

Partner, New York

Executive Compensation and Benefits



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Education

LL.M., New York University
School of Law, 2007

J.D., Brooklyn Law School, 2005

B.A., Ohio State University, 2002

Bar Admissions

New York

Selected Publications

"FTC Ban on Noncompetes Now
Slated To Take Effect on September 4,"
Skadden Publication, May 8, 2024

"FTC's Final Rule Banning Worker
Noncompete Clauses: What It Means
for Employers," *Skadden Publication*,
April 24, 2024

"2024 Compensation Committee
Handbook," *Skadden Publication*, 2024

"IRS Announces Plans To Increase
Audits of Personal Use of Business
Aircraft," *Skadden Publication*, February
26, 2024

Joe Penko advises public and private companies, private equity firms, real estate investment trusts (REITs), executives and boards on executive compensation and employee benefits matters, with a particular emphasis on issues arising in the context of mergers, acquisitions, initial public offerings and other corporate matters.

Mr. Penko regularly counsels public and private companies, private equity firms, executive management teams and individual executives on the design, implementation and termination of compensation and benefit arrangements, including executive employment and severance agreements; consulting arrangements; retention, severance and change-in-control plans; cash and equity-based incentive programs; and nonqualified deferred compensation plans.

Mr. Penko also frequently advises clients regarding tax rules relating to deferred compensation, excise tax on excess parachute payments and limits on the deductibility of executive compensation. He also advises on U.S. Securities and Exchange Commission rules governing executive compensation disclosure and corporate governance matters. Mr. Penko has been repeatedly selected for inclusion in *Chambers USA* and was recognized in Lawdragon's 500 Leading Corporate Employment Lawyers guide.

Mr. Penko has represented a diverse set of clients in a broad range of industries, including:

Public Company and Other Strategic Matters

- Mars in its:

- pending \$35.9 billion acquisition of Kellanova
- \$1.3 billion acquisition of Heska Corporation

- Worldpay in its \$43 billion merger with FIS

- NFP Ultimate Holdings LLC in its sale to Aon plc for an estimated consideration at closing of \$13.4 billion

- E*TRADE Financial Corporation in its \$13 billion acquisition by Morgan Stanley

- Squarespace, Inc. in a variety of matters, including its direct listing on the New York Stock Exchange and its \$6.9 billion take-private acquisition by Permira

- American Financial Group, Inc. in the \$3.5 billion sale of its annuity business to Massachusetts Mutual Life Insurance Company

- Danaher Corporation in a variety of matters, including its \$13.8 billion acquisition of Pall Corporation, the \$2.6 billion merger of its communications business with NetScout Systems, Inc. and the tax-free spin-off of its specialty industrials business into a separate, publicly traded company called Fortive Corporation

- Fortive Corporation in its:

- \$3 billion tax-free spin-off via a reverse Morris trust of four operating companies from its Automation & Specialty platform to Altra Industrial Motion Corp.
- tax free spin-off of Vontier

- the chief executive officer of Radius Global Infrastructure, Inc. in its acquisition by EQT Active Core Infrastructure and Public Sector Pension Investment Board for a total enterprise value of \$3 billion

Joseph M. Penko

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- Jabil Inc. in the divestment of its mobility business to BYD Electronic (International) Company Limited for \$2.2 billion
 - WSP Global Inc. in its:
 - acquisition of the Environment and Infrastructure business of John Wood Group plc for an aggregate cash consideration of \$1.81 billion
 - pending \$1.78 billion acquisition of Power Engineers, Incorporated
 - Rithm Capital Corp. (formerly New Residential Investment Corp.) in its \$1.4 billion acquisition of Home Loan Servicing Solutions, Ltd. and its internalization of management
 - Moelis & Company in a variety of matters, including its initial public offering
 - Shopify, Inc. in a variety of matters, including the sale of its wholly owned subsidiary, Deliverr, Inc., and the sale of 6 River Systems, LLC
 - NXP Semiconductors N.V. (Netherlands) in its proposed (but terminated) \$47 billion acquisition by Qualcomm Incorporated
 - Permira Funds in various transactions, including its:
 - \$2.2 billion sale of its portfolio company DiversiTech to Partners Group
 - \$4.2 billion sale of a majority stake in Duff & Phelps to Stone Point Capital
 - \$2.4 billion acquisition of Cambrex Corporation
 - Fortress Investment Group LLC in various matters, including its:
 - sale to Fortress management and Mubadala
 - previous \$3.3 billion take-private by SoftBank (and related CFIUS national security agreement)
 - Kelso & Company in its acquisitions of:
 - Physicians Endoscopy from Pamlico Capital
 - Refresh Mental Health from Lindsay Goldberg, and in its subsequent sale of Refresh Mental Health to Optum, a division of UnitedHealthcare
 - Plan B One-Step and other brands from Teva Pharmaceuticals
 - seven brands, including Breathe Right Nasal Strips, from GSK Consumer Healthcare

Private Equity, Financial Sponsor and Related Matters

- Lionel Messi in his agreement to play for Major League Soccer club Inter Miami CF
- SVB Securities' management team in its acquisition of SVB Securities, the investment banking business of SVB Financial Group
- GIC in its:
 - take-private of STORE Capital Corporation (a REIT), alongside Oak Street
 - \$868 million take-private of INDUS Realty Trust, Inc. (a REIT), alongside Centerbridge
- Hg in various matters, including its acquisition of AuditBoard
- OceanSound Partners in various transactions, including its:
 - acquisition of a majority stake in: Netrix and the subsequent acquisitions by Netrix of the IT services business unit of Prosum, Inc.; PSC Group, LLC; and BTB Group LLC
 - acquisition of Lynx Software Technologies
 - strategic investment in CFM and CFM's subsequent acquisition of electronic signature and software solutions platform Integrated Media Management, LLC
 - strategic investment in Gannett Fleming

Mr. Penko is actively involved in Skadden's training and recruiting programs and serves on the firm's Summer Associate Committee. He often speaks at seminars and conferences that focus on executive compensation issues and is the author of an ongoing series of articles on *Bloomberg Law* that explore executive compensation considerations arising in M&A transactions.