the Marcus LETTER

PLANNING REALISTICALLY IN A TIME OF ECONOMIC DISTRESS

How To Avoid Destroying Your Firm's Future By Arbitrary Expense Cutting And Obsolete Planning Techniques

There is a wonderful old Russian folk tale about the family in a sled being chased by ferocious wolves. To slow down the wolves, thinking to protect the remaining family members, they threw children overboard.

That story comes to mind as we watch the law and accounting firms, chased by the wolves of a depressing economy, decimate their firms by furloughing or firing staff, deferring new hires, cutting salaries, and otherwise taking draconian measures to slash costs and, presumably, to save firms. In too many cases, these actions are precipitous and short sighted, with no view of the future. There is a notion that when economic conditions improve, there will be a large pool of talent waiting to be recalled. Maybe, but not likely. It seems probable that in too many cases, this kind of thinking will reduce once vibrant firms to impotent skeletons in a highly competitive market. For larger firms, pursuing these practices may mean creating firms that of themselves will substantially alter the nature of legal or accounting practice. For the accountants and lawyers jettisoned under these policies, it means living with regret at having wasted all those years, all that education and all those apprenticeships, and all that money, to no fulfillment of promise. If the downturn lasts long enough, it means monumental changes in career plans. And who will be able to wait around waiting for the law and accounting firms to recover? What can be done now that anticipates functioning successfully as recovery kicks in?

More than functioning defensively, is there an active approach that will better serve a firm's future?

At the root of this problem is the reality that lawyers and accountants are rarely trained to understand that running a professional firm is no longer simply a matter of collegiality and professionalism – these firms are businesses that go beyond the practice of law or accounting. They must be managed not only for profit, but for sustainability into the future, and this is the kind of training they don't get in law or accounting schools. Even professionals with MBAs seem to be inadequately prepared to deal with such issues facing law and accounting firms as competition, strategic planning, or marketing. As a result, the attempts by so many firms to successfully and realistically plan for the exigencies of a dynamic marketplace are at best inadequate. They have been lulled into a false sense of security by the last few decades of prosperity and easy success.

Long range planning is, of course, not new. During the halcyon days of growth and prosperity, it was usually predicated on concepts of where the firm's partners wanted to be in the future -- the kind of firm, the kind of growth, the kind of revenue. It was not only egocentric, usually performed by lawyer, accountants, or marketers with no planning training, but it rarely worked. And in those days of unfettered growth, it didn't matter. The firm was going to grow anyway.

No more. In today's economy, planning is essential as much for survival as it used to be for growth. Planning is for managing a firm that not only survives now, but allows for a future that must emerge from an economic downturn. Because it is likely that the recovery will find the environment substantially different than it was before, it is indeed a new kind of planning. It begins, as should all firm and marketing planning, with a clear assessment of the markets a firm serves.

Typically, attempts at long range planning too frequently begin with the question, "What kind of firm do we want to be?" – as egocentric an exercise, and as useless, as putting coal on the stove in mid-July, simply because the stove exists. This kind of planning tends to be predicated on firm or partner wishes – not the realities of a dynamic and rapidly changing marketplace. Moreover, it tends to think in terms of marketing the entire firm – what is unfortunately and inaccurately called *branding*. Except for the very largest firm, it's an exercise that leads down a dark path to nowhere. The response usually includes elaborate and expensive plans to market the entire firm, which is essentially the wrong way to go. This approach is a major producer of the scrap paper on which these plans are written.

There is an answer. Not a magic bullet, but an active approach to the situation that promises to help a firm survive and emerge with the strength to live and thrive, and to better meet the challenges of the current economic crisis without destroying a firm's future. It's a form of focused and concentrated long-range planning, not predicated on the past, or even the present, but on a better understanding of new dynamics in society and the economy. It requires a meticulous examination of rarely explored factors, to better understand a firm's market and practices, to better explore future needs, and to better understand the significant role of marketing as both a science and art form.

It's based on the distinctive qualities of each of the firm's practices, and the structure of the clients' industries. It's a different approach to long term planning.

