

Managing Partner Compensation and Reentry

QUESTION:

As I am about to assume the position as our firm's new managing partner at the end of this year, I have a couple of inter-related questions about compensation and practice reentry:

Firstly, what is the optimal approach to compensating the firm's leader? Secondly, what understanding about compensation during the managing partner's service should the firm reach with its soon-to-be managing partner before he/she takes office?

I would also welcome your group's counsel on what understanding should the firm reach with its managing partner about his/her reentry to practice at the end of his/her tenure as the firm's leader, and what understanding about compensation should there be for the transition period during which the former managing partner is reentering the practice?

RESPONSE:

Trust and fairness are essential ingredients when addressing compensation for the firm's leader. Presumably, your firm chose you as its leader because partners trust you and believe that you will be effective in the role. Compensation for the leader should reflect the high value that the firm places on the position. In many firms, this would mean that the managing partner would be compensated near, but not at, the top of the partner compensation schedule. Unless other contributions warrant placing the leader at the top of the compensation schedule, however, we do not believe that the managing partner should be the most highly compensated partner. We suggest reserving the top of the compensation schedule for the partners who make the greatest overall contributions to the success and well being of the firm. Giving you, as the new managing partner, any significant increase in compensation at the outset of your tenure could diminish your effectiveness and place a target on your back.

Your firm should recognize that any new managing partner will likely give up at least part of their personal practice to become the firm's leader. Depending on how long you serve, your practice probably will diminish over the course of your leadership tenure. This is because it is nearly impossible to do complete justice to leading your firm and maintaining a substantially full-time law practice. Your firm should understand that over time the managing partner's role will evolve in the direction of more time spent on leadership and management and less time on practicing law. Recognition of this likely fact would justify the firm's establishing some minimum guaranteed level of compensation for the managing partner.

It would be desirable for you to have clearly stated (in writing preferably) standards or factors for setting your compensation. These could include the firm's performance (measured by objective metrics, such as per partner profitability) and attainment of goals and objectives that your firm and you will collaboratively set, from time to time. While your firm's profitability should be a factor, it should not be the only factor. More subjective factors, such as the continuing

confidence of the firm's partners, the overall morale of the firm, and the effectiveness of the managing partner's leadership style, also would be appropriate to consider.

Ultimately, compensating you as managing partner boils down to providing a fair, but neither ungenerous nor excessive, reward for performing a very important function for the firm. Compensation should rise and fall based on clearly stated factors, and it would be desirable for your firm to provide some form of evaluation of your performance with respect to these factors from time to time.

But, if the managing partner's performance were seriously deficient, adjusting compensation would not be the answer. In that event, any firm should address the performance issue directly and make a change in leadership if necessary.

With respect to your second question and reaching an agreement before you take office, in many firms, there is no explicit understanding about compensating the managing partner. In these firms, it is likely that trust that one's partners will be fair is the implicit understanding. As explained above, however, it would be desirable for you and your firm to have a written understanding about how you are to be compensated. Your understanding should address (a) the factors that the firm will evaluate in setting compensation, (b) the extent to which you may be expected to maintain an active law practice during your tenure, and (c) what will be expected of you at the end of your term of office.

Finally, reentry to the practice is a complicated subject, and experiences of managing partners vary considerably. If the managing partner has successfully maintained an active practice during his tenure as managing partner, reentry might not be a serious challenge.

But, for those who were full-time leaders and served for many years, reentry will take time and might not be possible at all. Most managing partners give up at least some of their client responsibilities either at the outset of their tenures or over time. It would be unproductive for you as a managing partner, when you finally relinquish your office, to expect that any of your former client responsibilities will be returned to you. Rebuilding a book-of-business after having not been in full-time practice for several years will take years to accomplish, and usually, much longer than one expects. Recognizing these considerations, some firms provide compensation protection, or a "safety net," for the former managing partner. For example, if the managing partner served five years, he would receive two years' compensation protection; if he served ten years, three years' protection.

In some instances, the former managing partner does not intend to reenter practice. This can occur when the job was full-time and held for many years, or when the former managing partner is near retirement at the end of his service. In these situations, the firm and the former managing partner have identified other contributions that the former managing partner can continue to make to the firm, such as serving as senior advisor or mentor, serving as general counsel, conducting client satisfaction assessments, or assisting with important firm initiatives.

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