THE FISHER KING

A bold new restaurant in the Seaport District is the crowning achievement for Legal Sea Foods CEO

ROGER BERKOWITZ,

who rules New England's fishing industry and likes nothing better than getting into hot water.

BY KRIS FRIESWICK
PHOTOGRAPHS BY DAVID YELLEN

"DID HE TELL YOU ABOUT THE FISH POND YET?" ASKS RICH HELLER,

leaning forward on the table, nervously tapping his finger on its surface.

It's April, just a few days after Legal Sea Foods has opened its new Harborside location, and Heller, the restaurant chain's general counsel, is sitting up against a window in a far corner of the cavernous, industrial-chic restaurant.

Heller has known Legal's president and CEO, Roger Berkowitz—his boss—since they were in elementary school. Back in fifth grade, he remembers Berkowitz launching massive food fights in the school cafeteria. Today, Berkowitz is creating a less literal version of a food fight—a 30-inch-deep fish pond in the restaurant's foyer, a pond from which children will catch and release live trout. "There wasn't one person in the room who thought it was a good idea," Heller says of the meeting when Berkowitz announced his plan for the pond. Berkowitz envisions a fun activity that will teach children to appreciate where their food comes from, all while creating a new generation of customers. But Heller, the company lawyer, envisions children—traumatized by their first encounter with wet, slippery fish—screaming in horror for rescue by their parents. He sees hooks. He can hear animal rights activists picketing on the sidewalk, protesting the brutality of the catch-and-release system. He can see the frisky trout, doing what they do, jumping out of the water and attacking the fashionably dressed diners heading up the staircase to Legal's first-ever white-tablecloth dining room on the second floor. (The trout won't actually be attacking the guests, but it will sound that way in lawsuits.) It is, Heller fears, a train wreck in the making. "We're trying to mitigate all the risks," he says, rapping his finger on the table.

Heller and others have tried repeatedly to talk Berkowitz out of this particular vision for the past two years, but a pond is what the CEO wants. He's the idea guy (who also pays all their salaries); the details are for his team to sort out. The only thing that will kill the fish pond, Heller knows, is if Berkowitz eventually decides it's not fun.

"I have a vivid imagination, I suppose," Berkowitz says later. He's sitting in his office at the eight-year-old, $15 million Legal Sea Foods processing facility and quality-control center in South Boston, just down the street from his new restaurant in the heart of the city's commercial fishing area. The office has an expansive view of Boston Harbor and Logan Airport and is filled with the requisite photos of Berkowitz with various celebrities and family members. The shelves are brimming with business books, including *The Oz Principle*, which offers management lessons somehow gleaned from *The Wizard of Oz*. The wall-to-wall blue carpeting is covered with an orange fish pattern. Nontraditional choices, perhaps, but as Berkowitz says, "I like challenging the status quo."

Those who have worked for Berkowitz say this tendency sometimes creates an environment where unless you "speak Roger," you can never be sure you're doing it right—whatever "it" happens to be. For starters, Berkowitz has a nasty case of what Heller calls "men's room syndrome," which he explains thusly: "If you're coming out of the men's room and Roger's walking by and he's got an idea, he'll turn to you and say, 'Do it.'" Jeff Tenner, who, until departing on good terms last December, was Legal's executive director of culinary operations, concurs. "He was the kind of guy who didn't always give the clearest directions. A big piece [of the job] was learning to interpret his vision."

So yes, Roger Berkowitz can be challenging to work for. But after 40 years at the company his father started in 1950, and almost 20 as a CEO who now oversees 4,000 employees and 32 restaurants, Berkowitz seems to be doing just fine at Legal Sea Foods. The management and staff at each of Legal's restaurants are "very aware of his passions and beliefs," says Tenner. "He set a bar and a level of standard for folks to work toward. Whether you were in DC or in Florida, Roger's presence was always felt." This focus has allowed Berkowitz to produce staggering results: more than $200 million in sales and 8 million people served each year.

"We have a philosophy," says Berkowitz. "It's very simple. It's called ROG, Return of Guest. And everyone in every aspect of the operation has got to be doing something that translates into the guest wanting to return." As Berkowitz sees it, his role—his passion and purpose—is maintaining the integrity of the customer experience.