Its focus is not on the firm as a whole, but on its individual practices and skills.

If there is one weak point in most professional firm planning, it's the failure to recognize and accept that a professional firm thrives on its market – its current and prospective clientele – and not alone on the wisdom and skills of the professionals. Law and accounting firms don't function in a vacuum, and the failure to recognize that professional marketing is as integral to successful practice as any legal or accounting skill. Thus, markets and marketing are at the heart and root of any professional firm planning.

At the base of effective and realistic long range planning, then, lie two crucial factors that are at the core of a firm's future – the nature of the markets it serves and will serve in the future, and the ability to improve productivity consistently and flexibly, to meet current and future needs. In this context, there are significant considerations...

- At the outset, planning is not primarily a firm process, but one predicated on *each market segment served* by the firm, and each of the firm's specific practices that serves each market segment. This is crucial.

  That a firm is best served by marketing the entire firm is an expensive myth. A firm is the sum of the capabilities and experience of its members, particularly in specific practice or skill areas. That is where it's clientele is attracted, and where the firm's reputation is conceived. It is through these talents inclusively, then, that a firm thrives.

Each market segment is in many ways different from other market segments. Each has its own economic and industry characteristics, its own legal and accounting needs and practices, its own regulatory environment, and its customs And while there are many legal and accounting needs that most clients may have in common, a firm's ability to identify and serve those needs (particularly a client's distinctive and unique needs), are the difference between a growing and a declining firm . Market segmentation -- so-called niche marketing – is not new. But market segmentation in planning is, to a large degree, neither fully understood nor appropriately applied.

This is not to say that name recognition is not important. It should be fostered by the traditional marketing techniques – articles, seminars, direct mail (and other selling techniques), intelligent advertising, etc. . And certainly, planned networking is essential. But in planning, the emphasis should be on segments, not the firm itself.

- The market for your services is *dynamic*. It changes constantly. This is true normally, but it's particularly cogent in times of economic crisis, as the clientele adjusts its own functions to accommodate changing economic conditions. This means that planning can't function solely from the rear view mirror, but from a view of the *dynamic* that drives clients' businesses.

  In times of flux and crisis, the nature of a client's business may be affected by frequent changes in its own markets and financial sources, its material sources, its industry, and its own personnel changes and attitudes. Thus, as the clients' needs change, so too must their relationships with outside professionals change. To succeed and sustain your future with your clients, you must have a process to enhance flexibility and relations. In other words, you must be a firm for not only your clients' present, but their future as well.

- Maintaining or improving productivity is an essential factor in long term planning. It's particularly crucial during periods of economic downturn.

Productivity is a function of getting more work done within the confines of time and costs. During times of great economic growth, productivity is important, but during recessionary periods, it's crucial. You're not going to want to cut resources now at the cost of future service, to the best of your ability to forecast the future.

The classic basic fixed and measurable factors that define productivity, in economists' terms, are time, labor, and overhead (rent, lights, paper, equipment, secretarial help, etc.). These factors would seem to be intractable. There is a finite amount of time during which a professional can work, even with a long day. The cost of labor is most frequently determined by the marketplace for labor, more than the wishes of the employer. Overhead is usually fixed as well. These are, however, points at which productivity can be controlled and improved. For example..

- Realistic objectives
- Marketing.
- Planning.
- Risk management

- Organization and governance.
- Firm and marketing objectives.
- Internal communication and knowledge management.
- Technology.
- Client relations.
- Effective use of staff.
- Motivation.
- Competitive intelligence.
- Fee structures.
- Skill levels.
- Recruiting.
- Training.
- Client service teams.
- Productivity

It's in the area of productivity, by the way, that most firms turn to during economic downturns. But despite the importance of improving productivity, it's only one part of a firm's solution to economic security in both the present and future.

