
Career stage dependent effects of law firm governance: A multilevel study of professional-client misconduct

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Abstract

Are governance practices employed by professional service firms equally effective in preventing professional-client misconduct for professionals at different stages of their career? Drawing upon professional-agency theory and the literature documenting professional career patterns, we develop a multilevel theoretical model to answer this question. We test our model in the empirical context of the Dutch legal profession, using firm-level survey data on 142 law firms and individual-level archival data from the 2994 lawyers working for these firms to explain 97 formally adjudicated complaints of professional-client misconduct committed by individual lawyers registered with the Amsterdam Bar Association. We find that the ‘orthodox’ distinction between informal behavioral and formal outcome-based governance practices is too course-grained

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to receive empirical support, and that firm-level governance practices only reduce professional-client misconduct when they are specifically targeted at the career stage of the lawyers employed. Our findings not only allow us to develop a finer-grained version of Sharma's professional-agency model, but may also be practically useful in developing firm-level governance practices targeted at different strata of professionals.

Keywords

career stage, hierarchical linear model, organizational governance, professional misconduct, professional service firm

Introduction

Professional services perform a critical function in advanced knowledge-based economies. In classic professions, such as law and accounting, professionals perform facilitative and assurance functions in order to enable complex transactions that would be unlikely to take place without professional support (Coffee, 2006; FASTERLING, 2009). Accountants, for example, provide independent assurance over the financial disclosures of their client firms to facilitate arm's-length investment in them by outsiders (Healy and Palepu, 2001) while lawyers routinely perform a host of formal actions on behalf of their clients (Faulconbridge and Muzio, 2007; Morris, 2001). Without these functions, 'business as we know it would come to a grinding halt' (Sharma, 1997: 758).

Because of the complexity of interests involved in professional services, however, conflicts of interests are endemic in professional service industries. Within the diversity of interests that professionals have to deal with, the relationship between professionals and their clients is especially vulnerable (Sharma, 1997). This is not only because professionals routinely perform formal actions on behalf of their clients (Empson, 2007), but also because knowledge and information asymmetries make it difficult for clients to monitor the behavior of professionals as well as the quality and quantity of the output (Sharma, 1997). As a result, professional-client relationships are particularly vulnerable to various forms of professional misconduct, such as abusing client money, spending less effort than agreed to, delivering poor quality services, over-billing for services (not) rendered, or any other type of misconduct that benefits professionals at the expense of their clients.

Because of client vulnerability, professional industries have historically been highly institutionalized, featuring mandatory training and licensing of individual professionals, as well as self-regulation and professional monitoring by autonomous professional associations, such as bar associations for lawyers and national accounting associations for auditors (Greenwood et al., 2002; Lawrence, 1999). Moreover, an intentionally fostered culture of professional altruism and self-control has traditionally played an important role in mitigating conflicts of interests (Parsons, 1968). The literature has well documented the role of professional institutions in curbing conflicts of interest and professional-client misconduct specifically (Abbott, 1988; Freidson, 1994; Goode, 1957).

An alternative research stream has focused on the specific type of firms—that is, professional service firms (PSFs) (Von Nordenflycht, 2010)—that offer professional

services, and the unique configuration of governance practices that PSFs feature to foster professionalism. Greenwood and colleagues were the first to conceptualize the professional partnership, or what they called the P² archetype (Greenwood et al., 1990), as an organizational form uniquely geared to dealing with the knowledge asymmetries and complexity of interests characteristic of the professions (Greenwood and Empson, 2003). Defining the P² in terms of its high degree of professional autonomy, decentralized operational decision-making, informal peer-monitoring practices, and low levels of formal governance, they claimed the P² to be uniquely suited for fostering professionalism (Greenwood et al., 1990), and sparked almost three decades of research on PSFs (Empson et al., 2015; Greenwood and Suddaby, 2006).

At least since the 1990s, however, the PSF landscape has become increasingly heterogeneous (Brock, 2006), as PSFs began to adopt more formal business-oriented governance practices (Brock et al., 1999), transforming many PSFs into what some have called managed professional businesses (henceforth: MPBs, Cooper et al., 1996). More recent work has therefore started to unpack these wholesale organizational forms into the variety of governance practices that contemporary PSFs may feature (Lander et al., 2017a, 2017b). With respect to the problem of professional-client misconduct specifically, Sharma (1997) made a notable contribution to this literature. Conceptualizing the professional-client relationship as an agency relationship and professional behaviors that hurt client interests as professional-client agency problems, he explained why different governance practices featured by PSFs would be differentially effective in curbing such agency problems. Specifically, he predicted that such agency problems are less likely to occur in PSFs featuring informal behavioral governance reminiscent of traditional professional practices, while they are more likely in PSFs featuring the formal outcome-based governance practices that many PSFs have adopted over the last few decades.

In this study, we build on Sharma's theoretical contribution by conceptualizing professional-client misconduct as an agency problem, and by providing a first empirical test of his generic prediction that informal behavioral governance will be more effective in curbing professional-client misconduct than formal outcome-based governance. Unlike Sharma, however, we do not expect these governance practices to function similarly for all professionals. While it is well documented in the literature that professionals develop their professional identities and take up different positions in PSFs over the course of their careers (e.g. Dinovitzer and Garth, 2007; Dinovitzer et al., 2014, 2015; Kaplan and Whitecotton, 2001; Ponemon, 1990; Rivera, 2012; Wilkins et al., 2007), research to date has not yet investigated the question of whether PSF governance practices may be differentially effective for professionals at different career stages.

To fill this gap in the literature, we explain why senior professionals, holding senior positions and with more developed professional identities, are likely to be more receptive to informal behavioral governance in containing professional-client misconduct, while junior professionals with less developed professional identities may be especially vulnerable to the adverse effects of formal outcome-based governance. Developing this career stage sensitive approach to PSF governance further, we also argue that firm reputation may function as a self-enforcing informal governance mechanism for constraining senior professional behaviors (Susenso and Pinnington, 2017), while intensive socialization of junior professionals may have professional-client misconduct mitigating effects

owing to its role in transferring professional knowledge as well as behavioral expectations (Empson, 2007; Empson and Langley, 2015; Treviño et al., 1999).

To empirically test these predictions, we compiled a sample of 2994 lawyers registered with the Amsterdam Bar Association working for 142 different law firms operating in the Amsterdam jurisdiction. Amsterdam is the largest jurisdiction in the Netherlands, as it is the main financial and business center in the country. We use the number of formally validated client complaints filed against individual lawyers with the Amsterdam Bar Association as a measure for professional-client misconduct, and individual-level archival data of lawyers registered with the Dutch Bar Association and survey data from the firms employing these lawyers as explanatory variables.

Our study contributes to a deeper understanding of the effectiveness of PSF governance in terms of containing professional-client misconduct in two ways. First, our findings challenge Sharma's generic prediction that informal behavioral governance is more effective in curbing professional-client misconduct than formal outcome-based governance. In contrast, we find an aggravating effect of informal behavioral governance on the occurrence of client-professional misconduct, while we do not register any aggravating effect of formal outcome-based governance. Second, we extend Sharma's (1997) professional-agency-model by tailoring it to different professional career stages. We not only find that lawyers at different career stages differ in the likelihood of receiving complaints, but also that they are differentially susceptible to different PSF governance practices. After discussing some limitations of our study, we conclude with outlining how our findings may inform future academic research and be practically useful in developing a more targeted approach in combatting professional-client misconduct (Greenwood et al., 2002; Muzio and Faulconbridge, 2013).

Professional misconduct as an agency problem

Professional misconduct

Professional misconduct can be understood as 'any behaviours [by members of a profession], legal or illegal, that contravene normative expectations and professional codes of conduct' (Muzio et al., 2016: 145). While misconduct occurs in every tract of the economy, professional misconduct is particularly problematic for two reasons. First, the reason why the professions have been granted a monopoly in offering professionals services is precisely because professionals ought to serve as 'gate-keepers' (Coffee, 2006) or 'social trustees' (Brint, 1994), responsible for operating the checks and balances in society and the economy. Manifestations of misconduct provide evidence that professionals are failing this role. Second, in eye-catching cases like Enron and Parmalat, it became clear that professionals themselves were involved in aiding and abetting the types of behaviors and outcomes they serve to prevent (Gabbioneta et al., 2014; Muzio et al., 2016). This makes professional misconduct doubly harmful, and more research is needed to understand its causes and potential remedies (Muzio et al., 2016; Von Nordenflycht, 2014).

