

# Visionaries

~ The YVCS Newsletter ~

## PRESIDENT'S ADDRESS

While there are no planned events for the remainder of 2003 we do have a full schedule of events for 2004. We invite you to visit our Website at [www.yvcs.org](http://www.yvcs.org) to familiarize yourself with our organization and what we have to offer.

### ***A Thank You To Our Existing and New YVCS Advisory Board Members***

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*The Young Venture Capital Society would like to take this opportunity to thank its advisory board for their help and support. A significant amount of work is needed to produce the events and products of the YVCS and it would not be possible without their assistance.*

## ***Spotlight On: An Interview with Joseph Bartlett Of Counsel to the Law Firm of FISH AND RICHARDSON***

### VENTURE PLAYER IN THE SPOTLIGHT

If General Doriot is considered the father of the modern VC industry, then surely Joe Bartlett ("Bartlett") is an uncle.<sup>i</sup> Since the mid 1960s Joseph Bartlett ("Bartlett") has been at the forefront (in both a financial and legal capacity) of the venture capital community. On the legal end, he has acted as general counsel to technology and industrial companies, VC firms, investment banks, and assisted startup companies navigate the often turbulent private equity waters. From the financial perspective, he has also acted as an investor; investing in companies such as APOLLO COMPUTER and STRATUS COMPUTER.<sup>ii</sup>

In essence, Bartlett has been in the VC business since its birth and who else to ask then he to get a snapshot on the marketplace.<sup>iii</sup>

#### CURRENT DEVELOPMENTS

##### Financial.

Historically, Bartlett has seen the majority of deal activity in the information technology sector. Today, most of the deals involve biotechnology and information technology. In fact, a recent survey published by a leading industry tracking source confirmed Bartlett's observation that in today's investing climate the majority of deals receiving funding involve in one capacity or another biotechnology and/or information technology.<sup>iv</sup>

##### Legal.

Initially, venture capital funds, such as AMERICAN RESEARCH & DEVELOPMENT CORP., were structured as **public** closed end funds. However, that structure proved to have too many complications and thereafter, most VC funds adopted the limited partnership structure which is prevalent today. Since, Bartlett has found the structure of VC funds remaining relatively the same.

In the same vein, deals involving portfolio companies have remained, excepting the proliferation of deals involving Participating Preferred, instead of the traditional Convertible Preferred, relatively unchanged.<sup>v</sup>

Recently, there have been rumblings in the industry about limited partners ("LPs") gaining momentum in securing deal points in negotiations (claw-backs, hurdles, etc.) with funds. Bartlett stated that while he has seen some LPs gaining leverage, this should not, considering the economic down cycle, be seen as a new phenomenon. Although, he continued, LPs have, at least in historic terms have had more access to general partners ("GPs") than previously, he believes that this can be attributed to a number of different factors including the threat of litigation, new

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**Resume Book**

**EXPOSE YOURSELF**

The Young Venture Capital Society is creating a resume book for **member's only**. The YVCS is constantly approached by a variety of venture capital and private equity funds for potential candidates. If you are a venture capital job seeker this is an additional way to gain exposure to funds.

If you are a **member** and have not already done so, please provide the YVCS with your resume/cv.

If you are interested in having your information included in the resume book, please first register online at [www.yvcs.org](http://www.yvcs.org) - registration and then provide us with your background information.

**Career Link**

Coming in **March** – the career link, allowing members to search some of the open jobs currently available in the marketplace.

