Beyond The Bottom Line - Brendan Kennedy (Completed  12/10/19)  
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relatively small niche. And it enabled me to build a network of founders and entrepreneurs but also investors. I talked to a lot of partners at venture capital firms while I was there.

Brendan Kennedy: And three of us showed up for our first day of work, 2005-ish, 2006. And we essentially were tasked with creating a new subsidiary and built it over the course... I was there for five years. Built it from the three of us to about 125, and from zero clients to 3000 venture capital-backed startups and venture capital firms. And it was a great job in that I talked to founders and engineers and CEOs all day long, every day, about some product or some company that they'd thought was going to impact the world in some way. And that's what I loved about it, is sort of I... Sometimes I described that job as having a crystal ball that enabled me to see the products and technology and companies that would become commonplace two years into the future. But I had this little glimpse into what all these different companies were working on. And I saw pitches all day long.

Brendan Kennedy: And it was a really interesting opportunity, a great place to be while I was looking for what my next venture was going to be and enabled me to be entrepreneurial but within a public company. We were doing a startup, except the fun part about it was you didn't have to worry about a whole bunch of different things that startup CEOs and founders have to worry about. We didn't have to worry about payroll or--

Jen McFadden: Feeding your family.

Brendan Kennedy: Yeah, that's right. We didn't have to worry about payroll or marketing or legal. We had all that. And so I really enjoyed that opportunity. And it gave me a lot of time to think about what I would do next.

Jen McFadden: So, talk about, then, that transition from that to Privateer. You go out. You raise what is one of the first funds from groups like Founders Fund, $120 million. Can you talk a little bit about that process and how you were able to convince so many people to give you so much money at that point in time on an industry that was still incredibly nascent and laden with all the regulatory risk?

Brendan Kennedy: Yeah, a couple different things. In May of 2010, I saw a technology company from the medical cannabis space in California. I saw a pitch and met a team. And my two partners and I spent a year going around the world learning about the cannabis industry. Really, I sometimes describe it as boots-on-the-ground, old-fashioned research and due diligence and a learning through talking to people because there was no data. There was no information. There was no industry. And so you couldn't sit behind a desk and use Google to do your research. And so we flew around and went into the redwoods of northern California and southern Oregon and Colorado and dirt roads in British Columbia and...
Blue Mountains, Orange Hill in Jamaica, eight licensed producers in Israel. I think in a week I did 125 coffee shops in Amsterdam just learning how do these different supply chains work. How do these different markets work? What's legal? What's not? And talking to growers and processors and retailers and patients and pharmacists and physicians and lawyers and activists and political campaigners around the world. And I built this network, or we built this network, of people around the world who fed us information over the last nine years.

Brendan Kennedy: In many ways, that due diligence was some of the best... It was one of the best investments we've made in the last nine years. So, that's how we researched it. Originally our thesis was that we were building a venture capital fund. What we realized about a year in was that, and before we had raised any money, was that we... A venture capital fund or a private equity fund wasn't the right way to do this.

Brendan Kennedy: And so you used fund in your question, but we never... We don't have a fund. We describe ourselves as a private equity holding company. We've raised capital in that holding company by selling shares in it. And we use that capital the same way a fund would, but we don't have that seven year - seven, eight, ten year - fund life constricting us because we developed a thesis around what we thought was going to happen, but what we couldn't predict was when. And so the structure that we devised enabled us to have the flexibility to invest in companies, buy companies, create our own companies, without the constraints of a typical PE or VC fund.

Jen McFadden: So other orgs that you see out there right now... I think you mentioned Berkshire Hathaway. I mean, I think this is such an interesting structure for some of the issues that you're seeing right now around the time that it's taking companies to go public across several industries. Are you seeing any other funds holding companies, private equity firms emerging that look or have a similar structure to what you've developed?

Brendan Kennedy: There aren't a whole lot. I mean, Berkshire's one. I think it's the Liberty Media group of companies have something similar. There's a handful of companies. The private equity holding company structure, we sort of lucked on to that. Through luck we came upon, stumbled upon that particular structure. And it was the best decision we made back then because it enabled us to have a lot more flexibility. And that's really what we needed in an industry that was rapidly evolving like the global cannabis industry.

Jen McFadden: So, you have this very particular, special set of knowledge that you've gotten by boots-on-the-ground hard work, lots of travel, talking to a thousand people. You go out. You have $120 million, basically, of powder. Can you talk a little bit about those first few decisions around Leafly and Marley and how'd you make that first choice and what went into that process for you?
Brendan Kennedy: Yeah. Our first round of capital, we raised $7 million.

