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LAW FIRM CONSULTANTS

OVER THE TOP – LAW FIRM STRATEGIC PLANNING EXCESSES AND MISTAKES IN 2003

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It has been over a year since we took a serious look at the *"state of law firm strategic planning."* That piece, "*The Evolution of Law Firm Strategic Planning – Darwin Would Have Been Proud*" (http://www.smocksterling.com/law/pdf/SS-L-008.pdf), put us on record that law firms – generally – were doing a much better job of strategic planning and implementation. We stated that:

- The sophistication of law firm strategy development processes had improved considerably – away from purely internal considerations such as governance and toward business oriented considerations such as effectively managing practice groups
- Law firms had been involving the right people in the process for the right reasons – political considerations had given way to ensuring the strategy development process involved the current and future opinion leaders
- Frankly, strategic thinking had improved at many firms – regarding the rationale for combinations and mergers, the need for solid practice group organization and management, and response to external drivers in the market place (e.g., client needs, competition, etc.).

But over the past year or so, we have seen live cases – possibly anomalies, but we think not – that suggest that some law firms are leaping over logical, business-like approaches to strategic planning into *"over the top"* approaches to the process and may be making costly mistakes.

This monograph highlights some unfortunate examples of excellent law firms gaining meager strategic insights – often at great expense – from *"over the top"* strategic planning processes, and, also, our *"prescription"* for dealing with these concerns.

NO ONE EVER GOT FIRED FOR BUYING AN IBM COMPUTER (OR FOR HIRING McKINSEY)

A fair number of AM Law 100 firms – many flush with record profits per partner – have begun hiring the most renowned (and most expensive) names in the strategy consulting business. This development is an interesting and encouraging leap from the usual suspects in the law firm consulting market, who were historically hired *"because they know law firms,"* as if that would naturally (or magically) lead to a winning strategy. Now, firms with little or no law firm experience are being hired *"because they know strategy,"* with their lack of law firm knowledge often seen as an advantage, not a detriment.

It is an interesting leap for the strategy consultants as well. It demonstrates how badly bruised the traditional strategy firms' Fortune 500 business has been by recent economic conditions.

- Historically, the major strategy consulting firms (e.g., McKinsey, Bain, Booz Allen, Boston Consulting Group, et. al.) have been pointedly disinterested in the law firm market and, with very few exceptions, would not compete for law firm work.
- Evidently, the dot.com crash and recent general economic conditions have hurt those firms enough to draw them into a market that does not fit their business model. Even for AM Law 100 firms, the fees are too low for the major strategy firms to successfully leverage across their cadres of analytically oriented MBA's.

On a positive note, the law firms who have engaged the large strategy-consulting firms are applying (or at least attempting to apply) some reasonably sophisticated analyses to their businesses – that had heretofore not been used in law firm strategic planning. For instance, there are some excellent examples of firms making significant investments in very useful and insightful external research – including competitive analysis; client, prospective client, and industry expert interviewing; and trend based research on the evolution of key market segments. Similarly, some major law firms have made an investment in scenario development and scenario-based strategic planning.

But, having stated the positives, we believe some law firms are paying extraordinarily high fees to the consultants who are carrying out these analyses.

- This is in part a function of the business model of the large strategy firms. They have to keep a fair number of analysts actively engaged to make their own firms' financial structure work.

- It also reflects a certain amount of *"learning on the client's nickel."* For example, many hours are being burned learning about the legal industry, the nature of key practice areas, and who the major competitors are.

Rather than seeing it as a threat, we find it both intriguing and potentially rewarding to Smock•Sterling to see our well-heeled commercial competitors enter the law firm management consulting market – even if only for a brief passing.

- We have long touted the advantage to law firms of hiring experienced strategy consultants with exposure to traditional commercial engagements. As law firms are managed more and more like any other business, that commercial strategy experience becomes increasingly valuable.

- The broader acceptance of more effective use of external research and use of more sophisticated tools (e.g. – scenario-based planning) will, we believe, lead to better strategic plans.

Our concern is not with the use of more sophisticated techniques being introduced to law firm strategic planning – that is a positive. But, we do question the cost/benefit equations relative to what some firms are paying for strategy consulting help.

