

Fiercely Independent Team Players? That's us!

The term Chinese wall, as it is used in the business world, describes a virtual barrier intended to block the exchange of information between departments or businesses if it might result in business activities that are ethically or legally questionable.

A recent conversation with a client got me thinking. The person, who got my name from an agent, made a comment to the effect that all the people he had been recommended to use were working together. The inference was a suspicion that the industry specialists were somehow plotting together to bring about a settled purchase come hell or high water. The comment reflected a concern that the client's best interests were being subjugated by the self-interest of his advisors. While a detailed discussion around the entire purchase process put my client's concerns to rest, I think it's worthwhile exploring the dynamics that present themselves when specialist industries have a virtual closed shop of recognised expert professionals. Of course, I'm not referring to closed shop in any collusive sense, but simply stating the obvious. Specialists in the disciplines associated with acquiring these businesses gravitate toward that specialisation over time, prove themselves as trustworthy and reliable, are recognised by lenders and assume a preferred position as service providers. In this regard the dynamic is little different to that which exists between general practitioners and specialists within, say, the medical profession.

For first time entrants to the industry purchasers often bring with them relationships of long standing with their accountant, lawyer, bank, realtor and associated advisors. The need to engage new relationships must be quite confronting and I think it is incumbent on all of us to explain our place in the process and address any concerns that the buyer may have.

In this context I'd argue that the Chinese Wall concept in business can be extended to include intertwined relationships between parties to a transaction. Certainly, in transactions associated with specialised assets like management rights and motels there exists the real risks that the Chinese Wall concept was designed to mitigate. In my profession we are legally obligated to act in the best interests of the client and to declare any conflict of interest. This means that regardless of who has recommended us we are compelled to give the client accurate advice. If that advice means a transaction cannot proceed then so be it. I believe the same is true of bankers, accountants and lawyers.

Let's take a look at the individual roles involved in the transaction and what buyers should expect from those who make up their team. Often the first person the buyer will meet is the agent. It's important to be mindful that the agent works for the vendor. As such the primary obligation the agent carries is to achieve the best result for his or her client. That said I think it's important to appreciate that, as a buyer, working with a professional and savvy agent brings enormous benefits. An industry expert agent will present accurate information from the outset and potentially save the buyer much angst (and money) by ensuring no unpleasant surprises during the purchase process. A specialist agent will also be experienced in assisting with negotiations both at the outset and on the way through the transaction. The give and take that is an essential element in any purchase requires careful and sensitive management and the very best agents do this well.

The agent will often recommend experts in law, accounting and finance as part of the initial interactions with a potential buyer. These parties will be fiercely independent and compelled by both professional standards and the law to act in the best interests of the buyer. Unlike, for example, motor dealers, where the salesperson, the service manager and finance and insurance person work in the same business, the sales function in management rights and motels is entirely disassociated from the advisory function provided to the buyer. This is as it should be and ensures no conflict of interest.

Paul Grant. **0448 417 754**
paul@mikehippsfinance.com.au

Cameron Wicking. **0477 776 859**
cameron@mikehippsfinance.com.au

Head Office
4/31 Mary Street
NOOSAVILLE QLD 4566

Office. 07 5470 2194
Fax. 07 5455 6626
www.mikehippsfinance.com.au



fresh ideas...

MIKE PHIPPS FINANCE ACL (364 314)

Australian Credit Licence 364314



Indeed, the banking royal commission looked at so called “point of sale” finance in 2019 and while laws are yet to be enacted we expect a review of the situation in 2022. The commissioner, quite rightly, had concerns regarding client best interests and conflicts of interest in situations where the business selling a good or service also provided services critical to the completion of that transaction. All of this should put buyer’s minds at ease in respect of professional referrals regardless of which side of the transaction the referral comes from. In fact, for buyers, I believe the more confronting situation would be advice to avoid a particular industry expert. Such advice raises the question of why the referring party might be attempting to keep a party from that advice.

In any event, let’s take a brief look at the individual roles of finance, accounting and law. After the agent, we are generally the next port of call for new buyers. Getting pre-qualified (not pre-approved, there’s no such thing) is a critical step and one that’s essential to ensure the buyer doesn’t waste a stack of their time (and the agent’s). We collect information, provide the buyer with feedback on how the asset class works and advise a likely maximum purchase capacity. Many buyers ask for this assessment in writing and many share that information with the agent. I think that’s a good thing. Proven capacity to execute a transaction makes the buyer a more credible party and certainly assists the agent when presenting an offer.

The buyer will have subsequent discussions with industry lawyers and accountants and hopefully take on board the advice they receive. Until a live transaction is afoot there’s not a hell of a lot the lawyer or accountant can do except offer general advice. Once a business has been identified and negotiations commence the lawyer and accountant can add significant value by anticipating any likely hurdles and having those issues on the table from the outset. As with the finance function the lawyer and accountant are obligated to raise any identified concerns from the outset and ensure the best interests of the buyer are adhered to.

To put it bluntly, it’s a team effort. We encourage buyers to build their team, trust their team and understand what each team member brings to the game. Now, here’s where I contradict myself. The agent should form part of your team. Yes, they work for the vendor but, in my experience, the agent can add tremendous value for a buyer. The previously mentioned closed shop actually works in the buyers favour in this regard. Unscrupulous parties in any of the professions don’t last long and I think buyers can gain a level of comfort that nobody wants them to fail. We all make our living in this industry and buyers going broke would most certainly be a very bad look.

I’ve always liked this quote. It kinda confirms my suspicion that if you focus on your client your own success takes care of itself.

“It is literally true that you can succeed best and quickest by helping others to succeed.”
–Napolean Hill

Mike Phipps F Fin
Director | Phippsfin Pty Ltd



Paul Grant. **0448 417 754**
paul@mikehippsfinance.com.au

Cameron Wicking. **0477 776 859**
cameron@mikehippsfinance.com.au

Head Office
4/31 Mary Street
NOOSAVILLE QLD 4566

Office. 07 5470 2194
Fax. 07 5455 6626
www.mikehippsfinance.com.au



Fresh
Finance



PREFERRED
SUPPLIER

Disclaimer:

Mike Phipps Finance is not a financial planner or investment advisor. The contents of this editorial reflect broad observations of transactions for which the writer has been mandated to negotiate finance. Potential investors in management rights businesses should conduct their own due diligence and seek their own independent advice. Returns, rates and equity numbers are for demonstration purposes only. SMSF compliance is an area requiring specialist advice and potential investors should seek appropriate guidance from industry professionals. TMC Pty Ltd is not an investment advisor or licensed financial planner.