The Process

The objective of long term planning, particularly in dynamic and uncertain times, is not only to sustain and grow, but to reduce expenses without damaging or diminishing service, or losing the ability to serve clients effectively as the economy recovers. Learning to plan for an uncertain future in uncertain times allows you to better assess allocation of skills needed to serve both present and future markets, as the economy recovers. It helps you to reduce costs, increase productivity, and to avoid decisions that will hobble you in the future. It helps as well to avoid destroying or weakening parts of your firm that will ultimately become important as the economy recovers. And most significantly, it helps keep a firm relevant to the changing needs of the dynamic economy.

Every law and accounting firm practice usually consists of dedicated services, based upon the skills and experience of the firm's people, the nature of existing clientele, and the potential market for each of the specific practices. Larger law firms may be structured in practice groups based on specific legal services (litigation, transactional, etc.) or distinctive skills. In accounting firms, the practice may be broken down by business practices (taxes, audit, business consulting, regulatory compliance, personal finance, etc.)

Each of these practices, looked at separately, may require different skills, have different operational structures, different economic structures, and different levels of profitability. By carefully examining the industries and clientele served by each service or practice, it becomes possible to determine where the greatest opportunities for a secure present and future growth are most likely to exist. It allows you to determine not only where resources are best allocated, but what resources might be needed as the economy rebounds.

This process increases the opportunity to make informed decisions about where allocations of staff and resources are best or least likely to afford a return on the investment, both now and in the future. This includes making safer decisions about where to cut staff and other costs without substantially damaging the firm's future.

The Steps

The steps for the process are....

1. Plan each of the firm's services or practice groups (e.g. litigation, transactional, real estate, tax, audit cash flow management, etc.) separately.

2. The future of the firm will ultimately depend upon the sum of all its practices. However, the nature of the firm's business will depend upon the success of *each* practice that contributes to the entire firm. The fortunes of each practice or service will shift, predicated largely on external factors. For example, the real estate industry, which is currently at the heart of the economic problems of the current economy, might at one time have been a significant part of the firms' practice and revenues, but currently may be declining. A firm's bankruptcy or IPO practice may have been an important source of revenue, but under present economic conditions, the IPO practice may be sharply reduced, but the bankruptcy practice may be contributing a disproportionate part of revenue increase. Recognizing the effects of a shifting economy, whether it is going into deeper recession or increasing recovery, the difference between the current nature of the firm and its future may be substantial.

3. Break down your clientele in each category by the nature of the industry (*static, declining*, or *emerging*) in which the clients in each of those groups function. Which clients or services are the strongest contributors to firm profitability – and which clients or services are giving the firm a greater return on the investment of time and marketing efforts. It's fishing in the schools rather than trying to find fish one at a time.

4. Within each practice, segregate clients in three categories – those in declining , static, or emerging industries. To make the safest assessment of a firm's future, this form of categorization gives a strong indication of a firm's strength and growth potential in the future. Focus on the industries at the top of the list (usually *emerging*, but if the bulk of your clients are in declining industries, you may have a different problem).

   (Some years ago, during the days of the Big Eight accounting firms, we developed this process. We discovered that the top four firms had a preponderance of clients in emerging industries, while most of the clients in the bottom four firms had a preponderance clients in declining industries. As firms began to merge to produce what is now the Big Four, it was the firms with most of their clients in emerging industries that survived in mergers.)

5. Calculate which clients or client industries produce the greatest net profits, and which groups are most likely to do so in the foreseeable future

6. Take into consideration existing clients not at the top of the list, but maintained for other reasons (e.g. long-standing, prestigious, etc.). This can call for a delicate balance. These clients are not to be ignored, but don't warrant substantial investment of diminishing resources , particularly in marketing. There's an old saying among horse trainers that it costs as much to feed a bad horse as a good horse. Serve, then, all profitable clients, but seek clients with a better growth potential.

7. Competitive intelligence – understanding what your competitors are doing – is an essential part of running any business. In the current economic environment, when many of your competitors are fighting the same problems as you, there are two advantages to knowing what they are doing – understanding what others are doing to avoid disaster, and in many cases, losing clients that you may compete for. In any industry, and particularly in the professions, no firm operates in a vacuum.

