



SHOVELING SMOKE: RULES OF ENGAGEMENT AND WHEN TO BREAK THEM

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Ronald F. Pol is president of the Corporate Lawyers' Association of New Zealand ("CLANZ").

The "herding cats" analogy popularized by the McKenna/Riskin

booklet of that name¹ provides a valuable descriptor of the process of managing lawyers. Nevertheless, "hiss and spit" lawyers who disagree with your every word are usually easy enough to manage. It may at times prove noisy and time-consuming, but at least, you know what they're doing. By contrast, lawyers who simply do their own thing are often much more difficult to manage—like trying to shovel smoke.

Yet the analogy is inadequate in describing the process of instructing information technology specialists, which might sometimes more accurately be described as shoveling smoke in the dark.

I have some experience in managing teams of lawyers (and have shared these from time to time: for example, "Get More Value from Outside Counsel: Show Them the Flipside, *ACCA Docket*, April 2003). So I approached the initial product development task of instructing IT, design, and ecommerce specialists to develop a logo for several new companies and products in much the same way as for lawyers.

I spoke with colleagues to find a top creative team. It

didn't matter that they were a small team or that, being based elsewhere, I might never meet them. My research indicated that they met our requirements.



The deal was clinched when I spoke with the managing director. Somehow, however, he turned the interview around. He tested my assumptions and demonstrated his knowledge of *my* industry. He eventually seemed satisfied that the proposed business was, as he described it, one of a small group in the industry that based its systems on—let alone even acknowledged—established research. I remain uncertain, however, whether I instructed him or he accepted me as a client, and at the time, I failed to realize that this uncertainty marked the beginning of quite a different relationship from what I had been used to.

In any event, I outlined core objectives and intended outcomes. An overview of key brand attributes was pre-

pared. Encouraged to share our ideas, we also offered a possible logo design.

The managing director assured me that, if his team needed only to prepare one logo based on our design rather than a range of alternatives, it would be cheaper, too. I was quietly confident that our design was a winner.

Imagine my surprise later to receive not one but a range of possible logos. Moreover, none bore the slightest resemblance to our suggestion.

Why had our design been abandoned? The designer's reply (an emailed "sorry mate, I wasn't actually briefed on your design at all") was another surprise. Few law firms would have given such a response. An associate's innocent reply would seldom get past a supervising partner's desk. Yet I found the direct, frank approach refreshing.

Although it was a great result—the design met intended brand attributes—I somehow felt that I had failed effectively to manage a team of professionals.

On reflection, although the process bore little relation to normal rules for managing professionals, it was on time and budget, and the result was better than what we could have developed alone.

From the broader perspective, as in-house counsel increasingly use and refine management systems that improve the process of instructing outside counsel, we ought perhaps occasion-

ally to pause to reflect that sometimes it might be appropriate also to give outside counsel the freedom to be truly creative. The process may be less controlled, yet when truly outstanding results are required, normal rules governing the process of instructing and managing outside counsel might sometimes productively be abandoned.

Developing a consistent way of managing outside professionals is important, yet I think Katharine Hepburn said, "If you obey all the rules, you miss all the fun."

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NOTE

1. PATRICK J MCKENNA AND GERALD A RISKIN, *HERDING CATS: A HANDBOOK FOR PARTNERS AND PRACTICE GROUP LEADERS* (Institute for Best Management Practices Publishing).