

Professional Development Comes of Age

By Bryn R. Vaaler & Nancy O. Fraser

As law firms grow in size and complexity, they are increasingly realizing that professional development of their lawyers can no longer be left to the haphazard of on-the-job experience. Competing effectively today requires strategic thinking about cultivation of the law firm's primary business asset: its lawyers.

As if to signal official recognition of the place of institutionalized professional development in law firms, one of the leading practitioners and thinkers in professional development has just published what is undoubtedly the most important book on the subject to date. *Lawyers' Professional Development: The Legal Employer's Comprehensive Guide* (NALP 2002) by Ida Abbott is a must read for those who manage law firms or corporate or governmental legal departments.

Abbott notes that one measure of the coming of age of law firm professional development is the recent dramatic growth in membership of the Professional Development Consortium (PDC), the only association in the United States comprised solely of in-house legal training and professional development personnel. After a fairly steady membership made up primarily of personnel from large East Coast firms

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Avoiding Extinction in A Turbulent Legal Market: The Other Side of Consolidation

By Joseph B. Altonji and William G. Johnston

The early days of 2003 have brought a stark reminder to the leaders of law firms. While strong law firms have experienced an exceptional level of prosperity and growth in a consolidating market, continued expansion and ever increasing profitability are not the only potential destinies for law firms today. As the high profile closures of long established firms such as Brobeck; Peterson & Ross; Hill & Barlow and others demonstrate anew, firms can fail. And with failure come career interruption, client uncertainty and financial distress for many.

Recent dissolutions reinforce the fact that law firms are fragile enterprises. If not carefully and constantly renewed and developed, they are in danger of falling apart, often rather quickly. In reality, in spite of appearances of rapid failure, the seeds of collapse are generally sown long in advance — in most cases, even long before the firm begins to noticeably decline (eg, as seen in the form of firm shrinkage or lowered profitability). The lessons learned from dissolving firms offer leaders an opportunity to avoid seeing their firms consigned to the dustbins of history — if properly focused and motivated, there is almost always time to intervene and change a firm's direction, before it is faced with a final crisis.

Of course, leaders must know where to focus their efforts. There is no simple list of things that drive a firm to failure, and in most situations the underlying problems are many and complexly interwoven. In general, the sources of failure come from three overriding areas, and usually from more than one simultaneously. These are:

- Weak or non-existent strategic focus;
- Poor operational effectiveness; and
- Lack of financial hygiene.

If management can act to strengthen these areas early on, they can often limit their problems and bring the firm back to a prosperous track.

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throughout the 1990s, PDC membership doubled from January 2000 through the end of 2002. New members included personnel from large firms throughout the United States, Canada and the United Kingdom.

BASIC ELEMENTS OF A PROFESSIONAL DEVELOPMENT PROGRAM

Abbott breaks a comprehensive professional development program into four principal components: formal training; on-the-job training; mentoring; and evaluation and advancement/feedback.

Formal training: Skills and knowledge. High associate billing rates, increased demand for early specialization and the need to stay on top of fast-paced changes in the law are just some of the reasons law firms are supplementing on-the-job learning with more and more formal training elements. Last year, our firm sponsored nearly 400 hours of formal in-house training — most taught by our own lawyers. Substantive and skills topics are generated by our various practice groups and coordinated by our professional development team. Formal programs include:

New Lawyer Training. Our new lawyers are required to attend a five-day program (taught in two halves, one in the fall and one in the spring of their first year) that covers topics germane to firm orientation and a basic grounding in their practice area. New lawyer training helps our new associates hit the ground running. It also provides important assimilation. New hires from all offices are flown into our largest office, offering all an important opportunity to get to know each other.

Core training. Monthly programs on basic building block topics are scheduled throughout the year from a list of core topics developed by part-

ners and associates in our major practice areas. For example, our Corporate Group sponsors one three-hour program each month for associates in years 1 or 2 and one 90-minute program each month for associates in years 3, 4 and 5. Attendance is mandatory. Our M&A Practice Group conducts a more advanced and specific series of training programs that builds upon the Corporate core training base. In addition to core substantive training emanating from practice groups, we also offer training on core skills that cut across practice areas, including negotiation, alternative dispute resolution, time management and oral and written communication.

Current events and cutting edge. In areas of law characterized by rapid and significant legal change, regular update training programs are scheduled. For instance, our M&A Practice Group sponsors an M&A Update program every 6 months to recap the latest legislative, regulatory and case law developments. At our Corporate Forum meetings, corporate partners and associates gather every Monday morning to discuss items culled from the most recent week's advance sheets. Corporate partners take turns leading discussion. Our Trial Group meets monthly to discuss discovery issues and case developments, recent experiences with judges and to hear partner and associate presentations on legal developments. In addition, major legal developments provide occasion for intensive in-house training (eg, from August 2002 through February 2003, we produced 15 hours of original, internal programs on the Sarbanes-Oxley Act of 2002 and related reforms).

Getting maximum return on investment in formal training requires the professional development group to work closely with other firm functions. Two key relationships are with Marketing and Knowledge Management (KM). Client participation in firm-originated training can be one of the most effective forms of marketing and business development. Our firm sponsors an annual Corporate Counsel Symposium in which our lawyers present a half-day of break-out sessions on hot legal

topics for an enormous in-house counsel audience. We also produce a substantial number of more modest training events for clients (eg, monthly labor and employment breakfasts) during the year and respond to client requests for on-site programs on topics suggested by the clients. We are currently working with Marketing to integrate client personnel even further into the fabric of our internal training programs, both as a marketing tool and as a revenue generating venture.

