



M. Timothy Elder

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Areas of Practice

Securities | Mergers and Acquisitions | Corporate Governance | Corporate Law | Investment Management and Investment Advisory | Employee Benefits, Executive Compensation and ERISA Litigation | Financing and Commercial Transactions | Health Care | Private Equity and Venture Capital | Technology | Sports Law | Global Transport Practice

M. Timothy Elder is a Partner in the Corporate Practice of Smith, Gambrell & Russell, LLP.

Mr. Elder has more than three decades of experience providing legal counsel on a wide spectrum of corporate law matters. He practices general corporate law with particular experience in corporate finance and securities. He has been named by Georgia Trend magazine as one of Georgia's Legal Elite.

Mr. Elder represents U.S. and foreign public and private companies, as well as federal and state registered investment advisors, private investors, and issuers in corporate, transactional, and regulatory matters, including:

- Registrations with the SEC
- Mergers, acquisitions, and divestitures
- Public securities offerings, including IPOs, secondary offerings, and tender offers
- Private securities offerings, including venture and private equity and debt transactions, Rule 144A and Reg D offerings, and debt/equity restructurings
- SEC reporting and compliance
- Operational matters, including negotiation of commercial and licensing transactions, contracts, benefit plans, joint ventures, operating agreements, and other business arrangements
- Commercial financing arrangements, including lending and bank credit agreements
- Cross-border transactions, representing U.S. and non-U.S. entities in acquisitions, investments, and market entry

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- Counseling of startup, technology, and emerging growth enterprises in legal and business strategy
- Financial restructurings

Mr. Elder has represented numerous registered investment advisors in Atlanta, including some of Atlanta's largest registered investment advisors, as measured by assets under management, in mergers & acquisitions, management buyouts, restructurings, and regulatory matters. He has also represented an investment banking advisory firm focused on the investment management industry.

Mr. Elder's industry experience also includes healthcare, "big box" retail, collegiate sports associations, aviation and airlines, gaming, sporting and other consumer goods manufacturing, and others. Prior to entering corporate practice, Mr. Elder represented clients in complex business and contract disputes including officer and director liability claims on behalf of an independent agency of the United States, defense and prosecution of complex business claims on behalf of private parties, and the defense of private law firms in multiple related class action lawsuits alleging violations of federal and state securities laws.

Mr. Elder is a member of the Georgia Bar Association and its Business Law Section. He is AV Rated by Martindale-Hubbell, and he has been a speaker on securities law issues before various groups, both nationally and internationally, including the American Society of Corporate Secretaries, Inc. and the Korean Electric Association. He is admitted to practice in Georgia.

A native of Georgia, Mr. Elder earned his B.A. in political science, with honors, from the University of Georgia in 1980. He earned his J.D. degree in 1983 from Duke University, where he served as a Senior Editor of Law & Contemporary Problems.

Mr. Elder was a member of the Board of Trustees and the investment committee of the WellStar Foundation, a supporting organization to the WellStar Health System, the largest health system in Georgia. From 2018 to 2019, he also was a member of the WellStar Atlanta Medical Center Regional Health Board. From 2016 to 2017, Mr. Elder was a member of and chairman of the Board of Advisors for WellStar Atlanta Medical Center, a WellStar Health System hospital. From 2007 to 2016, he served on the Board of Advisors for two hospitals owned by Tenet Healthcare Corporation prior to their acquisition by WellStar. From 2012 to 2016, he was a member of the Board of Advisors for Atlanta Medical Center and chaired such board from 2015 to 2016. From 2007 to 2012, he was a member of the Board of Advisors for South Fulton Medical Center and chaired such board from 2010 until the merger of South Fulton with Atlanta Medical Center in 2012.

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Mr. Elder has been a member of the Finnish American Chamber of Commerce of the Southeast, Inc. for over nineteen years and currently serves as the assistant secretary for such organization.