Several scholars have observed that professional misconduct has become more prevalent in recent decades, and have explained this surge from changes in the firms responsible for the delivery of professional services (Kipping and Kirkpatrick, 2013; Kirkpatrick et al., 2012). Historically, the policing of professional misconduct was the autonomous

responsibility of the professions and of professional associations specifically. When PSFs were still mostly smaller collectives of professionals who individually depended on accreditation by professional associations to stay in business (see Greenwood et al., 1990), professional peer monitoring and centrally administered warnings and sanctions from professional associations were widely held to suffice in maintaining the professional ethos. With the advent of more corporate forms of professional organization from the 1990s onwards, however, professional associations became increasingly powerless in comparison with the new breed of PSFs (Kipping and Kirkpatrick, 2013; Kirkpatrick et al., 2012). MPBs specifically (Cooper et al., 1996), represented much greater economic interests than their P² predecessors, grew exponentially in size, and began to generate more revenues from services in areas like merger and acquisition transactions (law firms) and business advisory services (accountants) for which accreditation from a professional association is not required. As a result, the de facto responsibility for handling and preventing professional misconduct increasingly shifted from professional associations to PSFs themselves (Kipping and Kirkpatrick, 2013; Kirkpatrick et al., 2012).

In addition to this shift of power from professional associations to PSFs, professional misconduct also became increasingly complex and multifaceted. Prior research has mostly focused on third-party-centric professional misconduct, in which professionals collude with their clients to further their clients' interests at the expense of third parties, such as creditors or equity investors (Dinovitzer et al., 2014; Gabbioneta et al., 2014; Muzio et al., 2016). A form of professional misconduct that received less attention in the literature is professional-client misconduct, in which professionals prioritize their own interests over those of their clients, and engage in behaviors at the expense of their clients. In this study we draw upon and seek to further develop professional-agency theory as pioneered by Sharma (1997) to better understand the causes of professional-client misconduct.

Professional-agency theory

Sharma (1997) provided a seminal contribution to the literature on professional services in two ways. First, he developed a theoretical framework for analyzing professional-client misconduct in agency theoretical terms (Ross, 1973). Agency theory provides a conceptual framework for analyzing problems in human cooperation that arise when decision-making and risk-bearing are separated (Fama and Jensen, 1983), when the interests of the decision maker (the agent) and the risk bearer (the principal) are imperfectly aligned, and where behavior or performance of the agent are difficult to observe for the principal owing to information or knowledge asymmetries (Eisenhardt, 1989). Under these conditions, agents are likely to take actions that benefit themselves at the expense of their principals, which is theorized to be generally welfare-destroying (Arrow, 1985; Jacobides and Croson, 2001). Because professional services involve substantial knowledge and informational asymmetries between professionals and their clients, this relationship can be understood as an agency relationship that is vulnerable to agency problems materializing in the form of the types of professional-client misconduct described above.

Following Eisenhardt (1989), second, Sharma (1997) shifted the focus of analysis from the different types of PSFs providing these services to the different types of governance practices that PSFs employ to contain professional-client agency problems.

Specifically, Sharma predicted that professional-client agency problems are less likely to occur in PSFs featuring the more informal behavioral governance practices reminiscent of the community and peer control practices that traditionally characterized the professions and the P² (Adler et al., 2008; Von Nordenflycht, 2014), while they are more likely to materialize in PSFs featuring the more formal outcome-based governance practices characteristic for the MPB (Mazmanian et al., 2013).

An implicit assumption in Sharma's professional-agency model, however, is that professionals at different career stages are similarly susceptible to PSFs governance practices. This assumption is unlikely to hold, however, because classic professions like law and accounting are highly stratified in terms of educational and professional status and occupational-hierarchy (e.g. Dinovitzer and Garth, 2007; Rivera, 2012; Wilkins et al., 2007). In law firms specifically, this stratification is continuously reproduced by hiring processes in which firms select candidates on educational credentials-based status (Rivera, 2012), and by promotion practices that produce the hierarchically differentiated career patterns that are well documented in the literature (Morris and Pinnington, 1998).

Starting their careers as interns working under the professional responsibility of seniors, lawyers go through a number of well-defined hierarchical ranks and may ultimately end up as owner-partners of the firm through a set of internal promotion practices that in many respects resembles a tournament (Greenwood and Empson, 2003). As a result of these career patterns, professionals develop their professional identities (Dinovitzer et al., 2014, 2015) and face different incentives as they progress through different occupational strata within the law firms employing them, which makes them differentially susceptible to different governance practices at different stages of their careers.

Below, we first hypothesize how informal behavioral and formal outcome-based governance are likely to affect the occurrence of professional-client misconduct in law firms. We then move beyond detailing a first empirical test of Sharma's generic predictions by explaining why informal behavioral and formal outcome-based governance are likely to have different effects for lawyers at different stages of their career (Dinovitzer et al., 2014, 2015; Kaplan and Whitecotton, 2001; Ponemon, 1990). Specifically, we argue that senior lawyers are likely to be more receptive to informal behavioral governance, while junior lawyers are more vulnerable to the adverse effects of formal outcome-based governance. Developing this career stage specific approach to PSF governance further, we also explain how firm reputation may function as a self-enforcing informal governance mechanism for constraining senior professional behaviors (Susenso and Pinnington, 2017), while intensive coaching of junior professionals may have professional-client misconduct mitigating effects owing to its role in transferring professional knowledge and behavioral expectations (Empson, 2007; Empson and Langley, 2015; Treviño et al., 1999).

Hypotheses development

The effect of informal behavioral governance

In both the literature on the professions (Freidson, 1986; Parsons, 1939) and the early PSF literature (Greenwood et al., 1990), professional peer monitoring has always played a central role (Adler et al., 2008). The P² archetype, for example, was theorized to be a

functional response to the difficulties involved in managing and controlling professionals, who require professional autonomy (Briscoe, 2007; Malhotra et al., 2006) in order to assure the quality and integrity of their services (Levin and Tadelis, 2005; Sharma, 1997). To optimally facilitate professional autonomy, the P² archetype featured informal peer monitoring as the main governance practice to control professionals (Robertson and Anderson, 1993; Sharma, 1997), who spend most of their time working with clients at a highly decentralized organizational level (Adler et al., 2008; Empson and Chapman, 2006).

The informal behavioral governance practice of peer monitoring was argued to be most suitable for professionals because of the informational complexities (Jacobides and Croson, 2001) of the professional task environment (Robertson and Anderson, 1993; Sharma, 1997). As professionals habitually work in teams at the professional-client interface (Maister, 2012), their performance is difficult to observe higher up in the firm hierarchy, and very hard to codify in terms of easily measurable and readily applicable output criteria (Eisenhardt, 1989). Professional peers, however, are usually able to acquire the information required for peer monitoring directly from the process through which professional services are customized and delivered to the clients (Groysberg and Lee, 2009; Malhotra and Morris, 2009). This not only makes it easy for professionals to monitor each other's behavior in an ongoing fashion, but professionals working together also have the knowledge and understanding required to appropriately interpret and evaluate the behaviors observed (Malos and Campion, 2000; Ram, 1999). Because of these knowledge and informational advantages of informal peer monitoring compared to formal outcome-based controls (Anand et al., 2007; Teece, 2003), informal behavioral monitoring by peers is likely to be most effective in reducing professional-client misconduct (Robertson and Anderson, 1993; Sharma, 1997). We hence hypothesize:

Hypothesis 1: Lawyers working for law firms that feature more informal behavioral governance practices are less likely to engage in professional-client misconduct.

The effect of formal outcome-based governance

Changes in the economic and social environment, (de)regulation, and shifting client preferences (Hitt et al., 2006; Løwendahl, 2005; Maister, 2012; Nachum, 1996) have led to the spread of a more commercial ethos in the professions over the last few decades (Adler et al., 2008; Cooper et al., 1996). Responding to these changes, PSFs have adopted more commercial business policies and organizational practices (Cooper et al., 1996; Empson, 2007; Mazmanian et al., 2013). As a result, many PSFs have moved away from the P² template in the direction of the MPB (Brock, 2006; Cooper et al., 1996), albeit to varying degrees (Malhotra and Morris, 2009). PSFs adhering to the MPB archetype feature more (outcome-based) controls over quality of work and productivity of staff, greater emphasis on coordinated marketing activities and more elaborate and centralized financial systems (Cooper et al., 1996).