You'd think that the best way to promote customer loyalty and the company brand would be to keep a low-key public profile. Most CEOs in Berkowitz's position will avoid saying CONTINUED ON PAGE 90

NET GAIN A trout pond is just one of the unique features at the new Legal Harborside.

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anything that might anger the customer base or negatively affect public opinion. They are highly trained by media experts, and seem to never actually say anything in public unless accompanied by a script and a PR watchdog.

Not Berkowitz. For him, challenging the status quo tends to manifest itself as shooting his mouth off in public, consequences be damned. He seems to relish conflict, especially when he's at the center of it—and even more so when he's created it.

Roger Berkowitz says he's fully committed to sustainability. He supports practices that foster a healthy fish population, because a fished-out ocean means the end of Legal. But, he insists, having cod and haddock on any list of fish to avoid is "the most asinine thing I've ever heard of." And what about catch quotas, which are ostensibly set to prevent overfishing? Poorly thought out, he says, because the complex government-imposed catch-share system for New England fishermen means there aren't even enough boats on the sea to hit the annual quota that's been set.

But that's just the beginning of the things that piss Berkowitz off. (Or, as he prefers, "things I'm passionate about.") He really doesn't like the Monterey Bay Aquarium Seafood Watch list—a widely accepted guide to endangered fish populations that consumers should avoid—because he believes it's based on faulty data.

Then there's the National Oceanographic and Atmospheric Administration, which is responsible for tracking the fish stock and setting catch limits. To do this, NOAA uses trawlers to drag nets through a section of the ocean for a period of time, then counts what comes up. Berkowitz insists that this is a ludicrous methodology for keeping track of species of fish that move around and may not be where the trawlers happen to be. So when Berkowitz was invited in 2009 to tour a marine laboratory in Nahant run by Northeastern University, he began chatting with a scientist who was doing low-frequency sonar research there for Homeland Security. He asked if the sonar she was using could pick up fish. "She answered, 'Oh, yeah. Because the sonar acts off the bladders of the fish, you can identify the species based on bladder resonance,'" Berkowitz recalls. The scientist said the sonar could also calculate biomass, or the total volume of fish in a given area. Berkowitz recognized that if this sonar could do what the scientist said, it might be the holy grail of fish-stock estimating—accurate, fast, and wide. So to generate support for it, he reached out to Ann-Margaret Ferrante, a state representative from Gloucester who has been fighting catch quotas and limits, as well as Attorney General Martha Coakley and Senator John Kerry. (The politicians are trying to bring the sonar technology to the attention of NOAA for some kind of commitment, but progress has been glacial.)

The issue came to a head last January, when the Culinary Guild of New England asked Berkowitz to host its upcoming dinner. Berkowitz—eager for an opportunity to prove just how stupid the seafood watch list is, and to talk about the new sonar technology—billed the event as a "blacklisted" fish dinner. The menu, he announced, would feature selections from the Monterey watch list.

The dinner, which wound up attracting about 60 attendees, set off a firestorm of controversy that pitted Berkowitz and the fishing industry upon which he relies against advocates of sustainable fishery management. The story was covered by the *Globe*, the *Herald*, *Fast Company*, Grub Street Boston, WBUR, and others. Berkowitz says he didn't expect news of the dinner to go viral, but it did—possibly because of the controversial statements he made to the press. In interviews with Richard Gaines, the former editor of the *Boston Phoenix* and now a writer at the *Gloucester Times*, Berkowitz denounced the "eco-labelers" who were "brainwashing" consumers. And in an interview with the blog Slashfood, Berkowitz was quoted as saying, "I always found it curious that chefs and restaurateurs were the last to get information about sustainable seafood. Oftentimes it was from Monterey [Bay Aquarium's Seafood Watch Program] that blacklisted everything, or a group like Chefs Collaborative—you get a group of people that work off a particular science, and I would argue that science isn't necessarily balanced."

