



ASSOCIATES: LOOK BEFORE YOU LEAP

Ellen Freedman, CLM
© 2015 Freedman Consulting, Inc.

Associates, there may come a time when you are offered a partnership position at your firm. You will have lots of questions. There will be worries which keep you awake at night while you mull over the offer. That's as it should be.

I want to speak directly to a particular concern: what a partner "looks like" at your firm. [If you have not read my last article "Profile of a Partner" please send an email request for a copy to lawpractice@pabar.org.] If you don't know what a partner "looks like" how will you determine if you will fit in? How will you know whether the partners are people you want to "sit at the table with" for your remaining career? Are they team players or despots? Will suggestions for change be welcomed, or will you be continually rebuffed with, "If it ain't broke. . . ."

If the criteria for partnership are a mystery, you cannot even determine whether you are on track. If the criteria are about hours and fees you originate, and nothing else, you are still in the dark. Are you at a firm where everyone participates in management? Will you be allowed to avoid participation? Will you be denied the ability to participate? Will you have a say in the technology supporting your practice? Will your marketing desires be dismissed as too different or too expensive? Will a large percentage of the dollars you produce be diverted to pay for retirement of senior partners, or to shore up their compensation as they scale back? There's nothing necessarily wrong with that, as long as you go into it with eyes open.

The myriad of considerations an associate should investigate and mull over before accepting an offer of partnership are many and failing to do your due diligence could spell disaster downstream. I know that it's extraordinarily difficult to ask for information. Some firms react poorly. My experience is that after the initial kerfuffle, they realize you are really smart and cautious and will respect you for asking. However, you may have to remain stalwart for a while for all the resistance to sharing private information subsides.

When I entered the legal marketplace, lateral movement of attorneys was unheard of. Anyone who had been at more than one firm was suspect; what was wrong with them? One was never quite sure what the "right stuff" was that made

them eligible to become a partner. If an offer was made, it was a brass ring which was to be grabbed without hesitation.

It was only after one accepted the offer that the financial condition of the firm was revealed; the method and manner of partner compensation; the reality about who was producing and who was not; how management operated and how much participation was required or allowed; and even what one's fiduciary obligations were for buying out retiring, disabled or deceased partners.

If an offer comes your way, or you are told an offer *will* be coming your way, the first question should be whether there is a written partnership agreement. If not, that should be your first red flag. I would personally advise you insist one be drawn up before you are officially brought on as a partner. If there is an agreement, get a copy to review. Make sure you understand it and can agree to the terms before you say "I do". Remember that becoming an owner makes you your brother's keeper, so to speak, and opens you to liability.

I recently assisted an associate who contacted the hot line for assistance with this process. I have the pleasure of doing so many times a year. I admit that I love when it all works out, but it's probably even more of a pleasure in the rare instance where it becomes clear during the due diligence process that the associate and the firm are *not* a good match. You may think that is odd. But I know that it helps the associate avoid years of additional time spent at the wrong firm, which are better spent building interpersonal relationships, and a book of business, at the "right" firm, or in establishing a solo practice.

My first order of business was to let the associate know he was smart to be prepared to ask questions when the offer was made. We discussed the many considerations and the right way to ask about them. Most of the considerations we discussed were already of concern to him, even though he was unable to articulate them.

From my perspective, the real value he gained was in how hard I worked to empower him to ask the right questions. He sensed they would not be receptive to his queries, and he was correct. I emboldened him by pointing out that an unwillingness on their part to address legitimate concerns was a strong indicator that these were not the right people to call partner. I also assured him that he was a keystone in their succession plan, and they would probably work hard to address his legitimate concerns if respectfully expressed.



Ultimately, the firm responded to questions. In doing so, they realized that much of what they had was not properly thought through or documented. It gave the firm the impetus to address future possibilities adequately and make some improvements from which all would benefit. The process helped the associate to become a true partner in every sense of the word, and with a level of knowledge and comfort that predicts long-term success for all concerned.

I will sum up the process by reminding all associates who are working toward partnership to "look before you leap" and "be careful what you wish for." If your firm is progressive, and they have a documented partner profile, look at that carefully. If you can't imagine yourself fitting the image of what a partner at that firm should look like, or can't imagine wanting to, it's time to start thinking about and planning for a career move.

The same applies if there are more partner exceptions than those who actually fit the profile, because it means the firm has no accountability, and that will become your headache some day. That's okay if you're willing to accept the challenge. Again, it's just about knowing what you're getting into, and doing so with your eyes wide open.

Not sure what to ask? Not sure how to ask? I'm here to help.

A version of this article originally appeared in the December 31, 2014 issue of the Pennsylvania Bar News.

© 2015 Freedman Consulting, Inc. The contents of this article are protected by U.S. copyright.. Visitors may print and download one copy of this article solely for personal and noncommercial use, provided that all hard copies contain all copyright and other applicable notices contained in the article. You may not modify, distribute, copy, broadcast, transmit, publish, transfer or otherwise use any article or material obtained from this site in any other manner except with written permission of the author. The article is for informational use only, and does not constitute legal advice or endorsement of any particular product or vendor.