These outcome-based governance practices typically involve the use of formal procedures and explicit performance targets on the basis of which individual professionals are appraised in standardized ways at regular intervals (Kohli and Kettinger, 2004; Vaaler and McNamara, 2004). Various scholars have warned against the risks involved with

these practices with respect to the quality and integrity of professional services (Jacobides and Croson, 2001; Lander et al., 2017a). One researcher even concluded that: 'break-downs in professional behavior can be directly linked to the increasing rates of competition, size, and complexity and the associated adoption of more formal management structures' (Greenwood, 2007: 193). There are several reasons why formal outcome-based governance practices may increase the risk of professional-client misconduct materializing in relationships between professionals and their clients (Jones, 1990; Sharma, 1997).

First, as Frank et al. (1993) have shown, the use of individual output targets may trigger a more calculative mode of deliberation in professionals, which not only negatively affects cooperative dispositions (Frank et al., 1993), but may also increase the prevalence of unethical behaviors (Frank and Schulze, 2000). This situation is exacerbated, second, when the drive for efficiency and superior profitability are monitored and controlled at the practice area level (Cooper et al., 1996), which may pressure professionals to achieve the targets set, potentially forcing them to compromise on quality and increasing the risk of misconduct (Greenwood, 2007). Third, the use of outcome-based governance across different practice areas to secure optimal financial performance (Lorsch and Tierney, 2002) may compromise the professional autonomy required to appropriately balance stakeholder interest (Mazmanian et al., 2013; Ram, 1999) in order to realize firm-level financial goals. We therefore expect formal outcome-based governance practices (Robertson and Anderson, 1993; Sharma, 1997) to increase the prevalence of professional-client misconduct:

Hypothesis 2: Lawyers working for law firms that feature more formal outcome-based governance practices are more likely to engage in professional-client misconduct.

Career stage dependent receptivity to governance practices

While Hypotheses 1 and 2 constitute a first empirical test of Sharma's (1997) professional-agency-theoretical predictions on the mitigating (exacerbating) effects of informal behavioral (formal outcome-based) governance on the prevalence of professional-client misconduct, we also seek to extend Sharma's model. We do so by arguing that the two types of governance may have different effects on lawyers at different career stages (Gibson, 2003; Pinnington, 2011), owing to their differential receptiveness to informal behavioral and formal outcome-based governance. Because a proper understanding of career stages in law firms is dependent on the legal institutions in a country, we now contextualize our theoretical predictions to the Dutch legal profession.

In the Netherlands, law school graduates are required to do a mandatory internship with a law firm for the first three years of their employment. In the first two years, interns are mostly involved in coursework and professional training while working under the authority of a senior lawyer acting as a principal. In practice, interns become independently involved in client cases only from the third year onwards. Upon completion of their internship, interns are admitted to the Bar as certified lawyers and hired by law firms; first as an untenured junior associate and usually from five years onwards as an untenured senior associate. After about eight years, a decision is made to admit a

lawyer to the partnership or not. Similar to the UK (Morris and Pinnington, 1998), Dutch law firms increasingly allow senior lawyers to stay on as a salaried associate if not admitted to partnership. In either case, these lawyers are retained as tenured senior professionals.

Career stage dependent effects of informal behavioral governance. Informal behavioral governance practices are likely to differentially affect the prevalence of professional-client misconduct among junior and senior lawyers for three reasons. First, the ethical stance of professionals will differ between senior and junior professionals owing to their different positions in the firm, which ‘are likely to engender different ethical proclivities’ (Ponemon, 1990: 209). Although juniors are informationally best situated to observe unprofessional behaviors that their team members engage in, they are less likely than seniors to hold team members accountable because they may feel that this is the role of the seniors leading the team (Maister, 2012).

Regardless of their formal position, second, juniors may also feel that they lack the professional status or authority to hold their peers accountable because they have not yet sufficiently developed their professional identities to do so with confidence. This contrasts strongly with senior professionals, who have developed their professional identities more strongly over time, and who thereby become both more willing and able to informally hold their peers accountable for unprofessional behaviors (Kaplan and Whitecotton, 2001).

Third, seniors are more likely to informally hold each other accountable for reasons having to do with the internal dynamics between senior professionals within PSFs. Partners are eager to informally scrutinize each other’s behavior, because peer monitoring is often the only way in which partners can ameliorate the chance of professional-client misconduct being committed by their peers (Brivot, 2011; Teece, 2003). Historically, lawyers in a classic unlimited Professional Partnership were jointly and severally liable for each other’s liabilities (Greenwood and Empson, 2003). Although the strong incentives to engage in peer monitoring were muted with the introduction of forms of limited liability in professional partnerships, King and Clarkson (2015) argue that as owners, partners not only remain motivated, but also have the knowledge and understanding required to engage in effective peer monitoring. According to Ponemon (1992), partners are better able to engage in informal peer monitoring because they share comparable levels of ethical reasoning and a similar perspective on ethical dilemmas. They are also well positioned to understand the potential consequences that the resolution of dilemmas may have for the firm and its owners. Finally, partners tend to informally monitor and coach non-partner senior professionals more intensively, especially those whom they are grooming for promotion to partnership (Dirsmith et al., 1997). Because of their more senior role in the firm and their more developed abilities to engage in and be subject to informal peer monitoring, senior lawyers tend to be more receptive to informal behavior-based governance practices than juniors (Kaplan and Whitecotton, 2001):

Hypothesis 3: For senior lawyers, informal behavioral governance practices are more effective in mitigating the propensity to engage in professional-client misconduct than for junior lawyers.

Career stage dependent effects of formal outcome-based governance. Although the resistance of professionals to outcome-based governance has been argued to limit the efficacy of formal governance in PSFs (Løwendahl, 2005), we believe that lawyers at different stages of their career are likely to be differentially susceptible to the type of formal outcome-based governance practices that many contemporary PSFs have adopted (Cooper et al., 1996; Empson, 2007). These formal outcome-based practices result in competitive pressures that will be experienced differently by junior and senior lawyers, as evidenced by Dinovitzer and colleagues (2014).

This is, first, because senior and junior lawyers face different opportunities to resist formal outcome-based controls. As Zardkoohi and colleagues (2011) observe, everything depends on how easily one can walk away from the firm. On the one hand, senior professionals with a lot of experience, who are directly involved in client relations are valuable 'walking assets' for any PSF (Spar, 1997). If they leave, they are not only difficult to replace, but their clients may follow and valuable relational capital and tacit knowledge will be lost to the firm (Broschak, 2001; Greenwood and Empson, 2003). As a result, senior professionals are both better able and more likely to resist formal outcome-based governance, and less likely to compromise on the quality of their work, their clients' interests, or their personal reputation (Suddaby et al., 2008). Junior lawyers, in contrast, are not only more easily replaced, but their lower levels of experience and reputation make them more uncertain about their labor market prospects, especially when they have to leave a firm prematurely. As a result, juniors have fewer options to resist and are more likely to submit to formal outcome-based performance targets (Dinovitzer et al., 2014, 2015).

Second, the mitigating effects of the 'professional ethos' that continues to be important in the legal profession (Robertson et al., 2003) are likely to differ with career stage. Professional values (Fasterling, 2009) will become more strongly embedded in a lawyer's professional identity over time, thereby enabling seniors to make better moral judgments in difficult situations (Barnet and Karson, 1987) and engage more effectively in self-monitoring than juniors (Fama and Jensen, 1983). The fact that Dinovitzer and colleagues (2014) found that lawyers display different professional identities across career stages further supports this finding. These identities affect their ethical decision-making, making more senior lawyers less susceptible to formal firm-level outcome-based pressures. Reay and Hinings (2009) corroborate this view by finding that seasoned professionals are indeed better able to productively manage the tensions stemming from the conflict between professional and commercial goals. Junior lawyers in contrast, have less developed professional identities and are therefore less able and likely to prioritize professionalism over formal outcome-based performance targets:

Hypothesis 4: For junior lawyers, the aggravating effects of formal outcome-based governance practices on the propensity to engage in professional-client misconduct will be stronger than for senior lawyers.

Developmental work experience and reputation

In addition to investigating the differential susceptibility of professionals at different career stages to different governance practices, we also investigate the effects of two career stage specific governance practices on the prevalence of professional-client misconduct.

