THE SEVEN DEADLY SINS OF LAW FIRM MANAGEMENT IN THE NEW MILLENNIUM

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Approximately four years ago, we developed a monograph on law firm management that far exceeded our modest ambitions in developing the piece. Entitled *" 'Go Forth and Sin No More' – Dealing with the 'Mortal' Sins of Law Firm Management,"* the monograph was remarkably successful. It resulted in a wide distribution of our ideas in the law firm community; it was adapted for a variety of articles in local, regional, and national law firm publications; and it led to introductions with firms who have become very good clients and with whom we have maintained a very positive professional relationship. That document still gets good play, as it continues to be quoted by journalists and used as background material for firm and practice retreats.

While we were and are justifiably pleased with what has happened with that monograph, the elapsed time since its development has seen remarkable changes in the overall legal industry, and while every one of those seven original deadly sins still holds, we also believe that a whole new crop of sins has sprung up to hinder and hamstring law firm management. This monograph, then, addresses seven new deadly sins and their solutions or, if you will, their means to salvation or redemption.

SEARCH FOR A MERGER PARTNER MERELY TO ACHIEVE GROWTH

Some of our law firm management consulting colleagues have been very visibly preaching, on a widespread national basis, mass mergers among law firms as the primary competitive response to accounting firm marketing inroads and stating their belief that major law firm consolidation will ultimately result in six to ten truly national firms. Of course, these consultants have also been a latter-day *"Hello Dolly"* by serving as a matchmaker and a catalyst to these mergers (yes, the old *"self-fulfilling prophecy"*).

Smock•Sterling Strategic Management Consultants has always reacted very negatively to any stated *"one size fits all"* strategy within the legal profession. Further, we firmly believe this size argument proposed by our competitors is fallacious and that firms who fall for it are putting their futures at serious risk.

- There will not be six to ten truly national law firms in the next few years. The practice of law is dramatically different from the practice of public accounting. Also, the supposed *"shoot out"* between large law firms and accounting firms may not take place. For instance, Ernst & Young is selling off its management consulting practice as a preemptive strike before the SEC forces them to do so. KPMG is considering taking their consulting practice public and Grant Thornton is looking for a buyer for their consulting practice. Law firms are not now on their radar screens.

- Size – in of itself – is the weakest strategic argument one can make for combining firms. The size of a firm does not necessarily change the legal playing field or provide any strategic advantage. Clients are looking for competence, not size.

- Size is also not the best defense against the accountants (they will always have more people). Rather the defense has to be better client service, stronger client relationships, and, ultimately, technology and efficiency.

- The track record of law firm and professional service firm mergers – particularly when there is not an obvious or overriding strategic reason – is not good. Most mergers, when compared to their original objectives, must be considered failures.

We are not against mergers and, in fact, have seen and have been involved with our clients in some very solid, strategically oriented mergers. So, the solution lies not in avoiding merger discussions, but to be smart about it, who to talk to, and who to get serious with. Each firm must know its strategic direction so it can be in a position to consider specifics and values of a potential merger. The other part of the solution is to be externally wary of the *"Hello Dolly"* of consultant bringing you the best merger in the world.

FAILURE TO SUCCESSFULLY EXECUTE THE PRACTICE GROUP CONCEPT

It is not new news in legal management circles that the effective organization of practice groups is essential for a firm's strategic success and that that practice organization ought to generally be focused on the market needs of the firm's clients, not the legal specialties represented in the firm. While this relatively universal management truth has been known for a long time, most law firms have failed to successfully execute the market driven practice group concept.

- With relatively few exceptions, virtually all firms and their practice groups still remain mired in an organization built around legal specialties (as one of our clients calls it, *"organization by law school course"*) rather than market needs.

- Also, virtually every firm complains that it does not have effective leadership of its practice groups – yet few firms do anything about changing leadership (because it is a difficult decision to confront a partner who is not performing) or providing training and support to these leaders.