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reporting laws and pressure on pension funds to report higher risk investments. Another issue of concern to Bartlett is the dark cloud of litigation. In fact, recently Bartlett published an article about the very same subject matter. In it he writes about the potential damaging effects on the VC community from litigation. Bartlett states that if the litigation machine starts to turn its ire on the investing community, the onslaught of suits would certainly decrease profits and increase GP and LP anxiety.<sup>vi</sup> However, Bartlett does not foresee an oncoming wave of litigation—at least right now. Alternatively, some of his colleagues have stated that they see a potential for “no fault divorces”—referring to LPs either cashing out of a fund or not answering capital calls. Bartlett counters this for a number of reasons including (i) there would be way too many contractual hurdles to clear by a VC fund to allow an LP to “cash in” (including, getting other LPs to sign off on the cash-out); and (ii) while, there are a number of private individuals as LPs, most LPs are professional pension funds or funds of funds managers who understand that a long term commitment required. Lastly, Bartlett thinks that LPs who are looking for an exit may be the same LPs who do not have the liquidity to meet capital calls, therefore, the LPs in essence, cash themselves out when they do not answer the call.<sup>vii</sup>

**Future Warning.**<sup>vii</sup>

From Bartlett’s vantage point the future has always looked bright. For example Bartlett is still working in the industry—after forty (40) years and its not because he has to put his grandkids through college; he has always enjoyed the excitement that is inherent with taking risks (*see*, Bartlett, “Rational Exuberance,” *J. of Wealth Management*, 17 (Summer 2001). At this moment, however, Bartlett’s vision of the future is less optimistic than pessimistic.<sup>ix</sup>

Fundamentally, from Bartlett’s vantage point, today’s market appears to be following the same historic rebound—where the economy usually begins its up-tick in mid-decade (only to slope downward until it bottoms-out in the beginning of each new decade). The economy starts to improve, the stock market and in conjunction the IPO market improves and with it VC funds (as they now have a vehicle to exit portfolio companies, receive a liquid return on their investments and make new investments in startups, thus continuing the cycle). However, today, Bartlett fears that the IPO market may have suffered a more permanent damage from the fallout of the corporate scandals—akin to a sort of IPO “collateral damage.”<sup>x</sup>

The abandonment of the IPO market as a viable and accessible exit strategy for VC funds and entrepreneurs has resulted in the VC community adopting more of a risk averse mentality. For instance, as stated above, the fact GPs have become more accommodating to try to sooth what seems like LPs weak stomach for risk may already be undermining the inherent risk taking nature of VC funds (i.e., looking for more established companies than neophyte leading edge companies).

This risk averse mentality is a result of a multitude of events but perhaps no more than the scandals surrounding corporate greed (*see*, Enron, Tyco, *et. al.*). This distrust has lingered far longer than in previous down-cycles, and if it proves permanent, it will resonate not just in the VC community but also negatively impacting the investing community in its entirety and eventually making its way to main street America.<sup>1</sup> Furthermore, that damage will not be localized to the investing community but to the entrepreneurial spirit of America. That spirit says Bartlett is what propels the US economy and more importantly—Bartlett is quick to point this out—separates the US economy from the rest of the world.

The IPO freeze if it proves permanent, according to Bartlett could be a precursor of a far greater problem; a problem that Bartlett believes could eventually shift the entrepreneurial risk dynamic in this country. What he sees happening is that as the entrepreneurial risk factor remains constant, the entrepreneurial (including the VC) reward factor will decrease; and with it, Bartlett fears, the erosion of the driving force of all business persons: the IPO.

# University and Investment Banking Captains



## The Role of the Captain

The captain is a critical part of the YVCS organization, and is responsible for creating and spreading awareness about upcoming events, products and services. Moreover, they are the mouthpiece or conduit for attendees to voice changes or improvements on YVCS products. They should be seen as leaders and a significant component of the management structure, as their knowledge will often be relied upon by the directors and officers of the YVCS.

## Benefits to Becoming a Captain

As sign of appreciation and recognition, University and Investment Banking captains will be highlighted on the website, newsletter and will be an integral part of management's effort to formulate compelling products. In addition, prizes for top performing captains will be awarded based on their attendee and membership production. Furthermore, captains will attain complimentary event entry and membership as a result of the aforementioned attendee and member production. And finally, captains eager to become increasingly involved in the organization and management of YVCS will likely have an opportunity to take on more responsibility.