Jen McFadden: Okay.

Brendan Kennedy: Second round, we raised a little over $75. And our third round was I think $130, $140. So total, we've raised about... At Privateer, I've raised about $225 million, I think is the number out there.

Jen McFadden: We'll blame Fortune or Forbes for bad data on that.

Brendan Kennedy: Yeah. And so we... The first $7 million, we were really nervous about the lack of data. And so we actually bought a company. We bought Leafly first. We liked the aesthetic. We liked the ability to collect data. And we bought it without any... It wasn't making revenue, didn't have a whole lot of traffic. But we liked the idea, and we thought we could collect a lot of really interesting data.

Jen McFadden: For those people who don't know, what is Leafly?

Brendan Kennedy: Yeah. So Leafly started essentially as a strain database. What are these different... And by strain I mean genetics. Some people use the word cultivar, meaning a genetic breed of cannabis. Just like in tomatoes, you have lots of different tomatoes. So lots of different strains of cannabis, over 4000, that we track on Leafly. And in 2010, the interesting thing we saw was that people were really interested in what's the difference between strain A versus strain B? And how are different consumers using those different strains? So is someone using strain A to go to sleep and strain B for epilepsy to reduce the number of seizures?

Brendan Kennedy: And so we think of it originally as a strain database. That was its original functionality, a place to crowdsourcing data on cannabis products. That's what it started with. We built a content team that has educated people around cannabis, and still have a robust team there that's been doing a lot of work on some of the U.S. vaping issues lately.

Brendan Kennedy: And then there's a portion of the site that's focused... If the strains are "what," there's a focus of the site that's on an app that's focused on "where." So what are the products and where can I find them? And so I think there's today - I should know, but I don't know - my guess would be 4000 retail locations around the world listed on Leafly that sell or supply medical cannabis or adult use cannabis products in the U.S. and in Canada and in Germany and countries around the world that have legalized medical cannabis.

Jen McFadden: And then talk a little bit about some of those other earlier brands that you either incubated or invested in?

Brendan Kennedy: Yeah. So Leafly was first and had raised some capital prior to that. And you had a group of investors that really wanted us to just focus on Leafly. And we were
presented with an opportunity in 2013 to invest in companies that were applying for federal licenses in Canada. And we had seen regulatory programs around the world focused on medical cannabis, and we really liked the Canadian framework. And so after doing research, we tried to find a company to invest in Canada, into in Canada, and couldn't find a company that we liked, the management team or a strategy that we liked.

Brendan Kennedy: And so we went back to the regulator Health Canada, which is FDA in Canada, and asked them if we could create our own company. And they said, "Have at it." And so we did. We created Tilray from scratch, started it with six Americans back in 2013. Applied for a license. Built a facility. Put plants in and started shipping product to patients. And today it's a public company. We have about 1400 employees around the world. And we've raised - gosh, I should know - close to $700 million at Tilray.

Jen McFadden: That's incredible. So talk about that transition from the investor side of the table to the operator side, and particularly to such a large and rapidly growing company.

Brendan Kennedy: Yeah. At Tilray we're very pleased that we have been, and in general across Tilray and Privateer, we're pleased that we've been pioneers in this industry, right? That's how we think about ourselves. And we were some of the first investors in this industry. When we first told people, we manage reputational risk. We had to tell our friends and our family that, "Hey, I'm going into the cannabis, or we're going into the cannabis, industry." We had to tell... We did a whole bunch of meetings in San Francisco. And up and down Sand Hill Road, we just told people that we knew, "Hey, look, we're going into the cannabis industry." And just sort of managing how people were going to talk about what we were doing because we were really worried about being unemployable and managing our own reputations. And that really actually helped us.

Brendan Kennedy: We were strategic in the investments that we were making and the companies that we were creating. Of the first 20 companies licensed in Canada, we were the last to go public. But we were pioneers in other ways, in that I think we're the first in the first ten licensed, the first to have a license outside of Canada with our license to cultivate medical cannabis in Portugal. Tilray was the first company to legally export medical cannabis from Canada or from North America; first to import it into the EU, Africa, Latin America, Australia; first to have a Health Canada approved clinical trial; first to have a majority woman-led board of directors.

Jen McFadden: Kudos to that, by the way.

Brendan Kennedy: Thanks. I hand picked that group. If you're going to change the world and change society, you need women on your side. And it's really been a differentiating factor, especially around things like ending prohibition. And so
that was a conscious decision that I made. And I picked them. And they're independent, but it's been an important facet in who we are as a company.