Berkowitz's offhand comment about the Chefs Collaborative came as a surprise to the advocacy group, which provides chefs with tips on developing a sustainable menu, but doesn't give guidelines for specific species. "It caught our attention because we don't have a list," says Melissa Kogut, the collaborative's executive director (and a former Legal Sea Foods server). "We were a little taken aback when he implied that we were following faulty science. I don't think he understands what we're doing."

To Berkowitz, though, such objections are mere details obscuring the big vision: that sustainability is a fluid concept, and that there is new technology available with the potential to give the industry better data—technology he believes is being ignored.

The fishing industry lauded him as a champion after the dinner. "I thought it was awesome," says Stephen Welch, a Hanover-based commercial fisherman who lands in Gloucester and New Bedford and remembers delivering lobsters to Legal's Allston processing facility back in the 1980s. "We have the Monterey Bay Aquarium telling people not to eat cod because it's not sustainable, but it *is* sustainable, and we're following the rules. We don't need someone from California to tell us how to go fishing, and Roger was there trying to explain that to people."

"Everyone in Gloucester will say Roger is a hero," says Gaines, the *Gloucester Times* writer, who is a longtime advocate for local fishermen and has known Berkowitz for 30 years.

Others had an entirely different take on the dinner, though. "I don't think the evening was designed to pull people together to work together," says the Chefs Collaborative's Kogut. "The spirit of the evening was more about understanding how [Roger] was viewing things." And Kogut, unsurprisingly, found those views less than persuasive. When she asked Berkowitz how he knew that the tiger shrimp he buys from Vietnam are sustainable, for instance, she wasn't satisfied with his answer. (Neither was he, actually. A few weeks later, he traveled to the Mekong Delta in Vietnam to tour the farm where he gets the bulk of his tiger shrimp. He came back confident of their eco-friendliness.)

Blogger Richard Auffrey, who also attended the event, feels it was little more than a publicity stunt. "He said he didn't think it would be so controversial, but he knew it would be," says Auffrey. "But I do believe that

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he is concerned about sustainability and thinking about some things others aren't thinking about. He's truly seeking the best science."

Michael Leviton, chef-owner of the restaurant Lumière in Newton and a board chair of the Chefs Collaborative, did not attend the meeting, but says he has his doubts about Berkowitz's expertise. "If there really is some cutting-edge science that he is privy to that the rest of us are not, it would be awful nice to know about it," he stonily suggests.

The most lasting effect of the dinner may be that everyone who already loved Berkowitz loved him more, and everyone who already disliked him disliked him more. Berkowitz doesn't seem to care either way. "I wasn't thumbing my nose," he says. "I just needed to get another side of the story out there. You have a responsibility to raise your hand if you don't see things going right."

It's an honorable sentiment, but Berkowitz does seem to delight in public rumbles. Take, for example, another scuffle in which he found himself playing a leading role: Legal's 2008 campaign that featured ads plastered onto T trolleys, with pictures of fish spouting off some very fresh lines, including the now-legendary "This conductor has a face like a halibut." The Boston Carmen's Union and its drivers were not amused. The union head complained bitterly and publicly, and Berkowitz's subsequent "apology" served only to further inflame the situation. The apology read, in part, "We should have never, ever said 'this conductor has a face like a halibut,' when the truth is, most conductors don't look anything at all like halibuts. Some look more like groupers or flounders.... And there's one conductor on the Green Line that looks remarkably like a hammerhead shark."

The union ended up calling for a boycott, which served mostly to generate a lot of attention for Berkowitz and his company. "The head of the Carmen's union was a moron," Berkowitz says. "I don't know if 'moron' is the proper word. I think he was unprofessional in his response. He was saying I was an elitist. It was an idiotic statement, in my opinion. I suppose I should thank them. I never would have gotten all that national exposure if they hadn't complained."

Roger Berkowitz and his brothers, Marc and Richard, were raised in Waltham and Lexington, but they grew up in a fish shop: Legal Cash Market in Inman Square. The store was a family business, run by Roger's grandfather Harry and father, George, and it functioned as young Roger's summer job, his afterschool activity, and his hobby.

But when it came time for college, Roger decided to study journalism. So off he went to Syracuse University, where he hosted his own radio news show. After graduating, Berkowitz returned home with the intention of working for a couple of years in the family's restaurant—which had grown out of the fish market—before embarking on a media career. Nearly 40 years later, he's still at Legal.

