



Non-Compete Agreements and Client Relationships

Strange Behavior

In the past five years we have noticed a dramatic increase in the use of non-compete agreements in the Aviation Insurance industry. Along with those agreements comes the necessity for strong enforcement efforts even when an employee is terminated against their will or desire.

On the other hand we also notice several very well run companies in the industry that have life-long histories of never using non-competes. They have near zero turnover and long waiting lists of prospective job applicants.

Some companies are requiring that customer service representatives and receptionists sign non-compete agreements while others dip only as low as the brokers and account managers. In the eighteen years I have been observing Aviation Insurance business practices I have never seen anything so short-sighted and self-destructive as the attempted enforcement of non-compete agreements between Aviation Insurance Agencies and their employees. The practice will pass soon, but not before it does some serious damage to the agencies that are attempting to use it.

Futile Behavior

Non-compete contracts work only when they protect the property of one party from theft by another party. Since Aviation Insurance agencies do not own their customers (or their employees), non-compete agreements that attempt to constrain a relationship that the agency is afraid to lose almost always culminates in the loss of that relationship.

Effective Behavior

The way to keep client relationships strong and permanent is to consistently deliver professional service to your clients and outperform your competitors.

The way to keep employees happy and permanently on-board is to deliver to them the same loyalty expected from them.

Enforcement and the Client Relationship Impact

Since many agencies are driven by greed and fear, as opposed to service and value, they are destined to be short-lived from the start. What they fear is this. An employee notices that a significant number of his or her customers are negative about the level of service and business practices delivered by the agency. The client dissatisfaction escalates and the employee begins to see the client's concern as legitimate. The company refuses, or is unable to reform its practices. Eventually the employee and/or the client make a decision to move their employment and/or business elsewhere. A non-compete agreement will not keep this customer regardless of whether the employee discontinues their relationship with the client after leaving.

Enforcement of the non-compete agreement by the employer might damage or destroy the career of the employee however it will not preserve the business relationship between the company and the client. When the market sees what has happened, other clients will begin to leave because most will not be willing to do business over the long term with an agency that is self-serving and greed driven. Most first rate clients will also decline to form a long term relationship with an agency if they understand that the relationship with their broker, upon which they depend, will only last as long as the agency decides that it

should. The client will soon learn that they will be obligated to observe an agreement to which they were not made aware of, or party to and will quite literally have to continue to work in a bad situation or start over building a new relationship elsewhere if the agency/broker relationship changes. Most first rate clients will choose not to commit to a relationship, upon which their business depends, with the knowledge that the relationship may end without their input or control.

To make matters worse, the non-compete agreement limits the quality of the replacement candidates available to the agency to below average performers who know they are not qualified to work for a first rate agency. The less qualified replacement employees exacerbate the service failure resulting in a death spiral for the agency.

What Works

If an agency focuses on consistently delivering quality and professional service to its clients, extends loyalty to its employees and listens to the needs of the people in its environment, the client relationships will endure.

Why?

Because the relationship between the agency and the client is actually the product of a network involving multiple relationships between people on both sides who are committed to maintaining that relationship.

When the company takes responsibility for supporting the client and the relationship, the loss of one unhappy member of the team will not result in the loss of these important client relationships. This outcome is beyond the reach of any non-compete agreement. It cannot be created by fiat or contract. It can only be earned through professionalism, service and a commitment to the client. It will persevere in spite of a defection.

The irony here is the benefit that the company accrues by making the defection easy. A non-compete might actually prevent an unhappy or unproductive employee from leaving thus causing them to remain and infect the entire team with their dissatisfaction.

It's About People

Transport Risk Management's approach is simple – Transport Risk Management does not ask or require our employees to sign non-compete agreements.

If one of our competitors is forcing the issue of non-compete agreements we happily support their practice and in practical terms pay even closer attention to the "exchange of loyalty" factor in our own organization.

We make every effort to deliver the same level of loyalty to our employees as we expect from them. We get out of our offices and spend time in the trenches with our staff listening to what matters to them and our clients. We build relationships of mutual trust between our employees and clients by extending our professionalism, loyalty and trust to them. We pay attention to the quality of service being delivered on a day to day basis and get out of the office and into the market with our clients. We listen to them and are most times delighted in what we hear.

We will not attempt to force our employees or clients to do business with us against their will and make every effort to ensure that we earn our clients loyalty and business each and every day and thus avoid placing them in that position.

This is the kind of business practice that transcends non-compete agreements. It's not about business; it's about people because **your** business is people. If you take care of the people, they will take care of you.

