A CUBE CAPITAL PUBLICATION

Founder Thesis

Technology M&A

ISSUE 28

The First Call

Thesis: The accountant and lawyer who helped build your company may not have the experience to sell it. Who you call first decides who you call next.

01 The Advisers You Already Know

Simon has spent fourteen years building financial management, planning and analytics software. Mid-sized companies use it to run their budgets, forecasts and cash flow. The business turns over $9 million a year, most of it recurring.

His accountant has been with him for eleven of those years. She knows why one year was unusually expensive, which customers pay late and how the company funded its first big hire. His lawyer set up the company, wrote the shareholders' agreement and has read every major contract since.

Both know the business better than anyone except Simon.

So when Simon decided it was time to sell, he called them.

It was the obvious thing to do. For many founders, it is also where the trouble starts.

His accountant asked one question before she agreed to anything. Who on this team has sold a technology company?

Nobody had. Not her, and not his lawyer. Each is excellent at the work Simon hired them to do: annual accounts, tax returns, employment contracts, customer agreements, the occasional dispute. A sale is different work.

The buyer would have done it many times. Across the table, Simon would face a corporate development team that has bought dozens of companies, M&A lawyers who negotiate sale agreements every month, and transaction accountants whose job is to find what a seller's numbers do not show.

> *Simon's advisers knew his business.*
> *The buyer's advisers knew the transaction.*

So his accountant told him to talk to an M&A adviser before he appointed anyone else, herself included. It may have been the most valuable advice she ever gave him.

Many founders never hear it. They act on a quiet assumption: that the people who know a company best are the people best placed to sell it. Nobody is negligent. The gap between knowing a business and knowing how to sell it simply goes unnoticed, until a buyer finds it.

Familiarity is not experience.

02 The Adviser You Need First

An M&A adviser arguing that the M&A adviser comes first is exactly what you would expect, and you should be sceptical hearing it from me. So judge the argument by the order of the decisions, not by who is making it.

An experienced M&A adviser starts with a different question. Not what the business is worth, but who would buy it, and what would worry them.

For Simon, answering it took several weeks of work: which companies had bought businesses like his, what they had paid for, and what they would need to see.

The likeliest buyers were global accounting software groups. Each had spent years trying to build planning and analytics tools of its own. Each had customers asking for exactly what Simon sells. To them, his company could be worth more than its earnings suggested.

But the adviser could also see what would worry them.

Simon personally managed the company's ten largest customers. He still wrote the product roadmap. Every buyer would ask what happens to the business when Simon leaves. Most would protect themselves in a similar way: paying less up front, and making more of the price depend on Simon staying.

Neither of Simon's existing advisers had watched a buyer price founder dependency. Neither had any reason to.

So the adviser built a preparation plan around the likely buyers. A senior manager would take over the largest customer relationships, account by account, over the next year. The roadmap would move to the head of product. And two specialists would join the team: a transaction accountant and an M&A lawyer.

That is the adviser's least understood job: assembling the team. An adviser who has run many sales knows which accountants and lawyers have done this work before, and how well they work together. The founder makes the choice, and the specialists keep their independent judgement. But the founder is no longer choosing blind.

Good transaction accountants and M&A lawyers already know what buyers test. What nobody can know before the strategy is set is which buyers, which structure and which timetable their work must serve. Setting that strategy, and coordinating the specialists around it, is the adviser's job. Everything else follows from it.

Preparation without a buyer in mind is housekeeping.

Cube Capital calls what those buyers are looking for *acquirability*: the qualities that make a business attractive to acquire, transferable to a new owner and capable of performing after the founder leaves. Building it takes time. Twelve to eighteen months before a sale is ideal. That does not mean paying a sale retainer for eighteen months. Preparation can be its own, defined piece of work, and it should include an honest answer to whether now is the right time to sell at all.

There are exceptions. A founder with an urgent tax, ownership or shareholder problem may need that advice first. But the exceptions do not change the rule.

Some founders hesitate for another reason. They suspect an adviser on a monthly retainer will be in no hurry to finish.

The incentives point the other way. A widely cited international survey of mid-market advisers, most of them in North America and Europe, puts a typical retainer at US$5,000 to US$10,000 a month, and the success fee on a US$20 million sale at about 3.4%. More than half of the advisers surveyed credit the retainer against the success fee, so a longer process earns them nothing extra.

Even where the retainer is charged on top, the economics are lopsided. Take an illustration in Australian dollars: a retainer of $10,000 a month and a success fee of 3.4% on Simon's $20 million sale. A sale process usually runs six to ten months. Over ten months, the retainers total $100,000. The success fee is $680,000, and it is paid only if the deal completes.

Incentives are never perfectly aligned, and no sale is certain to complete. But an adviser who lets a process drift to earn another $10,000 is putting $680,000 at risk. The larger reward is tied to completion, not to the passage of time.

The better question is what happens to the success fee when part of the price arrives later. Just over half of the advisers in the same survey expect their full fee at completion, even when some of the founder's money is still years away. Ask before you sign.