## Who Should Apply

In the eyes of management, the captain is an extremely important role. A role for a driven, intelligent and passionate individual at either a university or investment bank.

## Next Steps

Should you be interested in pursuing this opportunity, please contact us at [www.yvcs.org](http://www.yvcs.org).

It is Bartlett's belief that unless the VC community, including entrepreneurs is allowed to reap the full benefits from the risk taken (*i.e.*, the IPO), the market and the economy will stop expanding. If that happens, Bartlett warns, America might lose its entrepreneurial edge.

## WHAT'S THE DEAL?

Molecular Imprints, a manufacturer of imprint lithography tools for chip manufacturers secured \$30 million in a Series B round. The investors were Carl Zeiss SMT A.G., a German based supplier to the semiconductor and Hakuto Co. Ltd. a Tojyo based international distributor and manufacturer of electronic components, manufacturing machinery, optical products and industrial components. The investors have also agreed to a strategic collaboration which will allow the investors to distribute Molecular Imprints' imprint lithography equipment in Europe and Japan. Also participating in the round were existing investors Draper Fisher Jurveston and Motorola.

With the new funding, Molecular Imprints plans to open distribution in Germany and Japan for its machinery for imprinting on semiconductor chips in order to serve growing customer demand. The Company's core business is producing step and flash imprint lithography for the supply of optics for high throughput lithography tools for volume production. According to the Company, the opportunities to expand their product to other related industries include solutions for laboratory work as well as for low-volume production.

Molecular Imprints technology was developed at the University of Texas. During chip manufacturing, the lithography technology creates the design of the wafer. As the lines are etched on the chip becomes smaller, lithography becomes Molecular Imprints' Tool produces a mold of the wafer.

## M&A CORNER

Similar to the much-maligned economy—*i.e.*, the jobless recovery—the M&A sector has been rumored to be trending up for most of 2003. It was not, however, until about mid third quarter that deal activity began to flow. In fact, based on data derived from Thomson Financial, the total value of worldwide transactions for the month of October was \$176.7 billion, an increase of 178% from the prior year and more than the last two months combined. However, the total number of announced transactions for the month was just 1,881, a 2.3% decline from the prior year but still the third highest total over the past 12 months. While, this trend up in deal valuation can be attributed to the Bank of America -Fleet deal at \$47 bn, it is nonetheless a positive indicator, which many IB's are hoping will grease the deal-activity skids leading to a profitable 2004.

While, much of the new deal activity occurred in the U.S., which reported a total of 708 transactions, a 7.1% increase from the prior year and the highest monthly total since July 2001, there was some large deal activity in Europe. However, in general, European M&A has been European M&A activity is trending downward (in fact EU M&A activity is on a streak of sort—albeit an ignominious streak: the total number of announced deals was about 14% lower than year over year and that marked the 13th straight month of negative monthly comparisons and was the 21st monthly decline in the past 22 months). A number of large transactions and a very slow month last year led to a 46.6% increase in the dollar value of transactions, which totaled \$47.6 billion. This same trend is evident in the year-to-date results.

There have been 6,520 reported transactions, a 10.9% decline compared to the same period last year, while the total dollar value of transactions is up 4.9%, to \$380.5 billion.<sup>1</sup>

Getting back to this side of the pond, U.S. M&A activity is showing (through October) positive year-to-date comparisons for both the number of deals and dollar volume.

Year-to-date, there have been a total of 6,534 transactions, a 3.9% increase over the same period last year. Transaction volume of \$449.6 billion is 16.6% ahead of last year's total of \$385 billion. According to Mergerstat, 18 of the 49 industries tracked showed an increase in year-over-year deal activity, a slight drop from the 19 industries recorded last month.

