

From the Editor: How I Became a Wall Street Lawyer

©Pete Eikenberry

12-11-08

Some very important mentoring is done in the recruiting process - - even with applicants whom we do not hire. Bob Giuffra's article on mentoring brings to mind mentoring I received from two of his firm's partners over forty-five years ago. The day after Labor Day 1963, I took the train from Connecticut, where my in-laws lived--copies of my resume in hand-- to interview Wall Street law firms. I was an "accelerator" at Ohio State law school, scheduled to graduate in December after attending year-round to graduate early. I had two young children and needed a job. An Ohio State buddy, John Broadbent, with whom I had worked in the Ohio legislature, was an associate at Sullivan & Cromwell, and he set me up with an interview. At S & C, I first interviewed "M" who was articulate in his appraisal that my record was not good enough for Sullivan & Cromwell.

The second partner, "John" whose name I forget, was encouraging. He said that not every firm filled up its class each year. He said that there would be a couple of firms that would have a need- my record was certainly good enough to get one of those jobs. (I was a law review editor and was top ten percent my first year with some slippage after I started working part time when Sue got pregnant.) To this day, I have been motivated by my interview with "M" ("neurotic drive?") and remember with gratitude my interview with "John." Over the years I have exchanged a laugh or two with "M," now retired when I reminded him of my interview with him - - which, of course, he does not remember.

After my S & C interviews, Broadbent, my friend, wrote the names of seven other firms on the back of an envelope, and I was off. At Dewey Ballantine, the interviewer asked me about my undergraduate grades, which I did not include in the resume. (I did include, “night watchman in girls’ dormitory” as a part-time job - which distracted a few readers.) I told the Dewey interviewer how bad my college grades were. As I worked my way through college, I minored in beer drinking, girl chasing and playing bridge in sorority houses. Although I had a high LSAT score, Ohio State law school required an additional year with good grades before I was accepted.

The interviewer at Dewey said that he did not believe that they had ever hired anyone with undergraduate grades that poor, and I was on my way to Mudge Rose. I shared the reception room with former Vice President Nixon who was also there interviewing with his wife and two children. The hiring partner at Mudge Rose (later to become Nixon Rose, etc.) expressed interest in me and said to give him a call if I got an offer from another firm. Apparently, he wanted to be reassured about hiring someone from Ohio State. Later he hired my classmate Alan Rule who ended up working with Mr. Nixon on his one litigation matter, the “Desperate Hours” right to privacy case, involving a book or movie about the ordeal of a family held hostage in their home by gunmen.

At White & Case, I interviewed four partners, which interviews I still vividly remember. Ed Barton was the anti-trust partner, and I wanted to come to New York to do anti-trust law. His secretary took me around and practiced the names of the other interviewing partners with me before I walked through the doors of their respective offices. An anti-trust senior associate, Tom Leary (later U.S. Federal Trade Commissioner) was particularly supportive. One partner Haliburtan Fales III, or, Hal, is

still a friend; the third was the very gracious late father-in-law of my buddy George Grumbach of Cleary Gottlieb, and the last interview was with Larry Morris, the hiring partner. Because of his recruiting successes, he was known as “the bugle.” Towards the conclusion of the interview, Larry asked me about my undergraduate grades. I said, “They were terrible!” Larry laughed a big belly laugh, and said, “I like your candor,” and thrust out his hand. I gave him a firm mid-western handshake, and he winced in agony from arthritis. Nevertheless, I had a positive feeling when I walked from his office.

I interviewed one more firm before returning to Connecticut- Davis Polk- where senior associate Don Fox- later name partner in Fox & Horan, was gracious. In my presence, he attempted to interest a couple of partners, saying he thought they should interview me but they kept walking out to have lunch. My in-laws and wife asked me how it went when I returned from the “City.” I said, “if this one firm offers me a job, I think I will take it.” They asked, “what was the name of the firm?” I replied, “I can’t remember.” Since the names meant nothing to me, and the name White & Case was so “plain vanilla,” I truly did not remember. When I returned to Columbus, I had a letter from White & Case with the job offer. It had gone out the day I was there.

