

**LITIGATION BUYOUT INSURANCE – Deal in Review****THE CHALLENGE**

A service company was faced with a liquidity crisis and its restructuring was contingent upon the divestiture of an operating subsidiary and the holding company, leaving a new company (Newco) formed from the remaining subsidiaries and the proceeds of the sale. The entire negotiation was at a standstill and the transaction at risk of collapsing because of the acquirer's uncertainty as to the ultimate liability from a securities case pending against the holding company. Under the proposed sale structure, the assets and liabilities of the holding company and subsidiary were being transferred to the acquirer. The seller could not accommodate the price discount the buyer wanted factored in for the uninsured securities litigation if it wanted to retain sufficient proceeds for the sale to adequately capitalize Newco.

**THE SOLUTION**

Working closely with the General Counsel and CFO within a five day period, Chartis' Mergers & Acquisitions Insurance Group (the "M&A Group") deployed staff and securities litigation claims examiners from its claims department to interview the defense lawyers, the buyer, and the buyer's counsel. The seller and buyer agreed to a purchase price adjustment equal to the premium amount associated with the litigation buyout insurance which effectively transferred the litigation to Chartis. The amount of insurance provided was equal to 50% of the plaintiff's initial demand. The parties reached agreement and the M&A Group assumed management of the case.

**THE RESULT**

The transaction closed and the seller's Newco is operational. The M&A Group assumed the defense of the lawsuit with reassignment to a leading securities defense counsel. The buyer was financially secure in its investment and the case eventually settled within the insurance limits provided.

To learn more about transactional insurance products, please visit our website, [www.chartisinsurance.com](http://www.chartisinsurance.com), send us an e-mail at [MAInsurance@chartisinsurance.com](mailto:MAInsurance@chartisinsurance.com), or contact your insurance broker.