The industries that had the greatest year to date change were Broadcasting, Retail, Banking and Finance, and Leisure. The total disclosed transaction value increased 35.9%, to \$25.0 billion and extend the string of positive monthly comparison to five straight. This was also the highest monthly total since June 2002. The strongest segment was for transactions between \$100 million and \$1 billion, with double-digit increases in both the number of transactions and dollar value of transactions. Transactions less than \$100 million declined in both number and dollar volume. Year-to-date, the total number of middle-market transactions is down 3.6%, to 2,622, while the total dollar value of transactions is still 2.0% below last year's total of \$191.8 billion.<sup>2</sup>

Transaction multiples continue to be below year-ago levels, reflecting the weak, overall anemic market environment. For middle-market transactions over the last 12 months, the median enterprise value/EBITDA multiple was 7.4x compared to 7.1x a year ago and 6.8x in the preceding month. (Data taken from BAIRD M&A Analysis, November 2003).

<sup>1</sup> The downward trend is evident in the year-to-date results. There have been 6,520 reported transactions, a 10.9% decline compared to the same period last year, while the total dollar value of transactions is up 4.9%, to \$380.5 billion. (data through October 2003)

<sup>2</sup> However, if the average monthly volume of the past six months continues, it would push deal activity ahead of the 2002 totals.

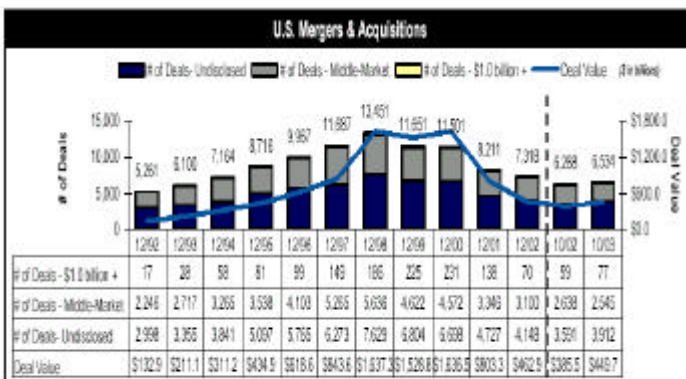
## PRIVATE EQUITY ACTIVITY

As the graph below indicates, private equity firms have been extremely active this year, and have accounted for a growing percentage of deal activity. Year-to-date, through the third quarter, private equity firms (and their portfolio companies) have been involved in 512 transactions, a 64% increase over the year-to date number for 2002.

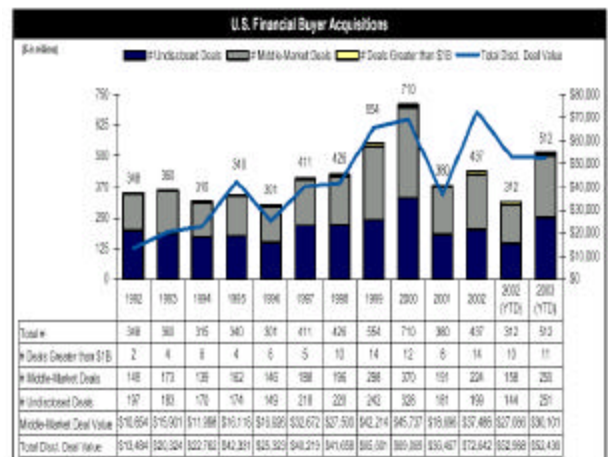
- Total deal value of \$52.4 billion is flat compared to the \$52.9 billion in deal value in 2002. The total number of private equity transactions (512) represents 8.8% of all of the announced transactions year-to-date, and would represent the highest total in the past ten years if the current pace of activity continues.

