

The Metropolitan Corporate Counsel

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Volume 13, No. 3

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March 2005

Diversity – Organizations

Operation Success: The Advertising Industry Faces The Diversity Challenge

The Editor interviews **Howard J. Rubin**, Co-Chair of Litigation and Employment Practices, Davis & Gilbert LLP, and **Adonis E. Hoffman**, Senior Vice President and Counsel, American Association of Advertising Agencies.

Editor: Would each of you tell our readers something about your professional background and experience?

Rubin: I graduated from Columbia Law School in 1972. I then went to work in the New York City Department of Consumer Affairs. Bess Meyerson was the Commissioner of Consumer Affairs – this was during the Lindsay years – and it was an exciting time to be part of the consumer movement. From there I returned to Columbia Law School, where I became Co-Director of the Employment Rights Project and taught for some five years. We represented plaintiffs in class action discrimination suits. I have been at Davis & Gilbert for 25 years.

Hoffman: I received an A.B. from Princeton in 1976 and a J.D. from Georgetown University Law Center in 1986. My career includes service in the U.S. Congress as legislative director to a member of the House of Representatives and as counsel to a subcommittee of the House Foreign Affairs Committee. I was an associate and of counsel in the Washington office of the Chicago firm, Hopkins & Sutter. From 1994 through 1997, I was director of the international law program at the Carnegie Endowment for International Peace in Washington, and a Distinguished Visitor at the New School in New York. At that time, I established the Capitol Policy Institute, an independent, non-partisan think tank focused on global corporate responsibility. In 1997, I had the opportunity to work with the chairman of the FCC as counsel on international telecommunications policy, and later as the head of an interagency task force on advertising prac-



Howard J. Rubin



Adonis E. Hoffman

tices. That led me to my current work as SVP and Counsel at the American Association of Advertising Agencies

Editor: Would you tell us about the Association and its mission?

Hoffman: The American Association of Advertising Agencies is the national trade association for the advertising agency business. It was founded in 1917 to represent the interests of advertising agencies and has grown to include nearly 450 members today in over 1300 offices throughout the country. The Association provides a range of educational, consulting and administrative services to its members, who account for 75 to 80 % of all the advertising in the U.S. Several of our largest advertising agency members are represented by Davis & Gilbert.

The Association acts as one of the leading voices of the advertising industry in Washington, and my work takes me before the FTC, the FCC and Congress. We also press our interests

on important First Amendment issues in state and federal courts.

Editor: Speaking of Davis & Gilbert, the firm has a very interesting history. Can you tell us something about the firm's origins and evolution in a very specialized practice area?

Rubin: We are a single office New York City firm that will celebrate 100 years in business in 2006. Early in our history, Senator William Benton asked us to represent the advertising agency he was setting up, Benton & Bowles. That was the beginning of our becoming the dominant law firm in the advertising industry. Today, 20 of our 90 lawyers are devoted exclusively to traditional and online advertising, intellectual property, and regulatory matters; they review thousands of commercials every year. We have several television network clearance professionals who deal with the networks' standards and practices departments. There really isn't another law firm that is

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structured to service marketing communications companies, corporate CMOs or marketing counsel the way we are.

In conjunction with our unique industry expertise, we have a substantial corporate practice that represents businesses across the board but the firm is particularly known for having handled more mergers and acquisitions in the marketing communications field than any other firm by a considerable degree.

Our litigation department handles a wide range of litigation, from intellectual property, to real estate, to securities – almost any kind of corporate or commercial case – but much of it relates to the advertising industry. We are also experts in employment and benefits counseling and litigation, particularly as it relates to service businesses such as advertising or investment banking.

Even structuring real estate leases and subleases for advertising agencies is something we are uniquely equipped to handle.

Editor: Last November the New York City Commission on Human Rights launched a data-gathering effort to examine the minority hiring practices of some of the city's advertising agencies. What is the background of this undertaking?

Rubin: It is important to note that the advertising industry had been addressing the issues of diversity and inclusion in the industry long before the city's investigation. Some time ago the AAAA initiated a multicultural advertising internship program – MAIP – that encourages the inflow of new talent from minority communities into communications, marketing and advertising-related positions. We believe that the program has been very successful at recruiting people for entry-level jobs. But that is not enough. The AAAA has also instituted a series of scholarships over the past 20 years for minority students attending portfolio schools.