Professional development also works closely with Knowledge Management to make sure that, whenever possible, training programs become an occasion for production or improvement of one or more KM resources (eg, best practices form, illustrative documents). For example, if a corporate lawyer is speaking on private securities resale transactions, that training session can be an occasion to produce or improve a best-practices form of secondary purchase agreement, seller's counsel legal opinion and related back-up certificate. The training session itself can then revolve around discussion of those resources as a way of addressing legal doctrine and relevant practice. When training revolves around valuable KM resources, it stays fresh, concrete and relevant. On our firm intranet, we have a comprehensive list of all formal training programs in recent years along with names of presenters and presentation materials in downloadable form. This list is itself a tremendously valuable KM tool for quick identification of lawyer expertise and quick access to just-in-time training and documentary resources.

Obtaining CLE accreditation for in-house training can save a law firm a lot of money (ie, tuition, travel and lost billable time relating to attendance at external programs). One of the goals of our professional development program is to reduce the need for our lawyers to attend outside programs in order to meet their mandatory CLE requirements, thereby freeing them to attend outside programs only when those programs are truly excellent and present professional and business

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development opportunities of real benefit. Our formal training efforts have substantially reduced our lawyers' reliance on outside programs to fulfill mandatory CLE obligations.

On-the-job training and mentoring. Ironically, the most important facet of professional development is probably also the facet that is least subject to control and improvement by an organized professional development program. The quality of on-the-job training and mentoring depends tremendously on the particular personalities of the partners and associates involved, the nature of work flow and many more factors. Excellence can and should be rewarded. In 2001, our firm instituted a Dorsey U Partner-of-the-Year Award to recognize and reward excellence in on-the-job training and mentoring. Winners are chosen by non-partner attorneys based on a set of published criteria and announced by the managing partner at the firm's annual meeting. Winners receive free round-trip air fare for two anywhere in the world, a \$1,000 donation to the educational institution of their choice as well as firm-wide recognition.

Much more can and should be done to enhance the quality of on-the-job training and mentoring. Practice groups can codify experience milestones and make them part of the work allocation process to ensure that associates receive the necessary balance in work for proper grounding. Partners and associates can be trained to be better mentors and "mentees" and to give and receive feedback effectively. Formal work allocation and mentoring programs may be developed and put in place.

Our firm does not have a comprehensive, firm-wide work allocation or mentoring program. Instead, we have work allocation and mentoring programs that tend to be "local" in nature — limited to practice groups in specific offices. Although much could be said for the efficiencies of a comprehensive, firm-wide system, we are hesitant to interfere with "local" systems that work. We consider

firm-wide improvement of work allocation and mentoring one of our biggest challenges.

We have had an excellent experience in enhancing on-the-job training of trial lawyers in our largest office through a joint program with the city attorney's office. For 25 years, our firm has provided trial associates to the city attorney's office as "temporary prosecutors" in the criminal division. The city receives much needed assistance in prosecuting gross misdemeanor cases. Our associates receive 3 months of concentrated court-room experience that would take years to replicate in the course of normal, big-firm practice. Our associates repeatedly tell us that this is some of the best experience they get trying jury and court trials, handling evidentiary hearing, getting exposure to local judges and thinking on their feet.

Evaluation, advancement and feedback. Evaluation and advancement should be structured and executed in a firm to promote lawyer development. To optimize, performance standards and development guidelines should be articulated as clearly as possible and communicated from Day 1 to incoming lawyers. Ideally, developing lawyers should constantly be receiving informal evaluations of their performance in the form of timely, frank and constructive feedback on their work. Formal evaluations should let associates know how they are performing against the firm's articulated standards.

Articulating and implementing appropriate performance standards and development guidelines and fostering a culture of timely and effective feedback are important professional development goals for all law firms. Few are as far along the path to achieving these goals as they would like.

DIRECTING PROFESSIONAL DEVELOPMENT STRATEGIES

The current generation of professional development personnel at large law firms and legal departments generally evolved into their positions as the need for formal training and development became more acute. Their positions and staffing migrated and grew from within the firm.

Consequently, the titles, backgrounds and staffing of professional development groups tend to vary dramatically from firm to firm.

In our firm, the Director of Professional Development is a partner in the firm who left for 11 years to teach law school and then returned to spend 80% of his time directing professional development efforts. The rest of the staff, 4.5 full-time equivalents, have diverse backgrounds. Our Manager of Litigation Services, who has spent the past 13 years as a firm-wide manager in our Trial group, splits her time between supporting the firm's trial practice and professional development activities. Other staff members include a former corporate paralegal, a secretarial manager and former human resources personnel.

CONCLUSION

Investment in an organized professional development program with a dedicated staff has become a large-firm necessity. Meeting expectations for lawyer excellence in an increasingly competitive and complex market requires that talented, energetic and creative people whose energies are not directed primarily at the billable hour be put in charge of supporting development for those whose energies are so directed. In maintaining lawyer excellence, a first-rate professional development program will also support knowledge management, ethics and loss prevention, marketing and business development as well as recruiting, retention and diversity.

A first-rate program may not look exactly the same at all firms. Some firms may find it easiest to build a culture of constant teaching and learning through formal training programs. Others may find their efforts most rewarded by focusing first on improvements in on-the-job training and mentoring. Others may begin by improving feedback and formal evaluation and articulating standards and guidelines. It matters less where one starts than that one continues to make progress and continues to evaluate and refine the program.