### Middle Market

- Private equity activity is becoming a growing percentage of total middle-market activity. So far this year, private equity transactions accounted for 11.1% of the total number of middle-market transactions. This compares to just 6.7% in the year-ago period and well above the previous peak of 8.1%, which occurred in 2000. Middle-market dollar volume from financial buyers totaled \$30.1 billion, an increase of 11.2% compared to the first three quarters of 2002. Acquisitions by financial sponsors accounted for 13.6% of the total middle-market dollar volume, up from 11.7% in 2002. Part of the reason for this increase has been the stabilization of leverage multiples and the willingness of firms to commit more equity. Given the inability to use substantial leverage, private equity firms have continued to ratchet up the amount of equity contributed to transactions. For the first nine months of the year, the average equity contribution for leveraged transactions was 40.8%, and we have actually heard of instances where firms considered up to 50% equity for high quality transactions. These levels are well above the 25% contribution averaged over the past decade.



Sources: Thomson Financial and Robert W. Baird & Co. Incorporated (RBA) Market Analysis.  
Note: Middle-market transactions defined as those with a disclosed transaction value of less than \$1 billion.



Sources: Thomson Financial and Robert W. Baird & Co. Incorporated (RBA) Market Analysis.  
Note: Year-to-date through September 30.  
Middle-Market transactions defined as those with a disclosed transaction value of less than \$1 billion.  
Transactions marked by U.S.-based private equity firms.

## 2003 SNAPSHOT

The year 2003 was neither feast nor famine for the private equity. The year started off quite dubiously with the pending war in Iraq stalling out momentum in Q1 but when it was apparent that war was to conclude quicker than anticipated, deal activity seemed to increase, albeit at a glacial pace (of course, the continued difficulties notwithstanding).

Most investment shops seemed focused on ongoing portfolio triage or swapping portfolio companies while earlier in Q2 some deal activity took place. One exception to the stagnant deal market was Deutsche Banks dual pronged sale of a portion of its portfolio companies. The first was for the sale of the mature portion of its Morgan Grenfell Private Equity portfolio to Vision Capital for approximately 100mm and the second was its E1.5bn sale of its late state private equity partnership.

According to a recent report conducted by 3i and PricewaterhouseCoopers, 2003 will mark the first time in about 3 years where investments in the private equity sector will increase. The report states, among other things, that investments for the first half of 2003 will be approximately \$57bn compared to a total investment of \$102bn and \$103bn for 2002 and 2001.

Not returning this year was the initial public offering market. The IPO market, especially in the beginning of the year seemed to be heading for extinction with the only hope of a recovery pinned on Internet search engine darling Google.com. However, the news of the IPO markets death has been greatly exaggerated, as recently reported by the Wall Street Journal that the IPO market has seen an up-tick and is poised for a solid rebound in 2004 (which would not seem difficult since many prognosticators have already called "bottom").

Regardless of whether the IPO market will return anytime soon, it seems that buyout funds have begun to take a prominent lead in the marketplace as confirmed by the two recent or pending acquisitions of Blockbuster and Time Warner's music catalog.

In other events, the ongoing friction between LPs and GPs seems to be worsening (and will probably continue to grow afoot—at least until ROI increases. While, as was the case last year, many LPs are focused primarily with management fees, especially in underperforming portfolio's (is there anything but). The growing disconnect is feeding into an LP mentality that for the likes of many LPs would conclude with GPs being paid more out of performance than out of the current percentage of income held. Further, there are rumblings by certain LPs that because many GPs only invest

1% of the total fund (in many of the same instances the fees equal that percentage of risk invested) that GPs do not have enough skin in the game. Some in the industry are calling for more of an alignment of fees with risk taken, while some believe that everything will return to normalcy once (and if) the market swings upward.

In any event, it seems that 2003 was a better year than in recent memory and many in the fund industry are predicting a better year for 2004.

