



# Weeding Out the Problem Client

By Jonathan S. Ziss, JD

A problem client will siphon a disproportionate measure of your staff's time, energy, and attention.

**I**nsightful lessons can be learned by reviewing professional liability issues. With this in mind, Mather & Co. provides this column. For more information, contact Mather at [info@mather-co.com](mailto:info@mather-co.com).

The single most important decision you make as a professional is whether or not to accept a new client. This is because new engagements are easy to start, but can be so difficult to end. In many professional liability cases, defense counsel often hears from the practitioner that he "saw it coming," or "knew there'd be trouble with this client." In these situations, an errors and omissions (E&O) claim can easily be avoided if you recognize and effectively deal with a problem client quickly by weeding them out of your practice, or better yet, never letting them take root.

## Recognizing the Problem Client

We all know problem clients when we see them: those who bully you, those who have no time for you, those who never follow your advice, those who disregard your bills, and those who have no leadership structure.

Bullies keep you on the defensive. They are critical of you and your staff, and make unreasonable demands that extract reluctant apologies from you. You know you aren't in the wrong, but you react nonetheless to threats (implicit or explicit) that you are on the brink of being fired. Good results are taken for granted, and undesired results are met with fury. The stress associated with this type of engagement makes you less decisive and less effective.

Clients who have no time for you are usually the ones who have been enabled in this behavior by

others before you, and so they expect the same coddling from you. They have little knowledge of what you do – and don't want to know – and they cannot understand the needs or demands of your position. This, too, is a form of bullying, albeit of the passive-aggressive variety.

Clients who do not follow your advice are maddening. Either they do not respect you, or are truly incapable of operating at the requisite level because they are poor listeners and assimilators of information. These clients lack accountability and must be avoided. Too many professional liability claims seem to start with this premise: "You should have known that I didn't understand what you were talking about."

Clients who react to every bill with surprise and annoyance devalue you and the services you provide. It is only a matter of time before they stop paying. When you eventually have had enough and sue these clients for unpaid fees, count on hearing, "I kept saying the bills were too high, but my CPA kept doing all this work anyway. I don't see why I should have to pay for it." This disrespectful attitude will be apparent early in the relationship, and must not be overlooked.

Leaderless clients are often from family-owned businesses without a clear delineation of authority. You receive an assignment from Joe, only to have Jerry call you two weeks later to say, "Don't do that." The buck is passed, and no one wants to be accountable. When these clients suffer from internal strife, they draw you into the storm and blame you for their shortcomings. You become a human lightning rod.

## Be on the Lookout

Even one problem client can siphon a disproportionate measure of your staff's time, energy, and attention. You cannot win here. Therefore, it is best to avoid the problem client in the first place.

You must be on the lookout before you allow yourself to be hired. The problem client will usually come to you with a familiar pedigree: patent disorganization, unrealistic expectations, and, most tellingly, a trail of former accountants marked by chronic dissatisfaction and fee disputes.

Structure your initial meeting as an opportunity to interview one another, as opposed to a work session. This will give you the time and space to thoughtfully consider whether you want to accept the job. In most instances, new clients will be pleased that you have accepted their offer to be their practitioner. No one likes to turn away business, but in reality, new clients, like investment opportunities, must be chosen with great care.

## Pull the Weed Early

For the problem clients you are already servicing, reach for your spade. It's time to do some weeding. Once you come to the decision that the relationship must end, the next thing to do is to end it. This is both a state of mind and a matter of contract. Strongly consider sending a letter of disengagement that unambiguously indicates that the professional relationship has been terminated as of a certain date. The letter should also state what work remains to be done within a given period with a clear statement of applicable deadlines. Do not specify why you have chosen to disengage. This invites a response, if

not a reprisal, which is precisely what you are trying to prevent.

Disengagement is, of course, a complete topic unto itself, and entire treatises have been written on the subject of disengagement letters alone. Consult with a trusted colleague or an attorney familiar with the practice of accounting and the Code of Professional Conduct to assist you. Firing a client is often an emotional decision as well as a business decision, so an independent voice can help keep you focused. Send the disengagement letter via certified mail and be sure to save the return receipt or other proof of delivery. Before you do that, though, consider what records your former client will need, and be ready to deliver them promptly upon demand. To what extent you can withhold records in light of

a fee dispute is a matter of ethics and state law, and a sensitive one at that (see page 20). When in doubt, seek guidance.

If firing a client strikes you as too harsh, consider the alternatives. Keeping a bad client is a dysfunctional relationship that is draining on you, bad for staff morale, and seldom in the best interest of the client. As the relationship deteriorates, your risk of errors and omissions increases. You can consider phasing out the client, where you start to pick and choose which tasks you will handle and which you will not. An example of a phase-out would be, "Joe, I'll do the 2005 returns for you and for the kids, but you will have to find someone else to help you with the company." A phase-out process without documentation that addresses the plan

with particularity will, however, make matters worse. The client may be uncertain as to which tasks will be handled by your office and which tasks will need attention from a successor. This exposes you to perceived errors and omissions.

It is easy to preach, "Make the right decision the first time, every time." But life is not that simple. Therefore, we must all scour our client gardens, making sure we don't have problem clients. If you find one growing in your garden, pull it out as soon as possible. ■

*Jonathan S. Ziss, JD, is a partner with the law firm Margolis Edelstein, where he concentrates in the area of professional liability. He can be reached at [jziss@margolisedelstein.com](mailto:jziss@margolisedelstein.com).*

# PHILADELPHIA UNIVERSITY

## MS in Taxation

### Summer 2006 Schedule\*

- Individual Taxation
- Tax Research
- Tax Accounting
- IRS Tax Procedures
- Business Tax Planning
- Taxation of Flow-Through Entities

### Fall 2006 Schedule\*

- Individual Taxation
- Estate and Gift Taxation
- Corporate Taxation
- State and Local Taxation
- Current Issues in Taxation and Accounting
- Taxation of Real Estate Transactions

Call 215.951.2943 or 800.951.7287 now for registration information. \*Subject to change

PHILADELPHIA UNIVERSITY

School House Lane & Henry Avenue • Philadelphia, Pa. 19104 • [gradadm@PhilaU.edu](mailto:gradadm@PhilaU.edu) • [www.PhilaU.edu/mstax](http://www.PhilaU.edu/mstax)

