The Challenge of "Coasters" in Prospective Law Firm Partner Compensation Systems

By Michael D. Short on May 5, 2017

There are many positive aspects to prospective law firm Partner compensation systems but they have one glaring weakness that many law firm leaders wrestle with – what to do with a Partner who appears to be "coasting" and taking advantage of the law firm's Partner compensation system?

I must confess that I'm a big fan of prospective law firm Partner compensation systems (those where points/shares are set at the beginning of the year based on expected performance and contribution). When applied correctly, this approach allows leadership to use compensation as a strong law firm management tool because law firm leaders can align an individual law firm Partner's goals with a law practice group's or industry team's goals AND with the law firm's goals – thus incentivizing teamwork and a collective effort toward growing the profit pool based on each law firm Partner's strengths. Contributions at all three levels are considered when awarding any retrospective year-end bonuses AND assigning points/levels for the following year, thus tying performance against goals/expectations to Partner compensation.

Important note – Prospective Partner compensation systems are not the panacea for all law firms. A successful law firm Partner compensation system requires a blend of important factors (e.g., a very high level of trust and confidence in the decision-makers; a strong and empowered practice management structure), that are not readily available in some law firms.

Now for the Achilles heel – what is a law firm leader to do with a Partner who glides/coasts/takes it easy during the year and, either by perception or in reality takes advantage of the system AND all other Partners? Here are the two scenarios that we see most often –

- Leadership sets points/shares based on a two to three-year lookback of performance and contributions. A Partner has been on a steady upward trend and then has a really good year, which results in a "promotion." Firm leadership moves the Partner up in the law firm Partner compensation structure, the Partner does some back-of-the-envelope math and realizes that the prior year will be considered in the statistics for a couple of years and decides to take advantage of that phenomenon for a year or two. As a result, the Partner's current year contribution does not support the Partner compensation assignment and everyone notices.
- A Partner is nearing retirement or phase/down and tries to coast for a year or two before moving to a Senior Counsel role (or something similar).

The important point that the Coasters miss is that a well-managed prospective assignment reflects *future* expectations based on past performance as an indicator. It is NOT a direct reward for past performance, nor is the look-back period intended to promote or support coasting.

Absent some type of response to those who appear to be gaming the system, confidence in law firm leadership erodes, these individual Partners become resented and isolated, more Partners try to game the system, and the law firm's overall profitability declines.

So what should a firm leader do in this situation? Here are some solutions that are being successfully used right now:

- **Mid-year review** – All Partners undergo a review by law firm leadership and/or the compensation committee in the May to July timeframe. The committee identifies under and over-performers, investigates each situation, and makes any mid-year adjustments that they deem necessary.
- **Performance thresholds** – Any Partner who falls below expected performance levels by a predetermined threshold or percentage after several months into the fiscal year immediately falls into a review program similar to the one described above.
- **Individual Partner holdback** – During the year, the law firm holds back some predetermined percentage of anticipated compensation (typically 2% – 10%) that is subjectively "earned back" at the end of the year by being a good citizen of the partnership in the eyes of the compensation committee. Coasting or gliding into retirement would trigger a forfeiture of the holdback amount.
- **Ongoing management oversight** – The law firm's Managing Partner simply monitors the contributions of all Partners on a monthly basis (which should be a standard operating procedure), identifies potential problems, talks with those Partners regularly, and handles each situation via personal attention. (This option is often used in conjunction with others but, in some firms, IS the solution.)

The last option is an important reminder to law firm leaders – that poor behavioral issues are ultimately the responsibility of law firm leadership…not the compensation committee/process. Of particular concern are Partner compensation committees that are independent of law firm leadership or that experience a lot of turnover. Those committees tend to be very numbers oriented and rarely venture into behavioral issues. Furthermore, they tend to be weak with respect to sending messages because the message gets watered down via differences of opinions within the group.

Given the competition for legal industry talent right now, the proper allocation of law firm Partner compensation points/shares/percentages/dollars has never been more important. The rewards need to be very well aligned with contributions and personalized goals. The Coasters simply must be addressed.