03 Two Different Accountants

Simon's accountant knows where every number came from. A transaction accountant asks a different question: what will a buyer believe?

Simon reports $8 million in annual recurring revenue. Buyers prize recurring revenue. It is the closest thing a software company has to a promise about the future.

The transaction accountant looks behind the number. $600,000 turns out to be implementation work that customers will not repeat. Another $200,000 comes from support agreements renewed by habit rather than by contract.

Nothing in the accounts is wrong. Statutory accounts do not define recurring revenue. Buyers do. To a buyer, Simon's recurring revenue is $7.2 million.

If that buyer is paying around 2.5 times recurring revenue, the gap is worth about $2 million.

That is not an accounting error. It is a valuation problem. Found eighteen months early, it can be restated, explained and supported with eight years of renewal history. Found by the buyer's accountants six weeks before signing, it becomes the buyer's reason to reprice.

This is the work of a sell-side financial due diligence review, sometimes called a quality-of-earnings review. It reads the company the way a buyer will.

The transaction accountant's second job is telling Simon what he will actually keep. The structure of the sale, how his shares are held and whether any small-business concessions apply can all change the answer.

So can the calendar. Under the rules that apply from 1 July 2027, the 50% capital gains discount for individuals and trusts gives way to indexation, and a minimum tax can apply to the part of a gain that accrues after that date.[1] For founder shares that cost almost nothing, the difference can be material, and the value of those shares on 30 June 2027 may matter years later. When Simon sells should remain a commercial decision. It should not be made before he understands the tax.

None of this makes Simon's own accountant less valuable. She becomes the transaction accountant's best source of answers. She knows why that expensive year was expensive. Sometimes one accountant can do both jobs. Often it takes two.

04 Two Different Lawyers

Six years ago, a contractor wrote part of Simon's platform. Simon paid every invoice. The code was delivered, tested and built into the product. The contractor signed an agreement on his own template.

Simon assumed the company owned the code.

An M&A lawyer asks for proof, because every buyer will. The agreement does not assign the copyright. In Australia, paying a contractor to write software does not, on its own, transfer the copyright in it.

The contractor now lives in Lisbon.

Found during preparation, there is time to fix it: a call, a signature, perhaps a payment for the trouble, negotiated without a deadline. Found in the buyer's due diligence, the buyer sets the terms. A specific indemnity. Part of the price held back until the assignment is signed. A lower price. Sometimes all three.

Other problems hide in plain sight. A major customer can terminate its contract if the company changes hands. A licence for embedded third-party software needs the vendor's consent before a sale. The reseller agreement covering New Zealand says nothing clear about what happens to it.

None of these causes trouble while Simon owns the business. They wake up when ownership changes.

[1] The 1 July 2027 changes are law, but the rules around them are still moving. As at late 2026, a further bill, which includes a proposed capital gains concession for shares in young, innovative companies, had passed the House of Representatives, and further changes affecting start-up and technology companies remained possible. Founders should check the current position with a tax adviser before setting a timetable.

A commercial lawyer writes contracts that work while you own the business. An M&A lawyer reads them for what happens when you do not.

Then comes the sale agreement itself. Simon will give *warranties*, statements about the business such as that it owns its IP and has disclosed its material contracts. If one proves untrue, the buyer may claim against him after completion. An *indemnity* goes further, promising to cover particular losses. Warranty and indemnity insurance can move part of that risk to an insurer.

The M&A lawyer negotiates how far those promises reach, for how long and up to what amount. The aim is not to give no promises. Buyers are entitled to protection. The aim is promises Simon understands and can live with.

Simon's own lawyer still matters. He knows the history of every agreement, which makes the problems faster to find and cheaper to fix. The specialist knows which of them a buyer will care about.

05 What Twenty Million Becomes

Eighteen months after that first call, two buyers made offers. A private equity fund valued Simon's business at $18 million. One of the accounting software groups offered $20 million.

Then the price began to change shape.

Buyers usually negotiate an *enterprise value*: the value of the business, assuming it arrives with no debt and a normal level of working capital. The price for the shares is then adjusted for the debt and cash actually in the company.

From enterprise value to the price for Simon's shares

Item	Amount
Agreed enterprise value	$20,000,000
Add surplus cash	$500,000
Deduct debt	($1,000,000)
Price for the shares	**$19,500,000**

The buyer's term sheet held back 40% of that price for three years, tied largely to Simon staying. Buyers price founder dependency, and this is one way they do it.

Then came due diligence. It was thorough, and the buyer still found things to argue about. It challenged the growth forecast. It pressed for a larger warranty retention. But the biggest questions had answers waiting. The recurring revenue had been restated. The contractor had signed the assignment. The New Zealand reseller had consented to a change of ownership. And the business no longer depended on Simon to the same degree. A senior manager now owned the largest customer relationships, and the numbers showed it.

Preparation did not end the negotiation. It decided who negotiated from strength.

