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Lessons From Dewey & LeBoeuf: Five Reasons Why Law Firms Fail

Dewey & LeBoeuf's seemingly rapid free fall has caught the attention of business analysts and bankers as much as the legal community. As a result, the legal industry today is undergoing the same scrutiny as the financial services industry did in 2008.

While criminal allegations, lush multi-year contract guarantees and big debt dominate the Dewey news coverage, most of the analysis of why Dewey failed is wrong either in whole or in part. The underlying reasons for the firm's troubles are far less complicated than analysts have speculated thus far. Here are five reasons why law firms are failing which might shed light on what happened at Dewey:

1. **Refusal to Respond to Economic Changes**. Most law firms have continued to raise their billing rates each year since 2008 without recognizing the downturn in their clients' businesses. According to the 2012 Real Rate Report, the cost of an hour of a lawyer's time continued to grow faster than key measures of inflation, despite a struggling economy. As a result, larger corporate clients, once the exclusive property of the National Top 250 firms, have discovered the benefits of using smaller regional law firms. Smaller firms can offer more competitive pricing structures and alternative fee arrangements to accommodate the new economic realities of their clients.

2. **Arbitrary Multi-year Compensation Contracts**. In law firms that have "open compensation," allowing all partners to know how much money everyone makes, dissatisfaction often occurs when partners compare their own salaries to others. In law firms that have "closed compensation," there is more of a danger to create disparity in partner compensation. In all likelihood, it was both the guaranteed multi-year compensation contracts and the lack of uniformity in partner compensation that became ground zero for Dewey's failure. In many law firms, senior partners are unwilling to reduce their compensation during downturns, and they fail to recognize that partner compensation is never guaranteed. Big compensation is possible only for rainmakers who drive profits, and not for clientless superstar lawyers, superstar billers or senior members resting on past glory.

3. **Unwillingness to Try New Marketing Approaches**. In an economic downturn, most law firms resort to cutting expenditures and reducing the amount of money they spend on marketing. They rely on older, pre-2008 methods to generate new client leads. These law firms have failed to see the shift in client preference for using the internet to select a law

firm. As a result, they continue to ignore new media marketing techniques and social media.

4. **Failure to Adapt to Changing Priorities**. Law firms fail to recognize that the priorities of most lawyers have changed. Lifestyle—spending time with family and enjoying non-lawyer activities—has become a higher priority to new attorneys. Many law firms, therefore, miss the opportunity to offer less-costly benefits like flexible hours or generous vacation policies to attract and retain key employees.

5. **Inability to Change Course**. Many law firms are unwilling or unable to change their business plan, even when the marketplace clearly suggests they should. Many areas of practice that thrived prior to 2008 are no longer the most profitable. For instance, while real estate was one of the most lucrative practice areas until just five years ago, this market has had a significant downturn in most parts of the country. Now that other practice areas dominate law firm revenues, some firms lack the wisdom and leadership to reallocate resources to the most promising practice areas.

Ultimately, all of these reasons can be traced back to one common factor—many law firms fail to adapt to changing circumstances quickly enough or at all. Dewey is not the first law firm to fail since the 2008 downturn, and it will not be the last. However, it does illustrate the changing landscape in the legal services industry. Look for smaller, more progressive regional law firms—the middle firms–to gain prominence in the next decade.