish indemnity funds. A substantial amount of one of the selling company’s stock was owned by an employee stock ownership plan (ESOP). The ESOP participants had to approve the merger, and a fairness opinion had to be secured for their benefit. In addition, the other selling company was a Subchapter S corporation. As a consequence, certain tax issues had to be addressed before the acquisition could be consummated.
- Structured the acquisition of an insurance agency and broker client by a financial services company for \$8.5 million with a two-year payout provision providing for up to \$10 million in additional compensation. In addition, the principals of the insurance agency entered into employment contracts with the buyer. The transaction was consummated as an asset sale.
- Represented a client that acquired a Chicago-area bank with assets of \$85 million in a \$10 million cash transaction. The client raised the cash by selling approximately \$6.3 million of its common stock in a private placement and by borrowing approximately \$3.7 million from a local bank. Hinshaw represented the client in negotiating the purchase agreement, securing regulatory approvals, and handling the private placement and the bank financing.
- Assisted a home health care client in a \$12 million acquisition of all the stock of a Mississippi-based company providing home health and rural clinic services in Mississippi, Colorado, Utah, Idaho, and California. Several side agreements, including a management services agreement and an escrow agreement, were negotiated by the parties. An employee stock option plan (ESOP) owned 18% of the common stock of the selling company.
- Represented a client in the \$2 million purchase of an Illinois Harley- Davidson dealership. The purchase price included the purchaser’s assumption of lines of credit with Harley and Kawasaki. A portion of the purchase price was placed in escrow. The seller received a two-year consulting agreement.
- Assisted a client in the \$33 million cash acquisition of a \$200 million financial institution, which included the payment for the company’s shares and the cash out of employee stock options. The client also had to retire preferred stock and senior debt as part of the transaction, as well as terminate its employee stock option plan (ESOP).

- Secured a complete defense award with no damages from an arbitrator representing a law firm client in a “bet-the-firm” legal malpractice case arising out of an underlying patent infringement case. Hinshaw defended the law firm client against a \$60 million legal malpractice claim. The team effectively presented and cross-examined 10 witnesses, including five experts, to challenge the plaintiff’s allegations of negligence and causation in a one-day arbitration.

Recognition

- *Illinois Super Lawyers*, 2005 - 2007, 2009 - 2014
- *Leading Lawyer*, Banking & Financial Institutions Law; Closely & Privately Held Business Law; Mergers & Acquisitions Law; Publicly Held Corporations Law; and Securities & Venture Finance Law

Credentials

Education

Loyola University Chicago School of Law, JD, *magna cum laude*, 1975

Loyola University Chicago, BS, 1971

Bar Admissions

Illinois

Interests

Did you know...

Tim values time with his family and friends and is an avid reader.

Thought Leadership

Presentations

- Co-Presenter, “Understanding the Main Street Lending Program,” RAEDC Webinar, Rockford, Illinois, June 30, 2020
- “Capital Raising,” 2015 Illinois Entrepreneurship & Small Business Growth Association Conference, Normal, Illinois, May 2015
- “A to Z for Bank ESOPs,” CBAI’s 39th Annual Convention & Expo, Springfield, Illinois, September 2013
- “Raising Capital,” CBAI Seminar for the Community Bank Attorney, Springfield, Illinois, November 2012
- “Capital Raising,” CFO Conference, Springfield and Lisle, Illinois, October 2012
- “Securities Law Issues and Answers,” National Business Institute seminar, “The Anatomy of an LLC,” Chicago and Oak Brook, Illinois, December 2008

- “Up the Ladder or Up the Creek: Reporting Up, Reporting Out, Attorney-Client Privilege and Confidentiality as Between Entities and their Constituents,” Hinshaw’s Ethics Seminar, Chicago, Illinois, September 2006

Publications

- Co-Author, Chapter 1, “Federal Regulation of Securities,” IICLE’s *Business Law: Miscellaneous Operating Issues*, 2021 and 2024 Editions
- “Securities Rules for Private Equity Financings,” March 2017
- “Federal Reserve Revises Its Small Bank Holding Company Policy Statement Asset Limit Increased to \$1 Billion; Saving & Loan Companies Included,” Community Bankers Association of Illinois, July 2015

Events

- Tim Sullivan to Present on Capital Raising at the IESBGA Conference, May 20, 2015
- Tim Sullivan to Present at the Commercial Banker Association of Illinois, Feb 13, 2015
- Tim Sullivan to Present at Crowe Horwath LLP 2014 Annual Financial Institutions Conference, Dec 2, 2014
- Seminar for the Community Bank Attorney, Nov 2, 2012

Hinshaw Alerts

- SEC Changes the Game for Private Fund Advisers – Summarizing the New “Restricted Activities Rule” and the “Preferential Treatment Rule”, Oct 19, 2023
- The SAFE Banking Act: Financial Services for Marijuana and Hemp Businesses, Jun 5, 2023
- Restaurant Revitalization Grant Program Provides Grants to a Wide Range of Eligible Entities, Apr 28, 2021
- PPP Deadline Extended, Preparing for Restaurant Revitalization Grants, Apr 2, 2021
- American Rescue Plan Revises Paycheck Protection Program and Shuttered Venue Operator Grant Program, Establishes Restaurant Revitalization Grant Program, Mar 23, 2021

Hinshaw Newsletter

- Consumer & Class Action Litigation Newsletter - March 2013 Edition, Mar 4, 2013

In The News

- Tim Sullivan, Kyle Fonjemie, and Anthony Zeoli Author Chapters in the 2024 Edition of the “Business Law: Miscellaneous Operating Issues” IICLE Handbook, Sep 30, 2024
- Hinshaw’s Tim Sullivan and Mike Morehead Discuss Changes to the Federal Reserve’s Small Bank Holding Policy Statement in Banknotes Article, Nov 5, 2018
- Timothy Sullivan Authors Article, “Securities Rules for Private Equity Financings”, Jul 12, 2017
- Timothy Sullivan and Michael Morehead Explain New Fed Revision of Small Bank Holding Company Policy Statement, Jul 21, 2015

- Tim Sullivan and Eliot Abbott Author Article on Delayed Implementation of JOBS Act Provisions, Mar 5, 2013

Insights for Insurers Alerts

- Best Practices – Annual Cyber Insurance Reviews, Apr 28, 2015
- Changes in Temporary FDIC Insurance Coverage for Transaction Accounts, Nov 24, 2010

Press Releases

- Deal Spotlight: CardWorks Servicing, LLC Acquires Dataline Systems, LLC, Jan 13, 2023
- Deal Spotlight: Citizens Bancshares, Inc. Agrees to be Acquired by CSB Financial Holdings Inc., Feb 3, 2022
- Deal Spotlight: Client Empire Underwriters LLC Acquired by Scottish American, May 24, 2021
- Deal Spotlight: Client Oak Bank Acquired by Wintrust Financial Corporation, Jun 10, 2019

Webinar

- RAEDC Webinar: Understanding the Main Street Lending Program, Jun 30, 2020

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