LAW & ACCOUNTING

WORKING TOGETHER

IT’s considered a tradition: Lawyers and accountants have been working together to advise business leaders for what seems like forever.

Some show up to the glass and canvas chalet on the 18th hole at the Honda Classic in suits, others in polo shirts and khakis.

At the busy Palm Beach Gardens event, bankers, lawyers, accountants, real estate brokers are feeding. They’re also hunting for business.

Greenspoon Marder senior partner William Berger declined to give the price of the venue, but these chalets cost about $45,000. What Berger will say is that you have to spend money to make money – especially in tough times – by meeting with those who represent business to your firm, like accountants. It’s the way to build relationships with prospective clients and those that will refer clients. It’s about familiarity, established through handshakes, back-pats and introductions.

Greenspoon Marder is sharing the 45-person space with Suffolk Construction and CSI Property Management. They are all seeking to diversify, meet and greet, and make rain when it feels like drought lingers.

“In this economy, it is important to stay connected,” Berger said. “Everyone is looking for business, looking for clients. We are all in the same boat. And, I find it very rewarding coming out here.”

In both good and tough times, it seems the professional lives of accountants and attorneys go together like Southerners and mint juleps. There has always been overlap between these “trusted advisers,” but each professional is increasingly calling on the other to help navigate rough economic seas.

Attorney Ian Martinez, of the Law Offices of Martinez, PA, in Coral Gables, said he talks to accountants he deals with on a weekly basis. Usually, his referrals come from CPAs. For example, a CPA will discover one shareholder is embroiling from another, and counsel the aggrieved party to seek out an attorney, Martinez said he, the accountant and shareholder will then sit down and map out a plan, which usually involves sending a demand letter to the suspect shareholder.

If a company’s accounts receivables are more than 180 days, an accountant will suggest that an attorney contact the delinquent business to clear the outstanding balance.

While frequent interaction is common with the CPAs he typically works with, contact has become more frequent in the last year, Martinez said.

Lawyers usually call on accountants after establishing liability in commercial litigation cases or when dealing with divorce to apply lost profit and damage models. Attorneys on the other side will have their own accountants there to challenge the results, said Tanya M. Ferreiro, a principal at Kaufman Rossin & Co, in Miami.

“They’ll look at your number and say it’s too high because you didn’t consider various concepts,” she said.

Client costs factor differently for CPA Steve Templeton, who considers them when referring attorneys to clients. He said ordinary transactions – like leases, transactions closings and reviewing documents – can usually be handled by a wide range of lawyers. But, in complex cases, price will not be a determining factor for a referral.

When you need something that has to be 100 percent correct, then we might say, “It has to be this attorney,” said Templeton, principal of West Palm Beach-based Templeton & Co. “We say, ‘Go to that attorney and forget about the price.’

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William Berger | Senior partner, Greenspoon Marder

His client, instead, he may opt for a small firm that charges less, but is eager for the business.

Currently, both CPA and law firms say they are working hard to get every client, no matter how small. Daszkal said he recently won a job to deal with a company’s 401(k) plan, quoting $22,000 on a job that would have generated $30,000 a year ago. He soon lost the job to the largest CPA firm in Miami-Dade County, which quoted $15,000 for the business.

The bottom line for Daszkal is that the client is king, he says, and, in the end, the decision to partner with an attorney on a matter back and forth.

Very often, the trends lawyers and accountants see coming become the next crucial business issues for the region.
BY ED DUGGAN

While the practice of accounting doesn’t radically change overnight, its participants have reacted quickly to changes in the tax laws, new regulations and compliance issues that affect their business clients.

Those changes and the economy are sparking changes as local accountants look to revise services that could be profitable to their clients and themselves by adding or modifying their internal practice groups.

“We are beefing up our valuation, forensic accounting and litigation support group,” said Rebecca Fieler, corporate communications director at Boca Raton-based Daszkal Bolton.

