

# FIFTEEN WAYS TO KILL A DEAL

By Valerio Giannini

**1. Engage in extensive negotiations over the first Nondisclosure Agreement.** Don't go to the mat on fine details of the NDA that will bring them to the table. It can be superseded later, after they're hooked.

**2. Send "corrected" financials.** Never give out financials until you are sure they are what you want to send and without footnotes and explanations.

**3. Prove that you are the only one who understands the business.** Demonstrate that a complete, functioning, harmonious management team is in place and that you are superfluous.

**4. Leave verbal agreements undocumented.** Write-up those handshake stock options, the lease on your cousin's building, etc. Oral contracts make people nervous.

**5. Leave business and personal transactions comingled.** Get rid of, loans between the company and shareholders, jointly owned property, shared insurance policies, etc.

**6. Send a less-than-professional investment memorandum.** Don't release the "book" with errors or omissions. Make it high-quality-less vs. low-quality-more. Have new eyes involved, if not in charge.

**7. Prolong the preparation of the "book".** Start early, make assignments, establish final authority, set deadlines, limit the number of editors, don't waste time re-writing minutia.

**8. Try to make the LOI the definitive agreement.** Keep it at 30,000 feet. It's only the engagement. The wedding comes later.

**9. Use the family lawyer.** Use attorneys who have done it before. The family retainer can still provide estate planning, tax advice, etc.

**10. Shortchange responses to data requests.** If everything asked for isn't available, explain why and when it will be; and don't let open items fall between the cracks.

**11. Be unable to produce material documents.** Before the process starts, locate originals of all share certificates, paid promissory notes, titles, deeds, leases, licenses, permits, minutes, etc.

**12. Disappear for more than a few days.** Be available 24/7, or else have a good reason and a deputy left in charge. This is not the time for a safari or South Seas cruise.

**13. Start playing hard to get.** Don't convey that you are renegotiating what's been agreed-to unless you really want to. Know the early symptoms of seller's remorse.

**14. "There's something I forgot to tell you".** Preassemble the important facts and communicate them as appropriate, not as an afterthought. Doing the "book" helps surface them, even if they aren't all in it.

**15. Get advice from your friends and relatives.** Canvas your friends and loved ones before making a decision to proceed. After that, stick with the professionals.

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