Capitalization of Your Venture: Aligning Objectives & Concerns -- Angels

BIO Entrepreneurship Boot Camp June 4, 2018

David S. Smith smithds@pepperlaw.com



Financing – Angel as Customer

Needs	Return on investment; regional impact; personal interest in space/technology
Timing	Can make faster investment decision; closing likely to require aggregation of multiple small investments
Criteria	Belief



Financing – Angel Attributes (historical)

\$\$	all in on the first round	
Invest. Horizon	open ended	
Diligence	more gut, fewer graphs	
Deal Terms	OK by me (maybe a board seat)	



Financing – Angel Network Attributes

\$\$\$\$	Contingent on individual member investment decisions; greater appreciation for "dry powder"	
Invest. Horizon	open ended (i.e., investment entity not time-limited)	
Diligence	organized diligence effort, dependent on domain experts within investor group	
Deal Terms	Follow NVCA standard agreement forms (www.nvca.org) (and a board seat)	





Angel Investing – Equity Instrument

Convertible Note	no valuation; may be secured against assets; must be repaid or converted by Maturity Date; doesn't start holding period; limited rights
SAFE (Simple Agreement for Future Equity)	no valuation; no security interest; no repayment right (absent conversion); doesn't start holding period; limited rights
Series A	valuation; preference in liquidation (behind subs. equity issues); stockholder information, voting, preemptive rights



Angel Investing – Valuation

Why Valuation matters:

Liquidation Waterfall – LIFO

First Angels – FI(a)LO*

*"First In (almost) Last Out"

Angel Networks setting premoney valuation ceilings as an investment criteria

	A Round	B Round	C Round
Founders	62.50%	31.25%	18.75%
First Angels	37.50%	18.75%	11.25%
Later Investors		50.00%	30.00%
Last Investors			40.00%
TOTAL	100.00%	100.00%	100.00%
	45.000.000	45.000.000	445 000 000
Pre-Money	\$5,000,000	\$5,000,000	\$15,000,000
Investment	\$3,000,000	\$5,000,000	\$10,000,000
Post-Money	\$8,000,000	\$10,000,000	\$25,000,000
Founders	50.00%	25.00%	15.00%
First Angels	50.00%	25.00%	15.00%
Later Investors		50.00%	30.00%
Last Investors			40.00%
TOTAL	100.00%	100.00%	100.00%
Pre-Money	\$3,000,000	\$5,000,000	\$15,000,000
Investment	\$3,000,000	\$5,000,000	\$10,000,000
Post-Money	\$6,000,000	\$10,000,000	\$25,000,000
Change in First			
reduced valuation			
% increase in First			
reduced valuation			33.33%



Angel Investing – Process



<u>Expectations vs. Experience</u> – addressing assumptions from unrelated business experiences, investments; benchmarking



<u>Where's the Money</u> – beware "finders"; privateprivate offerings vs. public-private offerings (Rule 506b vs. 506c)



<u>Diligence</u> – less ad hoc, more disciplined; addressing lessons learned from older investments



Capabilities

Best Lawyers

More than 60 lawyers listed, including 5 as Lawyer of the Year

100+
lawyers highly rated
by Super Lawyers and
Rising Stars

SERVICES

BUSINESS SERVICES
INTELLECTUAL PROPERTY
GOVERNMENT REGULATION
INTERNATIONAL LITIGATION

INDUSTRIES

CONSTRUCTION LAW

EDUCATION COUNSELING, LITIGATION AND INVESTIGATION SERVICES

ENERGY INDUSTRY GROUP

FINANCIAL SERVICES

FOOD AND BEVERAGE INDUSTRY

HEALTH CARE SERVICES

INVESTMENT FUNDS INDUSTRY GROUP

LIFE SCIENCES

MEDIA, COMMUNICATIONS AND

ENTERTAINMENT

NONPROFIT ORGANIZATIONS AND

FOUNDATIONS

PHARMACEUTICALS AND MEDICAL

DEVICES

RETAIL INDUSTRY

TRANSPORTATION



Health Sciences

- more than 100 lawyers devoted to advising clients across the health sciences spectrum
- collaborate with each other and with clients to achieve remarkable successes
- understand the impact that advice and counsel in one area will have in other aspects of business – and on other members of the health sciences ecosystem

Key areas of practice

Acute Care Hospitals and Health Systems
Antitrust and Competition - Health Sciences
Digital Health

FDA Regulatory and Risk Management Counseling

Fraud and Abuse Litigation and Investigations

Group Purchasing Organizations and Buying Cooperatives

Health Care Services

Health Care Transactions

Intellectual Property - Health Sciences

Life Sciences Transactions

Long-Term Care Organizations – Skilled Nursing and Senior Housing Facilities

Pharmaceutical and Medical Device Litigation and Counseling

Pharmacy Industry

State Attorney General Litigation

White Collar Litigation and Investigations



Locations

BERWYN

BOSTON

DETROIT

HARRISBURG

LOS ANGELES

NEW YORK

ORANGE COUNTY

PHILADELPHIA

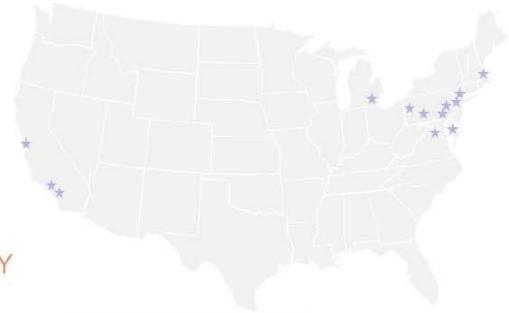
PITTSBURGH

PRINCETON

SILICON VALLEY

WASHINGTON

WILMINGTON



Legal 500

Recommended firm for Construction Litigation and Pharma/Medical Device Products Liability 500+ lawyers

13 offices in U.S.

125 years of serving clients