After I accepted the offer, Sue and I returned to New York City for the Thanksgiving holiday to find an apartment, staying in friends’ parents’ Brooklyn apartment while they were away. President Kennedy had just been assassinated, and people we met in Brooklyn wondered if Ohioans were upset too - apparently since people in Ohio were viewed as pretty conservative. Actually, on the day of the assassination there was an incident. Classmate Chuck Voorhees and I were returning to the law school from a coffee break when we ran into our classmate Bill Stehle, who said, “The president

has been shot. It does not look like he's going to make it." The editor-in-chief of the Law Journal was standing there and said, "It's about time they got the bastard!" Although Chuck and I were both law review editors ourselves, we hardly spoke to the "chief" the rest of law school, and Chuck almost slugged the guy. Chuck was the son of Jerry Vorhees- the congressman that Richard Nixon defeated in his first political foray.

Just after Christmas 1963, I reported to White & Case for duty but no one could tell what my salary would be; I had heard that the "going rate" had gone up. I said I would come back on January 2 when Larry Morris, the hiring partner, would be in the office. On January 2, I reported again to 14 Wall Street, the 25th floor of the Bankers Trust building, where I met with Larry. When I told him I thought the going rate had gone up, he asked me how I knew; I said that I had called Columbia Law School and one other place and they confirmed it. He said, "I'll talk to Bill Rockefeller at Shearman & Sterling, and I'll get back to you." Two weeks later my salary increased from \$7,200 per year to \$7,800 per year.

As a new recruit, I was assigned to the "bullpen" where eight of us sat in one room, desks joined together. We rotated through three of the four departments of the firm in the first year, and we were assigned research projects by a friendly little elf of a man, Herb July. We wrote memos on problems, which Herb discussed with us before they were final. Once I wrote up the problem as to whether Bankers Trust could make a particular \$6 million loan. There was a potential conflict of interest; I determined that a landmark 1928 New York Court of Appeals case, *Meinhard v. Salmon*, laid out the conflict "do's and don'ts," and I said that Bankers Trust should not make the loan. Mr. White and Mr. Case had formed Bankers Trust and it was a very important client. Herb

took me to a senior partner, Chan Newlin, head of the tax department, and I delivered the bad news with Herb sitting in the room. Chan looked at me quite sharply and shook his head but Bankers Trust did not loan the money. Although I had been comfortable about my conclusion in discussing the issue with Chan, my knees were pretty weak when I thought about my memo having such an effect.

After my first week in the bullpen doing research memos, I was a little restless. I talked to Tom Leary and told him I had come to New York to do anti-trust law and now I was doing these routine research problems. Tom said, "I'll see what I can do. Maybe I can get you assigned to the General Electric turbine generator team." He was successful and a day or two later I was off to the document depository to review documents. The documents were the daily correspondence of Philip Sporn, President of American Electric Power. For a while, this was interesting because he corresponded with a wide variety of famous people. There was a letter to Senator John Kennedy, a letter to Admiral Rickover, the "father" of the atomic submarine, and a letter to the prime minister of Israel. Nevertheless, document review is tedious, the other guys on the team were pretty much doing nothing but reviewing documents themselves- and I could see months and years stretching ahead of me before I would do anything but document review. I went again to Tom Leary and, to his credit, he got me back in the bullpen.

I had been in the litigation department for less than four months, when the SEC sued Texas Gulf and I was assigned to the Texas Gulf team. I still have a copy of the 148 page memorandum that I wrote. Next, I flew to various places in the U.S. and Canada and interviewed "tipees" who had bought stock before the announcement of Texas Gulf's discovery of a \$2 billion copper, silver and gold mine in the tundra near Timmons,

Ontario. I also flew to Timmons where I drank tomato juice and beer with mining guys at the Frontier Bar before getting up the next morning to walk a couple of miles in sub-zero weather to interview Ken Darke's dry cleaner. Ken was the Texas Gulf geologist who discovered the mine. The dry cleaner had bought Texas Gulf stock, and I got his story. One story he told was pretty curious, but only from the point of view of human interest. He said that a local stockbroker had killed himself on the day of the announcement of the Texas Gulf find and that Ken Darke married the widow.

