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Surviving in the middle

By Maria Kantzavelos

In the last few years, Chicago has seen several of its midsize firms acquired by bigger, out-of-town shops.

But there are those firms that have embraced their place in the middle, resisted the urge to merge, and found the right formula for keeping their practices going for decades.

"The key to being successful in the middle is, number one: control your costs. Number two: be focused on doing a few things arguably as well as the large firms," said Ward Bower, a principal of the law firm consulting business Altman Weil Inc. "If you can do that, then you have a chance to compete for good work. But if you try to be everything to everybody, then you're caught in that no-man's land, where clients will go to larger firms for important matters, and to smaller firms where price is important."

Although the biggest Wall Street firms suffered first, and are suffering the most, from the nation's dismal economy, the current climate is impacting virtually all law firms, said Joel F. Henning, law firm consultant for Hildebrandt International.

"But our midsize clients, for the most part, are generally weathering the storm," Henning said. "It has to do with focus, strategy, knowing what you can do extremely well, doing it, and not trying to do everything.

"I see a great future for midsize firms that want to remain midsize, so long as they're realistic, and operate very strategically."

Chicago Lawyer this month talked with leaders at three long-standing midsize firms about their own business strategies for surviving and thriving as independent shops that have found a niche in a globalized profession and, now, in an economic crisis.

In the mix at Freeborn & Peters

Since June 1983, when six lawyers with a business-oriented practice parted from an old-line Chicago firm to open up their own shop, Freeborn & Peters has grown to about 120 lawyers — without any mergers or acquisitions.

While the size of the firm has remained relatively stable for the last 10 years, its profitability has been on the rise, said Michael D. Freeborn, a founding partner.

Size, he said, has had little to do with the survival of this independent firm that focuses its practice on five core areas: business litigation, business law, real estate, government relations, and bankruptcy and creditors' rights.

"Size has never been the driver for what we've been doing. It just happens to be the consequence of what we've been doing," Freeborn said.

The firm, which typically hires laterally and gradually, based on the needs of its clients, eliminated its summer associate program in 2006 because, "in terms of being cost-effective, it was better for us to pick the stars — to cherry-pick and recruit that way," Freeborn said.

Michael D. Freeborn of Freeborn & Peters

And, he said, "We haven't actually launched a new practice area or practice group betting on the come, or expecting the business to follow. It's been more about, responding to clients' needs."

Freeborn said the firm has long focused on serving the legal needs of a particular set of clients: those looking for "boardroom-level" legal solutions, rather than "the commodity, or generic services that are lower priced and in which price is the determinant for whether you get the engagement."

"Companies have legal problems that are sometimes routine," Freeborn explained. "Other times they have unique, one-of-a-kind problems that rise to the level of drawing the attention of the members of the board. We've concentrated on equipping ourselves to handle those most serious corporate problems.

"When you're talking about boardroom-level problems, companies are willing to pay for the best talent."

That focus, Freeborn said, is among the three key ingredients that make up the recipe for the business strategy that has long been followed at Freeborn & Peters.

"The objective is to really have the power in those [five core practice] areas, and also the finesse to deal with things in bringing just the right level of firepower to the problem," Freeborn said. "Had we, instead, tried to be all things to all people, we would have been watered down. We would not have had the success we have."

The approach to staffing projects is a team-oriented one, Freeborn said, meaning it is interdisciplinary, without respect to rigid, department boundaries. And, despite its size, leaders consider the firm to be in competition with the big firms for business.

"When we've had beauty contests, we are typically the smallest of the participants at the beauty contest," Freeborn said.

A formulaic and prospective compensation system for equity partners is another key piece of the firm's business strategy.

"We basically decided we were going to take 75 percent of the firm's net income, and that was going to get allocated according to predetermined percentages," Freeborn explained. "That's the part that takes care of the longevity, the loyalty, the job security."

As opposed to the lockstep or "inverted wedding cake" kind of compensation system that rewards partners based on seniority, about 25 percent of a partner's income is based on short-term performance in areas that include: business origination, the profitability of that business, the number of hours devoted to the practice, contributions made in the area of firm management, and handling engagements not originated by the partner.

"We considered that a performance-based portion of about 25 percent was about enough to make sure you had an incentive to get out of bed in the morning, because 25 percent of your income is enough to get you concerned," Freeborn said.

The firm's compensation system includes an important subjective component, referred to as a reverse review process, by which every person within the firm can review equity partners with whom they've had significant contact.

He offered this hypothetical to show how the "anonymous" and "unfiltered" reverse review process could work: "A guy in the mailroom will subjectively evaluate me and tell, through this review process, if I've been constructive, supportive, receptive on the one hand. Or, on the other hand intolerant or indifferent, or failing to instruct."

"We have had equity partners who have lost equity units solely because of reverse reviews," Freeborn said. "They may be performing in every other way — bringing in business, billing hours, doing all those things right. But if you are interfering with the culture of the firm you could lose your equity partnership in the firm."

The third ingredient to the firm's business strategy deals with the way the firm is governed.

Its "participatory governance" consists of a few committees whose members are elected by a partnership that recognizes "that just because you are a lawyer who controls a lot of business, doesn't mean you know anything at all about managing an organization or providing leadership and structure to others," Freeborn said.

As such, Freeborn added, many of the partners elected to those leadership roles are lawyers with backgrounds in business.

While there was a period of time in the firm's 25-year history when leaders entertained the inquiries of out-of-town firms about the possibility of merging, the firm a few years ago adopted a philosophy that it would no longer engage in those discussions.

"We always had some trouble understanding why it would be beneficial. Why is big necessarily better for what we want to accomplish? ... Where's the payoff for the client, and where's the payoff for the lawyers? I just haven't seen it," Freeborn said. "If, in the end, you're going to come to the conclusion you're not going to get married, the breakup is an awkward conversation. So we, as politely as possible, turn down any overtures like that now."

Firm profits have been on the rise in recent years, and the firm came "within nickels and dimes" of an "ambitious target" in its budgeted net income for 2008. However, Freeborn conceded, there have been some big challenges along the way.

"It hasn't been just a linear slope upward, but I don't believe there's ever been a year in which we had a dramatic downturn in profits," Freeborn said. "There've been plateaus, to be sure. But the rolling average going forward has been an upward trend."

For this year, he said, "we're looking at it on a month-to-month basis, just because so much of how we do depends on how our clients do. If a client sneezes we can get a cold, so our focus has been on keeping our clients healthy. Because, if they stay healthy, we stay healthy." ■