Most of 12 Minority Partners Hired With Hoopla Have Quietly Exited Firm

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By Attila Berry
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In the summer of 2005, Mintz Levin Cohn Ferris Glovsky and Popeo unveiled a major initiative to enhance the firm's ethnic diversity, hiring 12 predominantly minority labor and employment attorneys in one fell swoop. The hires were considered so newsworthy that they leapt the fence of the legal trade press to make the pages of The New York Times, The Boston Globe and the International Herald Tribune, which heralded the hires under the headline "Firm adds diversity in one bold stroke."

Now, however, the rave reviews have fallen silent, as the attorneys have scattered to competing firms, leaving in their wake questions about how the much-touted group could fall apart in such a short period of time. In May, partner Robert Clayton left for Littler Mendelson's Washington, D.C., office. In October, Gilbert Casellas, a former chairman of the Equal Employment Opportunity Commission and a partner at Mintz Levin, followed Clayton out the door, going in-house with computer maker Dell Inc. in Austin, Texas, as vice president of corporate responsibility. November saw another partner, Singleton McAllister, leave to lead the federal government relations practice at LeClairRyan's D.C. office.

Then three weeks ago, the last three partners in the group -- Edmund Cooke Jr., Darlene Smith and O'Kelly McWilliams III -- jumped to Thelen Reid Brown Raysman & Steiner. Three associates and a special counsel soon followed.

"Thelen is helping us do a bit more rapidly and a bit more broadly what we were doing at Mintz. It was a tough decision," Cooke says. "But in the final analysis, it was a business decision."

When Mintz Levin formed the group in 2005, it doubled the firm's number of minority partners from six to 12 and established a deep labor and employment group in the firm's D.C. office, with an emphasis on corporate diversity counseling. It was also hoped that the influx of minority partners would help the firm retain minority associates, who often leave after a few years in a traditional large law firm. According to the Minority Law Journal, in 2007, 17.2 percent of nonpartners at firms nationwide were minorities, while only 5.7 percent of partners were minorities. Before the defections, Mintz Levin was ahead of the curve, with 8.2 percent of its partnership made up of minorities.

"When I first heard about [the hirings], I said, 'This is a bold idea,' and in a way it tried to address one of the big problems, which is the isolation of minority partners," says David Wilkins, a professor at Harvard Law School who studies diversity in the legal profession. "But the risk was precisely that, because they were bringing in so many people, it would be hard to integrate them into the firm."

And integration, as Mintz Levin and the minority lawyers found out, is easier said than done.

AN INTERESTING EXPERIMENT

For years, Cooke had been thinking of assembling an elite cadre of minority attorneys under one roof. Early in the decade, while he was a labor and employment partner at Venable, Cooke shopped the idea around to several firms in town but got no takers.

In 2005, his luck changed. Mintz Levin wanted to aggressively promote diversity at the firm and offered to let Cooke bring on a number of minority attorneys (both partners and associates), in the hope that it would boost the firm's minority retention rates.

But integrating a group of that size can present problems. First off, the six partners Mintz Levin brought in all came from different firms or from in-house positions and had never practiced together, meaning that the new partners had to mesh with not only the firm but also one another.

Mintz Levin also placed the new group on the building's second floor, along with the government relations practice and around 15 attorneys from other practices. The remainder of the floor was leased out. This move, which was supposed to help the lawyers get to know one another, wound up isolating them from the rest of the firm's partners, who were located on the ninth floor.

The group's relative isolation was crucial, because its key practice area -- corporate diversity -- depended heavily on introductions to clients from other partners. In corporate diversity counseling, attorneys advise clients on ways to diversify their work force as well as help companies already involved in discrimination suits.

Some in the group thought Mintz Levin didn't put much emphasis on cross-selling those services. When asked about the amount of support his group received from Mintz Levin, Cooke sidestepped a bit, saying that the issue "wasn't so much a problem as it was an emerging reality." He says that the group developed relationships with other attorneys in the firm, sharing contacts and expertise, but "not perhaps at the level Mintz may have wanted or we may have wanted."

