



Mark R. Busch

Partner

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OVERVIEW

Mark Busch is a partner in the Charlotte office and focuses his practice on corporate finance, securities, executive compensation, mergers and acquisitions, and corporate law. He regularly advises clients on securities and corporate governance matters including public and private securities offerings, reporting requirements under the Securities Exchange Act of 1934 and compliance with stock exchange rules and the Sarbanes-Oxley Act. Mark typically acts as principal outside counsel to his clients, assisting them across a broad spectrum of their legal needs, ranging from public and private securities offerings, advising boards of directors of public and private companies, executive compensation matters, the purchase or sale of public and private companies, recapitalizations, joint ventures and general corporate and contract matters. The industries involved in these matters and transactions have varied widely, including life sciences, technology, telecommunications, energy, software, financial services, and manufacturing.

PROFESSIONAL / CIVIC ACTIVITIES

- North Carolina Bar Association, Business Law Section, Securities Regulation Committee
- The Entrepreneurship Institute, Charlotte Chapter, Member, Board of Advisors

SPEAKING ENGAGEMENTS

- "Securities Law Update and Corporate Governance," K&L Gates and North Carolina Subchapter of the southeastern Chapter of the Society of Corporate Secretaries and Governance Professionals, "Back to Basics" Presenter, May 2016
- K&L Gates "Under the Wire" CLE Seminar, "Considering Confidentiality: the SEC's KBR Order Intensifies Complex Company Communications with Secret Keepers and Whistleblowers," Panelist, February 2016
- The Presidents' Forum of Charlotte, "Capital Attraction: Getting it. Keeping it. Leveraging it.," panel moderator 2015
- The President's Forum of Charlotte, "Top Questions Business Owners Should Ask Their Legal and Tax Advisors" Session Moderator, December 2011, 2013, and 2014

- “Annual Shareholder Meetings (for Public and Private Corporations),” Presenter, January 2011 and 2013
- The President's Forum of Charlotte, "Financing Issues - Navigating the Current Environment" Session Panelist, December 2012
- The President's Forum of Charlotte, “Top Questions Business Owners Should Ask Their Legal and Tax Advisors” Session Moderator, December 2010
- “New Proxy Rules for 2010: What You Need to Know to be Ready,” Audio Conference co-hosted with Douglas Ellis, February 2010

EDUCATION

- J.D., Duke University School of Law, 1995 (*with honors; Law and Contemporary Problems, Technical Editor*)
- B.A., University of California, Berkeley, 1992 (*with high distinction; Phi Beta Kappa*)

ADMISSIONS

- Bar of North Carolina

OTHER PUBLICATIONS

- K&L Gates Securities Practice Guide, contributing author of Chapter 9, Navigating the Proxy Rules (LexisNexis Practice Guide, 2013 Edition)

NEWS & EVENTS

- 6 November 2020, K&L Gates Advises Exact Sciences Corporation on Acquisitions of Cancer Detection Companies, Common Stock Sale

MEDIA MENTIONS

- "California-based healthcare firm Movano Health raises USD 6.5 million in funding," *VCBay.news*, 27 January 2023

AREAS OF FOCUS

- Capital Markets
- Corporate Governance
- Debt Capital Markets
- Emerging Growth and Venture Capital

- Mergers and Acquisitions
- Public Companies

REPRESENTATIVE EXPERIENCE

- Represented Exact Sciences Corporation (NASDAQ: EXAS), a biotechnology company headquartered in Wisconsin, in connection with issuance of US\$500 million aggregate principal amount of a new series of 2.00% Convertible Senior Notes due 2030 in exchange for (i) US\$183.7 million aggregate principal amount of existing 2027 Notes, (ii) US\$200.9 million aggregate principal amount of existing 2028 Notes, and (iii) approximately US\$138 million in cash.
- Represented Movano Inc. (NASDAQ: MOVE), a purpose-driven health care solutions company at the intersection of medical and consumer devices and maker of the Evie Ring, with respect to an underwritten public offering of common stock with The Benchmark Company, LLC, a full-service investment banking firm, as the underwriter.
- Represented Movano Inc. (NASDAQ: MOVE), a purpose-driven health care solutions company at the intersection of medical and consumer devices and maker of the Evie Ring, in connection with a \$7.5 million underwritten public offering of common stock and warrants to purchase shares of common stock.
- Represented Exact Sciences Corporation (NASDAQ: EXAS), a biotechnology company headquartered in Wisconsin, in connection with issuance of US\$72.9 million aggregate principal amount of a new series of 2.00% Convertible Senior Notes due 2030 in exchange for US\$65.8 million aggregate principal amount of existing 2025 Notes.
- Represented MDxHealth SA (NASDAQ: MDXH), a commercial-stage precision-diagnostics company, in connection with a \$40 million registered public offering of American Depositary Shares.
- Represented Exact Sciences Corporation (NASDAQ: EXAS), a biotechnology company headquartered in Wisconsin, in acquiring all of the outstanding equity interests of PreventionGenetics, a Wisconsin-based genetic testing laboratory. The combination complemented Exact Sciences' advanced cancer diagnostics portfolio and supports its entrance into hereditary cancer testing.
- Served as U.S. counsel for MDxHealth SA (NASDAQ: MDXH), a commercial-stage precision diagnostics company, in its initial public offering of American Depositary Shares on the Nasdaq Capital Market. Piper Sandler and Oppenheimer & Co. Inc. served as lead underwriter in the offering, which raised US\$45 million of proceeds for the company.
- Advised Michigan-based ENDRA Life Sciences Inc. (NASDAQ: NDRA), a Nasdaq-listed medical device company developing thermoacoustic ultrasound technology, in establishing an at-the-market equity offering program with Ascendant Capital Markets, LLC as sales agent. ENDRA may sell up to US\$20.0 million of its common stock from time to time under the offering program. Ascendant Capital Markets is a full-service boutique investment banking firm headquartered in California.
- Represented Movano Inc. (NASDAQ: MOVE), a health technology company, in connection with its initial public offering of shares of common stock.

- Represented Exact Sciences Corporation (NASDAQ: EXAS), a molecular diagnostics company in connection with a number of underwritten public offerings of common stock and convertible notes with total gross proceeds exceeding \$3 billion and a number of acquisitions with aggregate purchase prices exceeding \$3 billion.
- Represented a manufacturer of healthcare products with respect to a number of acquisitions.
- Represented Energous Corporation (NASDAQ: WATT), a developer of wireless charging technology, in connection with its initial public offering and listing on NASDAQ and several follow-on secondary financing transactions.
- Represented FlexShopper Inc. (NASDAQ: FPAY), an online lease-to-own retailer, in connection with PIPE transaction, NASDAQ uplisting and follow-on underwritten public offering.
- Represented EnSync, Inc. (NYSE American: ESNC), an alternative energy company, in connection with several public and private offerings of shares of common stock, convertible preferred stock, warrants and convertible notes.
- Represented Cue Biopharma, Inc. (NASDAQ: CUE), an immunotherapy company, in connection with its initial public offering and listing on NASDAQ and several follow-on at-the-market financing transactions.
- Represented ENDRA Life Sciences Inc. (NASDAQ NDRA), an ultrasound technology company, in connection with its initial public offering and listing on NASDAQ and multiple follow-on offerings including bridge note financings, underwritten public offerings and at-the-market financing transactions.