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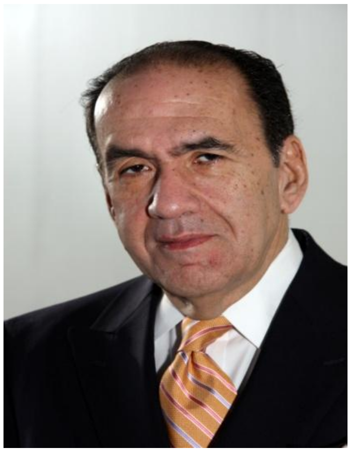

Dewey Think We Are Watching the Deconstruction of a Venerable Law Firm?

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March, 2012

Have you ever witnessed a sudden and unexpected calamitous and life threatening accident unfolding before your eyes? Your brain is hard wired to provoke one or more of several different reactions: (1) avert your eyes; (2) take flight for your own safety; (3) stare intently while frozen in place; or (4) leap to the aid of the victims.

As what may be the deconstruction or, hopefully, the salvation of a major, venerable law firm with either some real public perceptions issues or some systemic issues, let's see what is unfolding before us, whether we are staring intently or averting our gaze. However this saga ends for this global 1,100 lawyer, 20 office law firm, the unfolding tale continues to provide important lessons for the profession and particularly for law firm leadership.

A venerated AmLaw 50 firm is now under relentless attack by the media. The attack, describing "lean times" at a global law firm, I would posit, is in many respects at the invitation of the law firm itself as it boasted of astronomical revenues – which it days later acknowledged to its partners were overstated by some $155,000,000 dollars. While the firm was apparently aware that a number of significant partners would be leaving shortly, it did not disclose these imminent departures to the media during its chest thumping session with the media. Nor did it address the fact that the firm was fairly well mired in substantial debt -- $225,000,000 by some accounts. While it still strikes me as being plainly foolish to publicly tout how much money a law firm is making, particularly when it is fairly well understood that many firms game these financial reports, what is so striking here is what appears to be a pattern of dissembling.

The chairman of the firm, is an M&A lawyer, widely respected for decades. Had he been trained as a trial lawyer, or instructed by his outstanding litigating partners, he would have been schooled in the fact that when you make your case, you must take the initiative and address in your opening and in your direct case the inevitable weaknesses in your case, so that you (1) establish credibility with the jury; (2) do not appear to be hiding evidence that will inevitably surface and (3) make the strongest case for these shortcomings in your case.

As the firm took its first several rounds of pummeling from the media, it realized that it needed to have a crisis management public relations program in place, a program I have long advocated that any law firm should keep in reserve at all times. The firm hired a crisis PR firm, which counts among its clients Paris Hilton. Thus far, what may have worked for Hollywood is not making it here.

The law firm we speak of is, of course, of course, Dewey & LeBoeuf.

For more insights and analysis on the Dewey deconstruction, do read Bruce MacEwen's piece at his blog, [Adam Smith, Esq.]

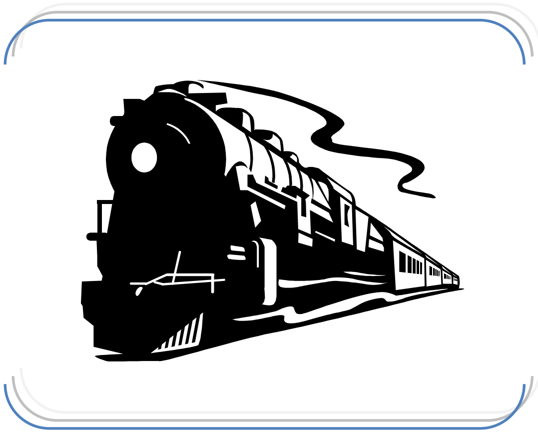
While it is still way too early to write a postmortem, it is timely to review how this noble firm finds itself in crisis. It is equally timely to consider the potential of failure and its consequences.

The firm is the product of the 2007 merger of Dewey & Balantine, a hard hitting high end law firm with profound capacities in capital markets, M&A and big stakes litigation, and Leboeuf, Lamb, Leiby & MacRae, a well established law firm best known for its insurance industry and utility work. The Dewey side had profound share of "bet your company" work, where fee sensitivity was not an issue; The insurance and utility sectors have always been rate sensitive. The business plan, as I understood it, was for the combined firm to focus on the high end side of the equation and to continue to grow by attracting partners with humongous practices with clients ready to send cash by the truckload. It appears that in order to facilitate this plan (and perhaps to meet some resistance about LeBoeuf's more staid, perhaps lower paying client base), the combined Dewey & LeBoeuf offered incoming big hitting laterals multiyear fixed compensation whopping salary packages. Press reports suggest that some big hitting legacy partners signed on to the program but also sought these long term guarantees for themselves. Like the first time parachutist noting that it's only the first step that's daunting, it may have been these first steps that may have been foreboding, but unlike the parachutist, there was no protective canopy to gently guide the jumper through majestic heights. Much more frightening was the fact that these jumpers were diving into an unseen storm of epic proportion – The Great Recession. The consequence of the economic crisis was a universal fall off in business. But, the new laterals and the legacy heavy hitters had the benefit of their reserve chutes; namely, the guaranteed comp packages. Apparently, even despite reductions of compensation for second and third tier partners and other expense reducing strategies, there wasn't enough cash left to pay the big hitter class. Instead, the firm reportedly issued and these folks accepted scrip, in the form of IOU's or deferred compensation agreements. Some press reports suggest that the total scrip thus far issued totals $100,000,000.

