



THE NEW ELLIS GROUP

Monday Monday

Connecting the Dots with Karen Kaplowitz



*Helping you create and reinforce the habits of successful career building,
gleaned from my work as a business development strategist, trainer and coach*

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Character Counts and Has a Long Tail

We saw the long-term consequences of bad behavior in the Harvey Weinstein trial in New York. One of the criminal sex acts on which he was convicted dated back to 2006. Other alleged rapes took place 30 years ago. The long tail of bad behavior also has career consequences. Law firms are asking lateral candidates to disclose past conduct that might be embarrassing to the firm. American Lawyer noted [recently](#) that law firms are also using character clauses that would allow them to terminate a lateral who was later discovered to have an undisclosed negative history. There is risk not only for behaving inappropriately but also for being a bystander who takes no action. Case in point, Billy Bush who played no role in Donald Trump's lewd comments in the Access Hollywood tape, was immediately fired by NBC News after publication of the tape. President Trump may have gotten elected despite his "locker-room talk" but Billy Bush's career was derailed. If you are concerned with safeguarding your career, here are some protective measures to consider:

- Avoid risky settings. "Boom-boom rooms" are obvious; more common gatherings where a lot of liquor is consumed may be equally risky.
- Promote inclusive work teams. Taking the lead to include diverse professionals sets a tone which will discourage disrespectful or exclusionary behavior. Mixed company by itself may restrain questionable conduct.
- Model the behavior you expect from others.
- Call out questionable conduct, discretely if possible. Not every sexist comment warrants a major intervention.

Given the extent of lateral mobility, you must assume that you will consider a lateral move at some point in your career. If you don't want to lose sleep about whether to disclose to a prospective firm some wild or risqué actions from years earlier, it is important that you do your part to create a law firm culture which is inclusive regardless of gender, sexual orientation or otherwise and welcoming to a wide range of talented lawyers. Shunning opportunities to work with women – the Mike Pence approach – is not a constructive long-term strategy.

Example: When a firm's management committee started paying closer attention to reports that a firm rainmaker was abusive to associates, the rainmaker considered making a move. He had grown accustomed to his conduct being ignored by the firm, and he was not happy that the firm leadership was trying to rein him in. He assumed that the key members of his team would go along with whatever he decided if he made a move. But when he shared his thinking – hypothetically – with one of his key lieutenants, he discovered that his colleague was concerned that if another firm found out later that there had been undisclosed misconduct issues at their old firm that it would hurt the lieutenant's career. When the rainmaker realized that he might not have the unquestioned loyalty of his team, and that he could end up competing for clients if they remained at the firm, he backed off his plans to make a move and delegated more of the management of associates to his lieutenants.

Are you taking account of the potential consequences of the bad behavior of your colleagues on your career? Is it worth your while to take responsibility for creating a more inclusive culture in your firm?