



Steve Levitt: Maybe it was time for a fresh look.

## Howard Milstein scrubs Mark Hurley's stringent contracts with 22 RIAs then buys \$1.5-billion semi-RIA through satellite entity with a looser mandate

With its new billionaire owner calling the shots, the Mark Hurley baby is doing some fence-mending but economical deals remain elusive in crowded market

April 18, 2019 — 12:50 AM by By Lisa Shidler



1 Comment

**Brooke's Note:** Finally, we are getting a look behind the curtain of the drama that played out between Mark Hurley and his billionaire investor. We wondered why Hurley stopped doing deals. We wondered why Howard Milstein thought he could do better. The bet Milstein seems to be making is that Hurley overreached in making self-interested deals with RIAs while ignoring the old aphorism: "A deal needs to work for both sides." It's not just something you say in negotiations to soften up the other side. But Milstein is taking it a step further, too. He's creating a new unit with a far less rigid mandate. The art of the deal is all about knowing the tipping point between giving a deal partner room to breathe without giving them room to run away with your money. We'll find out soon enough whether Milstein can apply the right amount of art to Mark Hurley's careful science and which protagonist will emerge the better.

Howard Milstein is finally showing his strategy to out-Hurley Mark Hurley at the helm of the company Hurley led for 17 years. He's being friendlier to both new deal targets and existing RIAs alike in an effort to eliminate "some of the friction" caused by Hurley's stringent deal terms.

"There was a lot of friction," says Emigrant Partners CEO Karl Heckenberg, who is also newly installed as Fiduciary Network CEO. "We've been working with the firms to remove the friction." See: Mark Hurley battles to end his relationship with his billionaire investor

Though Heckenberg declined to specify precise friction points, he said that all of the financial terms of the original contracts remain. The rewriting revolves around clauses viewed as insidious by RIAs -- namely the wresting of control from firms for failing to meet net asset gathering goals.

RIAs have very much appreciated the willingness of management to take some handcuffs off of them. Firms like RegentAtlantic Capital LLC of Chatham, N.J., and Evensky & Katz of Coral Gables, Fla. used the capital largely to finance internal succession and gave up an equity position when Fiduciary Network invested in them over the years.

But then the new generation came along and found out just how much control was abdicated to get the cash. These new managers faced strictures that were anathema to the original objective of accepting the baton from the founders.

"We are indeed excited by their willingness to revisit aspects of the relationship," says Matt McGrath, managing partner, Evensky & Katz/Foldes Financial Wealth Management. "They support our desire to grow the business while serving our clients well."



Howard Milstein wants more flexibility to rewrite deals with RIAs.

## Far flung interests



Mark Hurley: We need a bigger boat. We need a larger investor.

## Mark Hurley battles to end his relationship with his billionaire investor

The Fiduciary Network CEO needs a "bigger" investor, he says, as RIA LBO game heats up and he holds upper hand after winning arbitration but Howard Milstein's bank hasn't waved the white flag

November 8, 2017 — 11:08 PM by By Lisa Shidler



3 Comments

**Brooke's Note:** The age-old problem of financier and dealmaker is that both parties are clear on the other's deficiency. The financier does no work, the dealmaker says; the dealmaker has no skin in the game, the financier says. We see that problem here even as we go to pains to show that this dispute

between Howard Milstein the banker and Mark Hurley the dealmaker comes after 11 years of relative tranquility and success. But the arbitrators in the case take pains to express how "toxic" the relationship has been for a very long time and how the dispute boiling over now is a symptom of what has simmered beneath the surface. It's what happens next that's important. Likely Mark Hurley will achieve his original objective of removing his banker and 75% partner and replacing it with a bigger, better one. After winning an arbitration, he has the inside track. But Milstein may have the final say based on how big a check he is willing to write. Lisa Shidler's quest to find third-party sources to comment for this story were fruitless. People prefer to steer clear of this type of controversy. But two sources in the M&A business said in the past year that Emigrant Bank representatives had reached out directly to them, which they found surprising. It suggests that the financier may have some intention of running Mark Hurley's deal shop without Mark. In fact, when Lisa asked the company about that matter, it said that after riding shotgun for 10 years, it could manage the firm. Stay tuned.

For 11 years, the partnership of Mark Hurley and Howard Milstein was the envy of the RIA business.

Now, the seemingly placid and certainly lucrative marriage between the CEO and founder of Fiduciary Network and the owner of Emigrant Bank is taking on many of the toxic characteristics of a high-stakes divorce as the struggle for tens of millions -- or hundreds of millions -- of dollars spills into the public eye via a well-documented legal battle.