Socialization of junior professionals through developmental work experience. As PSFs are critically dependent on human capital (Greenwood and Empson, 2003; Hitt et al., 2006), they typically rely on a unique set of HR practices in order to maintain the quality and integrity of their human capital base. In addition to rigorous selection and internal ascension to ownership procedures, these also include the socialization of juniors. Socialization is not only instrumental in disseminating difficult-to-codify knowledge to juniors, but it is also the most important channel through which normative expectations of appropriate professional behavior are communicated and enacted (Empson, 2007; Empson and Langley, 2015; Treviño et al., 1999). As such, Wilkins and Gulati (1996: 541) conceive the apprenticeship model as the ‘Royal Jelly’; providing juniors that are more intensively socialized by seniors a better chance at a successful career.

Many law firms feature comprehensive socialization practices, in which juniors are carefully groomed into professionalism by offering them developmental work experience under close supervision of seniors (Richter et al., 2008). In other law firms, juniors are left grinding on detailed pieces of a bigger puzzle that they do not comprehensively understand, while being monitored on output and billable hours by the seniors assembling the puzzle. As such, they are not given much developmental work experience, while the coaching and supervision they receive from seniors is minimal (Richter et al., 2008). In such law firms, juniors are less likely to be infused with professional norms and values than in the former (Brown et al., 2005). These differences in socialization are likely to affect the ethos and behaviors of juniors, in that juniors enjoying more mentoring and developmental experience are less likely to be involved in professional-client misconduct than those left to their own devices (Treviño and Weaver, 2003):

Hypothesis 5: For junior lawyers, socialization through developmental work experience will mitigate the propensity to engage in professional-client misconduct.

Reputation as a self-enforcing constraint for senior professionals. For seniors, in contrast, the reputation of a law firm may serve as a powerful self-enforcing constraint on professional-client misconduct (Alvesson, 2001; Sharma, 1997). Law firms are critically dependent on their reputation for securing access to high quality human capital, attracting and retaining clients, and charging premium fees for their services (Greenwood et al., 2005). In markets where the quality and integrity of services are difficult for clients to assess, reputation is a powerful signal for both (Connelly et al., 2014; McKenna, 2008; Morgan and Quack, 2005). Like brand value, reputation is a critical intangible asset for law firms (Sharp, 1996).

Because in professional services firm reputation is built and destroyed through repeated transactions with clients, it plays a disciplinary role in assuring the quality and integrity of services delivered by professionals (Dixit, 2004). This is because the value of future transactions and premium fees foregone provides powerful incentives not to jeopardize the firm’s reputation by behaviors that hurt client interests today (Klein and Leffler, 1981). Greenwood and Empson (2003) understand reputational losses as a type of agency cost, the avoidance of which is ‘considered as the major preoccupations of many partners in law firms’ (Susenso and Pinnington, 2017: 211).

The disciplining effect of firm reputation is not only likely to work for the partners, but also for senior associates, who have a longer-term interest in the firm, particularly

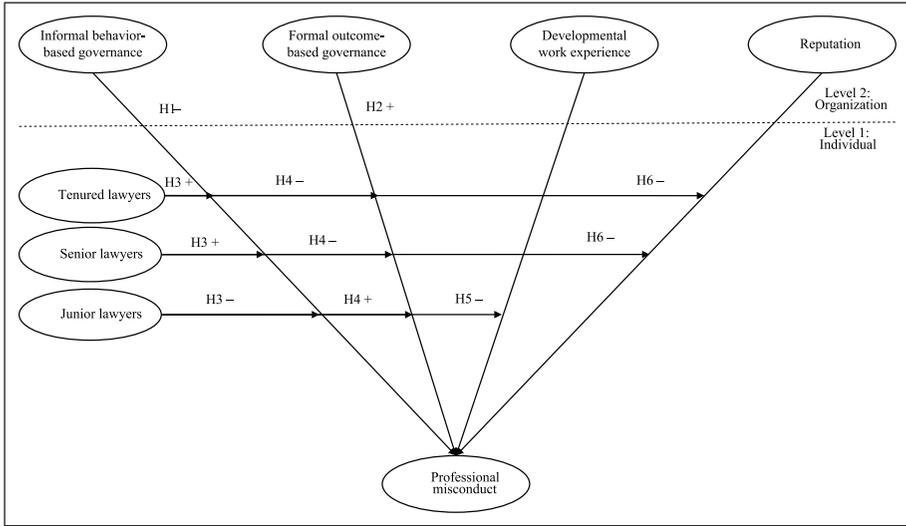


Figure 1. Research model.

those who are close to the promotion-to-partner decision. Even though the chances of making it to partner are relatively small, the gains from achieving partner status are sufficiently high to not want to jeopardize firm reputation by being involved in professional-client misconduct just before the promotion-to-partner decision is being made. For tenured seniors, their employment with a reputable firm may be at risk, which provides superior status and a higher salary than employment with a less reputable firm:

Hypothesis 6: For senior lawyers, the reputation value of the law firm will mitigate the propensity to engage in professional-client misconduct.

Together, these six hypotheses form a single multilevel conceptual model detailing: (a) the influence of firm-level governance on individual professionals’ propensity to engage in professional misconduct (Hypotheses 1 and 2), and (b) moderating effects of the career stage of individual professionals on the effectiveness of firm-level governance (Hypotheses 3 through 6) (see Figure 1).

Methods

Empirical context

To test our hypotheses, we compiled a multilevel dataset consisting of lawyers (‘level 1 observations’; Raudenbush and Bryk, 2002) nested in Dutch law firms (‘level 2 observations’). For our dependent variable, which in multilevel work is always measured at level 1 (Snijders, 2011), we hand-collected all validated complaints raised by clients against lawyers registered with the Amsterdam Bar Association, the largest jurisdiction in the Netherlands. The Netherlands provides a suitable context for our research for a number of

reasons. First, in the Dutch context, professional misconduct cases are handled by the Deacons of local district courts. Accurate records are kept of all complaints filed. The data on complaints that we use in our study therefore provide a complete and accurate account of professional-client misconduct surfacing in our sample during our observation window. Second, whereas non-lawyer ownership of law firms is allowed in contexts like Australia and the UK, internal ownership by professionals is still mandatory in the Netherlands. This rules out ownership structure as a potentially confounding factor in explaining lawyer misconduct. This is important, because at present the question whether ownership form affects firm performance and professional behaviors is a highly contested issue (Pickering, 2017). Proponents of the partnership model argue that incorporation will lead to ritualistic box-ticking in terms of ethics management. Alternatively, proponents of the incorporated legal form argue that it provides a means to re-infuse law firms with ethical values (Parker, 2004; Parker et al., 2010). Third, since we are not only interested in individual effects on professional misconduct, but also in the firm-level effects of governance (Kish-Gephart et al., 2010; Muzio et al., 2016), we need sufficient variety in informal behavioral and formal outcome-based governance practices across PSFs. Prior research has shown that Dutch law firms are highly versatile in this respect (Lander et al., 2017a).

Level 1 data sources and variables

Dependent variable: Validated complaints. We use archival data in the form of a count variable capturing the number of validated complaints filed against lawyers registered with the Amsterdam Bar Association in the years 2008/2009 and 2009/2010 to capture cases of professional-client misconduct. These complaints are grouped in three categories: mistreatment of the client, issues related to the quality of the legal services provided, and disputes related to (over)billing and other financial matters. We focus on validated complaints only, as these involve independently verified cases of professional-client misconduct. In total, 97 client-related complaints were recorded during our observation window. The number of validated complaints per individual lawyer in our sample ranged from 0 to 4. Three validated complaints were raised against interns, eight against junior associates, 13 against senior associates, and 73 against partners.

Level 1 independent variables: Career stage. Our hypotheses predict that the effectiveness of governance practices differs with organizational rank. As information about organizational rank is not included in the archival (level 1) part of our dataset, we used the internet repository service Wayback Machine (<https://archive.org/web/>) to determine organizational rank. We were able to conclusively score 2272 lawyers (75.9%) on this variable. For the 722 lawyers (24.1%) for whom rank information was not publicly available, rank was assigned using a set of criteria deriving from Dutch labor law. We classified someone as an *intern* when they had less than two years' work experience. When organizational tenure ranged between two and four years, and the persons involved had a maximum total work experience of five years, we classified them as a *junior lawyer*. We applied a five-year experience cap to correct for possible horizontal mobility and avoid assigning experienced lawyers to a rank below their station. *Seniors lawyer* are lawyers with four to eight years of organizational tenure and a maximum of nine years'

experience. We set the boundaries for this category based on our recorded survey responses, in which it was indicated that the average duration of a person's time to partnership was 7.7 years. Finally, we classified someone as a *tenured lawyer* when their organizational tenure was eight years or more.