THE MILLION DOLLAR *"BLINDING GLIMPSE OF THE OBVIOUS"*

We have been distressed to see the end results that at least some law firms are getting from these major strategy development engagements. On more than one occasion, our reaction to seeing the end result of some major law firm strategy assignments has been akin to the old Peggy Lee song *"Is That All There Is?"* Frankly, they have come across as a *"blinding glimpse of the obvious"* (F. Ross Johnson's immortalized quote from Barbarians at the Gate).

Some seven figure strategy engagements – involving consulting firms with stellar reputations – have yielded what can best be described as the *"modified Jack Welch strategy"* (i.e. – to focus on practice areas where you are or can be number one or number two in the world, country, or region).

- Frankly, no law firm should need hundreds of thousands of dollars of analysis to reach the conclusion that they should focus resources on their leading practices.

- The rationale stated for these very expensive blinding glimpses of the obvious is that the investment was needed to achieve high levels of consensus among the firms' partners.

- But, it should not take enormous investments in consulting fees to reach consensus on a fairly obvious strategy (i.e. – focus on and invest in your strengths) – it is the intellectual equivalent of paying an investment advisor to tell you to buy low and sell high.

The real proof of the value of any strategy is in its implementation. But, the modified Jack Welch strategy is difficult to implement in a law firm environment (in spite of its relatively universal truth).

- More focus on *"winning"* practice groups implies less focus on *"less winning"* practice groups – something many law firm managements are loath to carry out. Also, truly running a practice like a business requires considerable change in the way firms are managed, partners are rewarded, and goals and expectations are set and measured. This change is often strongly resisted.

- To their credit, the law firm management teams who have shared their strategies with us were actively committed to successful implementation. But, that is considerably easier to do at the extremes (i.e. – to grow and bulk-up strong practices and to disband truly weak practices) than it is in the middle (i.e. – what do you do with the large number of good lawyers in good, profitable practices who will never be number one or two in their defined market?).

SINCE THE ONLY STRATEGY IS TO GROW, CLEARLY SIR, YOU NEED TO MERGE

While the modified Jack Welch strategy is relatively new to law firms, it still has not forced out the common law firm dogma that *"since mid-sized firms cannot succeed, you must merge to survive."* Accurately attributed to the *"usual suspects,"* we have seen many law firm strategic plans call almost arbitrarily for a merger, but those same firms have not stated a strategic direction that would justify (or not justify) merging.

We are strong believers in the need for growth in professional service firms – particularly bottom-up growth that creates a new generation of partners to carry the firm forward. However, we see too many firms running like so many lemmings toward mergers they feel are imperative – simply to grow (because *"size is important"*).

- First, we will reiterate our long term, strongly held position – mergers and combinations can be and often are a valid strategy, but only in the context of a broader strategic direction, such as:
  - To gain depth in areas that benefit from scale and/or expanding expertise
  - To more effectively compete for work that a firm has the inherent capability to perform
  - To capitalize on unique geographic opportunities (e.g. – cost savings, government relations and lobbying, regulatory affairs, money centers, etc.)
  - To capture clearly identified synergies or other defined strategic opportunities.
- But, mergers and combinations are not a strategy in and of themselves. In fact, mergers for the sake of growth have a much higher probability of failure (e.g. – departure of key people, failure to identify and capture synergies, etc.).
- Further, there are many ways to position a mid-sized firm to survive and thrive. In fact, the predictions of the outright collapse of mid-size law firms (beginning with Mr. Brill's unfounded assertion in the mid-1980s) have proven to be simply unfounded.
  - The U.S. economy remains driven by middle market companies – not the Fortune 500. While large companies are obviously legally intense, growing middle market companies can be a very profitable client base for a high quality firm committed to independence.
  - And, firms in many markets are being *"left with"* very attractive middle market (and larger) business that merged firms simply cannot serve effectively due to rate pressures, practice structure, and/or their own strategic foci.