Weldon Latham, a partner with Davis Wright Tremaine in Washington, D.C., who advises clients such as Coca-Cola Co. and General Motors Corp. on diversity, says it's a tough practice to start up.

"Not many law firms are willing to dedicate the time and effort to support such a unique practice area," Latham says. "It was an interesting experiment, and I hope that law firms will continue to aggressively pursue minority lawyers in their specialty areas to do all kinds of things."

Though Mintz Levin would not say how much it invested in the group, law firm consultants agreed it must have been expensive to get a group that size off the ground. Peter Zeughauser, a law firm consultant with the Zeughauser Group, estimates that it could take between $2 million and $3 million to start such a group from scratch.

And, according to an attorney at the firm, there was grumbling within the partnership about having to support the practice financially. Cooke, O'Kelly and Smith, however, say they were not aware of that.

"Mintz devoted a significant amount of time and resources to integrating this group when they joined the firm," says Chérie Kiser, the D.C. managing partner at Mintz Levin who also heads the diversity committee. "The group had the full support of the firm up until their decision to leave."

Cooke says that he started looking around the marketplace about three months ago, speaking with a few other firms. And then came Thelen Reid.

MOVING OUT

The group's move to Thelen Reid, a California-based firm, came after a whirlwind courtship. Cooke, Smith and McWilliams visited the firm's D.C., Los Angeles, San Francisco and New York offices and met with more than 40 partners. The entire engagement, from the initial phone call to the partnership vote, lasted only six weeks.

Thelen Reid's labor and employment practice of close to 70 lawyers is regarded as strong and has a national scope. But the D.C. office's labor practice was a little slim, and the firm was looking to grow. So was the group.

Cooke says that Mintz Levin just didn't have the practice base or marketing capabilities that he felt they needed to expand the practice. For instance, Mintz Levin's labor and employment practice is smaller than Thelen Reid's, with only 33 attorneys, who mostly practice on the East Coast. And Thelen Reid has a more extensive practice, with an emphasis on big-ticket class actions as well as single-plaintiff, wrongful discharge, compliance and discrimination cases. Mintz Levin's profits per partner are higher, however, at $945,000 to Thelen Reid's $820,000.

Thelen represents clients such as Shell Oil Co., Pacific Gas & Electric and Circuit City, and it has already begun introducing the group to its clients, even before they've unpacked their boxes.

"I would expect them to be part of any significant labor and employment pitch for work on the East Coast and, of course, any pitch involving diversity related counseling," says Andrew Ness, the managing partner of Thelen Reid's D.C. office.

Indeed, Ronald Knox, the senior vice president of diversity at health care company Kaiser Permanente, is already interested. "We've just recently completed an internal survey, and there are some areas of follow-up that align with their services," Knox says.

Asked about the financial risks of bringing on the laterals, Ness says he's not particularly worried.

"Well, I think when you're assembling a group from scratch, as Mintz did, there's obviously a greater investment component. At this point, the heart of the group that was assembled has chosen to join us, and they have an established client base," Ness says.

As for Mintz Levin, the defections have dropped its percentage of minority partners to 6 percent, which the firm notes is still higher than the national average. The firm says it will not have problems going forward with minority retention, despite the irony of forming a group to boost retention only to have that group leave in short order. It is, after all, a fluid marketplace.

"Mintz should get credit for trying," says Harvard's Wilkins. But he adds that there's a danger in lateral hiring for retention's sake. "It's a quick fix," he says. "But it can, perhaps, fall apart even more quickly."

Frederick J. Barrow
Littler Mendelson, P.C.
The National Employment & Labor Law Firm®

Suite 1500 | 2001 Ross Avenue
Dallas | Texas | 75201
Main Phone: 214.880.8100 | Direct Phone: 214.880.8166
eFax: 214.853.5776 | Mobile: 214.995.2754
Email: fbarrow@littler.com | Web: www.littler.com
Mr. Barrow is licensed in Texas and Louisiana
A Texas Super Lawyers' Rising Star 2007