Brendan Kennedy: All of the other, all of our competitors in Canada were public on the CSE or TSXV or TSX. And we did some sort of test-the-waters pre-IPO meetings back in 2017 and 2018 and, a few months in, decided that we were going to do a U.S. IPO. And that was really at the urging of some long, only-U.S. blue chip, mutual fund type investors in New York and Boston who said that they wanted a U.S. gap reporting company. All the ones in Canada are IFRS, which leads to some really strange accounting around biological assets and inventory. And then they wanted someone [inaudible 00:18:51] by the SEC.

Brendan Kennedy: And so once we decided we were going to do U.S., we had been thinking that we might find a CEO, recruit a CEO. But to bring a CEO into a company six months or a year before an IPO, especially to do something that's never been done before - no cannabis company had gone public on the U.S. exchange - that's a tall ask. And so we got to the point where my partners said, "Brendan, this has to be you." And I was slowly getting to that point anyway where we just couldn't find someone crazy enough to take a cannabis public on NASDAQ. And so that was a role that I guess I was somewhat uniquely qualified to fill.

Jen McFadden: So you had Cowen as your first... Who did you have as your first bankers?

Brendan Kennedy: Cowen. So our U.S. ... We had two banks on our IPO, investment banks. Cowen, which had been early into cannabis, certainly one of the earliest banks from the U.S. side; and then we had BMO, Bank of Montreal, that did some work with IPO investors in Canada.

Jen McFadden: And question regarding now you have kind of the standard set of blue chip investors in there as well or [analysts 00:20:27] following you. Do you think that was a kind of bottoms up? They're hearing from their private client customers. They're hearing from... What motivated them to make the decision that this was the right thing to start following and being engaged in, do you think?

Brendan Kennedy: All of the above. I take some... I feel like I'm somewhat humble, and there aren't a whole lot of things I'll take credit for. But I do take some credit for forcing some of the investment banks to pay attention to this industry. And they heard it from their private clients, their private wealth clients. They got jealous of some of the other investment banks that were doing work in the industry and saw the writing on the wall, knew that this was going to be. It's rare that you see an entire global industry emerge overnight, seemingly overnight. I've been doing this for nine years. It's not overnight, but seemingly overnight. And so they had to start paying attention, so.

Brendan Kennedy: So we used Cowen and BMO on our IPO in July of 2018. And we did a convert in October of 2018 that involved Bank of America Merrill Lynch, BAML. And there was no chance they would've been involved in our IPO, which was really only
four or five months, I guess four months earlier. And so I take some... I'm proud of the fact that we have gotten those large U.S. bulge bracket investment banks over the line.

Brendan Kennedy: I think there's a lot of investors that we've gotten over the line, too. There's still... I'm still working on some. But I... There's large New York, Boston investors that manage tens if not hundreds of billions of dollars that I've met with a dozen times. And when they make their first investment in this industry, it will be with us. They're just not quite there yet. At some point, they'll have to be. But they're not quite there yet.

Jen McFadden: So, let's spend a little bit of time talking about the unique regulatory environment because I'm not sure that everybody who listens to this really understands some of the complexity around the banking and selling product that's grown in one area in a particular state. So, just as quickly as you can, give a broad overview of some of the regulatory constraints that you're facing now and how you think that's going to change in the next two years and five years.

Brendan Kennedy: Sure, yeah. So maybe I'll speak really quickly about the past and compare that to today, internationally and in the U.S. So internationally in 2010, there were 15 countries in the world that had legalized medical cannabis and zero that had legalized adult use. Fast forward to today, 41 countries in the world that have legalized medical cannabis and two, Uruguay and Canada, that have legalized cannabis for adult use. I think we'll see four more by the end of 2020 that legalize for adult use. And I think we get... The question is I don't know if it's two years or five years, we get to 10 countries that legalize for adult use. I think we get, in five years, we get to 80, 80 plus that will legalize medical cannabis internationally for medical. That's sort of where the international market is going.

Brendan Kennedy: In terms of the U.S., in 2010 there were 15 states - so it was 15 international, 15 states at the same time - 15 states in 2010 that had legalized medical cannabis, zero that had legalized adult use. Today there are 33 states that have legalized medical cannabis and 11 that have legalized for adult use, I think. I think we'll see somewhere around eight new medical states in the next 18 months and four to five new adult use states. I think we'll see a couple of states legalize for adult use by not going through the sort of ballot initiative process, which will be fascinating. And so I think we're seeing rapid changes in the U.S. today. There's still this conflict between federal and state law. There's some clarity on an annual basis around medical cannabis, but there's a distinct conflict between adult use and federal law.

