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Brian Hamburger and the RIA Evolution

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How **Brian Hamburger** became
the man behind the curtain in almost
every major breakaway deal
and helped define the industry.

By Diana Britton / Photo by Dirk Eusterbrock





CRAIG STUVLAND formed his company to “fan the flame of independence” in the financial services space. He saw a need to help investment advisors and wealth managers with assets anywhere from \$300 million to \$1 billion go into business for themselves. In his model, called tru Independence, advisors keep 100 percent equity in their firm, relying on Stuvland for financing, consulting, branding, real estate, vendors, public relations, compliance, etc.

Building any business is a daunting challenge—particularly a business that aims to assist investment advisors setting up their own shops. There are countless moving parts: What’s the capital structure? What are the terms? What’s being offered?

To navigate the legal and corporate thicket, Stuvland brought in Brian Hamburger, a 41-year-old lawyer from Leonia, N.J., who may know more about what Stuvland and his advisors were up against than anyone else in the industry.

Over the past decade, Hamburger has been the architect behind almost all of the highest-profile breakaway deals in the industry, helping countless advisors transition away from brokerage houses and toward independent business models. He’s worked with all of the major custodians and has held defining, if unheralded, roles in the formation of some of the largest service providers and business platforms in the registered investment advisor space, including Focus Financial Partners. He’s also worked closely with Envestnet, Dynasty Financial and HighTower. Since starting his firm MarketCounsel in 2000, over 1,500 RIA firms have crossed his path, yet his name is rarely mentioned in press releases or news stories.

Mindy Diamond, a well-connected industry recruiter, recalls being offered an introduction to Hamburger seven years ago. “At the time, I didn’t know who he was,” she says. “But soon, every direction I turned in, every person I spoke to, every firm I worked with, every deal I did seemed to lead to Brian Hamburger,” she says.

The one client Hamburger refuses to work with? The wirehouses, which he sees as a conflict. He says he can’t work with the advisors that are leaving those established firms if he has done business there. “We can’t be on both sides.”

John Phoenix, managing director of advisory services at Envestnet, worked on about 50 breakaway deals with Hamburger last year alone. Whenever he’s trying to recruit a wirehouse team, he encourages them to hire MarketCounsel.

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“A team that is contemplating leaving wants nothing unanswered and they don’t want any uncertainty,” Phoenix says. “If they say, ‘What happens if this happens?’ and you don’t have an answer immediately, it creates uncertainty and they won’t break. What Brian provides is a lot of certainty. I don’t think we would’ve had nearly the success without his firm.”

The Model

The role Hamburger plays is the one he envisioned when he started MarketCounsel and his eponymous law firm in 2000. From the beginning, he charged clients fixed fees for service, not an hourly rate. The goal was to help not only with the initial launch of an RIA, but to continue working with advisors through the life of the business.

“Unlike the firms that went before us, which would just say, ‘Call us with questions, and you tell us if you need us,’ we changed the model,” Hamburger says. “We said, ‘We’re going to collect a lot of information on the front end—either at the startup of your firm or your startup of your relationship with us.’

“We dissected all of the regulatory, compliance obligations that an investment advisor had, and we put a logical model behind it.”

The “RIA Incubator,” as Hamburger calls one part of his business offering, is the launch phase of a firm. MarketCounsel will consult on corporate structures, draft partnership agreements, conduct trademark work, write employment agreements and non-solicits, and get the firm registered with the SEC.

The firm’s Tactical Strategy offer is an overlay to the Incubator, provides advisors with an already-formed and fully functioning RIA, filed with the SEC, so the advisors can get up and running in a matter of hours. Hamburger has pre-registered advisory firms “warehoused” and ready to be deployed for fast transitions. “The quickest one I ever did was in 24 hours,” says Scott Brown, director of advisor services at MarketCounsel.

“They’re a bit like the Navy SEALs,” says Shirl Penney, partner, president and CEO of Dynasty. “Frequently, we’ll have a call that comes in and somebody’s looking to move quick. We’ll get Brian’s team together with my transition team here; they’re going in and engaging and getting somebody moved in a very professional way but within a very tight constrained time frame.”

After launch, advisors can join MarketCounsel’s membership program, called the “RIA Institute for Compliance



From top: Hamburger in the firm’s Teaneck, N.J. office in 2002; the view from the log cabin in Belle Mead, N.J. that he and his family moved into after selling his house to fund MarketCounsel.

Management,” which provides legal and compliance services, annual filings and advertisement reviews, Brown says, leaving MarketCounsel to field the late-night calls from advisors grappling with trading errors, threats of lawsuits or the need to fire an employee.

Log Cabin

Hamburger grew up in the RIA business—literally. His father Jeffrey Hamburger owns an RIA firm, New Century Financial Group, in Princeton, N.J., where the younger Hamburger used to work organizing storage closets, tagging inventory and entering data.