In early March, of this year, the firm's chairman met with an *American Lawyer* reporter and announced revenues of $935,00,000 (remember this number, it will come up again) and advised that its headcount was then 1,040 (down from 1,400 at the time of the merger), an equity partner tier of 190, non-equity partner tier of 190 the net being unchanged from the preceding year, inexplicably despite the fact that in 2011 the firm brought on 30 lateral equity partners and lost 7 (I know this doesn't make sense, but I only repeat what has been previously reported), profits per equity partner up by 1% to $1,782,000 and profits per non-equity partner down by 23% to $499,000 (yes, you read that right). The spread from highest earning partner to lowest is reported to be 10:1. The firm apparently made these milestones fortuitously because of the collection in December of a large receivable that was actually due in January. What Dewey didn't tell *The American Lawyer* was that some real jolting news was about to surface.

In the days before *The American Lawyer* interview, 18 of Dewey's partners quit. Days after that interview a group of 12 partners left for Willkie Farr & Gallagher. Among that group was the head of the firm's M&A practice, the co-chair of the New York insurance practice and the co-chair of the firm's New York corporate finance practice.

A few days after this jolting news surfaced, the firm had a regular partners meeting at which senior management sought to assuage all those gathered that the firm was on firm financial footing and apparently asked the partners to demonstrate their confidence in senior management by staying put and allowing senior management to guide the firm through some mild turbulence. Two days later another 7 partners defected, including the head of the Houston office, the head of the Chicago office and the co-head of the firm's New York regulatory practice.



In addition, at the March 21 partners' meeting, management advised the firm's partners that they should be have confidence in the fact that the firm posted respectable revenues for 2011 of $780,000,000 (now it's time to recall the reported $935,000,000 in 2011 revenues that I asked you to keep in mind a couple of paragraphs ago). Yes, there is a reported $155,000,000 in missing revenue, as yet unexplained. This is *not* a mere rounding off error. I have previously addressed the issue of some law firms gaming their reported numbers, but the most compelling piece about Dewey's lack of accounting reporting fidelity – and, indeed about the entire Dewey morass -- can be found in the brilliant and incisive piece written by Bruce MacEwen, writing under the *nom de plum (nom de guerre?)* Adam Smith, Esq.

As Bruce noted, Dewey explained away the $155,000,000 discrepancy (a mere $816,000 per equity partner) as being attributable to "different metrics" used by *The American Lawyer* and the rest of the world. One wonders whether distribution checks will be issued by accounts maintained using "*American Lawyer* metrics" or real money.

The point is the lack of candor. The firm, which already presumably knew that at least twenty more lawyers would be leaving in days, neglected to make any public disclosure to *The American Lawyer*, *The New York Times*, *The Wall Street Journal*, *The Daily Journal* or any of the media dogging this story before these departures became *faits accomplit.* Most painful, by any measure, is the fact is that so much of the firm's leadership have logged out, voting with their feet with regard to the confidence they had in the firm's senior management. Like the generals in Libya and Syria, they declined to continue to attorn to their leader.

The lack of an early discussion coupled with the continued silence regarding the missing $155,000,000 is perhaps even more egregious. Even Dewey's ninja spinmeister is silent.

As recruiters smell blood in the waters, they are now swooping in like piranhas. The phones at Dewey's offices are ringing off the hooks. The media will not relent. Partners will necessarily seek alternatives, seeking, at the least, safety nets should implosion mark the end of this tale. With so many partners at the firm having lateraled in and so may having their compensation cut to pay for these laterals, institutional loyalty is likely a scarce commodity at Dewey.

Now with implosion being a real concern, law firms considering taking on some of those outstanding lawyers from Dewey, must prudently temper their enthusiasm with the fact that with the real risk that they will need to be repay fees generated by these laterals will need to be repaid to a bankruptcy trustee under the unfinished business doctrine articulated in *Jewel v Boxer* as well as the fact that the resources of many of these new partners will be sucked up by the consequence of the possible bankruptcy of Dewey (yes, I finally said the unthinkable "B" word).

We all hope and pray, for the sake of all of those directly affected and for the sake of the profession that Dewey survives this nosedive. The alternative is almost unthinkable. But the specter looms large.

Now, I invite you to suggest management strategies that can prevent the train wreck. Let's all say we pitched in or at least tried to do so. If you were leading this law firm, what steps would you now take?

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