For a year now, the banking scion and the maverick Texas dealmaker have been lobbing recriminations back and forth as they rack up millions in legal fees. And there's no end in sight. See: Small Florida RIA fights for its name as litigious \$10 billion Chicago fund-picker Ariel Investments sues for brand infringement

Milstein, 66, is a billionaire who oversees a real estate fortune largely built by his father. He's a key business partner of Jack Nicklaus and spearheaded the replacement of New York's Tappan Zee Bridge, the largest public infrastructure project in New York State history. Emigrant Bank has about \$7 billion of assets.

Mark Hurley, 58, co-founded the Fiduciary Network LLC in 2006. The firm, which does internal transitions, acquisitions and MBOs, owns big minority stakes in 23 RIAs that have more than \$30 billion of combined assets. See: Mark Hurley's comeback to Veres: Fiduciary Network is investing millions in wealth management businesses -- it's just that few in the industry make the grade

The same dynamic that made the ace RIA Dallas-based dealmakers and their financiers in New York such an ultimately combustible combination is the same that allowed it to function profitably for so long. Emigrant Bank, through its subsidiary, EB Safe LLC, owns a whopping 75% of Fiduciary Network with Hurley's firm owning the other 25%. EB has provided more than \$200 million in financing for the past 11 years. Simply put: Emigrant Bank mostly put up the money, and FN mostly made the deals.

## Underpaid, underappreciated



*Karl Heckenberg: Mark has done a good job building the business. As [EB's] gotten more educated on the business over the last year, the thinking has changed and evolved and at some point you ask yourself, at what cost?*

## After 'thinking changed' Emigrant Bank hires new CEO to either take Mark Hurley's spot at Fiduciary Network or to head new unit that will compete head-on

With Hurley now characterized as expendable, the New York bank makes Karl Heckenberg chief-in-waiting and Harold Evensky expresses 'reservations' about Emigrant Bank power play

November 15, 2017 — 4:38 PM by Lisa Shidler



3 Comments

**Brooke's Note:** Long, tightly wound relationships unravel in short order every day. Sometimes it's an accumulation of toxicity that becomes too lethal for the parties to bear. There is plenty of evidence of poison here in the mounting battle between Mark Hurley and his backer, billionaire Howard Milstein.

Yet typically a catalyst is also close at hand of a size commensurate to the strength of the bonds it is helping tear asunder. I submit that a perceived explosion in the number of RIAs seeking an LBO is putting dollar signs in the eyes of all parties. This Hurley-Milstein pairing has produced a measly two deals a year since its founding 11 years ago, many of them small. Now many deals a year could get done, of much greater size. It has the billionaire's attention and he is taking action. Stay tuned.

Karl Heckenberg will be the new CEO of Fiduciary Network if Emigrant Bank succeeds in acquiring the 25% it does not already own -- and failing that, he'll be a CEO of a leveraged buyout firm that will aggressively come after RIAs affiliated, or not, with the Dallas, Texas-based firm.

Heckenberg, 43, is poised to be the chief executive taking the reins from Mark Hurley, who currently heads the Dallas-based merger and acquisition business, wrote Barry Friedberg, Fiduciary Network board member and chair of the finance committee for Emigrant Bank in a letter to the editor sent to RIABiz that is posted at the end of this article.

Heckenberg came aboard initially as advisor to Emigrant's chairman of the board -- Howard Milstein -- and as a member of Fiduciary Network's board of managers just three months ago. The battle for control between Howard Milstein's Emigrant Bank and its operating partner of 11 years, Fiduciary Network LLC, helmed by CEO Mark Hurley came public after an RIABiz article based on documents based on an arbitration in the Southern District of New York.

"Whether Emigrant sells Fiduciary Network or starts a new finance company, Karl Heckenberg, who has spent his professional life in the wealth management industry and has been a Fiduciary Network director since October 2017, will be the chief executive officer of this category of business for us," Friedberg writes.

Repeated efforts over a few days to get a response from Hurley did not yield a comment as of press time. But the day after this story was published, Hurley offered the following response: "I won the arbitration unanimously last August and am not going to re-litigate it in the media. We have a fabulous company with great people and great partner firms. We are growing rapidly and are continuing to do deals."

Heckenberg responded: "We find it interesting that it took Mr. Hurley more than three days to respond. We find it even more interesting that he has not disputed in anyway our description of his actions."

One of the original RIA partners to Fiduciary Network is not so sure that Hurley is replaceable.

## 'Counting on him'



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