Level 1 control variables: Experience. To capture individuals' experience in practicing law, we measured the time elapsed since their admission to the Dutch Bar Association. The data were provided by the Dutch Bar Association, and recorded time elapsed since first admission to the Bar minus periods of temporary inactivity owing to parental or sick leave, for example. **Number of Chambers' ranking citations.** We controlled for individual lawyer reputation effects by counting the number of times a lawyer was cited as being top of their field in their respective specializations by Chambers & Partners (www.chambersandpartners.com). **Number of side positions.** To capture social influence, we included a variable measuring the number of side positions a lawyer held at the time of the study. Examples include professorial appointments at law schools and director positions on company or charity boards. We mean-imputed missing data, which was the case for 24% of the lawyers in our sample. **Number of legal specializations.** To control for specialist-generalist effects, we counted the number of legal specializations on an individual basis. This information was taken from law firms' websites. When law firms did not report specialization information, we mean-imputed the missing value. Mean imputations were necessary for 13% of our sample. **Gender.** The Dutch Bar Association provided us with gender information, which we used to correct for possible gender-related differential risk propensities to engage in professional misconduct (Cumming et al., 2015). **Number of prior positions.** To control for mobility effects, we included a count variable capturing the total number of prior positions at other law firms held by a lawyer. Mobility data were obtained from the Dutch Bar Association. **Age.** Provided by the Dutch Bar Association, we used age to control for possible non-experience-related effects.

Level 2 data sources and variables

Firm-level data were collected by means of a survey instrument sent to all 356 firms employing two or more lawyers located in the Amsterdam district court jurisdiction. We obtained complete responses from 142 law firms, representing a level 2 response rate of 39.89%. The firms in our sampling window jointly employed 3889 lawyers, of which 2994 were affiliated with the firms in our sample, yielding a level 1 sample covering 76.99% of the total population. The breakdown of our level 2 sample over the various size strata represented in our sampling window is provided in Table 1.

Survey design and administration. For law firms, data on firm-level variables are difficult to obtain from archival sources, as these firms are subject to very limited disclosure obligations. We therefore developed a survey instrument. When possible, we relied on previously validated psychometric scales (Babbie, 2004; Dillman, 2007). In case scales were unavailable, we relied on canonical scale development procedures to ensure construct validity (Hinkin, 1998; Nunnally, 1978; Steenkamp and van Trijp, 1991), involving: (1)

Table 1. Level 2 sample demographics.

Organization size	Sampling frame	In sample	Percentage
2–5 lawyers	231	57	24.7%
6–20 lawyers	94	58	61.7%
20–60 lawyers	18	14	77.8%
> 60 lawyers	13	13	100%

inductive and deductive item generation, (2) content validity assessment and item reduction with the help of an expert panel consisting of 10 academics specialized in strategy and organization and 10 practicing lawyers, (3) internal consistency assessment, (4) confirmatory factor analysis (CFA) for goodness of fit assessment, and (5) convergent/discriminant validity assessment. All variables were measured with seven-point Likert scales, where 1 always represented ‘strongly disagree’ and 7 ‘strongly agree.’

To obtain level 2 variable scores, we used an online survey design using Globalpark survey administration software (www.questback.com). Our research was endorsed by the Dutch Bar Association (www.advocatenorde.nl). Early in 2008, they provided us with a mailing list of all lawyers admitted to the Bar in the Netherlands. We sent out two waves of electronic surveys. Both waves were completed before the two years for which we collected complaints data started. The first wave resulted in 211 responses that were fully completed by lawyers affiliated with law firms registered in the Amsterdam district. The second wave was sent out as a reminder two weeks later, and provided us with an additional 196 responses. Jointly, these 407 lawyers represented 142 law firms from the Amsterdam district.

Multiple respondents. As we administered our survey at the individual level, we on average obtained more than one response per firm. To establish whether it would be appropriate to use averaged responses, we calculated the rate of respondent agreement across all multi-item level 2 scales. We computed the agreement ratio $r_{wg(j)}$ recommended for this purpose by James et al. (1984).¹ LeBreton and Senter (2008) proposed that aggregation is acceptable when agreement ratio values exceed 0.70. In our case, the agreement ratio was 0.86 across all scales. We concluded that aggregation was appropriate, and thus based our empirical estimates on the average score per firm. As our level 2 variables are based on self-reported data, they may be subject to socially desirable or self-aggrandizing responses. Although we cannot completely rule out this effect, we follow Nederhof’s (1985) steps to reduce its impact. First, the survey was anonymous and online, ensuring that the reported score could not be traced back to individual lawyers. Second, our scales asked respondents to rate firm-level attributes rather than individual-level attributes. These two measures served to reduce the level of social desirability and self-aggrandizing biases in our results.

Level 2 independent variables Informal behavioral governance. We used a self-constructed scale to measure informal behavioral governance, which contained sample items like: ‘In my firm it is completely normal for coworkers to point out potential mistakes

or inappropriate behavior to each other' and 'In my firm, there is significant informal information exchange in relation to the goals set by the organization.' The scale proved adequately reliable ($\alpha = .74$), and the level respondent agreement was satisfactory ($r_{wg(j)} = .80$). **Formal outcome-based governance.** To capture the extent to which PSFs have moved towards more formal forms of monitoring (Pinnington and Morris, 2003), we developed a new scale, based on an existing scale (Rogers et al., 1999), which scrutinizes whether cost and revenue targets are used, whether financial, budgeting and quality control systems are in place, and how strict work is coordinated across the organization. Sample items include: 'We use tight budget controls' and 'Planning helps us achieve coordination of goals and projects within our firm.' The scale showed good internal consistency ($\alpha = .88$) and a high level of respondent agreement ($r_{wg(j)} = .88$). **Developmental work experience.** To capture the extent to which junior lawyers were socialized into the profession by seniors through mentoring, we used the 4-item 'developmental work experience' scale developed by Malos and Campion (2000). The scale captures the extent to which interns and junior associates are granted professional autonomy in combination with close supervision by seniors. Sample items include: 'In our organization, interns are quickly assigned their own case' and 'In our organization interns are quickly given client responsibilities.' The scale showed excellent reliability with a Cronbach's α of .90. Additionally, the level of agreement among respondents affiliated with the same firm was adequate ($r_{wg(j)} = .77$). **Organizational reputation.** We measured law firm reputation by using the scale developed by Combs and Ketchen Jr (1999), which includes items like: 'How well respected is this company?' and 'How strong is this company's reputation for consistent quality and service?' The scale proved internally consistent ($\alpha = .90$), while the level of respondent agreement was high ($r_{wg(j)} = .91$).

Level 2 control variables **Human capital.** Using a five-item scale developed by Subramaniam and Youndt (2005), we captured the quality of law firms' human capital base. It includes items such as: 'Our lawyers are highly skilled' and 'Our lawyers are experts in their particular area and function.' Internal reliability analysis revealed a high degree of inter-item correspondence ($\alpha = .92$), and the level of respondent agreement was high ($r_{wg(j)} = .92$) (see Appendix A for the complete survey instrument, available online as supplementary material). **Firm diversification.** We measured diversification based on a list of 17 legal specializations recognized by the Dutch Bar Association. We asked our respondents to indicate the practice areas in which their firm was active and turned this count variable into a 0–1 index by dividing it by 17. For example, if a firm is active in all admissible areas, it scores $17/17 = 1$. **Organizational age.** We used a survey item asking for the number of years elapsed since the firm's founding to capture organizational age. **Organizational size.** We used an archival measure for organizational size, provided to us by the Dutch Bar Association, capturing the number of lawyers currently active in the firm.

