



RESTRUCTURING CONSULTANTS

Guiding Hedge Funds Through Transition

Navigating current shifts in the hedge fund industry requires more than just technical expertise. With two thirds of funds losing money in 2008¹ and rampant consolidation expected in the next few years, survival is now based much more on the ability to manage change. As a result, a new resource has emerged designed specifically to guide funds through transition—the **Restructuring Consultant**.

Combining negotiation and conflict management expertise with fund management experience, the Restructuring Consultant has the tools to navigate the most complex challenges with optimum efficiency and effectiveness. Today's shifts require the ability to fight and collaborate, to manage bilateral and multi-lateral negotiations, and to achieve optimal outcomes with minimal exposure to risk. The Restructuring Consultant is expert at all of the above.

Traditional accounting, law, bankruptcy, and consulting firms are all also in high demand, but their value to the fund and its directors is limited. None of these professionals, alone or in concert, is sufficient for the fund manager experiencing this market's consolidations. In fact, such professionals need to be skillfully managed and coordinated themselves

Roles of the Restructuring Consultant

Restructuring Consultants can serve four basic roles: advisor; problem solver/deal maker; co-manager; and manager proxy.

1. **Advisor.** Closest to traditional change management consulting, the Restructuring Consultant as advisor is used on an *ad hoc* basis to advise on deals, problems, negotiations, or organizational change. Unlike a traditional change management consultant, who advises through natural organizational growth points, the restructuring

consultant as advisor needs to deliver a more high impact result. This service is not corporate therapy or an excuse to develop a lengthy report. Restructuring Consultants must provide both procedural and substantive advice that improves an executive's ability to create value, get the biggest piece of the pie for the organization, and minimize damage to any business relationships. Typically billed on an hourly basis, the purpose of this role is to provide the hedge fund manager with just-in-time advice to optimize strategic and tactical moves.

2. **Problem Solver/Deal Maker.** In times like these, every fund manager has a list of problems a mile long. In this capacity, the Restructuring Consultant is tasked to take on and solve a few specific problems. Whether meeting with angry investors, attempting to mediate a lawsuit, negotiating retention clauses with key team members, or auctioning off a distressed pool of assets, the goal of the Restructuring Consultant becomes delivering concrete value through his or her skills. Typically billed on a combination of time and a success fee, success in this instance is measured on a task by task basis. By using the consultant in this capacity, the hedge fund manager and the fund directors can leverage the skills and bandwidth of the fund's team at opportune moments.

¹ Cox, R., Beales, R. "In Lieu of Bailout, A New Strategy," *New York Times*, Jan 18, 2009.

3. **Co-Manager.** Entering into an unplanned restructuring is a little like walking into quick-sand. Despite fund managers' best efforts, they often end up deeper in the problem than when they started. A number of dynamics common to restructurings produce this result, including key team member desertion, accelerated investor redemption requests, compounding legal challenges, evaporating operating capital, and pure fatigue. Partnering with the hedge fund manager, his core team, and the fund's directors, the Restructuring Consultant gets involved in a subset of daily activities for the duration of the change. These activities might include forming and negotiating with an investor committee, negotiating new fund documents to give the fund manager a longer runway, helping coordinate and execute the legal or governance strategy, helping find and negotiate terms of new capital, selling distressed assets, or coordinating public relations. Decision-making authority may be reserved by the management team or delegated to the Restructuring Consultant as appropriate. Typically billed on a time and success fee basis, the Restructuring Consultant, and core members of his team, become part of the hedge fund team.
4. **Manager Proxy.** In certain circumstances, under the instructions of senior management and fund directors, the Restructuring Consultant and his firm can serve as a surrogate, taking on the roles and responsibilities of the manager for the purpose of piloting the organization through to a set of specific deliverables, or through an orderly wind down. These situations are extremely complex and delicate, but allow the fund manager to fulfill his fiduciary duty by passing the keys to others permanently or for a specified time period. This approach is most common in particularly complex situations, where interpersonal challenges are extreme, or where an orderly wind-down occurs. Fees in these instances are highly variable and should be carefully coordinated keeping in mind the interests of investors, senior management, and the operating costs of the organization.

How to Choose a Restructuring Consultant

Regardless of the role, with so much at stake, making the right choices about hiring a Restructuring Consultant is paramount. Chosen well, the right advisor can make the difference between survival

and dissolution, a graceful wind-down or protracted litigation. A fund manager and its directors need to consider at least the following factors before making a decision:

1. **Hire a firm, not an individual.** Boutique restructuring firms have the ability to offer a range of skills and greater bandwidth. That said, this is a skill based service, so be careful to ensure you're hiring the senior team.
2. **Ensure there a cultural and personal fit.** Regardless of role, the Restructuring Consultant will represent the fund manager and spend significant time with others at the fund. If the fit is off, the relationship will fail.
3. **Hire success.** Has the Restructuring Consultant and his or her team done this before? What is their track record? Do prior clients vouch for this restructuring firm's value proposition?
4. **Hire experience.** Does the Restructuring Consultant have sufficient industry knowledge to grasp problems quickly and craft complex solutions? Does he or she have sophisticated conflict management, change management, and negotiation expertise?
5. **Align incentives.** Does the billing structure of the Restructuring Consultant's organization align with the interests of the fund manager and the fund? In addition to purely time-based billing, are there success fees that actually incent the desired results?

Fund managers who can successfully guide their funds through seismic changes will need a new kind of help. Business-as-usual consulting, law, and accounting firms will not be sufficient. The current changes are too great, too intense, and coming too fast. Like any market advantage, the funds that survive will be the ones who snatch up the best restructuring talent early and combine it with their own financial and technical assets, hard work, and ability to adapt. More than ever before, however, the talent of the Restructuring Consultant will be a significant factor in any outcome the hedge fund manager desires.

Patrick McWhinney and David Seibel are partners in the restructuring firm THE ARAGON GROUP and the consulting firm Insight Partners Consulting.

