

### CLIENT SPEAK

## The Red Zone Is Wide Open

*In a Troubled Economy, New Business Opportunities Still Abound*

By Allan Colman

Down economy. Incipient recession. Sub-prime credit crunch. Those are excuses that smart marketers don't use. They're catch-phrases that aggressive business developers never rely on. They're facts of life that do not impinge on the agendas of street-smart lawyers. Especially street-smart lawyers adept in the art of closing inside the Red Zone where — marketplace conditions notwithstanding — client prospects are always a breath or two away from saying yes, if only you know how to get them to say it.

To be sure, some firms are hamstrung by their overall strategies. If, for example, your core practice is heavily oriented toward structured finance, it's likely that the current credit crunch has wreaked havoc on your bottom line. That said, fungibility should always be just a wave of the wand away. Can lawyers be retooled into less affected transactional or real estate practices? Can they be trained to sell the skills that the marketplace now demands rather than the ones they've refined over the last few years?

Here's a simple but powerful case in point. The very day the stock market crashed in 1987, a visitor at Winston & Strawn asked the managing partner, "What are you guys going to do now?" The managing partner was unperturbed. "Build up our bankruptcy practice, of course," he replied with a smile.

I'm not saying it's easy. But I am saying that every marketplace fluctuation raises pointed concerns *for your clients as well as for you*. Your job is to have in place a marketing strategy that allows you to directly address their future concerns as well as a business development presentation to persuasively communicate that, if you did securitizations yesterday, you'll do workouts today with equal aplomb.

Like all downturns, the sub-prime crisis teaches us to have contingency plans. Contingency plans that are directly related to client needs. Anticipate what clients will need in bad times even as the good times are still rolling. To paraphrase Joe Flom, every crisis is an opportunity. So true, so true!

### THE LARGER PICTURE

Meanwhile, practice areas hampered by the current credit market represent a mere smidgen of what most well-rounded law firms still have to sell. Understand that associate layoffs in specific affected areas are only distractions from the larger picture. To

get a real sense of that larger picture, let's take a look — as we often have to support points we've made in this column — at the 2007 BTI Consulting Group Survey.

In that survey, 1,272 individual interviews with corporate counsel disclosed conspicuous business-generation opportunities for law firms that are able to recognize such opportunities and match their resident skills to client needs. Consider:

- 61.1 % of corporate clients have replaced at least one primary firm in the past 18 months.
- Corporate in-house counsel have added an average of eight new law firms to their core roster in the past two years.
- Corporate counsel have increased their spending with their secondary firms by 60% since 2001.
- Only 32.1% of corporations recommend their primary law firms to others.

If there was ever a time to prospect for new business, this is it. Even as the economy appears headed for a significant correction, major legal practice areas will continue to hold steady or even grow. BTI identifies six specialties as "Powerhouse Practices – Best Opportunities for 2007" based on perceptible growth patterns and client openness to premium rate billing.

- Class Action
- Bet-the-Company Litigation
- IP Litigation

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- Regulatory
- M&A
- Securities

The litigation areas are not, of course, surprising. There, as in employment and intellectual property (IP litigation and non-litigation IP), anticipated growth rates are just under 10%. As litigators, do you have business development plans separately tailored for up markets and down markets? Litigators should naturally thrive in both.

In securities, there may be growing demand for diversified instruments unaffected by the current downturn in mortgage-backed securities. Are you identifying creative alternatives? Are you giving free hints on how corporate and institutional portfolios might be further diversified and expanded?

“Free hints” are always shrewd marketing and selling techniques. They provide potential buyers with a sense of what you can accomplish. The implicit message to the client prospect: *If this is what you're getting for free, imagine what you'll get if you start paying for it!* In a down market, the technique is even more effective. Client prospects might feel as if they're about to start drowning. Your free hints, if they're substantive and useful enough, are like lifelines that C-Suites as well as in-house counsel may grab.

At first blush it's something of a surprise to see M&A on the current hot list, yet consider the diversity of transactions that may arise if the volume of mega-deals subsides. There are still terrific mid-sized law firms in cities like Cleveland and Indianapolis feeding on deals involving mid-cap clients.

## THE INDUSTRY FACTOR

Specific industries are also consolidating because competitive conditions demand it. Here, the “client knowledge” mantra is especially important. Clients may be caught between two untenable positions: having to merge or acquire because their customers require fuller service and broader platform, while being hard-pressed to generate the financing to move forward. Are there solutions you can talk about? Can you talk about growth in a less-than-abundance situation?

Client knowledge and industry knowledge naturally dovetail. Know what specific industries need in down markets as well as what they need in better weather. Right now, a variety of sources, including BTI, confirm increased litigation in health care, insurance, professional services, utilities, and wholesale trade. Do you know what causes of action commonly drive that diverse litigation?

Not just banks and financial services, securities work is on the upswing among manufacturers and wholesalers. M&A is reportedly still strong in those sectors as well, while the chemical and energy industries are seeing a strong flow of sizable deals. (Even as I write, the Netherlands-based Bassell has just acquired the Lyondell Chemical Company).

Have your IP lawyers looked at the banking and insurance industries as well as high tech and pharma? Are your employment lawyers marketing to telecommunications companies as well as to their customary health care and retail prospects? Are your environmental lawyers talking to wholesalers?

## PAINFUL LESSONS

The fact that, in this current market, your lawyers ought to be carefully examining such new and variegated industry area possibilities suggests a few very important marketing lessons. Lawyers get myopic. Some lawyers, for example, see themselves as both employment and health care practitioners, defining their skills according to a specific industry even though those skills are widely adaptable. Employment lawyers like litigators may tend to do well in adverse economies, but the health care industry is driven by consolidation. Why define yourself mainly on the basis of a single industry with a steadily declining pool of potential clients. So take a look at telecommunications as well. Likewise, look at wholesalers, not just retailers. Diversify your marketing in the good times if you want to be ready for the bad ones.

One wonders about the wisdom of industry practice groups. To be sure, it's a powerful selling tool when you can tell prospects that you know everything there is to know about the widgets they manufacture. Again, though,

what happens if people stop buying widgets?

You can never have too much market research — and the broader, the better. When we see law firms start global warming practice groups (Greenberg Traurig) or sub-prime counseling practices (Patterson Belknap), chances are we're seeing the fruits of their extensive research into both specific client needs and overall industry concerns. In turn, such research facilitates the most effective possible professional service marketing — marketing that is based on extraordinarily broad due diligence and yet results in extraordinarily specific niche service capability.

It's a safe bet that the law firms most directly affected by the credit crunch will now acknowledge, albeit a mite sadly, the wisdom of diversified marketing to support an expanding number of targeted niche services. The good news is that down markets always provide opportunities to learn the kind of lessons that will only make us stronger in the future.

The bad news is that, no matter how painful those lessons are to learn, they always seem to be quickly forgotten.