Experience

In connection with his corporate practice, Mr. Elder has represented:

In Mergers & Acquisitions

- A NASDAQ listed molecular microbiology and diagnostic testing company in connection with its \$90 million tender offer acquisition of a publicly held U.S. molecular diagnostic company
- A publicly traded Finnish-based global supplier to the mobile communications industry in connection with its \$30 million acquisition of a publicly held U.S. company and the issuance by the acquirer of its securities, as American Depositary Receipts, in the United States
- As special U.S. counsel, a publicly traded Finnish company in its acquisition by a privately held Taiwanese based multi-national technology company
- A New York Stock Exchange listed airline in connection with its \$1 billion sale to another U.S. publicly listed airline
- An American Stock Exchange listed hospital company in its \$17.25 million dollar acquisition of a privately held U.S. hospital company and the related public offering of the acquiror's securities in the acquisition
- A New York Stock Exchange listed company in its \$308 million acquisition by a U.S. public company to form the leading U.S. provider of gaming and lottery goods and services
- A NASDAQ listed gaming company in connection with its \$25 million acquisition of a privately held Austrian technology company providing services to European lotteries
- A New York Stock Exchange listed company in its \$18.5 million dollar tender offer acquisition of a U.S. publicly held supplier of products to the gaming industry
- A New York Stock Exchange listed company in its \$8.3 million dollar acquisition of a majority interest in a privately held Chilean manufacturer of lottery tickets
- A New York Stock Exchange listed gaming company in its \$8.0 million acquisition of a privately held U.S. company and its intellectual property assets
- A privately held US security company in its \$5.8 million sale in a roll up transaction
- A privately held US HVAC company in its \$8.5 million sale in a roll up transaction

In Public and Private Offerings

- The nation's largest home improvement retailer in connection with a \$805 million public offering of its convertible subordinated notes

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- The nation's largest home improvement retailer in connection with a \$230 million public offering of its senior subordinated debentures
- The nation's largest home improvement retailer in connection with a \$258.75 million public offering of its convertible subordinated debentures
- A publicly traded athletic footwear company in connection with a \$200 million public offering of its senior subordinated notes
- A publicly traded sporting goods company in connection with a \$100 million public offering of its senior subordinated notes
- A publicly traded sporting goods company in connection with a \$51.75 million public offering of its convertible subordinated notes
- A publicly traded sporting goods company in connection with an at-the-market offering of approximately \$2 million of its common stock
- A publicly traded gaming company in connection with a \$40.25 million IPO of its common stock
- A publicly traded gaming company in connection with a \$59.3 million secondary public offering of its common stock
- A syndicate of national underwriters in connection with a \$175 million Rule 144A offering by a publicly traded flooring company of its senior notes
- A syndicate of national underwriters in connection with a \$135 million Rule 144A offering by a publicly traded flooring company of its senior subordinated notes

In Other Transactions

- A publicly traded airline in connection with a \$1.5 billion dollar restructuring, including the issuance in multiple offerings of multiple types and classes of securities as part of such restructuring
- A privately held building, utility and industrial power wire and cable company in connection with a \$70 million stockholder buy-out
- A publicly traded healthcare company in connection with a "registered" Share Repurchase Program for its common stock in a potential going private transaction
- A publicly traded healthcare company in connection with three independent public tender offers to acquire shares of its common stock in potential going private transactions
- A privately held real estate development company in an up to \$200 million joint venture for the financing and development of healthcare facilities

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- A Finnish public company in connection with the sale of a \$40 million equity interest in a U.S. private company in a management buy-out
- A privately held healthcare company in connection with a \$25 million private offering of its senior notes
- A privately held healthcare company in connection with a \$5 million preferred stock equity line of credit

In connection with his registered investment advisory practice, Mr. Elder has represented registered investment advisors, including some of Atlanta's largest registered investment advisors as measured by assets under management. He has represented:

- The management of one such investment advisor in the buyout of the firm from an international bank;
- another such investment advisor in the ownership restructuring of company and the buyout of certain members of the company;
- The management team of a multi-segment investment advisory business in the buy-out of the firm from its owner
- The owners of a privately held investment advisory firm in connection with its \$9.7 million sale in a roll up transaction

In connection with his health care practice, Mr. Elder has represented:

- A public healthcare company which owned approximately 20 predominantly rural-based hospitals;
- A private healthcare company which owned approximately 10 hospital and long term care facilities;
- A private occupational medicine and urgent care services company which owned approximately 128 facilities;
- A public healthcare company which owned approximately 8 predominantly rural-based hospitals;
- A for-profit management company which owned or operated over 50 nursing homes.

Admissions

Georgia

U.S. District Court Northern District of Georgia

U.S. Court of Appeals, Eleventh Circuit

Memberships

Finnish American Chamber of Commerce

State Bar of Georgia, Corporate and Banking Section