Tenure Trap:
The Question Of Managing Partner Term Limits

by Patrick J. McKenna

For many years there has been a quiet and uneasy controversy within firms on whether to limit the tenure of the firm leader. In fact, a decision to restrict the firm chairman's length of service to no more than two three-year terms is regarded as one of the reasons for Heller Ehrman's collapse ["Why Heller Died," American Lawyer, November 2008].

For me this has been a rather amusing question given the lack of internal adulation accorded most managing partners. I mean, let's face facts. I often joke with new managing partners about what the heck they were thinking when they accepted the obligation. After all, being in any management position is what smart lawyers are seen to disparage, not lust after. In fact, most lawyers would tell you that anyone who appears too eager to take on a management position is suspect and these positions are largely seen as non-contributing drudgery. Meanwhile, partners are often quick to challenge anything that suggests that they are being led.

So here we have an important leadership role that people aren't exactly chasing after and one that isn't always internally accorded the respect that it perhaps rightfully deserves; and then we impose artificial limits on the tenure of the incumbent. Does this make any sense?

What I've discovered is that there are good arguments both for and against term limits, but after examining both ideologies, the more compelling question then quickly becomes, how as a managing partner after some years of service do you continue to remain enthusiastic about your job and maintain a fresh perspective toward new ideas about how to lead the firm?

Let's start with examining the compelling arguments both for and against term limits.

The Argument AGAINST Term Limits

In my experience, veteran managing partners, whether serving part or full-time, will often admit that for a good part of their first year in office, they were flying blind. Why? I would speculate that their discomfort was largely due to the lack of guidance and training most new managing partners receive. Theirs is largely a sink-or-swim challenge. Those same veterans will also report that by year two they were beginning to feel some confidence and that only by year three were they really beginning to make some meaningful progress. Unfortunately, in many firms after three or four years, the firm is looking for some other partner to take his or her turn at serving in office.

So if this is the common experience of firm leaders, why would you ever want the person in charge of your firm's strategy and direction to be limited in their effectiveness to some arbitrary and bureaucratically mandated time limit?

Those that argue against term limits would say that the issue should not be about how long the managing partner serves. Rather the issue should be: does the managing partner deserve to remain as the firm leader based upon their performance. They would argue that good

firm leaders possess the ability to refine their thinking to reflect the evolving needs of the firm and its changing business climate. Leaders that cannot adapt to a changing environment won't be effective whether they hold the job for 12 months or 12 years. Chronological tenure is not the issue…business savvy, leadership prowess and the ability to execute on the firm's strategy should constitute the metrics surrounding a managing partner's performance evaluation.

And of course, if you are concerned about the firm leader's performance, you should start by selecting the right partner for the job and then ensure that they have a proper position or job description outlining their responsibilities and authorities (and unfortunately, according to my research only about 26% actually do). You then follow-up your thoughtful selection decision by providing the individual with the tools and resources necessary to get the job done. And finally, you compensate your managing partner for performance or hold him or her accountable for a lack thereof. The last time I checked, any managing partner can always be removed for lack of performance, or moral and ethical indiscretions, so what purpose do term limits serve?

It should also be recognized that the time needed to attain performance goals may vary depending on whether the managing partner is leading a highly successful firm or having to contend with a troubled firm – losing ground to the competition, drifting aimlessly without much defined direction, and likely facing partners with deeply ingrained behaviors. In other words, stating that the managing partner of a highly-successful firm should operate with the same term limit constraints as a managing partner of a troubled firm is both unrealistic and dangerous thinking.

So, if you have the wrong firm leader, replace him or her . . . and if your elected board is asleep at the switch and does not hold the managing partner accountable shame on them, but term limits . . . why?

This argument against term limits suggests that you should not hand-cuff or bridle your managing partner but rather give him or her the room to lead, maneuver, innovate and succeed.

The Argument FOR Term Limits

Over 35 years ago, two sports researchers, Eitzen and Yetman, in an obscure article entitled *Managerial Change, Longevity and Organizational Effectiveness* (1972) reported on a research finding that has significance to any debate on leadership tenure. These two academics found, from a large sampling of college basketball coaches, that a relationship actually exists between coaching tenure and team performance. The duo discovered that the longer the coaching tenure, the greater the team success. However, after a certain period – 13 years on average, the team's performance consistently began to decline . . . steadily.

Fast forward nearly twenty years and in 1991 two Columbia University professors, Hambrick and Fukutomi building upon this initial research, proposed a model outlining five discernable phases in the evolution of a CEO's tenure in office. Their research demonstrated that in the first phase the leader is working to develop an early track record, legitimacy and a political foothold. This is followed by a period where the incumbent has achieved small successes and established credibility sufficient to be willing to consider exploring new directions. In the third phase the leader tends to select a theme for how the firm should be configured and run from that point on – in other words, the leader selects

those elements that seem to work the best and that are the most comfortable. By the fourth phase a period of refinement occurs wherein only a few new changes are made and those changes are largely designed to fine-tune earlier directions. At some point, job mastery gives way to boredom; exhilaration to fatigue; strategizing to habituation. Inwardly the leader's spark becomes dim and responsiveness to new ideas diminishes.