The final terms held back a quarter, over two years. Not nothing. But not 40%. The difference put $2.925 million more in Simon's account on completion day, and took a year off the wait for the rest.

Simon would receive $14.625 million on completion. The other $4.875 million was deferred. But it was not simply delayed. Most of it had to be earned. The rest had to survive.

What the last $4.875 million depends on

What it depends on	Amount	Tested
Revenue grows 15% in the first year	$2,000,000	Month 12
Customers holding 90% of recurring revenue renew	$1,000,000	Month 12
Key staff still employed	$750,000	Month 18
Retention against warranty claims	$1,125,000	Month 24
Total	**$4,875,000**	

The first three lines, $3.75 million in all, are an *earnout*: money paid only if the business performs after completion. The last line is different. The $1.125 million *retention* is not earned. It is held back for two years to meet any warranty claims, and released according to the terms of the sale agreement.

From completion, Simon controls none of the earnout. Revenue growth depends on the buyer's sales team and the buyer's pricing. If the buyer bundles Simon's product into its own accounting suite, whose revenue is it? Customer retention depends on how the buyer treats Simon's customers. Staff stay or go depending on whether they want to work for the new owner, and Simon can no longer give anyone a pay rise.

None of this requires bad faith. But earnouts disappoint more often than founders expect. In the private acquisitions tracked by SRS Acquiom, mostly American and across many industries, sellers have received roughly one dollar in five of the earnout money on offer.

So the team negotiated the conditions as hard as the price. The adviser judged whether each target was achievable, and whether a lower price paid in full would be worth more. The accountant defined how each condition would be measured. The lawyer made the buyer's obligations enforceable: how revenue is counted after a bundle, what records Simon can inspect, whether a warranty claim can be deducted from an earnout payment, and who settles a dispute.

Simon also agreed to stay for two years, and signed two restraints, one as a seller and one as an employee. They are different promises, and the courts treat them differently.

When you sell a house for four million dollars, settlement day holds few surprises. You hand over the keys and walk away.

When you sell a company, you often keep a set. A two-year role. A restraint. A payment that depends on decisions you no longer make.

06 The Decision Made Eighteen Months Earlier

Now consider the other version of Simon's story.

In this version, nobody asks the question his accountant asked. The same founder appoints the same accountant and lawyer, and goes to market with them. An offer arrives. It comes with a six-week exclusivity period and a sale agreement drafted by the buyer's lawyers.

Then everything happens at once. The buyer's accountants find the recurring revenue problem. The buyer's lawyers find the missing IP assignment. The term sheet ties 40% of the price to a founder who still runs the largest accounts. Simon's advisers work hard and they work well. But they are learning the transaction while the buyer is already conducting it.

Every problem in that version is a problem from the first. Only the timing differs.

> *Found early, a problem is a task.*
> *Found late, it is a negotiation, and the buyer holds the deadline.*

The two versions of Simon's story did not part ways at the offer. They parted eighteen months earlier, with a phone call.

In the first version, Simon's accountant and lawyer were still in the room on completion day. They answered questions nobody else could. And it was his accountant who sent him to an M&A adviser in the first place. The best professionals know when a client's needs have moved beyond their own practice, and they say so.

The advisers who helped build a business may be indispensable to its sale. They are not automatically the people to lead it.

> *Choose the M&A adviser first.*
> *Then choose, with that adviser, the accountant and the lawyer who have done this before.*

The Three-Adviser Test

Before you make the first call, ask these questions.

1. **To your accountant and lawyer:** How many technology company sales have you advised on, for the seller, in the last five years? And who would you bring in if the answer is none?
2. **To an M&A adviser:** Which buyers would value my business most, what would worry them, which accountants and lawyers would you want on the team, and how are you paid on money I receive after completion?
3. **To a transaction accountant:** What will a buyer's due diligence find that my accounts do not show, and what will I actually keep after adjustments, costs and tax?
4. **To an M&A lawyer:** Which of my contracts change when ownership changes, and what will I still owe after completion?

The time to ask is not when the offer arrives. It is before the buyer has set the terms.

THE ACQUIRABILITY ASSESSMENT

Buyers decide what the work is. The free Acquirability Assessment is a short first step: a structured view of how a buyer is likely to read your business today, and where the work should begin.

Begin the free assessment at nexxit.ai

Cube Capital advises founders and boards of Australian software and technology companies on strategic options, exit preparation and cross-border M&A transactions. In a transaction the firm acts for sellers, not buyers, and is retained by founders who want an independent view of how buyers will price their business, where value may be lost, and what can be done before a transaction begins.

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Founder Thesis

Founder Thesis is written for Australian software founders who want to understand how buyers think before one is in the room. Every previous issue is at https://cube.capital/perspectives

Sources

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Client confidentiality rules out describing real transactions, even without names. Founders and transactions in Founder Thesis are therefore composites, drawn from experience in transactions Cube Capital has managed and combined so that no client, company or deal can be identified. Names, figures and other details in Simon's story are illustrative. Figures are in Australian dollars unless stated.

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