

# A COMPREHENSIVE APPROACH TO RESOLVING POST-ACQUISITION DISPUTES



Mergers and acquisitions (M&As) often fall short of expectations, leading to disputes. These types of disputes can involve issues like contractual purchase price adjustments, representations and warranties, earnout provisions and misrepresentations by the seller. To effectively address these challenges, a multifaceted approach is key, combining business valuation, forensic accounting and economic analysis techniques.

## Scrutinize seller representations

One common dispute arises when the buyer claims the business's value is less than what the seller represented. For instance, ABC Co. acquires XYZ Co. for five times earnings before interest, taxes, depreciation and amortization (EBITDA), but alleges XYZ overstated its EBITDA by \$1.5 million.

Improper revenue recognition, inventory costing/valuation errors, and misstated percentage of completion (POC) calculations can be common areas related to GAAP application disputes. A forensic accountant can determine if XYZ's financial statements comply with accounting standards and quantify the impact on the purchase price.

## Pre-Closing Loss of a Key Customer

Disputes can be complex, like when XYZ loses a major customer just before closing and fails to disclose the major customer loss to the buyer timely. ABC argues that this reduced the business's value, but XYZ contends it's normal customer attrition of the business—actual post-acquisition performance matters. Meeting buyer expectations can be a strong defense, as XYZ could demonstrate that post-acquisition performance was not materially impacted.

## Net Working Capital Disputes

Net Working Capital (NWC) disputes are a common occurrence following acquisitions. These disputes revolve around the adjustment of closing NWC outlined in the purchase agreement, which leads to adjustments in the purchase price. These disputes can range from straightforward issues, such as whether certain current assets or liabilities should be included or excluded per the purchase agreement, to more intricate matters. Complex NWC disputes may involve the buyer evaluating the net realizable value of inventories, potentially using a methodology different from that used by the seller in their historical financial statements, upon which the target NWC was predicated. Resolving complex NWC disputes may require detailed financial examination, research into Generally Accepted Accounting Principles (GAAP), the preparation of submission reports and possibly expert testimony.

## Assemble Your Team

In post-acquisition disputes, assembling a team of financial experts is crucial. Whether representing the buyer or seller, these experts can provide objective, market-based estimates of damages, helping to resolve disputes effectively.

This multifaceted approach ensures a thorough examination of post-acquisition disputes, offering clarity and fair resolution for all parties involved in M&A transactions.