PASSAVE

THE CASH–ONLY LINE

PASSAVE, INC. is an Israeli-based fabless semiconductor company that is a leading designer, developer and supplier of system-on-a-chip solutions for Fiber-To-The-Home applications. We were retained to assist Passave with its initial public offering. Once filed, the Passave IPO was unanimously touted by bankers as one of the most exciting deals in 2005. We have learned from experience that the IPO process often takes surprising twists and turns. In this instance, the twists came in the form of unwelcome intellectual property litigation and an unexpected, yet attractive, acquisition proposal from PMC-Sierra. Within days of the initial proposal, negotiations were underway. It became clear that PMC Sierra would be able to acquire Passave using only its stock. And it became equally clear that Passave's board of directors was interested only in a cash sale and would not approve a transaction unless stockholders were paid in cash at closing. This appeared to be a show stopper.

Considering these seemingly irreconcilable differences, we crafted a new approach that made the problem an opportunity for both companies. We knew that as a WKSI, PMC-Sierra could count on filing and having declared effective upon filing with the SEC a resale registration statement. We also knew the Passave board would accept a transaction that provided stockholders with the opportunity to receive cash within days of closing. Finally, we also were aware that there was strong interest on the part of institutional investors to obtain more PMC-Sierra stock. From these observations, we reasoned an acquisition could proceed as a stock deal, with the added feature that the PMC-Sierra stock acquired by former Passave stockholders could be sold immediately upon closing in a registered underwritten secondary offering. Using this approach, Passave stockholders participating in the offering received cash almost immediately and PMC-Sierra received the double benefit of using stock in the merger and having its stock end up in the hands of institutional investors with a long-term interest in the company. This approach worked flawlessly for the acquirer and the seller. In the few months since closing, it has become a structure of choice in many private to public mergers of WKSI acquirors.