

Feature

Deal or No Deal : 7 Lessons from a Lawyer Who's Been There

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Even before law school, I knew I wanted to work on economic development deals and be a bond lawyer. While in law school, I signed up for a corporate finance seminar taught by a visiting professor and securities law expert which was at the time the closest I would get to public finance. The discussions we had regarding redemption provisions, repurchase options, investment banking, and the U.S. Securities and Exchange Commission's (the "S.E.C.") regulatory reach piqued my interest but were nothing at all like practicing in the public finance or economic development arena. The following are seven important factors that I've learned since law school.

1. From Law Firm to Public Service and back to Law Firm.

I will be the first to admit that I am in an extraordinary position having worked for our state's highest elected official, Governor Phil Bryant, as his counsel and policy advisor. It was an honor serving in his administration and it opened my eyes to a different side of economic development that I'd not experienced while practicing within a firm. Forays into public service can give you the satisfaction of serving your neighbors and also expand your knowledge of how the big picture of how a deal works.

2. You have to touch the documents.

Although reading a bond transcript to understand the structure of a past deal is very important to the development of a bond lawyer, there is absolutely no substitute to working on the deal itself and touching all of the documents associated with the transaction. Every deal is different in some way, and it's the young lawyer's role to figure out why and make sure the parties involved in the transaction have a successful financial closing.

continues on page 4

7 Lessons, continued from page 3

3. The rules are just as important in public finance as they are in litigation.

In the world of public finance - notably tax-exempt financing which is the primary method to raise capital for public projects - the government regulation of issuers, which has been historically less stringent, is on the rise. The S.E.C. is serious about continuing disclosure and in 2013 for the first time brought enforcement actions arising from violations of continuing disclosure obligations pursuant to new rules. Bond lawyers working for municipal issuers must help them comply with our ever changing regulatory environment. Each and every day we continue to practice, the stakes rise for accurate and timely compliance in our industry.

4. Oh, deadlines are just as important in public finance as they are in litigation.

The issuer, with the assistance of bond counsel, must structure the bond transaction and prepare a Preliminary Official Statement ("POS") and Official Statement ("OS") - which is the offering document used to sell bonds to potential buyers. S.E.C. rules and regulations require underwriters or banks to convert the POS into an OS and finalize it within seven (7) days in compliance of its rule. Failure to comply with these rules could result in a lawsuit from the bank or underwriter for recovery of fines from regulators. Missing a

deadline can cost you. Missing a deadline can get you sued.

5. Incentives are not why a company chooses to locate here but they can make or break a deal.

In negotiating economic development projects, I've learned that incentives can make or break deals but they alone are not why a company may choose to locate in a given community. With regard to structuring incentives, we always have to ask how this package is going to affect the corporate client's financial statements. You have to get in the head of the client.

6. There can be politics in the deal.

A company's final location or expansion decision can hinge on the financial structure of a deal which may be tied to the winning community's state and local economic development legislative package. As such, the key drivers for a deal can be many or few. Sometimes the deal can be about the dirt or labor. And sometimes the deal might be about minority participation. With that said, know your politics and know that politics will inevitably enter the picture of most transactions.

7. Creating a practice area.

Historically, economic development and chasing

smokestacks were thought to go hand in hand. But in today's global economy, innovative economic developers are not only focused on traditional aspects of economic development like growing existing industry; many also serve as pioneers to develop unique means to grow modern initiatives like statewide health care clusters which can have exponential opportunities. It's fun spending both billable and non-billable time drafting legislation for clients, writing articles, or speaking about a topic that could have such a tremendous impact on our state. For me, the hope is that we treat health care as an economic driver and target and recruit the industry similar to the way we targeted the auto manufacturing industry in the early 2000s in Mississippi.

The practice of deal making and economic development is exciting, especially in a place with as much potential as Mississippi. The items I just listed are things I may not have been completely clear on when I first graduated law school. Sometimes, I'm still unclear as I continue to learn and grow each day.

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