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Signs Your Law Firm Is Failing

By Scott Carlson

“Warning: This law firm is in danger of permanently closing.”

No attorneys would want that engraved on their firm’s shingle. And yet, there are sometimes outward indications that a law firm may be at risk of shuttering its operation, according to legal marketing experts.

The signs range from the defection of key partners to a glut of partners and not enough associates, the experts say. More subtle signals include firms hiring without a strategy and rotating the post of managing partner among senior partners regardless of whether they can handle the job, they add.

Industry gossip about law firm closings cranked up this summer after Rider Bennett in Minneapolis shut down, a move that affected 91 attorneys and 100 support employees. The firm’s demise surprised most legal insiders and even caught its own employees off guard.

“I knew they weren’t doing as well as they would have liked,” says Tracy Domish, former Rider Bennett legal marketing director. “But I was surprised how quickly it happened.”

So was Patty Comeford, founder of The Esquire Group, a Minneapolis-based legal recruiting and placement firm whose clients included Rider Bennett.

“Most of the legal community assumed the firm’s troubles were behind it,” notes Comeford, now head of You’re Never Stuck Inc., which helps companies and law firms focus on talent acquisition and business strategies. “They had moved into new space at very favorable lease terms and its lucrative estate planning practice wasn’t going anywhere. Many of Rider’s partners recognized the firm’s challenges but also thought they were weathering the storm.”

But Rider Bennett certainly isn’t the first major Twin Cities law firm to fall apart. Minneapolis-based Popham Haik closed in 1997, affecting 240 attorneys, and St. Paul’s Doherty Rumble & Butler was the state’s oldest law firm before shuttering its doors in 1999 and laying off 90 attorneys.

Every year, some of the nation’s 45,000 to 50,000 law firms (about half of them are solo practitioners) go out of business. Stephen “Pete’’ Peterson, a Denver legal marketing consultant, says he has tracked at least 10 law firm closings annually for several years. Among the biggest closings this year: Jenkens & Gilchrist, a Dallas-based law firm that once had more than 600 attorneys.

Legal experts say the biggest recurring reason for law firm closings is essentially ineffective leadership that, in turn, causes other problems such as underperforming finances.

Comeford notes, “I am distinguishing leadership from mere management of a law firm. The type of leadership I’m referring to is about making tough decisions and, most importantly, acting on them versus ignoring [problems], hoping that they will go away.”

Comeford sees the demise of Rider Bennett as distinct from Doherty Rumble and Popham Haik, though common denominators exist. Doherty's practice was reliant on a few key producers, and both associate and partner salaries were top of the market. A similar story could be seen at Popham Haik, which was the Twin Cities go-go firm of the '90s.

In contrast, Rider's salaries were well under the market for both partners and associates, so it wasn't victimized by greed or overpaid attorneys, Comeford says.

Rather, Rider Bennett's demise may have been more from what the firm didn't do as opposed to what it did, an affliction quite common in law firms because they typically manage by committee, Comeford speculates.

Comeford notes that while she headed The Esquire Group, her company would periodically meet with law firm clients and provide them with "state of the market" information. "While I have the utmost respect for the lawyers at Rider Bennett, it was clear in those meetings they were reticent to act on the tough decisions," including unprofitable practice areas.

If ineffective leadership is at the root of law firm closings, one of the key external byproducts of that is the defection of key partners, the experts say.

"Law firms are fragile environments to begin with," Peterson says. For example, if the firm has several practice groups, they can be competing with one another, which can influence the strategic direction of the firm. "There can be a lot of tension if there isn't strong leadership," he says. "I think that was a challenge at Rider Bennett."

Some law firms also fall into trouble when key clients grow and demand more services than the firm can provide, Peterson says. If key attorneys leave under this duress, their departure puts a financial strain on the depleted law firm to deal with its fixed overhead costs, which can account for 70 to 80 percent of expenses.

One thing law firms should do that they often don't is put a plan in place for management succession, Peterson says. "Fortune 500 CEOs take the view that from day one they begin to plan for who will take over from them and they begin the grooming process right away," he notes.

Peterson says smart managing partners delegate duties such as recruitment and marketing to see who has the skills to succeed them.

Terrie Wheeler, president of Twin Cities-based Professional Services Marketing Inc., notes, "Too often law firms pick their managing directors because 'I am a senior partner and it's my turn to do this' or 'I haven't done this before.' They are voted into the position for other reasons than being a good CEO. That can lead to problems."

Wheeler, whose clients include law firms, adds that a law firm's survival can be more problematic if it has many more partners than associates. She notes that at some law firms, as many as two-thirds of their attorneys are partners.

"If the law firm has this many partners, are they all contributing to the firm's bottom line?" Wheeler asks. "If you have a large firm where there are only a few rainmakers, that is a danger."

All of a firm's attorneys, whether star rainmakers or new associates, need to be productive so resentments don't build up among key rainmakers, she says.

Legal experts say other signs a law firm could be headed toward trouble include:

• Hiring without a strategy. Good leadership entails hiring with strategy, rather than based on personality or mere market perceptions, Comeford says. “Hiring someone because you perceive he or she has a book of business and a practice with a future is a recipe for disaster,” she adds. “Due diligence has to get done.”

• Clients are “owned” by partners and are not institutionalized as clients of the firm. When a law firm uses teams of lawyers to handle a client’s work, it becomes less vulnerable to losing that client if some attorneys leave, says Sally Schmidt, a St. Paul legal marketing consultant.

• Amassing debt. Successful firms are cash-and-carry.

• Continuing money-losing practices like insurance defense because it’s a key partner’s practice area, or it’s considered “a good practice to train the associates.”

• Reliance on a single industry, or on a small number of clients who might suddenly disappear.

• Lack of business development activities and incentives. Too often troubled firms will put their financial resources and energy into creating new marketing materials, Comeford says. “Marketing materials don’t sell a law firm; people do.”

Wheeler agrees, observing that with each law firm casualty, more lawyers are realizing the need to engage in various marketing activities to build their practice and contribute to their law firm.

Wheeler says attorneys’ strategic thinking is more important than ever for their practices given increased competition in the legal industry and less loyalty from clients. “Clients are more sophisticated,” Wheeler says. “They want the best of the best in the area where they need legal services. They don’t mind working with three or four different law firms.”

In the end, a lawyer needs to be more than just a legal adviser, say consultants. Lawyers must be business counsels, confidants. They must know their business inside and out, and be someone who can be turned to for advice in any situation.

Their own business may depend on it. **L&P**

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