In Holland v. Brown [582 So.2d 502 (Ala. 1991)], where the court refused to apply North Carolina law. Brown was a partner in Salmen, 211 Neb. 123 (1982), Georgia [ Singer v. Habif, Arogeti & Wynne, P.C., 250 Ga. 376 (1983)], and New Hampshire [Smith, Backetholler & Ruster, 119 N.H. 679 (1979)] have either reformed or invalidated noncompete clauses that were overbroad for including future clients, former clients, or clients not serviced by the accountant during employment.

In Engel v. Ernst (1986), the firm was headquartered in Denver and had offices around the country. Ernst was promoted to manage a Dallas office and was given verbal noncompete covenants in the form of a non-solicitation agreement.

In Cherry, Bekaert & Holland v. LaSalle [375 A.2d 463 (Del.Ch., 1977)], the Delaware court held that signing a noncompete agreement was not unlawful [Holloway v. Faw, Casson & Co., 319 Md. 324 (1990)].

In Smith, Backetholler & Ruster v. Foster (1979), the largest accounting firm in New Hampshire and Vermont tried to reform the covenant because the employer did not show good faith in implementing it. The employer's failure to fully make the terms of the restrictions clear before the employer hired accountants was fatal to enforcement. The employer had verbally offered employment to the accountants with either no discussion of the noncompete clause or only a general reference to it. After the employees were hired, the firm presented written agreements with noncompete covenants banning the employees from providing services to clients for three years after termination.

In Faw, Casson & Co. v. Cranston [375 A.2d 463 (Del.Ch., 1977)], the Delaware court held that signing a noncompete clause in exchange for promotion to manager was valid.

In Pottroff, an accountant argued that the damages provision was contrary to the Kansas Board of Accountancy's Code of Professional Conduct because it would not pay a commission to a third party. The Kansas Supreme Court rejected this argument because the accountant was not paying to obtain the client but was paying the firm for taking a client away (Varney Business Services, Inc. v. Pottroff, supra. 2002).

In Smith, Backetholler & Ruster v. Foster (1979), the largest accounting firm in New Hampshire and Vermont tried to reform its liquidated-damages provisions against accountants who competed after termination. The covenant was too broad because it covered New Hampshire and Vermont and former clients. The Supreme Court of New Hampshire refused to reform the covenant because the employer did not show good faith in implementing it. The employer's failure to fully make the terms of the restrictions clear before the employer hired accountants was fatal to enforcement. The employer had verbally offered employment to the accountants with either no discussion of the noncompete clause or only a general reference to it. After the employees were hired, the firm presented written agreements with noncompete covenants banning the employees from providing services to clients for three years after termination.

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In Royer, an accountant argued that the covenant was against an Alabama resident. The Alabama court held that this "buy-sell" of clients was tantamount to a non-competition clause. The partner refused. Ernst solicited some clients before leaving and after joining another firm. His former firm sought to enforce its damages provision. The Nevada court agreed to apply Colorado law because it was reasonable for a practicing accountant to serve accounts in multiple states for any firm client without CBH's prior written consent. If the covenant was invalid under Alabama law, Brown would have to purchase the clients he serviced. The firm could not prevent the client's annual fee in third-party acquisitions.

In BDO Seidman v. Hirshberg [93 N.Y. 2d 382 (1999)], the New York Court of Appeals held that:

- BDO's interest was greater than North Carolina because the covenant was against an Alabama resident.

- Protection was granted only to those relationships developed and maintained by BDO and to those relationships in which the employee provided direct, substantive accounting services during the course of employment when the client was not developed or maintained by BDO as part of a client development program.


- In contrast, the Georgia Supreme Court refused to enforce a similar clause, in part because there was no justification for the geographic area (Howard Schultz & Associates, Inc., v. Bronzie, 238 Ga. 181 (1977)).

- Several jurisdictions, such as Missouri, will enforce a covenant even if the geographic limitation is missing, as long as it is very specific as to which clients cannot be served [Schott v. Beussink, 950 S.W. 2d 621 (Mo.App. E.D., 1997)].

- Some states have legislation that sets guidelines or maximums. Florida law provides that a restraint against a former employee of six months or less is presumed reasonable, and a restraint of more than two years is presumed unreasonable; a restraint against a seller of an equity interest in a professional partnership is presumed reasonable for if three years or less and unreasonable if greater than three years; and a covenant running for less than three years is presumed reasonable for five years and unreasonable if greater than 10 years (FSA section 542.235). Under South Dakota law, an employee may agree not to engage in the same profession or to solicit existing customers for a period not to exceed two years within a specified area (SDCL section 53-9-11).

In Cherry, Bekaert & Holland v. LaSalle [413 So. 2d 436 (Fla.App.3D, 1982)], the Florida appellate court found that a payment of 200% of fees charged by the firm to the client during the 12 months prior to termination of employment was unenforceable as an excessive penalty.

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