After his first year at Quinnipiac University in Hamden, Conn., Hamburger got an internship with Merrill Lynch. He graduated with degrees in economics and financial management, but was underwhelmed by the number of opportunities after graduating and decided to go to law school. At the University of Miami, he interned at the Securities and Exchange

Commission, the federal courts and the court of appeals.

Out of law school, Hamburger got a job in Stark & Stark’s securities division as an associate. Ambitious, perhaps to a fault in the eyes of his managers, Hamburger soon signed on nine RIAs as clients, all part of a study group he had gotten to know at Financial Planning Association meetings.

“I remember at the end of the week the managing partner came into my office. I thought I was getting a handshake.” Instead, the manager told him business development should be left to partners, not young associates. “I was just so taken aback by that.”

In his head, Hamburger started to construct what would become MarketCounsel—an RIA Incubator and membership program delivered to advisors for a fixed fee. He pitched the idea to the partners, who told him, “This is the worst idea,” and “There’s not a chance it’s going to happen,” Hamburger recalled.

In the previous six months, Hamburger had bought a house and had a baby. Now he approached his wife and told her he wanted to sell the house to fund a new business. Rental space in New Jersey was hard to come by at that time, so Hamburger moved his wife, infant and two large dogs into a log cabin on a vineyard in Belle Mead, N.J., for the better part of a year.

“I thought it was very romantic,” Hamburger says. “She thought nothing of the sort.”

He approached a few clients of Stark & Stark who he suspected were more loyal to him than the firm. His first

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client was Bob Barry, a top advisor and president of the Financial Planning Association at the time. “I have zero room for any regulatory issues,” Barry told him, given his status as president of the organization dedicated to more ethical standards in the advisory industry.

It was a high-profile shot of confidence, and Hamburger rented office space next door to his father’s.

When he gave his notice, the managing partner of Stark & Stark told him he was making a terrible mistake, not least because of the fact he would not be compensated nearly as well as he was at the corporate firm. “I think about that every time I’m talking to a guy who is looking to leave a place where he’s worked at for 20, 30 years and going on their own,” Hamburger says. “And I say I’ve been there before. I’ve done that. And I’m not quite sure how I had the courage to do it, and I can’t tell you how you need to muster that courage. But you’re going to have to draw that inspiration and strength from other people and not let others discourage you along the way.”

That’s one reason Lori Van Dusen, principal of LVW Advisors in Pittsford, N.Y., worked with Hamburger when she left the wirehouse world. He helped lift her team, which now has \$3.5 billion in assets under advisement, out of Smith Barney in 2008 and out of Convergent Wealth Advisors in October 2011.

“I think the thing that makes Brian stand out is that he is an entrepreneur himself,” Van Dusen says. “He understands the needs of someone like me and my temperament. That’s different.”

Grow Up

At this point, Hamburger is as much a business consultant as he is a provider of legal advice. With tru Independence, he recommended Stuvland, who spent 14 years running a fund of hedge funds, use his background in the alternative investment space as a business differentiator.

“Brian was insistent and said to me, ‘Make sure to leverage your background ...with institutional consultants, endowments, foundations, CIOs and hedge fund managers in the alternative space,’” Stuvland recalls. “It is an area where the independent advisor needs help, and that is a unique advantage.”

As the RIA industry has evolved, so has MarketCounsel’s services. Early on, its primary mission was to help one- or two-man teams coming out of the wirehouses; now it’s more likely five-man teams going independent, says Corey Kupfer, director of entrepreneur services. There are more succession deals and mergers and acquisitions happening, and teams



Someone at MarketCounsel will ring this boxing bell, hanging in the Englewood, N.J. office, when the firm successfully transitions an RIA out of a wirehouse.

have more sophisticated corporate structures. In addition, the aggregators and RIA platforms, like tru Independence, are larger and more complex.

To deal with the increased complexity of RIA networks, Hamburger bought Kupfer’s firm in 2010 and brought him into the fold. MarketCounsel currently works with two major groups looking to launch new business models for RIAs.

“This is the year of the platform,” Kupfer says. “What we’ve seen is a significant increase in meetings with various people who have the backgrounds, the financing and the experience to pull it off. These are not dreamers.”

Hamburger and Kupfer help these nascent businesses refine their models. Sometimes Hamburger has to help them understand their desire to keep multiple entities under the

same business umbrella doesn’t always make sense.

“Each one of those entities probably has to run its own payroll, or if not, has to have some kind of agreement to offer employees,” he says. “There are privacy regulations at both the federal and state level that may preclude affiliates from sharing information.” At the same time, running a network as a single entity carries enterprise risk, or the chance that one tarnished advisory firm could taint the entire operation.

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It’s the ability to understand and evaluate these threats and rewards that has made Hamburger and his co-workers valuable to the individuals and new firms shaping the industry. They are creating what Hamburger sees as the transformation away from entrenched Wall Street interests to the individual investor and independent advisor.

“Like the firms that we started out to serve, they’ve challenged us to really serve that higher purpose,” he says. 