

## WORKING TOGETHER

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

What's changing are the ways they can help companies and each other grow their businesses.

The *Business Journal's* Law & Ac-

counting section covers the work the two professions are doing together, what they expect to be working on in the future and how they refer business

back and forth.

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

### *Lawyers, accountants play poker, watch golf to grow business*

BY OSCAR PEDRO MUSIBAY

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.



**Martinez**

Attorney Ian Martinez, of the Law Offices of Martinez, P.A. 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 embezzling 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 late 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



MARK FREERKS

Attorney William Berger with CPA Martin Cass of Cass Levy & Leone at the Honda Classic.

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.'"

#### PRICING IN THE CONTEXT OF TIME

Michael I. Daszkal, a principal at Boca Raton-based CPA firm Daszkal Bolton, said he considers pricing during his legal referrals,

but in the context of time. He can contact a large firm with attorneys that charge \$700 an hour, but they might not "hold the hand" of

**"IN THIS** economy, it is important to stay connected.

Everyone is looking for business, looking for clients. We are all in the same boat."

**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

is determined by the client. For example, a construction company client in Texas determined what firms he would contact by defining its needs.

"They said, 'I need a down-and-dirty construction litigator who can fight this case, and we need a firm that has a bankruptcy lawyer. If there are four jobs they are waiting to get, and they don't get them, they might have to file bankruptcy,'" he explained.

Like law firms, CPA firms are increasingly specializing, which makes it easier for clients to find what they need, Goldstein Schechter Koch partner Dana Kaufman said. He's a CPA and an attorney – albeit not a practicing one. He started as a lawyer, handling estates, only to be enticed by forensic accounting.

Lawyers, who are the biggest source of referrals, feel more comfortable with him because of his legal background. But, there are few professionals who are both attorneys and CPAs because they usually like to become experts in their chosen professions.

Still, there are positives to be realized from having both backgrounds.

"The pure CPA looks at things as black and white, and the law is extremely gray," Kaufman explained. "I can maneuver between both the black and white the accountants want to hear, and the gray the lawyer needs to make a case."

But, specialization isn't enough to beat the competition in today's economy.

As a result, Daszkal brought in a specialist to help him expand his client base. Weston-based Flashpoint Marketing provides a list of potential clients to help increase contacts with law firms. Brian Swanson, Flashpoint's principal, said reaching out for the first time is often the hardest part for professionals that are highly skilled in their disciplines, but find it hard to talk about things outside their own work. So, he arranges social mixers and poker nights at law or CPA firms, to which partners from the other firms are invited.

For Christine Alexander Suchyna, director of marketing for Coral Gables-based Goldstein Schechter Koch, the key to referrals is nurturing the relationship after the initial introduction. The first step for Suchyna is making a connection with a law firm's business development or marketing director.

"We each handpick attorneys and accountants that would make sense to refer business to each other," she said. "I organize networking lunches and cocktail hours to help cultivate these relationships. The most important feature of this relationship-building exercise is to not let the networking slip through the cracks after the initial meeting."

## HOT PRACTICES: ACCOUNTING

# Firms beef up valuation, forensic accounting, litigation support

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 its 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 firm's Jupiter and Fort Lauderdale offices.

Additionally, it has Benchmark Financial,



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RSM McGladrey's Salli Hinton, Bruce Jorth, Frank Compiani and Peter Gampel.

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 busi-

ness valuation group for a variety of reasons – ranging from financial statements for loan renewals to tax and estate planning," Compiani said.

Litigation 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.

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**HOT PRACTICES: LAW**

# 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 reorganizing, 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 get 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 has been adding to its slate of international offices during the downturn.

The newest office, or relationship with a foreign firm, is in New Delhi.

"We do the U.S. side of the law, while they do the India side, which helps them add market share also," managing shareholder and President Joseph Zumpano said. "This has become a quarter of our 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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Joseph Zumpano and Leon Patricios of Zumpano Patricios & Winker, which has been adding to its slate of international offices.