Jen McFadden: Can you talk a little bit about that and what problems that creates for, in particular--

Brendan Kennedy: Yeah. There's all sorts of problems.
Jen McFadden: ...commerce and banking?

Brendan Kennedy: So this product can't cross state lines. So you have the supply and distribution chains that are contained within each state. There really aren't any other products that are like that, where... Imagine if Anheuser-Busch had to grow their hops, wheat and malt and barley inside of every state where they sold Budweiser. It's a logistics nightmare. And you could say that for... That's just beer. You could say that for any other pharmaceutical product. It just makes it very complicated. So that's one huge issue. I think cannabis will cross state lines over the next five years from now. Certainly we move it internationally, medical cannabis, around the world today. And that's getting easier and easier from a medical perspective.

Brendan Kennedy: There are a couple of other issues. One is around banking. So through AML, Anti-Money Laundering, and BSA, Bank Secrecy Act, there are a lot of challenges for companies in the cannabis industry to bank the way that normal companies do. There's a couple different acts in Congress, or bills in Congress today. One is the Safe Banking Act, which has bipartisan sponsors and has support of the major banks in the U.S. and that would allow medical cannabis and adult use cannabis companies to have legal access to banking. It wouldn't... The banks are scared of having their charters... or fined, suffering fines from regulators for banking companies in this industry. And so Safe Banking is one thing that I'm actually optimistic about from a federal perspective over the next 12 months. And then other is the State's Act, which would essentially prohibit the federal government from going after companies that are legally operating in the medical cannabis or adult use cannabis space.

Jen McFadden: So next month, the Canadian government is lifting restrictions on cannabis-infused food and drinks, roughly a year after restrictions were lifted on the sale of leaf. What opportunities do you think this presents both for your companies and maybe for just companies that are entering into the industry for the first time?

Brendan Kennedy: Sure. So in Canada, we just celebrated the one year anniversary of cannabis legalization. That was October 17th. So a year ago last week was the start of adult use legalization in Canada. The first sale took place. And then 60 days from October 17th this year, so roughly I think it's December 16th of 2019, we'll see a whole new set of products become available. Historically, flower, pre-rolls, essentially consumable, edibles, consumable oils, drops and things like that, tinctures have been legal in Canada. But other form [inaudible 00:28:39] that you would typically see in a U.S. state - a beverage, a chocolate, a cookie, a mint - have not been legal.

Brendan Kennedy: And so in Canada, we have essentially two areas of focus. We have the Tilray brand that is very pharmaceutical, very medical, everywhere else in the world outside of Canada is available in a pharmacy with a prescription from a doctor, often covered by insurance companies. We have another group of companies
and brands and products under High Park that's focused on adult use. And so we will launch a number of new brands, and number of new products under our existing brands, in December. We have a joint venture with AB InBev, Anheuser-Busch.

Jen McFadden: With Jones [inaudible 00:29:32].

Brendan Kennedy: Yes, that's right. And so we have a joint venture with them focused on beverage, beverages that contain cannabinoids. And so we will launch those products. That joint venture has its own CEO and its own team. We'll launch those products in December. And then launch a dozen or so other products: chocolates, beverages... or chocolates, cookies, mints, things like that.

Jen McFadden: Great. So, you’re seeing more and more, certainly from the time that you guys started this, more and more capital moving into the cannabis industry. Can you talk about the competitive environment for deals and how do you see this evolving over the next five to ten years as the legislative environment changes in the U.S. and also internationally?

Brendan Kennedy: Well, I mean, to say the last year has been volatile in this particular industry would be, I mean, a severe understatement. And I think that, certainly, the largest companies in the industry today tend to be Canadian companies because we don't have to worry about things like banking. It's federally legal. We have federal licenses. That's why we were able to do an IPO on NASDAQ. I think right now we're going through... We're at a point of inflection. And we're starting to see a lot of volatility, certainly over the past four months. We're seeing some consolidation. We're also seeing some dissolution in that it's getting harder for companies to raise money, and that's leading them to essentially run out of money. So I'm getting a lot of calls from essentially three sources: competitors in Canada, U.S.-based companies and international companies that are calling, looking to be acquired.

Jen McFadden: Yeah.

Brendan Kennedy: And so there aren't a whole lot of investors deploying capital in the industry right now. And so for us, it creates a buying opportunity.

Jen McFadden: Yeah. One would think that that would be the case across so many dimensions of the industry just because of the way that it's set up right now on a state-to-state basis, maybe not today or tomorrow, but five years from now, ten years from now, being able to consolidate across all of the state lines and optimize your supply chain and other things.

