PUBLICATIONS

Schulte Roth & Zabel Partners Discuss Non-Competition and Non-Solicitation Provisions and Other Restrictive Covenants in Hedge Fund Manager Employment Agreements

November 23, 2011

Restrictive covenants, including non-competition clauses, are commonly misunderstood, and such misunderstandings can cause problems not only for employees, but also employers. When hedge fund managers hire new employees, these types of restrictions are often included in employment agreements or in partnership agreements (or side letters), often when an employee or partner is granted an interest in the fund manager's profits. Additionally, they can be found in purchase agreements when a fund manager sells some or all of its business. When properly drafted and applied, restrictive covenants can protect an employer against harm created by the theft or misuse of valuable proprietary firm information. When improperly drafted or applied, such restrictive covenants may not be enforced and will not provide the desired protection. In addition, fund managers hiring new employees who may be subject to restrictive covenants should take certain precautions to avoid allegations that they aided or abetted a breach of a restrictive covenant which can cause reputational harm, among other things.

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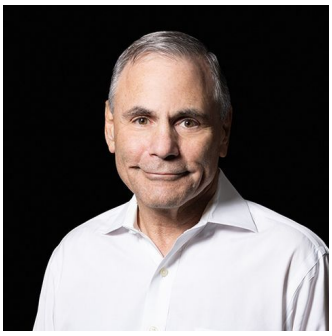

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