

OLIVER SMITH, AETNA'S IRON MAN

Davis Polk's M&A lawyer caps a run of deals for the healthcare insurer with the \$77 billion CVS agreement.

BY DAVID MARCUS

Oliver Smith had a critical revelation as an associate at Davis, Polk & Wardwell LLP. In the middle of a string of deals for Aetna Inc. (AET), he says now, he realized, "I never wanted to miss an Aetna deal." Not only is the company a blue-chip, Fortune 50 company, says Smith: "There's no more important industry in our economy than healthcare, and they are at the forefront of that industry."

Smith's dedication to the health care insurer, and its confidence in him, meant that he was able to represent Aetna on its \$77 billion agreement to merge with CVS Corp. (CVS), a deal announced Dec. 3. The move capped a long string of Aetna transactions on which Smith, now 41 years old, has worked and marked his emergence as a key M&A partner at Davis, Polk.

"I consider Oliver to be one of the finest lawyers I've worked with in my entire career," says Adam McAnaney, the head of corporate-legal at Aetna, who's worked with Smith since 2011. "He's very smart, he's very commercial. He's on top of all of the details of the deal without micromanaging. He attracts a lot of good people to work with him. A shocking number of the associates and senior associates I've worked with together with him have made partner at Davis Polk."

Smith started doing Aetna in 2007 and in working for the company, he says, "I got a better understanding of how complicated and diverse their various businesses were. Every day there was a chance to learn more about their business and how they wanted to do deals."

In 2010, as a senior associate, Smith advised Aetna on its \$500 million acquisition of Medicity. The next year he helped advise the company on the \$600 million purchase of Prodigy Health Group Inc. from One Equity Partners; the \$290 million purchase of Continental Life Insurance Co., the supplement Medicare business of Genworth Financial Inc., for \$290 million; and the \$202 million purchase of independent account-based health plan administrator PayFlex Holdings Inc.



OLIVER SMITH Davis, Polk & Wardwell LLP

In 2012, David Caplan, head of M&A at Davis Polk until he became the general counsel at Atairos, a private investment firm, in 2016 and Smith, then a first-year partner, advised Aetna on the \$7.3 billion acquisition of Coventry Healthcare Inc. Smith continued to work for Aetna and in 2014 represented it on the \$400 million purchase of bswift LLC from Great Hill Partners LP.

That was a prelude to Aetna's \$37 billion agreement to combine with Humana Inc. (HUM), which was announced in 2015 and abandoned in February 2017 after the U.S. Department of Justice successfully sued to block the merger on antitrust grounds. Regulatory issues were a key issue in negotiating the merger agreement, Smith says. He also took the lead for Aetna on negotiating an agreement to sell Medicare Advantage assets to Molina Healthcare Inc. (MOH) that was meant to appease the DOJ's concerns about the Humana deal.

McAnaney says of the Molina deal, “The divestitures were quite tricky, because we didn’t know what we were going to have to sell, or what the DOJ was going to want, and we had to go through this exercise in an extremely compressed period of time. We wound up with a contract where Molina agreed to buy what we had on the table, and we could take things out or put things in depending on what the DOJ required. It gave us all kinds of flexibility to tailor the deal to what the DOJ ultimately wanted. In terms of the amount of work that had to be done in a short time, and the creative thinking that was involved, of all the deals I’ve worked on, that’s one I’m the most proud of. Oliver was a huge contributor to that.”

Smith declines to say much about the CVS deal, though according to the preliminary proxy on the deal Aetna and CVS negotiated a non-disclosure agreement in June a week before Aetna entered into talks with another party.

While working with Aetna, Smith did several other large transactions. Last year, he advised PriceWaterhouseCooper LLP on its acquisition of General Electric Co.’s (GE) tax practice, and he and Caplan represented PwC on its 2014 purchase of Booz & Co. Inc. In 2016, Smith teamed with Davis Polk partner Louis Goldberg to counsel Syngenta AG on its \$43 billion sale to China National Chemical Corp. and Markit Ltd. on its \$13 billion merger of equals with IHS Inc. to create IHS Markit Ltd. (INFO).

“Oliver is extremely smart and a fabulous technical lawyer,” says Caplan. “But what I think is particularly impressive about him is that he has tremendous interpersonal skills. He is able to explain things simply and well and develop relationships of trust where people have a very high degree of confidence in him and what he has to say.” ■

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