The litigation support group, under the direction of partner Michael Kridel, has seen a marked upturn in bankruptcy-related inquiries, residential and commercial financing issues, loans and restructuring.

For athletes and celebrity clients, there is Game Plan Financial, a special group – but still an integral part of the firm – under the direction of partner Arthur Hurley, credited with coining the term “sports accountant.”

Hurley credits his strong relationship with sports and theatrical agents for Game Plan’s steady growth.

Daszkal Bolton also offers the services of two independent companies.

White Knight Solutions offers widespread business advisory services to businesses and is also available in the firms Jupiter and Fort Lauderdale offices.

Additionally, it has Benchmark Financial, a financial planning and investment adviser that is a separate, affiliated firm housed in the Boca Raton headquarters and managed by Roger Kalina.

As one segment falls, others rise in response to market conditions and client needs.

Frank Compiani, executive managing director of accounting giant RSM McGladrey/McGladrey & Pullen, sees all the practice areas affected by the economic downturn.

Major area of concern includes the construction industry, which is struggling, while health care is on an upswing.

“There is additional demand on our business valuation group for a variety of reasons – ranging from financial statements for loan renewals to tax and estate planning,” Compiani said.

Ligation support and forensic accounting are particularly busy as clients double-check their in-place systems to identify and catch problems quickly as they develop.

For companies that have laid off people or are understaffed for various accounting-related projects, the McGladrey group is also furnishing well-trained, temporary staff for some of its clients, under the general heading of staff augmentation.

And federal tax changes that affect small businesses and mid-market firms keep the tax group busy.

Additionally, McGladrey is positioning itself to help clients determine what is necessary for oversight on the dispersal of federal funds through state agencies or payers.

If cash is king, then West Palm Beach-based Templeton & Co. serves royalty.

“Cash flow optimization is a big deal right now,” partner Patricia McKay said. “Companies need to keep their income situation front and center, and plan to both mind and mine their balance sheet for cash.”

Mining the balance sheet includes getting the outstanding days down of receivables, getting credit card balances earlier and balancing inventories with actual needs.

McKay said the firm is strong in audit, tax and technology consulting. It is also a Microsoft Gold Partner with a specialization in customer relationship management (CRM) and has completed 50 different client projects in the last few years.

“With a CRM in place, a company can know where it is at any time in the sales process,” she said.

The other side of the cash flow coin is debt management.

“It’s important that clients read through their debt agreements and understand all the ramifications,” McKay said.

She suggests that clients “stress test” their loan covenants involving revolver lines so they can prevent technical defaults.
Law firms highlight workouts, international opportunities

By Paul Brinkmann

One law firm is opening offices in India and Chile. Another is adding attorneys from a smaller operation while trimming some support staff. And a third is using a small foreclosure practice to generate more work.

Opportunities may be diminished in a down economy, but some local firms are re-organizing, with an eye toward recovery.

“We think we’ve assembled a bright, cohesive team of lawyers – and we want to keep that,” said Neil Rollnick, managing partner in charge of Adorno & Yoss’ South Florida offices. “At the same time, we did cut some administrative staff, and recently brought in a boutique firm from Coconut Grove that had focused on real estate transactions.”

The firm took in three attorneys from Baker Kronig Keenan who had focused on the hot real estate market before 2006. But, in the stalled economy of 2008, that firm was looking for a new home.

“When the real estate economy was moving at such insane speed, you could forget about hiring a good attorney,” Rollnick said. “You couldn’t even find a real estate file clerk, but now we have the opportunity.”

Last year, Adorno & Yoss also added a new bankruptcy attorney, Steven Beiley, and relied on heightened foreclosure work to drive other business.

Foreclosures have also been a small – but important – part of another large South Florida firm, Greenspoon Marder.

Attorney Michael Ross saw the real estate markets slowing in 2006, and decided it was a good time to focus on foreclosures.

