Does Your Partner Compensation System Harbor a Generational Timebomb?

By Michael D. Short on May 16, 2023

Much has been written about the pressures developing, both within law firms and more broadly, due to the dramatically different perspectives and expectations across generations. These pressures continue to develop at a deliberate pace and create little flare-ups around various systems and processes within law firms. However, there is one set of circumstances rapidly developing related to the Partner Compensation System in some law firms that, if not handled properly and early, will result in an explosive event that will drive a wedge right down the middle of a happy and collaborative partnership.

At a high level, we know that many traditional, highly subjective, multi-generational Partner Compensation Systems have been built upon three general statements –

1. "Be patient."
2. "Pay your dues."
3. "Trust us."

Concurrently, from a hard-wired, general expectations (of life and work) perspective, there are three statements that non-Boomers tend to reject outright –

1. "Be patient."
2. "Pay your dues."
3. "Trust us."

With this foundation for a conflict in place, I can see some partnerships facing a rapidly developing, potentially crisis-provoking scenario:

A firm has a subjective Partner Compensation System that has some tenure built into the results in the form of successful, longer-serving Partners leaving some significant monies on the table each year during their best years (after all, how much do you really need?) to prop up other Partners, keep the peace, and promote loyalty to the firm. In return, and consistent with the way the Partner Compensation system has been handled for decades, these successful, generous, long-serving Partners anticipate that they will be propped up in the results at the end of their careers to make up for their generosity…just as Senior Partners before them were treated. While their economic performance will not directly justify this relative position in the results in their waning years, this "pay back" is obviously the right and fair thing to do.

This "pay back" structure and approach works as long as the Compensation Committee is dominated by Boomers. However, there will come a time when control of the committee, and therefore the underlying compensation philosophy, will shift to younger non-Boomers who will, consistent with their generational predispositions, want more immediacy and quicker movement up and down the compensation table. If these Partners dramatically shift the underlying rules of this "slow up and slow down" aspect of the Partner Compensation System, those generous Partners – who will be closer to retirement than the decision-makers – will be left holding the proverbial (and very empty) bag. They won't be happy, and they won't fade off into the sunset quietly.

I'm hearing from too many younger, developing rainmakers who are frustrated because they create detailed analyses of the subjective compensation results to determine what the Compensation Committee is really rewarding, and see that seniority is carrying significant weight in the decision-making process. While many of these Partners understand and appreciate the slow-up/slow-down culture and "the way that we've always done things here," one additional pressure on this careful balancing act must be recognized by the Boomers on the Compensation Committee – the calls from the headhunters who represent competitors who are more than willing to bring this younger talent into their system at a level commensurate with the numbers…immediately. For an increasing number of young Partners, the value of this compensatory delta is becoming greater than the amount they are willing to give up to stay with a firm that has a great culture. At this point, "patience, please" becomes a meaningless and useless plea from the current Compensation Committee and the partnership.

The solution here is complicated because the core issue involves money and emotions, largely in the form of trust and confidence. All parties must recognize that the current situation is the product of an evolutionary path. No one did anything wrong and no one is to blame. That said, if the partnership is on a path toward a major conflict here, ignoring the fact pattern will only delay the inevitable outcome and, probably, result in a more seismic event when the situation blows up.

As with all important issues within law firms, there is no universal and easy solution. Firm leadership needs to take control of this head on, (re)set the philosophical tenets of the Partner Compensation system with the partnership in a formal manner that addresses any/all unwritten rules, communicate clearly with all parties/generations to manage expectations carefully, and install any transitory rules needed to smooth out any rough spots if a major transition is required. Each generation needs to come to the process in good faith because if any expects to win at all costs then all will lose.

The stakes in this dangerous scenario are quite high and, if this is allowed to turn into a game of generational chicken, then the Seniors are basically daring the young developing superstars to leave while putting at risk their ability to pay back the off-the-books debt owed to those who, for the good of the firm, played the long game, invested in the firm, helped to build loyalty and the culture, and were willing to "trust us." Everyone will lose, hence the timebomb analogy. Take an honest assessment now. If the above scenario fits your firm, please, oh please, be proactive. You can defuse this situation… but it's not going to be easy.

Don't delay.