Construct validity and reliability

Convergent/discriminant validity. Using CFA, we tested whether our measurement model showed sufficient convergent validity by assessing whether the items of each scale were positively and significantly related (Carmines and Zeller, 1979). CFA shows that all

factor loadings of the items on their associated latent variables are large and significant (Steenkamp and van Trijp, 1991). Moreover, our model showed good fit with the data ($\chi^2 = 1379.56$; d.f. = 314; $p < 0.01$; Comparative Fit Index (CFI) = .939; Root Mean Square Error of Approximation (RMSEA) = .092; Non-Normed Fit Index (NNFI) = .932 and Standardized Root Mean Square Residual (SRMR) = .0892). We assessed the discriminant validity of our constructs to ensure that they measured theoretically distinct concepts (Carmines and Zeller, 1979). We did so by comparing the fit of an unconstrained CFA model with that of a CFA model in which a pair of constructs is constrained to unity (made to correlate fully by setting the covariance between two latent constructs to 1). If the unconstrained model consistently demonstrates better fit, as measured by a lower chi-square value, discriminant validity is established. This proved to be the case for all possible pairs of latent constructs.

Hierarchical linear modeling procedure

We used Hierarchical Linear Modeling (HLM) to test our hypotheses, as we were interested in explaining individual lawyers' propensities to become involved in professional-client misconduct using both individual-level and organizational-level predictors. In HLM, it is essential to assign precise meaning to the variables included in the analysis, as in hierarchical models the level 1 intercept and slopes become outcome variables at level 2 (Raudenbush and Bryk, 2002). We thus chose to grand-mean center all continuous and ordinal variables at both level 1 and level 2 (Miller and Chapman, 2001). After grand-mean centering, the intercept can be interpreted as an adjusted mean for the level 2 unit to which a given level 1 subject belongs. To ensure the interpretability of our estimates for dichotomous variables, we left these uncentered.

Our dependent variable is a non-normally distributed count variable, such that the application of regular HLM techniques could lead to erroneous conclusions (Snijders and Bosker, 1999). Given that complaints are a rare event, the complaints distribution's variance is driven by its mean. In such instances, multilevel Poisson regression is the most appropriate modeling technique, as the Poisson distribution is an approximation of the binomial distribution for the situation in which the number of 'trials' (i.e. the number of lawyers at risk of receiving a validated complaint) is large and the 'success' probability (i.e. lawyers actually receiving a validated complaint) is low (Cameron and Trivedi, 1998). Poisson regression approaches a binomial distribution by estimating a separate parameter for a binary distribution that captures so-called structural zeros, in addition to a Poisson distribution that generates complaints counts. We estimated our models using the multilevel Poisson regression routine in the HLM6 data analysis suite (Raudenbush et al., 2004).

Results

Multilevel Poisson regression results

Table 2 shows the descriptive statistics for our two-level data. Table 3 presents the results of our multilevel Poisson regression. Model 1 presents the effects of the level 1 control variables, model 2 adds the *main* effects of our career stage moderator at level 1. Model 3

Table 2. Descriptive statistics.

Level 1 variables	Mean	SD	1	2	3	4	5	6	7	8	9	10	11	12
1. Complaints	.03	.21												
2. Intern lawyer	.18	.38	-.06											
3. Junior lawyer	.25	.43	-.06	-.27										
4. Senior lawyer	.17	.38	-.02	-.21	-.26									
5. Tenured lawyer	.40	.49	.11	-.38	-.47	-.37								
6. Experience	9.27	8.63	.11	-.43	-.40	-.13	.79							
7. Male	.59	.49	.04	-.12	-.13	-.03	.23	.26						
8. # of previous jobs	.47	.75	.04	-.27	-.20	.14	.28	.21	.07					
9. Age	36.91	9.62	.12	-.40	-.36	-.11	.71	.89	.27	.22				
10. # Chambers ranking citations	.14	.41	-.03	-.14	-.16	-.06	.29	.23	.12	.04	.18			
11. # of side jobs	1.01	1.23	.02	-.15	-.12	-.02	.24	.24	.10	.09	.23	.10		
12. # of law specialization	2.44	1.42	.06	-.05	-.06	-.02	.11	.12	.09	.01	.13	.08	.10	
Level 2 variables	Mean	SD	1	2	3	4	5	6	7	8				
1. Formal outcome-based governance	4.47	1.05												
2. Organizational size	21.12	38.70	.40											
3. Organizational diversification	.38	.20	.24	.50										
4. Organizational age (log)	1.05	.52	.07	.48	.42									
5. Human capital	5.57	.82	.32	.22	-.14	-.02								
6. Developmental work experience	5.37	1.28	-.14	-.14	.06	.04	.01							
7. Informal behavior-based governance	5.04	.99	.34	-.03	-.08	-.07	.38	.10						
8. Organizational reputation	5.58	.89	.15	.22	-.10	.05	.67	-.01	.10					

SD = standard deviation.

additionally shows the effects of our level 2 control variables. Model 4 presents the *main* effects of the informal behavioral and formal outcome-based governance, as well as the *main* effects of organizational reputation and developmental work experience. In models 5 through 7 we report the subgroup effects for junior, senior, and tenured lawyers, respectively, of the governance practices that we investigate in this study, thereby presenting the career stage dependent effects for each governance practice. Model 8 presents the full model, and allows for a comparison of these effects between career stages.

Hypothesis results

In our hypotheses development, we distinguish between career stage independent and career stage dependent effects of governance practices in law firms. Beginning with the career stage independent effects, we hypothesized that informal behavioral

Table 3. Results of multilevel Poisson regression.

	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6	Model 7	Model 8
Intercept	-2.82***	-4.34***	-4.44***	-4.42***	-4.55***	-4.59***	-4.59***	-4.68***
Informal behavior-based governance x Tenured lawyer							.32	-1.58***
Formal outcome-based Governance x Tenured lawyer							.14	.80***
Organizational reputation x Tenured lawyer							.09	-.37
Informal behavior-based governance x Senior lawyer						-.68†		-2.29***
Formal outcome-based governance x Senior lawyer						-.18		.65***
Organizational reputation x Senior lawyer						-.82*		-1.16*
Informal behavior-based governance x Junior lawyer					-.03			-1.66***
Formal outcome-based governance x Junior lawyer					1.01**			1.52***
Developmental work experience x Junior lawyer					-.48*			-.49**
Career-stage dependent governance								
Organizational reputation				-.18	-.18	-.12	-.25	.22
Developmental work experience				.09	.12	.09	.09	.12
Career-stage independent Governance				.32**	.33**	.36**	.06	1.94***
Informal behavior-based governance				-.16	-.19	-.10	-.27†	-.91***
Formal outcome-based governance								
Level 2 controls								
Human capital			-.70***	-.71***	-.73***	-.70***	-.71***	-.72***
Organizational diversification			-.29	-.45	-.45	-.40	-.45	-.31
Organizational age			-.47†	-.47†	-.48†	-.46†	-.46†	-.47†
Organizational size			-.01**	-.01*	-.01*	-.01*	-.01*	-.01*

Table 3. (Continued)

	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6	Model 7	Model 8
<i>Level 1</i>								
<i>Career-stage effect</i>								
Tenured lawyer: tenure >8 years		2.12***	2.07***	2.03**	2.01***	2.14***	2.08***	2.33***
Senior lawyer: tenure 4–8 years; max. experience 9 years		1.55***	1.57***	1.56**	1.56*	1.25†	1.58*	1.45*
Junior lawyer: tenure 2–4 years; max. experience 5 years		.62*	.61	.58	-.14	.59	.67	.22
Intern Lawyer; tenure 0–2 years; max. experience 2 years								
<i>Level 1 Controls</i>								
Experience	.03***	-.01	-.01	-.01	-.01	-.00	-.00	-.01
Frequency chambers ranking	-.58***	-.80***	-.48†	-.43†	-.34	-.49†	-.46†	-.42†
Number of side jobs	.05**	.00	-.02	-.01	-.00	-.02	-.01	-.01
Number of law specializations	.10***	.09***	.08*	.09*	.09*	.09***	.09*	.09**
Male	.34***	.31***	.26	.26	.25	.19	.24	.19
Job transfers (cf. experience)	.03	-.17***	-.24***	-.22**	-.21**	-.23**	-.22***	-.23**
Age	.02***	.02*	.01	.01	.01	.01	.01	.01
Level-1 N	2994	2994	2994	2994	2994	2994	2994	2994
Level-2 N	142	142	142	142	142	142	142	142

† <.10 significance level.
 * <.05 significance level.
 ** <.01 significance level.
 *** <.001 significance level.

governance would have a negative overall effect on the occurrence of professional-client misconduct in law firms. Interestingly, however, we find a significant *positive* relationship in model 4 ($\gamma = .32$; $p < .01$). Hypothesis 1 is therefore rejected. We also hypothesized that the use of formal outcome-based governance in PSFs increases the occurrence of professional-client misconduct. We find the career stage independent effect of formal governance to be insignificant in Model 4 ($\gamma = -.16$; NS). Hypothesis 2 is therefore also rejected.

