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Municipal Finance Law Since 1971

WSJ: What the Lawyers Won't Tell You.

“We want to be good leavers,” our attorney said.

He was one of the few lawyers who could represent us. Others were conflicted, because our employer paid retainers to so many law firms across New York City. I liked how our guy used the royal “we.” It felt like he had joined our wealth management team, and we could prevail against overwhelming odds.

In some ways, he really was one of us. He helped us negotiate signing bonuses at the new shop. He advised us not to tell clients or to warn sales assistants before we left. He did an excellent job protecting our interests.

Good news: My team left clean in 2006. Nobody got sued.

Bad news: Several clients were furious we did not confide in them beforehand.

“I don’t like surprises,” said one.

“Who’s watching my money now that you’re not there?” asked another.

The most painful comment came from one who had become a friend through the years: “Why didn’t you trust me enough to say something?”

She didn’t follow us to the new shop. So much for clients being friends.

Bottom line: Breakaway advisers are caught between a rock and a hard place. We can play by the rules and avoid litigation. Or we can level with clients and suffer the consequences.

The choices–what it takes to be a good leaver–may be clear before advisers resign. But afterwards, departures devolve into brutal, sloppy affairs, with no holds barred.

The bosses at my old shop called our cell phones every few hours. “It’s not too late to work things out. You pick the time and place, and we’ll meet you there.” Coffee. Dinner. Weekend meetings. They suggested any number of convenient venues.

Cynically speaking, I believe they were distracting us to buy time. Because as they made nice on the phone, they were simultaneously lining up and dispatching the buzzards.

You know what I mean. Buzzard brokers build their businesses on the AUM carcasses of departing colleagues. Sure, managers sprinkle around the accounts. But they assign the biggest, most profitable relationships to advisers who are really, really good at retaining assets.

For years I laughed at a guy who scribbled notes on napkins during top-producer dinners. A slip here or a war story there, he was recording information, circling, waiting for the day when somebody would leave and their revelations would come in handy.

The wake of buzzards, I soon learned, was no laughing matter. They can damage relationships for years. And their claims undermine the trust so critical to our business.

Take municipal bonds. Advisers sometimes work for a piece of the bid-ask spread. The sales credit is hidden and often negotiable between adviser and trader. “He’s been ripping you off for years,” a buzzard told my clients. “You’re losing out on better yields.”

“Not true,” I said, defending myself. I offered to run data on trading history, yields and commissions to prove my honesty. The clients never pushed, and these claims and counter claims degenerated into classic cases of he said, she said.

The false claims infuriated me, and I came up with an idea how to respond.

I had spotted three union members striking outside a restaurant on 52nd Street, making a fierce racket. I asked them to drive their 12-foot inflatable rat to my old shop and chant the name of one especially heinous buzzard. Before they could do it, my partner’s cooler head prevailed. I wound up saving “Operation Union Rat” for one of my novels.

Hindsight is 20-20. I now wonder if advisers should have a frank talk with their clients long before considering a move. Because the relationship status between advisers and their firms, well, “It’s complicated,” as they say on Facebook.

A disclosure might go something like this: “In my business, people change firms all the time, either for money or a better fit. While I have no intention of leaving now or in the future, departures are a way of life in the wealth management industry. If that happens, I can’t tell you in advance.”

When I finally decided to leave my firm, it was far too late to have this discussion because of legal constraints. I trusted most clients would follow me, and it turned out most did. But I had no way of knowing as I plowed forward into the unknown.

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