8. Develop a marketing plan for each practice or industry segment first, then consider marketing for the entire firm. Primary focus should be on the firm segment, with firm marketing second.

9. This is the time to take a serious look at your firm's operational and business practices. Whether its cash flow management or personnel practices or marketing, look at every internal process and ask yourself, "This is the way we did this yesterday. But the environment has changed. Is it the best way to do it today?"

This kind of breakdown and analytic approach shows you where the strengths and weaknesses of your client base are, and allows you to make informed decisions about allocation of resources, including staff and marketing thrust. It helps, as well, to inform you of where your future needs for the preservation of the firm might lie.

Forecasting

But predicting the future is more difficult. How, then, do you plan?

Consider, first, the concept of *dynamics*. All factors that will ultimately affect your business are in constant motion, affected by random events not always foreseeable nor under your control. This precludes planning based on predicting future trends primarily as extensions of current circumstances. There are too many factors that are unforeseen, and that can alter the course of events as we know them now. A classic example of how this works may be seen in the root causes of the current economic crisis, in which housing costs were allowed to become inflated, predicated on short-term variable rate mortgages sold to people who could not sustain payments as interest rates rose. Bundling these mortgages as a foundation for mortgage-backed securities led to massive failures as the holders of the mortgages defaulted, which suddenly undercut the value of the mortgage-based securities. In hindsight, it was predictable – at least as a possibility –but it wasn't anticipated. Or as John Lennon said, "Life is what happens when you're making other plans.

Consider, then, the decision tree, in which you follow each of the several possible and likely paths, within the context of your firm and its potential markets. While none of these paths can precisely predict the future, each path maybe played out to clarify possibilities, and even probabilities. Choice for action may be made in terms of potential consequences that you and your firm can live with.

To better anticipate the future, educate yourself. Focus, for example, on the industries in which your current and prospective clients function. Read the trade publications. Spend time with your clients to better understand their current and future views of the businesses. Join and participate in their trade associations, and read economic reports, which can better inform you of economic trends, as well as the concept of static, declining, and emerging industries. You might even consider retaining the services of a business economist. This approach helps you better understand the likely strengths of your potential markets, both currently and in the future.

Moreover, it can reduce the danger of firing the wrong people, or taking precipitous actions that sabotage a firm's future ability to safely and economically recover when the current economic crisis recedes. It's a strategy for keeping a firm relevant to the changing demands of a kaleidoscopic economic environment.

At the same time, this process can help develop a structure and practice that carries the firm through the difficulties of the current economic environment. This means...

- A more rational way to reduce expenses without decimating the firm beyond repair. You'll have a better understand of which expenses should be cut, and why. You'll have a more rational understanding of which staff should be cut, furloughed, or put on reduced pay.
- A structure that serves the firm in the future, and better sustains the firm and its talents throughout the crisis.
- Improved firm business planning skills.
- Increased productivity.
- A firm that's moved from one that's static and incapable of responding in a timely way to changes in the economy, to a firm that is itself dynamic , and functions in concert with its dynamic market.
- A firm with focused marketing skills – a firm with a new and invaluable marketing culture
- An energized staff.

Conclusion

Ultimately, successful planning depends upon the ability to make reality-based decisions, not wishes and judgments based on a full understanding of the consequences of each choice.

Think in terms of the market and its needs, not of the firm's wish list for the future.

Marketing wisdom is essential. Not merely rehashing what others have done, nor an arbitrary use of traditional tools of marketing While it's understood that the aim of marketing is to get clients, the successful marketing program is one that helps keep a firm relevant to the dynamic needs of its market.

Challenge your assumptions and practices daily. "This is the way we did it yesterday. Is it still the best way to do it today, in a dynamic society and economy?"

Remember, too, that the objective of this exercise is to make decisions that strengthen your firm today, and prepares your firm for a better tomorrow.

Does it work? Yes it does. It's based on my own successful experience with both law and accounting firms. If you have any questions, or think I can be helpful, ***send me an email***. I'll call you back, and we can talk.

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