We now turn to the career stage dependent effects, which involve cross-level interactions establishing specific effects of firm-level governance practices on individual-level behavior for each career stage (see Figure 1). We first hypothesized that informal behavioral governance is a more effective against professional-client misconduct for senior than for junior lawyers. In model 8, we indeed find that the attenuating effect of informal behavioral governance is greater for senior lawyers ($\gamma = -2.29$; $p < .001$) than for junior lawyers ($\gamma = -1.66$; $p < .01$), whereas the effect for tenured lawyers is not meaningfully different from that for junior associates ($\gamma = -1.58$; $p < .001$). For juniors (Model 5), the career stage dependent effect of informal governance is insignificant ($\gamma = -.03$; NS) while for seniors (model 6), this career stage dependent effect on professional-client misconduct is negative and significant ($\gamma = -0.68$; $p < .10$). For tenured lawyers (model 7), the career stage dependent effect of informal behavioral governance is insignificant ($\gamma = 0.32$; NS). Thus, Hypothesis 3 receives only partial support. While informal behavioral governance seems ineffective for junior and tenured lawyers, it is effective for senior non-tenured lawyers.

Next, we hypothesized that formal outcome-based governance in PSFs will increase the susceptibility to professional-client misconduct more for junior than for senior lawyers. In model 8, we indeed observe that the aggravating effect of formal governance is greater for junior ($\gamma = 1.52$; $p < .001$) than for senior lawyers ($\gamma = 0.65$; $p < .001$) and tenured lawyers ($\gamma = 0.80$; $p < .001$). The career stage specific effect for juniors (model 5) is positive and significant ($\gamma = 1.01$; $p < .01$), suggesting that formal governance indeed increases professional-client misconduct for junior lawyers. For senior lawyers (model 6) we do not find a significant career stage specific effect of formal outcome-based governance ($\gamma = -0.18$; NS), suggesting no adverse effects for senior lawyers. For tenured lawyers (model 7) we find a positive but insignificant career specific effect ($\gamma = 0.14$; NS). Hypothesis 4 is therefore supported.

Finally, we hypothesized the effects of two specific career stage dependent governance practices. We first predict that more intensive forms of professional socialization through developmental work experience will lead to a reduction of the incidence of professional-client misconduct among junior lawyers. We indeed find this to be the case (model 8; $\gamma = -0.49$; $p < .01$). Hypothesis 5 is therefore supported. We also predict that the value contained in a PSF's reputation would motivate senior lawyers to refrain from engaging in professional-client misconduct. We find the mitigating effect of reputation for senior associates ($\gamma = -1.16$; $p < .05$), but not for tenured lawyers ($\gamma = -0.37$; NS). This finding is further corroborated in model 6 for senior associates, where the interaction effect is significant and negative ($\gamma = -0.82$; $p < .05$), whereas it is insignificant for tenured lawyers in model 7 ($\gamma = 0.09$; NS) Hypothesis 6 is therefore only partially supported.

Control variable results

Level 2 control variables. Firm size is a commonly recognized contingency factor that has been found to influence a wide range of organizational processes in law firms (Malos and Campion, 2000; Muzio et al., 2016; Tolbert and Stern, 1991). Our analyses indeed reveal a size effect, as size negatively affects the propensity of lawyers to engage in professional-client misconduct ($\gamma = -0.01$; $p < .05$). This result goes against the general view that firm size may undermine professional autonomy and raise the risk of ethical problems (Muzio et al., 2016), and calls for further empirical scrutiny (see below). We also detect a contingency effect for firm age; older law firms are less likely to see their affiliates involved in professional-client misconduct than younger ones ($\gamma = -0.47$; $p < .10$). Firm diversification does not affect the propensity to engage in professional-client misconduct ($\gamma = -0.31$; NS), whereas higher quality human capital reduces this propensity significantly ($\gamma = -0.72$; $p < .001$).

Level 1 career stage effects. As a career stage main effect we expect seniors and tenured lawyers to be involved in professional-client misconduct more often than juniors and interns. Client contacts are typically maintained by seniors (Groysberg and Lee, 2009), which creates more opportunities for them to harm client interests. Model 8 shows that this is the case indeed for senior associates ($\gamma = 1.45$; $p < .05$) and tenured lawyers ($\gamma = 2.33$; $p < .001$).

Level 1 control variables. Prior research suggests that lawyers gain experience with practice, which helps them maintain adequate professional conduct (Arnold and Hagen, 1992; Barnet and Karson, 1987). However, we find that experience does not affect the probability of engaging in professional-client misconduct ($\gamma = -0.01$; NS). Similarly, we find no effect for age ($\gamma = 0.01$; NS) while prior research would suggest that ethical behavior increases with age (McDonald and Zepp, 1988). Finally, prior research has documented women to be less likely to engage in misconduct as compared to men (Barnet and Karson, 1987) and that male attorneys are overrepresented in disciplinary court sanctions in the US (Curtis and Kaufman, 2003). We find no such effect for gender ($\gamma = 0.19$; NS). We also find no effect of the number of side positions held ($\gamma = -0.01$; NS). The number of prior positions held has a modest negative effect on the likelihood of engaging in professional-client misconduct ($\gamma = -0.23$; $p < .05$), as does the frequency with which lawyers are cited in the Chambers ranking ($\gamma = -0.42$; $p < .10$). The latter effect is interesting, however, in light of our findings at the tenured lawyer level. While neither firm reputation, nor other forms of firm governance seem effective in preventing tenured lawyers from engaging in professional-client misconduct, their personal reputation does have a mitigating effect. For tenured senior lawyers, therefore, the individual reputation effect dominates the organizational effect. Finally, the number of different legal specializations has a modest positive effect on the likelihood of engaging in professional-client misconduct ($\gamma = 0.09$; $p < .01$).

Discussion

Recently, Leeper Piquero and associates observed that ‘there has been virtually no empirical research on professional malfeasance and sanctioning among those in the legal profession’ (Leeper Piquero et al., 2016: 573). Using a uniquely compiled dataset involving

individual-level data on 2994 lawyers practicing in the Amsterdam jurisdiction, as well as firm-level data on the governance practices adopted by the 142 law firms employing these lawyers, this study has employed a multilevel research design (Kish-Gephart et al., 2010; Muzio et al., 2016) to investigate the effects of behavioral governance and outcome-based governance on the occurrence of 97 cases of professional-client misconduct committed by individual lawyers at different stages of their professional career. Our findings aim to make several contributions to the literature.

A first empirical test of Sharma's professional-agency model

Although Sharma's professional-agency model (1997) has been used both to develop new theory on the causes and consequences of agency problems in professional service contexts (e.g. Adler et al., 2008; Jacobides and Croson, 2001; Malhotra and Morris, 2009), and as a theoretical background assumption in empirically investigating a host of other organizational issues in professional organization, such as managing temporal flexibility of professionals (Briscoe, 2007), the influence of mobile technology on professional autonomy (Mazmanian et al., 2013), and the legitimacy of monitoring the actions and outcomes individual physicians (Kohli and Kettinger, 2004), the predictions that make up the core tenets of his model have not been empirically tested to date. In this study, we not only show the utility of Sharma's professional-agency model in understanding professional-client misconduct as a professional-agency problem, but we have also empirically tested two of this model's core predictions. Specifically, we have further detailed this model's general predictions that formal outcome-based governance in PSFs will increase the prevalence of client-professional misconduct, while informal behavior-based governance will decrease its prevalence.

Our findings challenge Sharma's predictions, however, as we do not find any generic effect of formal outcome-based governance practices on the prevalence of professional-client misconduct, while the generic effect of informal behavioral governance practices that we find is positive rather than negative. This finding not only questions two predictions that constitute the central tenets of Sharma's professional-agency model specifically, but also challenges one of the most deeply held but hardly tested assumptions in the literature on professional organization more generally, that is, the 'orthodox' view that informal behavioral governance is most suitable to professional organization, while formal outcome-based governance is inimical to it.² Thus, although Sharma's professional-agency model was pioneering in that it enabled researchers to zoom in from professional institutions and the wholesale organizational forms of the P² and MPB to the different types of governance practices employed by PSFs to contain professional-agency problems, our findings suggest that Sharma's professional-agency model will still need to be developed further.

