Signs that Fee Origination Sharing among Law Firm Partners is NOT Working

By Michael D. Short on September 7, 2018

In the course of our law firm Partner Compensation System work, we have seen many law firms that allow fee origination credits to be "shared" for purposes of both financial reporting and Partner compensation-setting. Of course, the goal is to promote sharing, teamwork, and collaboration by allowing two or more law firm Partners to divide the credit for the efforts and the resulting revenue generated from client services. While some law firms have a culture of sharing and doing the right thing for all clients all the time, many have Partners who are so focused on their own numbers that they act in manners that put themselves ahead of the client's and law firm's best interests – an outcome that is never appropriate. Fee origination sharing systems often exacerbate these behaviors.

Examples of negative outcomes that can result from, or be made worse by, Fee Origination-Splitting among law firm Partners include:

- ***Poorly Chosen Pitch Teams:*** When a new client opportunity arises, the priority for the entire organization should be to bring the client into the law firm. While an opportunity might come to Partner A, Partner B may have the skills, experiences, and connections to shine against the competition and win. If Partner A thinks he is good enough to give it a try and wants all the credit, he will go it alone and lose the work to a competitor that puts the best point person and supporting team in front of the potential client.
- ***End-Arounds:*** Partner A has a client who needs assistance in an area where Partner B works, but Partner A doesn't want to share credit. Partner A goes to a fairly experienced Senior Associate in Partner B's group and tells that young lawyer to do the work…and not worry about communications with Partner B because Partner A will handle that. Then Partner A oversees work with which he is not experienced. Even if the matter turns out fine, the client has not been properly served and experiences the next outcome.
- ***Hidden Depth of the Organization:*** A sophisticated buyer of legal services does not expect one Partner to handle all types of matters. This buyer expects and demands the best that the firm has to offer – not just the best that the Originating Partner has to offer. Absent exposure to the depth and breadth of the firm, the loyal client is served sub-optimally and a less loyal client is likely to leave.
- ***Matter Bartering:*** Partner A has a client who needs sophisticated work that Partner A cannot do. He must involve a Partner from another practice group and he knows he needs to offer some Origination credit as an incentive for the other Partner to assist. Rather than going to the most qualified Partner and striking a deal, Partner A goes to a pool of reasonably qualified Partners and chooses the one who offers to take the lowest share of the Originations credit. What would any client think if they knew their services were being bartered on a trading floor and the work went to the lowest bidder?
- ***Impeded Succession Planning:*** Given the demographics of the legal industry and within most law firms, Partner and client succession planning is a hot topic right now. Unfortunately, our Partner A is within a year of retirement and is finally looking to get his clients ready for transition. Unfortunately, this is usually a multi-year process that requires patience, the involvement of the client, exposure by the client to multiple Partners so the client has a choice, and (in many firms) shared credit through the transition process. If Partner A is focused on retaining as much credit as possible, he holds onto the relationship too long and seriously reduces the odds of a successful client transition.

- ***Siloed Partners:*** It doesn't take long for younger lawyers to figure out which Partners are generous and which ones don't share. The generous ones tend to have larger books and loyal (to them) lawyers working in a team environment. The greedy ones have smaller books because they try to do all the work themselves and/or cannot find anyone to assist them in a significant manner.

From the perspective of the law firm Partner Compensation System, all of this has serious implications:

- ***Misleading data:*** In theory, the Origination number for both Partners in the "Siloed Partners" section, above, can be the same yet one is far more valuable to the institution than the other. Splits, when negotiated on a case by case basis and inconsistently across the Partnership, produce wildly inconsistent and terribly misleading data. A Compensation Committee that is not dedicated to finding the stories behind the numbers will suffer the next point.
- ***Misallocated Partner compensation dollars based on misleading data – Relationship Partners:*** The proper and fair allocation of profits is a firm-specific strategic imperative for all partnerships. It is not lost on those Partners who share credit when their fellow Partners act selfishly. The point becomes insulting when these two Partners are awarded roughly the same compensation and the credit-sharer knows that his actions worked against his personal interests.
- ***Misallocated comp dollars based on misleading data – Younger Partners:*** The young, developing Partners do not always have the ability to choose with whom they work. In instances where some *must* support a Partner who does not share credit, these Younger Partners may develop an unhealthy attitude toward the compensation process and their peers who support credit-sharers because the latter group will get paid more for the same relative contribution simply because they are lucky enough to work with more generous Partners.
- ***Departures:*** The outcome of misallocated comp dollars is increasingly not a protest by the good Partner. Rather, it is his departure.

There are a variety of ways to address these symptoms but the most important first step is to recognize they are harmful to client relationships and the culture of the firm. If tolerated, then you can tell lateral candidates with confidence that your culture is one of selfishness and putting the individual's interests ahead of the client's and the firm's.

Good luck selling *that*.

For more thoughts on this challenge, please revisit my four-part blog series from 2013, *Solving the Great Partner Compensation Puzzle – Promoting Teamwork*:

Solving the Great Partner Compensation Puzzle – Promoting Teamwork (Part 1)

Solving the Great Partner Compensation Puzzle – Promoting Teamwork (Part 2)

Solving the Great Partner Compensation Puzzle – Promoting Teamwork (Part 3)

Solving the Great Partner Compensation Puzzle – Promoting Teamwork (Part 4)