“I’ve represented banks for 30 years, but didn’t understand how this function of foreclosing actually worked, and this area of law had a bad reputation,” he said. “We found a disgruntled senior attorney that knew the business well, and hired her.”

That attorney was Marisol Morales, who now leads Greenspoon Marder’s foreclosure department. The firm announced its new practice group in May 2007, months before other firms made similar announcements regarding new workout groups.

Ross said the firm continued studying foreclosure law and added some new technology. He said the firm does foreclosure as part of other legal services, including mortgage modification.

“We’d rather do that, if possible,” Ross said. “We don’t want to put people out of their homes, but, of course, a lot of people in South Florida aren’t living in their homes.”

Greenspoon Marder has also picked up work handling transactions of bank-owned properties, he said.

Coral Gables-based Zumpano, Patricios & Winker, which has become a quarter of its revenue at this point. It has, in fact, helped us through the last two years of this recession.”

He added that the unique relationship with the foreign firms allows his firm to avoid negative publicity and backlash about “taking over” legal business in foreign countries.

He calls his strategy new globalism – the practice of ensuring that the firm assists with the “flow of commerce” between countries.

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When litigation involves complex financial, accounting, tax and investigative issues, the ability to understand and present these issues in an accurate and clear manner can make the difference between winning or losing a case.

At Berenfeld, we help attorneys build a solid case. Our professionals locate important documents, uncover hidden data, analyze financial information, prepare reports and present expert testimony. Our depth of experience enables us to understand the most complex of adversarial proceedings and successfully present findings that support legal arguments.

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How is your firm coping during the downturn?
We are aggressively looking at clients’ strength before we go in and do a lot of work as part of our due diligence. For long-term clients, we are as accommodation as possible. We tend to meet more often with clients, giving them cost-saving and tax-saving ideas to help them stay afloat and weather the economic storm, all the time remembering that we want to grow.

How is your firm attracting new business?
We are getting referrals—and are aggressively asking for them—from existing clients who know the quality of work we produce. Our partner group is made up of great rainmakers, as well. We have developed specialties in banks, law firms and continue to attract new clients and prospective clients. We are not adequately servicing them. Our strategy is to contact and touch our clients more than in the past.

How is your firm attracting new business?
New business comes from multiple sources, particularly from referrals based upon the firms reputation. We also do some advertising and marketing, and the staff remains active in civic and community affairs. We are seeing some client movement in this market. When times are difficult, there is movement from some of the large national firms to us as companies look for operating economies and improved efficiencies. We also get clients from the smaller firms that lack our resources.

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How is your firm attracting new business?
We utilize our relationship, expertise, proactive responses, and understanding our client’s businesses by a focus on the industry and businesses we serve. Not all the partners are natural rainmakers. We also have marketing folks with proposals and client targets—sort of an eat-what-you-kill mentality.

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South Florida Business Journal asked five local professionals: What type of work do you expect to be doing for businesses over the coming year, and how might that change by 2010?

Carlos Gonzalez
Partner, Diaz Reus LLP

We expect to see an increase in actions on behalf of defrauded investors to recover assets. Our money laundering and regulatory compliance practice will also see increased work. We also expect our international business to continue growing. Diaz Reus generates business in its overseas offices by receiving significant referrals from its existing clients.

Monte E. Kane
Managing Director, Kane & Co., PA, CPAs and Advisors

We expect to continue to counsel most of the business clients on cash flow issues. Helping clients make adjustments for possible lower levels of revenues should continue until we start seeing a turnaround. Clients, including our large base in the condo and community association field, are experiencing extreme increases in bad debts. Consultations in this area should continue until such time as occupancy picks up substantially.

Wayne Klein
Principal, Lewis B. Freeman & Partners

Businesses are engaging us to perform forensic accounting, dispose of real estate, unwind leveraged hedge fund investments and investigate misconduct by business partners. Government agencies are appointing us as receivers for failed financial firms and Ponzi schemes exposed by the market meltdown. Lawyers are seeking our help in their litigation over complex financial transactions invented during the economic boom.