- Practice groups are usually not held accountable for the key functions that they best can influence and effect – namely, client service delivery, marketing, professional/personnel development, and billings/collections.

- Practice groups do not budget and plan effectively, are not evaluated on performance, and, thus, there is little pressure on them to perform – either in the marketplace or for the firm.

- Most practice groups are sub-optimally managed. Even if a practice group is a high firm priority, there is little investment at the firm level and there is little product development and hiring of new resources because, *"we do not hire until we get the work."*

The salvation from this sin is simple – **do it right**. Practice group effectiveness should be one of the primary priorities (possibly the most important) of any law firm managing partner. Get the right people running the practice groups, which is often not the most senior partner or the largest biller in the group. Insist on planning (strategic, operational, budgeting, and marketing) as the primary management tool for multiple practice group management. Incent these leaders and their partners to achieve their plans and reward them when they do. Also, incent and reward cross group cooperation and integration to better serve clients (in other words, nip *"balkanization"* in the bud). With key practice groups, add marketing resources (directly assigned to the practice group) and other non-lawyer resources to make the group function effectively (yes, some practice groups should have a full-time administrator).

CONTINUED ACCEPTANCE OF THE CULT OF THE INDIVIDUAL PARTNER

Many of the leading law firms originally developed around individual partners – their personal practices, their preferences, and their ability to attract clients and other attorneys to serve their clients. In many cases, the law firm itself served merely as a place for these individual partners to share expenses. Today, most truly successful firms (large and small) have made the shift away from the cult of the individual partner to much more of a firm focus, but many have not. Unfortunately, that cult and preeminence of the individual partner is the underlying cultural base of many firms (and, we argue, many firms **that will not make it** in the continuing competitive crunch).

Many firms allow individual partners to operate essentially as independent fiefdoms – letting them call the clients they serve *"my clients,"* practicing as part of the firm and a practice group in name only, and, in truth, adding little value to the firm and making little contribution to achieving a firm's overall direction. It has been our experience that these truly independent partners are often and usually a direct financial drain on the firm. But, this condition of independence is supported by the fact that virtually all partner reward systems (even in firms that have less of this problem than others) reward individuality and individual performance. The statistics used in compensation decisions solely relate to what individual partners have done.

Redemption from this sin is simple – effective practice grouping (as discussed previously) and incentives and rewards that ensure partners contribute to and are part of a greater whole. Cooperation and being a *"team player"* should be rewarded and operating independently from the firm should be severely sanctioned.

FAILURE TO ALIGN PARTNER COMPENSATION WITH STRATEGIC DIRECTION

In the last five years, law firms have done a considerably better job of setting strategic direction, communicating that direction across the firm, and behaving as strategically directed entities. But, in spite of real progress in that area, many (and, perhaps, most) firms fail to align the ways and the amounts partners are compensated with what is important to the present and future of their firms. Partners are rewarded for billing hours or, in some firms, for individual billing responsibility – not for contributing to the betterment (financially and professionally) of the firm.

The solution is to restructure the partner compensation system so that it incents the behavior that the firm wants to see and is necessary to achieve its strategic direction. For instance, many firms have recognized the need to transfer client responsibilities to associates and legal assistants/paralegals and involve a range of legal disciplines (i.e. – client service teams) in planning for and improving specific and overall client service. These things must be rewarded. Expecting support of the stated overall direction of a firm to happen naturally ignores the universally accepted management adage that *"if you do not reward it, it will not happen."*

THE DESIRE TO BE A *"FULL SERVICE FIRM"*

While there are a number of terms that are overused in legal management, *"full service firm"* has to be at the top of the list. Many firms proudly claim they are full service, but no one really is. There are greater than 150 legal specialties defined by the American Bar Association and even the largest firms do not have expertise in every one of these. What is sinful is the lack of focus of firm management, which results from the pursuit of elusive full service. Rather than building on the strengths of a firm (its best practices and its best people) or the key needs of that firm's clients, there is a desire and an attempt to continue to add practices that will get the firm closer to full service (*"if you call, we haul"* or *"if we build it, they will come"*).