Information for this snapshot was taken from an excellent review of private equity in 2003 by Vicky Meek, AltAssets, 3-Dec-2003, Investor profiles 2003: a review (<https://www.altassets.net/default.asp>) (visited 10-Dec-03)

### G L O S S A R Y

**Clawback:** A clawback obligation represents the general partner's promise that, over the life of the fund, the managers will not receive a greater share of the fund's distributions than they bargained for. Generally, this means that the general partner may not keep distributions representing more than a specified percentage (e.g., 25%) of the fund's cumulative profits, if any. When triggered, the clawback will require that the general partner return to the fund's limited partners an amount equal to what is determined to be "excess" distributions.

**Closed-end Fund:** A type of fund that has a fixed number of shares outstanding, which are offered during an initial subscription period, similar to an initial public offering. After the subscription period is closed, the shares are traded on an exchange between investors, like a regular stock. The market price of a closed-end fund fluctuates in response to investor demand as well as changes in the values of its holdings or its Net Asset Value. Unlike open-end mutual funds, closed-end funds do not stand ready to issue and redeem shares on a continuous basis.

**Limited Partnerships:** An organization comprised of a general partner, who manages a fund, and limited partners, who invest money but have limited liability and are not involved with the day-to-day management of the fund. In the typical venture capital fund, the general partner receives a management fee and a percentage of the profits (or carried interest). The limited partners receive income, capital gains, and tax benefits.

**Participating Preferred:** A preferred stock in which the holder is entitled to the stated dividend, and also to additional dividends on a specified basis upon payment of dividends to the common stockholders. The preferred stock entitles the owner to receive a predetermined sum of cash (usually the original investment plus accrued dividends) if the company is sold or has an IPO. The common stock represents additional continued ownership in the company.

**Convertible Security:** A bond, debenture or preferred stock that is exchangeable for another type of security (usually common stock) at a pre-stated price. Convertibles are appropriate for investors who want higher income, or liquidation preference protection, than is available from common stock, together with greater appreciation potential than regular bonds offer.

**General Partner (GP):** The partner in a limited partnership responsible for all management decisions of the partnership. The GP has a fiduciary responsibility to act for the benefit of the limited partners (LPs), and is fully liable for its actions.

**Hurdle Rate:** The internal rate of return that a fund must achieve before its general partners or managers may receive an increased interest in the proceeds of the fund. Often, if the expected rate of return on an investment is below the hurdle rate, the project is not undertaken.

**Capital Call:** Also known as a draw down - When a venture capital firm has decided where it would like to invest, it will approach its investors in order to "draw down" the money. The money will already have been pledged to the fund but this is the actual act of transferring the money so that it reaches the investment target

**No Fault Divorce:** (*colloquialism*) Where the committed party (the LP) dissatisfied with the rate of return, or otherwise, decides to walk away from his/her commitment for additional capital (capital call), *etc.*

**Endnotes for Bartlett Article:**

<sup>i</sup> General Doriot widely acknowledged as the founder of the first non family funded venture capital fund, Doriot served as a professor at Harvard Business School, in 1946 set up the American Research and Development Corporation (ARD), at MIT to finance the commercial promotion of advanced technology developed in the US Universities. ARD's approach was a classic VC in the sense that it used only equity, invested for long term, and was prepared to live with losers. ARD's investment in Digital Equipment Corporation (DEC) in 1957 was a watershed in the history of VC financing. He once characterized the essence of the relationship between the portfolio and its companies as "watch, push, worry, and spread hope." Burt Alimansky, has stated "If some day a 'supreme court' for venture capital were to be created, Joe would be the chief justice...he's kind of person-incredibly avuncular you would always want to turn to as the final arbiter who could give you an incredibly sophisticated report." THE DAILY DEAL, May 2, 2000. For more information on Mr. Burt Alimansky see, <http://www.hbscnyc.org/PastEvents/moreBurtAlimansky4-15.htm> (visited November 18, 2003).

<sup>ii</sup> Apollo Computer was a company making workstations often used for CAD. Apollo became a division of Hewlett-Packard some time before November 1995. A computer manufacturer, one of the world's leading providers of fault-tolerant systems and solutions, concentrating on four major vertical markets: financial services, telecommunications, travel and transportation, and gaming. While virtually all of Stratus' core hardware and software products are sold into these markets, a broad range of specialized solutions, both at the middleware and application solutions levels, are developed and marketed by Stratus, its subsidiaries and third party partners.