Howard B. Lucas
Partner/CEO, Goldstein Schechter Koch

Analyzing the roadmap of 2009, we anticipate assisting clients with the timing of their transactions to enhance cash flow. Our team will facilitate the proper timing of client deductions to maximize the tax benefits available in the complicated tax code. In the coming months, we anticipate assisting investors/clients in Madoff and related fraud situations, in conjunction with their attorneys.

Grant J. Smith
Shareholder, Rothstein Rosenfeld Adler

We are seeing more business in the lobbying and government relations practice areas, in addition to the traditional pickup in activity for real estate workouts. As more and more companies seek to penetrate markets they had previously overlooked, the government becomes increasingly attractive. Government stimulus programs will create more opportunities to do business with government. Marketing to the government is, however, very unique and can appear to be overwhelming.

Whether it is the federal government, state legislature or local government proposing the regulation, we have been contacted by many businesses looking to be represented in the regulatory process. Additionally, as more taxes are proposed, many businesses and individuals want to have their say on the impact to their pocketbooks.
Lawyers find ammunition against foreclosure suits

BY BRIAN BANDELL

Rita Offenberg lived in her Weston home for 13 years and raised her two children there, but a foreclosure lawsuit threatened to take it away and saddle her with debt. Then, she fought back.

She hired Weston attorney Roy Oppenheim, who reviewed her mortgage documents and helped her qualify for a short sale agreement with the bank. With the help of a real estate broker, she closed the short sale in December. Even though the mortgage wasn’t fully repaid, Offenberg was not left with any debt. “I feel like I was one of the lucky ones,” she said.

With one of every five Florida homes holding a mortgage that’s past due or in some form of foreclosure in the fourth quarter, according to the Mortgage Bankers Association, foreclosure defense is creating opportunities for attorneys.

Oppenheim has helped clients resolve foreclosure lawsuits through short sales and loan modifications. He said he’s been so successful because the work of foreclosure plaintiff attorneys, who are burdened with thousands of cases, has often been sloppy. A handful of foreclosure plaintiff law firms that were contacted for this story refused comment or did not return calls.

Oppenheim also found mistakes in transferring mortgage notes by mortgage-backed securities (MBS) investors. About 60 percent of outstanding mortgage debt is securitized – although borrowers often don’t know that their bank sold the note. Companies such as Mortgage Electronic Records System and Deutsche Bank service the loans for the trustee who represents MBS investors.

Oppenheim said pointing out that the lender’s mistake or that the mortgage isn’t even on the bank’s records is more effective. “Ninety percent of the mortgages that I audit should have never even been given to the client,” Dibert said. “They are predatory. The client was totally deceived when they sat down to do the closing.”

Winning a case like this could result in the mortgage being rescinded, which isn’t always the best option. Still, making a TILA claim could give a borrower leverage to negotiate with the bank for a more favorable outcome, Dibert said.

Oppenheim said pointing out that the lender may have made the note works better than a TILA complaint because the legal remedies are more effective.

A MORE GENTLE APPROACH

Some people think that being aggressive with lenders is the wrong way to go. Scott D. Coloney, founder of the Fort Lauderdale-based Foreclosure Response Team of Florida, said his group has negotiated loan modifications, short sales and deeds in lieu of foreclosure without taking legal action. His team includes more than 300 Realtors.

“If we have a good working relationship with the lender and they trust the info we are giving them, it will help our consumer base more than if we attack them and create a condition with the servicing where they don’t even want to talk to us,” Coloney said.

He believes lenders and loan servicers are making bad decisions because they don’t have good market data. His team does a market analysis and tries to convince the lender to make a deal instead seeking a foreclosure judgment. “They would rather modify loan than see a default,” Coloney said.