



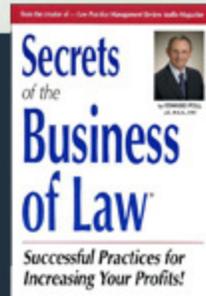
Week of **January 5, 2010**

Does Anyone "Deserve" a Bonus?

This used to be the time of year when law firm lawyers and staff alike counted on receiving a bonus payment from the firm. Of course, the Great Recession ("The Great Setback" as suggested by Jeff Immelt, CEO of GE, or, as I believe, the "Second Great Depression") has put a great crimp in many such expectations. However, there are still profitable law firms where bonuses would be financially feasible. The real question is, because bonuses are possible, should they be expected?

For partners, bonus pay is typically how year-end financial results affect their direct payout in a small firm, or the decisions of the compensation committee in a large firm. For associates, the concern has in the past centered on one question: "How big will my bonus be?" And that can create definite problems, because the real question should be, "Do I deserve to get a bonus?" If that question isn't being asked, particularly in today's economic environment, the firm should think long and hard about how it approaches the whole concept of bonuses.

A bonus should be a reward for exceptional performance in a defined period of time. The performance should meet specific criteria, and satisfying those criteria in one time period should create no guarantee of receiving a bonus in a subsequent period. If the firm's expectations for exceptional performance are set too low or are left vague, neither the firm nor its members really understand what "exceptional" means. And this is the conundrum. Given human nature, exceptional performance today means even greater exertion and achievement will be expected tomorrow. At some point it becomes impossible to continually exceed what the firm and clients expect - the best a person can do is meet expectations. And that is the definition of satisfaction, which is the minimum expected performance and a level that does not justify a bonus.



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Partner bonuses should be inseparable from the concept of ownership. This means being the last person to receive financial benefit from the firm, after staff and associates, vendors and suppliers. Thus, perhaps the word "bonus" is the problem. For partners, using the suggested connection between payment and ownership, the concept is really one of division of spoils, or division of what is left after everyone else is paid their due.

Associate bonuses should be inseparable from the concept of value. Associates only provide value to the firm if they enhance the firm's profitability through leverage. If the revenues are falling and uncollected fees are rising, expenses (including bonuses that associates may have taken for granted) must be cut. Staff bonuses should only reflect performance against a comprehensive job description that includes the specific, significant tasks of each position and the performance standards by which the accomplishment of these tasks is judged.

Clients in recent years have increasingly rewarded lawyers for having "skin in the game" - a personal financial stake in the outcome of a matter as reflected in compensation that goes up when the results justify it. Law firms should take the same approach to the payment of bonuses, making it clear that the payment reflects over-and-above personal effort, coupled with firm performance, not just the time of year on the calendar.

Personal Commentary

The last week of the last year of this past decade, we did something unusual. We closed the office. We bundled ourselves and Bandit into the Airstream and traveled to Joshua Tree National Monument. It isn't all that far from us, but it's the first time I've ever been there. The trees are unique, but the real surprise is the incredible rock formations everywhere you look. There are 800,000 acres of absolutely unique desert beauty.

Best wishes for a great and successful 2010. In my case, business has exploded...perhaps I should take a vacation more often!

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-CM, Massachusetts

Best wishes,

Ed Poll

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