Ken Darke was a colorful guy who loved to tell stories. One story was about his suggesting to the pilot of a Texas Gulf exploratory plane that he "bounce" through a cloud. The pilot did so - - smashing onto a glacier. Ken lay on the glacier with a broken back long enough to melt about a foot of ice under his body. Ken also told us that he had bought the rights to land all around that Texas Gulf "prospect" under the name of a newly organized company. The land had no real value but the stock of the company "shot up" after Texas Gulf announced the find - - due to mere proximity. Ken confessed that he lost all the gains from that venture upon investing in another company on the basis of his exam of a phoned up drill core in someone's garage.

The SEC had sued Darke whom White & Case was defending along with Texas Gulf itself and eleven of its other officers and employees including the president, the executive vice president, several other vice presidents, the general counsel and the assistant general counsel. Davis Polk represented an outside director who was sued and Cravath another. At one point White & Case sent me to Canada to defend a deposition of a broker; Davis Polk sent Hazard Gillespie, Bob Fiske and Dan Kolb. The witness' testimony appeared to be dangerous but he was very young. I was not sure what to do

but I asked him how old he was and I think he said, "23." When I asked him his experience, he rattled off quite a resume for one so young. At this point Hazard Gillespie asked for a break and Bob Fiske took me into the hall. He said, "Pete, never ask a question on cross-examination to which you do not know the answer!" To this day, I wish I had asked just one more question about his educational background, since he could not have had much of one being so young with all that experience.

I had flown up to Ontario on a Texas Gulf private plane with Bob Fiske, a SEC investigator and some Texas Gulf officials. In my wallet I had a reminder note to look up some one who had been a close friend of my first cousin, Jim Tobin, at Michigan law school. I looked in my wallet and there was the name, "Bob Fiske." A few years later, the Texas Gulf private plane went down in a storm killing the executive vice president and many of our other clients.

I interviewed every Texas Gulf officer and employee except for the president who Mr. Tom Leary interviewed and the executive president whom Tom and I interviewed together. During one of the interviews, an officer informed me that he had purchased 800 shares of Texas Gulf stock on April 15, one day before the announcement of the discovery on April 16. Having a second thought, he called his broker in a Midwestern city and canceled the purchase early on April 16- just before the announcement. The broker put the 800 shares into the firm's "errors account" and apparently the SEC never learned of the purchase. The issue never came up at trial.

For the most part, the trial went well. We had a bad day when an SEC mining expert, Mr. Pennybaker, testified adversely after recitation of a very long and impressive resume. Orison Marden, the senior partner of White & Case, who was in charge of the

case, and I were early risers and were frequently in the office alone together before trial. He looked very tired. I told him that “Pennybaker does not seem kind of guy who can hold a job,” which got a chuckle out of him despite his obvious fatigue.

Although the trial was one of the more publicized of the 20th century, in 1965, we were “low tech.” I gathered the exhibits together every day in cardboard boxes, which I tied on a cart with - - what I know from Ohio farm experience to be - - baling twine. With the baling twine, I pulled the cart to the elevator and then to the street where I unpacked the boxes into a cab to take to the courthouse. I also ordered the lunch every day from the same restaurant, Longchamps, which was near the courthouse. One day as the waiter held all the lunches on a tray above his head, he said, “don’t worry I’ve been doing this for 23 years and I’ve never dropped a plate” after which the plates containing the lunches cascaded on to the floor. The other two junior associates on the case, Tom McGanney and P.B. Konrad Knake, had the more demanding task of researching the law and preparing witnesses except for a prominent financial writer (Graham or Dodds? I don’t remember.) whom I prepared.

Tom McGanney remains one of my closest friends to this day, and for decades I played tennis with Tom, Konrad and other White & Case lawyers on a weekly basis until Konrad died on the tennis court one July in Maine playing with his son. At the funeral, his young son said, “My dad had many good tennis games with you.”