

Letter to the editor

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'Balancing act not new'

by Jonathan Wenig and Christine Williamson

"Future aspirants [of listing will] also have to deal with similar problems that lawyers from Slater & Gordon now face - just where do loyalties lie?" (Ysaiah Ross, The Australian, 17 August 2007).

When Slater & Gordon listed on the ASX, it achieved a world-first. But to describe that achievement as being the first lawyers to seek profit from their profession is somewhat inaccurate.

For employees at Slater & Gordon, their focus on being good lawyers, on their duties to clients and to the courts, and on maintaining their firm's culture and conscience – while at the same time seeking to generate profits – is nothing new at all.

Ysaiah Ross suggests that listed law firms face unique problems of divided loyalties, having to adhere to commonwealth legislation governing corporations, and state and territory laws that govern law firms in particular. He further suggests that new legislation should be introduced to allow such firms to continue to act in accordance with their obligations to the courts and to their clients as lawyers, while also acting in the best interests of their shareholders.

The notion of a listed law firm does give rise to some interesting issues. There are professional duties, including obligations imposed by law, that must be balanced against corporate responsibilities to shareholders. However, balancing these objectives is not unfamiliar or specific to law firms.

Listed property managers must comply with tenancies legislation; listed trustee companies must honour their fiduciary obligations; and listed developers and manufacturers must comply with state and federal environmental laws – but such compliance won't necessarily lead to greater short-term profits.

So does listing really create some new profit motivation that makes it more difficult for lawyers to act in accordance with their duty to the courts and their clients?

If lawyers compromise their professional duties and ignore their obligations to the courts and to clients, they not only break the law, they jeopardise the fundamental asset that allows them to prosper – their professional standing as lawyers.

Lawyers have been balancing duties for centuries. A lawyer's duty to the court and their duty to their client don't always coincide. But the objective of profit and the objective of justice aren't mutually exclusive. For as long as there have been lawyers, there have been lawyers providing legal services through profit-making enterprises. In some ways, lawyers, accustomed as they are to this balancing act, are ideally placed to maintain corporate integrity with all stakeholders as the structures that house law firms are slowly ushered into the twenty first century.

Arnold Bloch Leibler acted for Slater & Gordon Ltd in its initial public offering, and in its acquisition of McLellands.