Brendan Kennedy: That's right. It's so early. If 40 countries, 41 countries have legalized for medical, so that's... 40 out of 196 is 20%, right? Two out of 196 have legalized for adult use, 1%. And so it's still really early in the growth stage of this industry.
Jen McFadden: Excellent. So Massachusetts was the first state in the country to include in its marijuana legislation a requirement to include historically disenfranchised groups. However, as of February 112 businesses have received licenses, but only nine are women-owned and two minority-owned. As the industry continues to evolve, how do you ensure that people of color and disadvantaged minorities succeed in this market, particularly those who were previously operating in the market in a different capacity?

Brendan Kennedy: That's one of the biggest challenges we've seen over the last nine years. It's also one of the characteristics that's changed the most over the last six to 12 months, which makes me optimistic. When we started, we spent a lot of time dealing with people and learning from people who were operating illegally. And they were amazingly willing to educate us and be patient with us. Our strategy was to be really nice and really thankful and buy a lot of coffees and breakfasts and lunches and dinners and just ask questions. And people were incredibly willing to share with us.

Brendan Kennedy: When we were raising capital in 2012 and 13, 14, the hardest investor to close was a couple, married couple, that had teenage kids because they didn't want to talk to their kids about why they made this investment in the cannabis company. And in the early years, 2014 and 15, it was also hard to recruit women who were mothers and had teenage children. We had our VP of HR fit that description, but she was willing to take the plunge. And I think one of the things that's refreshing is that that's changed. Really... I was talking about the investment banks earlier. But we're able to recruit a more diverse set of employees today than we ever have in the past.

Brendan Kennedy: And not only diverse employees but employees from places that just never, people would have never left those companies, come work for us, in the past. Our VP of HR comes from Diageo. Our general counsel, she comes from Coca-Cola. Our operations comes from Nestle. Goldman-Sachs, Starbucks, companies that people wouldn't have left in the past, to come work for us.

Brendan Kennedy: I do fundamentally believe that prohibition is wrong, especially prohibition of cannabis. The war on drugs has been a failure since it was initiated. Prohibition's been a failure since it was initiated. Last year we arrested, in the United States, 650,000 Americans for cannabis possession or distribution. And disproportionately those arrested are African American, Hispanic Americans who are arrested disproportionately and incarcerated disproportionately to other ethnic groups. And so it's a form of discrimination. Those arrested, their lives are ruined. Their families are ruined. I think it's a huge waste of human capital. And yet for a product where George Bush, Bill Clinton, Barack Obama, all have admitted cannabis consumption. And yet their lives weren't ruined. They weren't arrested.

Brendan Kennedy: And so I'm hugely in favor of initiatives focused on, one, bringing people who have operated illicitly in the past into the industry, ensuring that they are
enabled, that the regulations enable them to sort of come out of the shadows and into the light. I think that's important. I think that's what success looks like. I think that at... I've pledged some of my shares and some of my, I guess, wealth to sort of righting the wrongs of prohibition and making sure that communities that have been harmed the most by prohibition benefit from legalization. And I'll spend... That's how I'm going to spend my proceeds from this. But it's something that is... In some ways it's disappointing that more groups that have been harmed by prohibition aren't benefiting from legalization.

Jen McFadden: Well, a final question, which is always one that will stump you if I've not prepared you correctly, but what is the one book that you're giving out this year as a gift?

Brendan Kennedy: One book I'm giving out this year...

Jen McFadden: And why?

Brendan Kennedy: Gosh. I give out a lot of books. I don't read as much as I used to. I used to read. Even while I was student at Yale SOM, I would read two or three books, generally, a week. Books I've given out lately... I gave a bunch of our employees a book called Last Call. It's a little bit... maybe written ten years ago about the end, by Daniel Okrent, about the end of alcohol prohibition.

Jen McFadden: Hm.

Brendan Kennedy: Really, it's sort of written at the same time as the Ken Burns prohibition documentary. And I think it... I read it at the start of all this to help me think about how the world would look after prohibition. And the other book... I'm going to probably break your rules and do two.

Jen McFadden: That's totally fine.

Brendan Kennedy: The other book, one of my favorite books, is along a similar vein but about a completely different topic, is The Fish That Ate the Whale, The Fish That Swallowed the Whale, by Rich Cohen, about one of my heroes, a guy named Sam Zemurray who introduced, in many ways introduced Americans to bananas. And I've had a fascination with bananas throughout my career. And so those are two books that I would give out.

Jen McFadden: Well, we will have to dig into that fascination with bananas next time you come back to Yale. Brendan, thank you so much for joining us and for coming back. And delighted to have you on campus.

Brendan Kennedy: Thank you so much for having me.