A FORWARD PRESCRIPTIVE LOOK AT STRATEGY DEVELOPMENT IN LAW FIRMS

The growing willingness on the part of larger law firms to invest resources in sophisticated analysis at the firm and practice levels is a good thing – whether consultants are used or not. We strongly encourage firms to invest in this front end analysis in the strategy process in order to:

- Develop a fact-based assessment of the relative attractiveness of the markets accessible to the firm's practices
- Establish a credible and objective analysis of the relative market strength of each major practice group (including collecting input from clients, prospective clients, and industry experts)
- Develop an analytical understanding of the firm's (and its practices') primary competitors and their likely strategies
- Establish a fundamental understanding of the external factors that genuinely influence the future prospects of the firm and the viability of its strategy.

A reasonable investment in front end analysis and research will produce a solid return – a strategic plan (vision, goals, and strategies) that enables a firm to create true strategic advantage and provides the professional environment desired by a firm's clients and people. Not making such an investment results in strategic decisions based on conjecture and anecdote – a factless exercise. While that may have been sufficient ten years ago, it will not work in today's and tomorrow's environments.

Beyond that needed investment in front end analysis, we believe the most important focus for law firm managers relative to strategic planning must be on meaningful implementation. After interviewing a larger number of successful commercial CEO's for an article on strategy implementation we recently authored for *Strategy & Leadership* (http://www.smocksterling.com/comm/pdf/SS-C-013.pdf), we found that implementation success can be boiled down to a very few key insights:

- Broad involvement builds the buy-in and understanding needed to implement effectively
- The influence of the external environment (both customer needs and competitor actions) must be monitored and strategies adjusted when conditions change

- Timely action, focused application of sufficient resources, and solid alignment of resources and capabilities must occur close to the market.

The following translate these general insights to the law firm environment.

Involve Current and Future Law Firm Leaders in the Strategy Development Process

We continue to be strong believers in involving partners directly in both analysis and decision-making. Ideally, those involved in the strategy development process should be those with direct leadership responsibilities, as well as partners who can strongly influence the probability of success of the plan. Done well and efficiently, that involvement will build buy-in and consensus around the logic of the analysis and the strategy. In addition, the probability of success of the subsequent implementation will dramatically improve if a solid group of partners are part of the process.

Use Practice Groups as a Focal Point for Implementation

As firms grow in size and complexity – and must be managed more and more like multi-product line businesses – the importance of effective practice group organization and management increases. Practice groups must be a/the focus/locus for implementation.

- Practice groups are closer to the market and can monitor and respond to external influences more quickly and effectively.

- They are better positioned to invest in the capabilities most needed by the firm (and its clients) and to do so in a more timely fashion.

- And, they are the most logical place to ensure resources are aligned with the strategy – via practice level budgets; operational plans; and subsequent measurement and accountability.

Ensure Firm Management Facilitates Progress and Drives Accountability

Over time, firm management should be actively engaged in activities that help the practices succeed by bringing new resources into the fold, by facilitating and supporting good management habits and behaviors, and by driving accountability and rewards to practice group leaders and successful practice group partners. Firm managers must reward good practice group management and remove bad managers before too much damage is done. A solid, well-articulated, and committed-to strategic direction provides the justification and basis for doing that.

In the real world, excellent implementation of a reasonable and logical strategy will beat mediocre implementation of a brilliant strategy every time. And, because the external environment is changing constantly, static plans are doomed (i.e., *"no plan survives the battlefield"*). The biggest strategic failures are usually a result of failing to react and adjust when events overtake strategy. By involving a reasonable group of leaders in strategy development, vesting implementation authority in the practice leaders, and driving performance and accountability from the firm level, firms can take the next major step up in strategic planning effectiveness.

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Smock Law Firm Consultants has been – since our founding in 1991 – first and foremost a strategy boutique. While we have outstanding law firm experience and an unequalled track record of positive results from law firm assignments, we still spend close to half our time in the commercial sector. For a variety of industry niches – oil and gas pipelines, food processing, newspapers – we have helped our clients combine the strategy development process with the most sophisticated means of gathering necessary information (e.g. – creative research, scenario development, etc.). Our capabilities in strategy development and implementation in the law firm environment include firm and practice level strategy, practice group management and organization, strategically driven mergers and combinations, and strategic issue resolution. We invite your inquiries.