<sup>iii</sup> For more information on the history of Venture Capital and General Doriot, see, <http://www.innovationodyssey.com/venture.htm> (visited November 13, 2003); <http://www.europeanvc.com/history.htm> (visited November 13, 2003); (for more information on Greylock, see, <http://www.greylock.com/strategy/History.asp>, [http://www.alumni.hbs.edu/alumni\\_achievement/greylock.html](http://www.alumni.hbs.edu/alumni_achievement/greylock.html) (visited November 13, 2003); See, also Martin Kenney (Ed.) *Understanding Silicon Valley: Anatomy of an Entrepreneurial Region* (Stanford: Stanford University Press). <http://hcd.ucdavis.edu/faculty/kenney/VCinSV.html>. The provision of "risk capital" is not unique to the postwar U.S., having been practiced by European and Asian merchants and nobility for hundreds, if not thousands, of years in long-distance trading ventures. Even before the dawn of capitalistic enterprises, wealthy persons (often merchants) were willing to invest in business startups promising significant capital gains. Traditionally, an entrepreneur establishing a firm tapped informal sources, such as family, friends, and wealthy individuals (who are now called, "angels"). Financial institutions, such as banks or stockbrokers, generally were not organized to take risks on firms with little or no collateral. Even investment bankers such as the Morgans rarely invested in ideas preferring to wait until the firm was operating and growing before making a financial commitment. A somewhat more organized effort to find firms emerged in the 1930s as some wealthy families such as the Rockefellers and Whitneys began regularly investing family funds in new firms (Liles 1977; Wilson 1985).

<sup>iv</sup> Recently, as reported by the WALL STREET JOURNAL, a survey conducted by Alternative Investor's VentureOne and Ernst & Young, stated that healthcare (including biotechnology) now draws a full one-third of all investments, up from 10% in 2000. Moreover, the medium size healthcare deal in that period was \$8.5 mm and well above the \$6.6 mm for information-technology companies. (<http://online.wsj.com> visited November 11, 2003).<sup>v</sup> Again, for a great overview of the history of venture capital see, Paul Gompers and Josh Lerner, *The Venture Capital Revolution*, *Journal of Economic Perspectives*—Volume 15, Number 2 (2001, Spring pgs.145–168).

<sup>vi</sup> Bartlett discusses this very same topic in a newly published article titled "Collateral Damage: The Venture Capital Outlook and Potential." (see, [http://vcexperts.com/vce/news/buzz/archive\\_view.asp?id=191](http://vcexperts.com/vce/news/buzz/archive_view.asp?id=191)) (visited, November 13, 2003).

<sup>vii</sup> Besides the potential breach of specific clauses in limited partnership agreements, Bartlett sees too many hurdles to overcome for this to be a wide spread occurrence.

<sup>viii</sup> Again, see "Collateral Damage: The Venture Capital Outlook and Potential." *Supra.*

<sup>viii</sup> See, a great article on what some (especially entrepreneurs) view as a troubling trend

or perhaps just a disgruntled investor ([http://vcexperts.com/vce/library/encyclopedia/documents\\_prints.asp?documents\\_id=900](http://vcexperts.com/vce/library/encyclopedia/documents_prints.asp?documents_id=900)). (visited, December 6, 2003).

<sup>ix</sup> See, "Collateral Damage: The Venture Capital Outlook and Potential." *Supra.*

<sup>x</sup> See, [http://www.usatoday.com/money/industries/manufacturing/2003-10-28-tyco-party-video\\_x.htm](http://www.usatoday.com/money/industries/manufacturing/2003-10-28-tyco-party-video_x.htm) (visited, November 13, 2003).