There is an erroneous assumption that clients are looking for *"one-stop shopping."* In fact, most clients are not, based on the surveys that we have conducted for our clients and have seen in the literature. Clients are looking for results and value and see both as limited, if they are forced to rely merely on one firm.

The answer is to turn this idea on its ear. Law firms need to focus on those things that are important to their clients and where they have strengths (and, also, preferences for practicing). Most major firms would do considerably better with fewer rather than more practice groups, but the practice groups that remain must have management focus, growth objectives, and investment. It is much better to build on the strengths that already exist than to add new practices where strengths do not exist.

LACK OF ACCOUNTABILITY AND ITS COROLLARY – LACK OF EXECUTION

We have worked with a variety of professionals (accountants, lawyers, consultants, actuaries, physicians, and investment specialists) in a variety of environments and feel that the lack of accountability that exists in law firms is probably the most debilitating of any of these professions. While much of it relates back to the aforementioned cult of the individual, it is significantly damaging to many firms. If you are not held accountable, then you do not have to do it. The equally sinful lack of execution and follow-up to management needs (i.e. – things that need to be done for the betterment of the firm) relates directly to this lack of accountability. A common complaint we hear across firms we work with is that *"we are lots of talk, but no action."*

We believe that the answer lies in teamwork, both in organizing around practice groups and the mutual assistance that comes from operating in teams (team members, by nature, abhor letting other team members down). As with the other sins in this monograph, sanctioning (in partner compensation) lack of accountability and lack of execution and follow-up is often as important as rewarding its achievement.

INABILITY TO SUCCESSFULLY DEAL WITH *"BUSINESS HYGIENE"* – RECORDING TIME, BILLING, AND COLLECTING

I have now worked with law firms for seventeen years. But, I never cease to be amazed and befuddled at the continued inability of many firms and their lawyers to deal with the absolute basics of running a professional services business – that of recording time and revenue, billing for services rendered, and collecting on those bills (stealing the term from a good client, we call this *"business hygiene"*). The level of inventory (unbilled time and accounts receivable) in most law firms is staggering and unjustified. The national averages that appear in the law firm surveys are well beyond any reasonableness for a professional services firm. Most firms average about five to six months inventory or from 150 to 180 days. To any business, this would be clearly unacceptable.

Firm management is usually left to *"push the peanut up the hill"* in convincing their partners to put time down accurately and completely (some rainmakers refuse to do this, although they do demand that they get paid on time); get bills out in a timely manner and in a way agreed to with the client; and collecting overdue invoices (clients are smart – they know that the law firms are not going to call, so they do not pay until they are called).

The solution is discipline – both personally and with the firm. There is no reason, in our mind, that a standard legal practice should have more than 60 days in inventory and, in many cases, less. Partners of the firm (owners of the business) must understand and be evaluated on their ability to deal with these business hygiene matters. A partner who cannot comply with these basics probably should not be a partner.

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This completes our views on the seven deadly sins of law firm management in the new millennium. The answers are common – good management, good organization, and a partner compensation system that supports what management and the partners of the firm are trying to achieve. Any firm that sees the signs of these sins, ought to and should deal directly with them. Obviously, as one of the leading consulting firms specializing in law firm management, we are prepared to help do that.

Smock Law Firm Consultants was founded in 1989 and assumed its structure and practice focus in the fall of 1991. We are probably best described as a strategic management specialty firm and see our primary role as helping our clients *"successfully develop and implement strategy."*

We serve a broad commercial clientele, as well as a like distribution of professional service firms, with a particular focus on the legal profession. In 1999, 36% of our practice was for law and professional services firm clients; our revenue doubled in this area from the previous year. We compete within the law firm marketplace, more often than not, against those firms that exclusively serve attorneys. We believe our clients hire us based on our references and experience and the fact that we take a broader view than merely *"what the other firms are doing."*