In 1992, George announced that he was passing the leadership of Legal Sea Foods to Roger, not Marc, who had also spent his life working for the company. The move set off an epic family battle (which was featured prominently in a 1997 article in this magazine) despite the years of preventative family therapy and professional transition counseling that led up to it. Marc eventually left the company and then sued for the portion of the restaurant chain he felt he was owed. The suit was settled out of court in 1998, and the rift these days has largely been repaired, though general counsel and family friend Rich Heller says, "Those relationships will never be the same." A nondisclosure agreement from the settlement has kept the Berkowitzes out of the media ever since—all except for Roger, that is.

Berkowitz has placed himself in Legal's radio and TV ads for decades—owing, perhaps, to his broadcasting experience—and made himself into the face of Legal Sea Foods. When he's not using that soapbox to frustrate T drivers or agitate the eco-community, Berkowitz uses it to enhance Legal's "fresh fish" reputation, which happens to be another of his personal obsessions.

"There were always buyers that weren't quite as particular as Roger," says James Kendall, who was a scalloper off New Bedford for 32 years and these days is a seafood-inspection consultant. He remembers Berkowitz as one of the only buyers who actually used to come to the docks to check out the catch before he bought. "Our product had to be handled really well, or else they wouldn't accept it," Kendall recalls. "Roger was the final handler of the fish. He wanted to know everything about its history." Which, Kendall acknowledges, earned Berkowitz a reputation as a mighty pain in the ass. Not that he cared. "Roger got noticed for being that way," Kendall says. "Once he raised the standards, everyone else had to follow."

Today, Berkowitz wields enormous power in the seafood industry. He's one of the largest buyers of seafood on the East Coast. Fishermen and suppliers go to extraordinary lengths to do business with his company, including in at least one instance paying for the privilege. In 2005, a former Legal vice president of seafood operation, Arthur M. Kloack, was found guilty of three counts of filing false tax returns for failing to pay taxes on hundreds of thousands of dollars in kickbacks he'd gotten from Legal suppliers in exchange for the company's business. Legal itself reported Kloack to the authorities when they learned through an internal audit what was happening, but the fact that the scheme went on for four years speaks to how reticent members of the fishing community were to do anything that might affect their relationships with the company—and just how valuable those relationships could be.

Seafood suppliers weren't much interested in going on the record for this story to discuss rumors that Legal buyers had been strong-arming suppliers into lowering prices even though they were already under contract. Berkowitz confirms that he's had a buyer problem but says he's tried to correct it. "If situations were brought to my attention, I would remediate that," he says. "I'm not going to say there weren't episodes like that in the past, but it's in the past."

While there's no indication that Berkowitz knew anything about such tactics, at least one insider says they were in response to companywide cost-cutting pressures. In any case, the fact that Berkowitz is so entwined with the Legal brand means that it really doesn't matter where the fault lies. If the company is seen as manhandling fishermen, the rumor mill doesn't whisper that it was a buyer at Legal who was playing dirty. It's Berkowitz himself who's to blame—even though it's been a long time since Berkowitz directly negotiated a fish deal. "If you have someone in an influential role

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making contract and purchasing decisions, if they don't handle that power properly, it becomes a reflection on Roger and the family," says Tenner, the former executive director of culinary operations.

Whatever criticisms he and his chain have faced, Berkowitz continues to have enormous sway within the restaurant industry. He's a trendsetter and one of the city's biggest players. Garrett Harker, longtime restaurateur and owner of both Eastern Standard and Island Creek Oyster Bar (and a former Legal Sea Foods server), says, "I think Roger is as obsessed with the finished product as he is with the source of it."

Harker says Berkowitz has always been willing to try out new ideas and "was never afraid to start over with a new philosophy and a new management team." He credits Berkowitz with the idea of "clustering," a concept often associated with Starbucks. "Roger was doing that before there was a Starbucks," Harker says. "He opened [restaurants in] Copley Place and then in the Prudential Center, a stone's throw from Park Plaza. Some thought he would be cannibalizing, but it didn't work out that way. Instead, he was creating a kind of fervor for the brand. He just became so associated with dining out in Boston." And Berkowitz is still clustering—his new Harborside location is directly across Northern Avenue from Legal Test Kitchen, its more loungey, less fish-focused sibling.

