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Hedge Funds' Activism Creates New Wealth for Law Firms

By ELLEN ROSEN

For corporate lawyers of a certain age, it seems like the 1980s all over again.

Proxy fights, once the exclusive domain of investors like Carl C. Icahn, are on the rise. The primary cause is easy to spot: "The resurgence of shareholder activism is a direct result of the growth of hedge funds," said Marc Weingarten, a partner at Schulte Roth & Zabel.

And the re-emergence of proxy fights is a reason that mergers-and-acquisitions lawyers, along with longtime fund-formation lawyers, are redefining the hedge fund practice.

The result is a boon both to law firms that originally advised hedge funds, like Schulte Roth; Akin Gump Strauss Hauer & Feld; and Seward & Kissel, as well as to those with more traditional corporate finance practices, like Skadden, Arps, Slate, Meagher & Flom; Sidley Austin; Sullivan & Cromwell; and Willkie Farr & Gallagher, among others.

"In the early days, the legal representation of hedge funds was all about organizational documentation, getting the private placement memo prepared and getting the offering done," said Kenneth M. Raisler of Sullivan & Cromwell. That business, he said, "didn't suit" his firm's lawyers, better known for their mergers-and-acquisitions skills, because it was a "relatively commoditized business with low margins."

Now, his firm, like many others, counts a number of hedge funds among its clients.

With 9,000 funds now managing more than $1.4 trillion in assets, hedge fund money is creating new wealth for law firms.

Firms are reluctant to disclose revenues, but at Schulte Roth, for example, hedge fund fees account for roughly a third of total revenue, says a partner, Alan S. Waldenberg. At Fried, Frank, Harris, Shriver & Jacobson, a more recent entrant in the field, "revenues have gone from being negligible 8 to 10 years ago to a very significant part of our revenue and profitability," said Lawrence N. Barshay, a partner with the firm.

At Willkie Farr & Gallagher, the asset management practice, which includes hedge funds, doubled over the last few years, under Barry P. Barbash, who joined the firm — for a second time — after stints at both Shearman & Sterling and the Securities and Exchange Commission, where he was the director of the division of investment management.

Among his clients is SAC Capital Advisors, a fund with more than $12 billion under management. SAC was one of the four large investors that took on the management of Take-Two Interactive Software this year. The legal work representing SAC in the proxy contest fell to Mr. Barbash's partner, Adam M. Turteltaub.

To be sure, this season's contests, often for smaller public companies, are not yet huge revenue generators, largely because many are resolved before full-scale proxy battles begin. That means the legal work is largely strategic rather than document-intensive, said Adam J. Kansler, one of the Proskauer Rose lawyers who represented Zelnick Media in ousting the Take-Two management.

But it provides steady work, said Mr. Weingarten of Schulte Roth. And once something like Take-Two is resolved, Mr. Barbash said, "investors are on to the next one."

And the increasingly diverse hedge fund revenue stream is leading many law firms with no significant hedge fund clients to scramble to gain a toehold in the area. Recruiting calls from other firms as well as from recruiters are commonplace to the lawyers with asset management practices.

"We're bombarded with calls," noted Prakash Mehta, a partner in the Washington office of Akin Gump.

Sometimes, a firm like Akin Gump is the one making the calls. Mark H. Barth had been a partner at Curtis, Mallet-Prevost, Colt & Mosle for 28 years when a recruiter called.

"I usually don't listen," he said, "but the recruiter said that 'someone specifically gave me your name and asked me to call you.' I was suckered in, and I listened and found out who it was — one of the partners who had previously been an associate at Curtis, Mallet. So I thought I'd take a look." He joined Akin Gump in 2005.

Some firms have tried to buy hedge fund practices outright. John E. Tavss, a partner at Seward & Kissel, one of the longtime players in the space, says he is "approached by firms every week or two, particularly from non-New York or international firms" looking to grow by acquiring or merging with his 150-lawyer firm. His firm, he said, has not been tempted by the offers, preferring to remain independent.

Hedge funds themselves had been on a hiring spree, prompted in part by a Securities and Exchange Commission rule that required hedge funds to register with the agency. Although a federal court struck down that rule last year, internal recruiting has not abated, recruiters say.

The "demand for general counsel is multiples higher than it was only three or four years ago," said Alan D. Hilliker, a partner with the executive search firm Egon Zander in New York. Brian Davis, a recruiter with Major, Lindsey & Africa in New York, said, "Until three years ago, we never did a hedge fund search, and now we have had dozens and dozens."

The draw is both the work and the compensation, which, for senior associates, typically ranges from $400,000 to $600,000 at hedge funds with $2 billion to $3 billion under management, according to Laurie Becker, the president of E. P. Dine, an executive search firm in New York. Partners, she added, can command even more.

Mr. Davis said: "The hedge fund business is diversifying, and they feel like they need lawyers for all the businesses they're getting into. Funds are looking for transactional lawyers to help to do the deals, and there's also a big demand for compliance lawyers."