The differential receptivity to governance at different professional career stages

The main contribution of this study is that it both refines and builds upon Sharma's professional-agency model. It does so by theorizing and documenting that lawyers at different stages of their professional career are differentially receptive to informal behavioral

and formal outcome-based governance practices (see Dinovitzer et al., 2014, 2015; Kaplan and Whitecotton, 2001; Ponemon, 1990). Our study thereby provides a finer-grained understanding of how these governance practices work across the different ranks normally found within PSFs.

As expected, we find that seniors are more prone to engage in professional-client misconduct than juniors, which likely is owing to their different roles in PSFs and their responsibility for maintaining client contacts specifically. We also document that owing to their superior rank in the firm and their more strongly developed professional identities (Dinovitzer et al., 2014; Kaplan and Whitecotton, 2001; Ponemon, 1992), senior professionals are more receptive than juniors to behavioral governance and the self-enforcing effect of firm reputation (Greenwood and Empson, 2003; Sharp, 1996; Susenso and Pinnington, 2017). Both these more traditional professional governance mechanisms reduce the chance of their involvement in professional-client misconduct. For senior associates, therefore, these governance practices seem an effective way to contain professional-client misconduct.

This is not the case for tenured seniors, however, who seem to be largely immune to any form of firm governance, suggesting that their involvement in professional-client misconduct results more from them being ‘bad apples’ than them coming from ‘bad barrels’ (Kish-Gephart et al., 2010; Muzio et al., 2016). Influencing the behavior of tenured seniors therefore seems to resemble what the late Bente Løwendahl referred to as the “cat herding” problem (Løwendahl, 2005). One factor suggested by our findings that may help to keep tenured seniors from engaging in professional-client misconduct, however, is their *personal* professional reputation (see Table 3 models 1 and 2). Our sample and data do not allow us to further scrutinize the role of personal reputation in containing professional-client misconduct, however, which we therefore have to leave to future research.

Something close to opposite holds true for junior professionals. Because of their subordinate position in the firm (Barnet and Karson, 1987), their higher exposure to competitive pressures (Dinovitzer et al., 2014) and their inferior exit options (Zardkoohi et al., 2011), juniors are more likely to cave in to formal outcome-based governance, and such practices indeed have the net effect of increasing junior involvement in client-professional misconduct. At the same time, however, juniors are less susceptible to the mitigating effects of informal behavioral governance, presumably because their less developed professional identities and subordinate position in the firm do not sufficiently equip them to effectively engage in, and be receptive to, informal peer-monitoring practices.

On the one hand, therefore, juniors are vulnerable to firm-level pressures on their behavior in ways that senior professionals are not. On the other hand, our research shows that specific organizational practices, such as intensive socialization by seniors through which juniors gain developmental work experience (Richter et al., 2008), are effective in reducing their involvement in professional-client misconduct. Because of the efficacy of socialization processes in mitigating organizational pressures on juniors, future research may scrutinize further how different forms of professional socialization may be useful in reducing professional-client misconduct.

Limitations and future research

Like all empirical studies, our study also has limitations and like most studies, an important limitation involves the external validity of our findings. First, our findings are from the Dutch legal profession, which may differ in relevant aspects from the legal professions in other countries. Second, our findings are from law firms, which may differ from PSFs operating in other professions. We have no reason to assume, however, that our findings are not generalizable to PSFs in which clients are similarly exposed to professional-client agency problems, and in which the professional partnership, with its internal ascension to ownership and concomitant career stage dynamics, is the dominant form of ownership. In jurisdictions such as Australia and the UK, however, non-lawyer forms of external ownership have recently been allowed (Pickering, 2015). The incorporation of law firms has been claimed to compromise professional values because of the profit motive. As directors may put pressure on lawyers that in turn can potentially lead to conflicts between lawyers and clients (Petzold, 2009). Whether this is the case remains to be seen, however. With the introduction of the incorporated legal practice in these jurisdictions, regulators required firms to undergo a self-assessment and install appropriate management systems in order to address ethical vulnerabilities, such as those involving conflicts of interest, negligence, and billing practices (Fortney and Gordon, 2012). Research based on the self-assessment, however, has documented that firms that implemented these formal management practices not only received fewer complaints than before their incorporation, but also compared to non-incorporated law firms (Parker et al., 2010). It is unknown, at this stage, whether this effect is owing to a change of culture and associated informal governance practices or because the formal practices introduced. It therefore remains to be seen how this research relates to the findings reported in this study.

Even within classic professional partnerships, however, there is at least one contingency that may call into question both the external and internal validity of our findings: the size of professional partnerships. Unlike the UK or the US, the Netherlands is not home to the largest law firms in the world. Although most of the largest global law firms have subsidiaries in Amsterdam, the true scope of their operations and practices will therefore be unobservable from an exclusively Dutch sample. This not only limits the potential generalizability of our findings to the legal sectors of countries hosting similarly sized law firms as the Netherlands, but it also flags potential issues concerning the internal validity of our results because of possible sample or treatment selection biases.

We have already explained that our findings may be biased owing to the limited presence of globally the largest law firms in our sample (i.e. sample selection bias), but it may also be the case that the largest firms in our sample adopt different governance practices or different combinations of practices (i.e. treatment selection bias) precisely to deal with their larger size and complexity (Empson, 2012). Also, the largest global law firms are likely to hire different types of lawyers and feature more selective internal promotion practices than the smaller firms in our sample (Dinovitzer and Garth, 2007; Dinovitzer and Hagan, 2013), which may affect the findings that we report in this study.

Only future research can address these issues. One avenue that future research could take would be to replicate this study in a jurisdiction hosting a larger proportion of the largest global law firms. Another avenue would be to use research designs that allow for higher levels of confidence in causal inference. Because of data availability issues in the

professions, it is unlikely that research on PSFs will soon or ever be able to collect and use the panel datasets that are now common in research on publicly listed firms. Yet there are methods available, such as endogenous treatment selection models (Lewbel, 2007), advanced matching procedures (Iacus et al., 2012) and other quasi-experimental research designs, that may come a long way in identifying the causal effects of governance practices while using the cross-sectional data that are more likely to be available on PSFs (Morgan and Winship, 2007). We therefore urge future researchers to develop and use such research designs from the onset of their studies to scrutinize these questions further.

Practical implications: Combination or precision therapy?

In spite of its inevitable academic limitations, this study also reports findings that may be practically useful. Because factors at different levels of analysis in professional service industries may be effective in reducing the occurrence of professional misconduct, it has been suggested that the most effective remedy against professional misconduct will most likely involve a ‘combination therapy’ of measures operating at the levels of the profession, the PSFs active in it, and the individual professionals employed in them (Muzio et al., 2016; Schneyer, 2011). The findings from our study, however, suggest an alternative type of remedy: ‘precision therapy.’ Exploiting the multilevel set-up of our research, this study suggests that the orthodox distinction between informal behavioral and formal outcome-based governance practices is too crude to make a practical difference in fighting professional misconduct. Instead, our results suggest that a precision therapy in which governance practices are fine-tuned to and targeted at different strata of professionals, are likely to be more effective in this respect, because such precision therapies take into account the possible treatment effect heterogeneity of governance measures between (strata of) individual professionals. We invite practitioners to start pioneering such practices.

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Notes

- 1 This agreement ratio metric is computed as follows: $r_{wg(j)} = \frac{J \left(1 - \frac{\bar{s}_{x_j}^2}{\sigma_E^2} \right)}{J \left(1 - \frac{\bar{s}_{x_j}^2}{\sigma_E^2} \right) + \left(\frac{\bar{s}_{x_j}^2}{\sigma_E^2} \right)}$ where: $\bar{s}_{x_j}^2$

is the mean of the observed variances for J essentially parallel items; σ_E^2 is the variance expected when there is complete lack of agreement among the judges; and J is the number of items included in the multi-item measure (James et al., 1984).

- 2 We thank anonymous reviewer 3 for the suggestion that our findings also have implications for this more general ‘orthodox’ view.

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