Now interestingly as this happens and even thought the leader may be disengaged psychologically, his or her power is at an all time high. In a law firm context this managing partner may have appointed many of the current practice group leaders and office managing partners, had a hand in selecting board members, retains loyal supporters throughout the firm, and may even perhaps have developed an aura as the senior statesman. And none of these constituents are likely to have much of an appetite for disrupting a good thing.

For such firm leaders, even though the excitement of managing the firm may be long gone, giving up the title is generally an unappealing option. As a result, the duration of this dysfunctional stage in the leader's tenure can be protracted. Thus the primary risk to any firm from having an overly long-serving firm leader can be malaise and lethargy.

If we think about it — other than forced retirement for performance transgressions, why do managing partners depart? Many depart at mandatory retirement age or at a time when they just want to do it. Because the managing partner accumulates power as a function of time in office and because partners become comfortable over some years of prolonged firm success, mandatory term limits may be the only realistic way to ensure that the professional leaves office before his or her performance deteriorates.

Those that argue for term limits would say that while age is irrelevant, according to this empirical research, tenure may be very relevant. The central argument that this research proffers is that there are discernable phases within a leader's tenure and that these phases give rise to distinct patterns of attention, behavior, and ultimately firm performance. They suggest that organizations need to be alert to the dangers of their firm leaders staying too long in office. Aside from performance aberrations that need addressing, there is an optimum time to serve. Hence, the concept of term limits.

Retaining A Capacity For Renewal

So where does all this leave us? We may well conclude that a managing partner's term in office can be both, too short or too long.

It can be argued from the research, that because of the learning process, a managing partner who leaves prior to three or four years in office has not had ample opportunity to achieve peak performance. Thus it may be harmful for firms to have some partner serve a three-year term, only to be followed by their successor launching the firm in some new direction before achieving any return from the complete implementation of the previous administration's initiatives.

One of the curious questions that this raises is whether the deterioration that purportedly comes with an extended tenure can be forestalled. After all, there are plenty of very successful firms with long-tenured managing partners. I asked several firm chairs and managing partners what they do to recharge their batteries. As one might imagine, these leaders cited a number of different tools and techniques.

At the most personal level, some identified keeping a personal journal into which they listed ideas that they remained excited about implementing; the discipline to delegate certain managerial tasks both to develop other possible leaders as well as stave off the boredom of what had become routine; to reserving specific day-timer blocks dedicated to "think time."

Brian Burke having served as Baker & Daniels CEO for 16 years suggests that you need to have a coach ("someone in whom the leader can confide and on whom she/he can rely as a sounding board") and that you need to keep reading and learning ("learning can be among the most refreshing activities, especially if the subject is new and different).

From13-year management veteran John R. Sapp at Michael Best, I heard about how active participation in management forums sponsored by organizations like Lex Mundi kept him in touch with new ideas and how he attended the Harvard program on managing professional firms . . . twice.

Still others talked about the need to get away from the 'group-think' inflicting the profession by continually hosting monthly partner luncheons where client CEO's came in to talk about innovations that they were cheerleading in their companies; networking with firm leaders from other kind of professional service firms; and by instituting a process whereby the office managing partners organized themselves into a trends monitoring committee that reported quarterly on new developments capable of affecting the firm.

Marc Bloom, the long-serving chairman of the Dutch firm NautaDutilh, created an external advisory committee populated by economists and business executives. Bloom says the panel keeps him on his toes by challenging the firm's strategy and general business operations.

Finally from Harry Trueheart, Chairman of Nixon Peabody I heard; "the question of forestalling deterioration is an interesting one but has a bias. It assumes a skilled leader can and should go on indefinitely despite the trajectory of the organization - not a sound premise. Law firms in particular need to renew and refresh themselves, develop talent for the future, assure a continuity of leadership talent and a broader pool from which to pick. So the process naturally requires renewal and there is a cycle. The length of the cycle may vary and we could have an interesting discussion about optimum lengths. I would say any firm leader who cannot sustain for 6 years in not a good pick. If the firm can get more, then they have found a good one - say nine. Depending on when a person starts the job, the next question is what does the firm do with them- after 6 or 9 more years. It is a probability of law firm life that leaders who have been in the job long enough to see their practice waste away and find themselves in middle age or in a harsh political environment, must leave the firm to survive. So firms may want to take that into account. More than a decade of service is an accident of circumstance, luck and skill coming together."

I believe it is really the managing partner's state of mind that is the critical part — knowing that his or her identity is not all wrapped up in the position forever and that there are new challenges out there. Part of this state of mind is understanding that someone else could be even better at managing the next stage in the firm's growth—and being content with that knowledge.

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An internationally recognized authority on law practice management, **Patrick J. McKenna** is the author of two e-books important to law firm leaders: *First 100 Days: Transitioning A New Managing Partner* (NXTBooks, 2006) available for download from his web site (www.patrickmckenna.com) and the sequel, *Passing The Baton: The Last 100 Days* (Ark, 2008) – available from Ark Publishing or Amazon.com