Employment of minorities in service industries has been a challenge in many fields – including advertising. It is one which has been acknowledged and not merely in response to the inquiry of the City Commission. Nevertheless, the number of minorities at the senior levels of the industry is not what it should be, and the agencies, together with the AAAA, have decided to take appropriate steps to address the issue in a new way. I refer to Operation Success.

Davis & Gilbert is fully engaged in this discussion. We represent 10 of the 17 agencies that the City Commission is talking to, and our ongoing discussions with the AAAA led to the launching last year of Operation Success.

Hoffman: The Human Rights Commission's inquiry is focused on individual agencies. The AAAA is not a party to these proceedings, *but*, as a trade association acting to support its

members, we are vitally concerned. Many of our members are relatively small organizations that look to the trade association for guidance on key policy issues. Thus, we believe, the Association can help advertising agencies to constructively approach the issues of diversity and inclusion. That led us to initiate Operation Success.

Editor: You have both mentioned Operation Success. What is it?

Hoffman: Operation Success is the advertising industry's initiative to improve diversity and inclusion within the business. It is focused on three areas which have been especially challenging: the recruitment of minority professionals, particularly at senior levels; their retention, together with an assessment of their progress through the ranks; and the relationships between agencies and minority organizations, including suppliers and vendors.

Operation Success was launched in September 2004 with the endorsement of the six advertising holding company CEOs. They designated senior executives in their companies to serve on a steering committee that will work with the AAAA to develop a comprehensive plan to improve diversity within their respective organizations. We are being advised by an independent external Advisory Board comprised of 30 distinguished people from the senior ranks of business, law, government, the academic world and leading community organizations. Their mission is to advise the steering committee on best practices that will lead to improved diversity.

Rubin: Let me add that as a part of Operation Success, the AAAA is developing relationships with a number of educational institutions, including some of the historically black colleges. The industry proposes to reach out to these institutions, to teach courses and to support students in their search for employment. The intention is to develop a pipeline, so that talented minority students can be channeled into entry level positions in larger numbers so that over time they will move up to senior positions. But we are also working on recruiting directly for senior level positions now, as well as trying to retain and promote the minorities that are already in the industry.

Hoffman: One of the most important objectives of Operation Success is to provide practical resources for advertising agencies. Many agencies may not have much experience in working with minority businesses, and may not know where to start. There are leading organizations like the National Minority Supplier Development Council, which certifies minority businesses, and the Hispanic Association for Corporate Responsibility that can provide indispensable guidance to agencies on how to find and utilize minority business

enterprises and incorporate them into their business planning and networks. The advertising industry is made up of many small and mid-sized enterprises that may lack the resources to do the things that larger corporations can do. Our trade association is there to support them in these efforts, and that extends to the recruitment of qualified employees.

Rubin: We seek to break into the cycle at several points simultaneously. The situation is not improved if one agency hires away a senior African American executive from another agency. That may help the first agency, but it doesn't further the cause of diversity. What we are trying to do is bring an entirely *new* flow of talent into the industry and from a variety of places. A more unique and diverse talent base will ultimately drive greater creativity and new energy into the industry. Dynamic and creative people are the advertising industry's single most important asset.

Editor: Would either of you like to speculate on what the industry is going to look like – in terms of diversity – in, say, five years?

Rubin: Multicultural advertising is the industry's future. In five years I would hope that a pipeline is fully operational and that, as a result, there is an increasing minority presence in the industry, a number of senior executives, and considerable momentum toward an increase in that number. If that does happen, people within the industry will increasingly look like the audiences they are trying to reach.

Hoffman: It would be great to see America's diversity reflected in the industry's workforce, from the board of directors to the mail room. It also would be an important step forward if the industry can develop strong partnerships with key organizations, such as the National Urban League, the National Council of La Raza and others that have such rich legacies of contribution in minority communities. I believe both of these goals are attainable over the next few years.

Editor: Davis & Gilbert is probably unique in being in a position to represent members of the advertising industry in an undertaking of this kind.

Hoffman: A firm that understands the dimensions of this issue across the entire industry is, I think, crucial to success. Diversity and inclusion are important business and corporate policy mandates in today's marketplace that go well beyond a specific case or inquiry. Davis & Gilbert has been a leading force in educating the advertising industry on how to engage these pressing issues in constructive and productive ways, and because of its expertise, I'm sure it will be a valuable partner going forward.

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