Berkowitz's record, though, is hardly one long string of uninterrupted successes. He admits to overestimating the strength of the Legal brand when he started opening restaurants in malls outside of New England. Malls in the Boston area have been extremely successful locations for Legal. In other areas of the country, though, the prevailing belief is that a restaurant in a mall can't possibly be good. And once you get beyond New England, Legal has lacked the name recognition to overcome that notion. "The success of the out-of-state mall restaurants has not been anything like we have here," Berkowitz acknowledges. "So as leases come up, if we want to stay in the community, we'll move it onto the street."

Then there was his particularly harrowing 1980s foray into winemaking in France—a chapter of his life Berkowitz says requires him to take a stiff drink before he can talk about it. That entire complicated episode proved, once again, that for Berkowitz, the devil truly is in the details—in this case a disgruntled employee who Berkowitz says sabotaged most of a first batch of white wine; arcane French rules that barred Berkowitz from selling what he was able to salvage; and fines from the French government for firing the saboteur.

The malls, the winery—perhaps the fish pond?—Berkowitz's occasional mistakes seem to fall into the "seemed like a good idea at the time" category, the hallmark of people who sometimes fail to do their due diligence. But even a thorough vetting couldn't have predicted how things would end when, in 1996, he hired Jasper White—the fine-dining chef who specializes in seafood—as Legal's executive chef. The two men parted ways after four years, and White started Jasper White's Summer Shack, a competing chain.

"I suppose he sort of wanted to emulate part of what we were doing when he opened up his operation," Berkowitz says. "I think there's always the feeling that you've opened up your kimono too much. When someone tries to do a knockoff on what you're doing, inside, you always feel a little, what is the word? I suppose 'betrayed' in some way might be one adjective. But I thought back to the good things he did and frankly, he does his thing now and we do it on two different levels. I have respect for what he's done. I really do."

"There is nothing that Roger Berkowitz knows that Jasper White can't figure out," counters Lydia Shire, the Boston culinary legend who has partnered with White on the restaurant Towne. Shire, who calls White her "best friend in the whole world," says she likes and respects Berkowitz, but wonders, "How can you belittle someone who has such great talent? That's impossible." For his part, White would say only that "I enjoyed my time at Legal and I think it was a mutually beneficial experience."

Berkowitz, who has gained a reputation as a humanitarian, sits on a number of boards for charities, hospitals, and educational institutions. He is especially interested in the issue of public health and education—a field that Berkowitz thinks he might be interested in pursuing one day...if he ever retires.

At 59, Berkowitz is only a few years younger than his father was when he handed over the business. The problem, though, is that Legal is Berkowitz's life. He says he feels bad for entrepreneurs who spend a lifetime building a business, then sell it, only to realize they're unhappy without it. "They're depressed because they have lost their raison d'être," he says. "They don't understand that at the end of the day it wasn't about the money. I keep watching those people and count the months before they're miserable."

Berkowitz hasn't come up with a specific succession plan. He and his wife of 35 years, Lynne, have two sons involved in the business—Matt, 31, who is director of Legal's plant operations and new business development, and Scott, 29, who is assistant general manager of the new Harborside restaurant. (Their daughter, Jaclyn, 27, is a social worker.) Berkowitz says he's not worried that history will repeat itself when he, too, must choose one of his sons as successor. "As a family we talk about that a lot," he says. "We talk about what transpired and how we can avoid scenarios like that. I think the situation we were in earlier was just different. Today, both boys like doing different things and have different interests, but they still like the business. There's not the competitiveness. There's not a rivalry."

But, as Berkowitz has learned, talk is cheap. And one day, he's going to have to choose. "I'm not sure exactly what's going to happen," he says. "A lot depends on how motivated the guys are."

"He's working it through, I guess," says Heller, Legal's general counsel. "I'm not saying he's not going to get there, but in his mind, he's too young to think about it." B

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