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## POWERHOUSE PARTNERS

South Florida Business Journal asked five local accounting and law firm partners how their firms are coping with the economic downturn and attracting new business.



■ **Antonio L. Argiz**  
Managing Partner, Morrison  
Brown Argiz & Farra LLP

### 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 accommodating 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 if their current providers are not adequately servicing them. Our strategy is to contact and touch our clients more than in the past.



■ **Cesar Clavero**  
Managing Partner, Deloitte  
LLP

### How is your firm coping during the downturn?

We have the same concern in a downturn as our clients and have curtailed or eliminated non-client related costs. Cash is king, and collecting fees on time has be-

come more of a challenge, but we haven't lost any clients because of affordability.

### How is your firm attracting new business?

We utilize our relationship, expertise, proactive responses, and understanding our clients' 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.



■ **James R. Kaufman**  
Managing Partner, Kaufman  
Rossin & Co.

### How is your firm coping during the downturn?

We have a heightened sensitivity to our clients' needs and situations. That makes us compassionate about needs and cautious about credit extension at the same time. It's a complicated exercise, but, as a firm, we have always been careful and that continues.

### How is your firm attracting new business?

New business comes from multiple sources, particularly from referrals based upon the firm's 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.



■ **Andrew Smulian**  
Chairman, Akerman  
Senterfitt

### How is your firm coping during the downturn?

We have long-standing relationships with our clients and our commitment to them – particularly in helping them address their most acute and difficult issues – has never been more important. We work with clients in a variety of ways, including alternative fee structures and ever-more efficient

ways of delivering services. We also are working harder to help identify and maximize opportunities, including access to nontraditional sources of funding.

### How is your firm attracting new business?

We have a very diversified practice. In addition to our core business in corporate and real estate law, we have tremendous strength in financial services litigation. Our policy group is expanding rapidly at the local, state and federal levels. Health care, labor & employment and bankruptcy of course are all areas of focus for us.



■ **Steve Sonberg**  
Managing Partner, Holland  
& Knight LLP

### How is your firm coping during the downturn?

Holland & Knight monitors accounts receivable carefully, and we will continue to do so. We will work as partners with our clients to respond to their needs. Fortunately, our clients understand that, in order for us to continue to provide excellent service, our firm's needs must be met, as well.

### How is your firm attracting new business?

We are leveraging our knowledge of the complex issues caused by the recent developments in the financial markets to create holistic, enterprise-wide solutions for our clients who may have interests in the financial services industry. The fact that we have strong relationships throughout the new administration is particularly attractive to clients and prospective clients. We are also sensitive to the negative impact that market conditions have had on our clients' and prospective clients' balance sheet and, as such, are exploring alternative fee structures wherever possible.

## SPEAKING UP

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 client

base. Current and former clients in the U.S. and Latin America who, for example, are interested in exploring opportunities in Asia will often contact our Miami office.

By virtue of having offices in certain strategic markets, the firm also receives referrals from other law firms and professional services. Our overseas offices are fully integrated into the firm's global marketing campaign, based on a combination of specialized, bylined articles about the firm's areas of practice, conference and event sponsorships, speaking engagements and online marketing.



**Monte E. Kane**  
Managing Director, Kane & Co., P.A., 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.

In the litigation support areas, we continue to be sought after by attorneys in connection with frauds and defalcations.

Businesses are searching for ways to cut costs, and many of our clients are finding that technology can be the answer, particularly with cutting-edge network design and applications. With possible government incentives for equipment and technology, we believe that this area will experience significant growth, continuing throughout 2010.



**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.

This work differs dramatically from past downturns. As a direct result of the financial markets' euphoria, today's business failures are much harder to sort out. They involve high leverage, multiple counterparties and uniquely structured investment products.

We expect our work will be little changed in 2010. While improved conditions could yield more success in selling assets of collapsed firms, it generally takes several years to liquidate large businesses.



**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.

So many businesses and individuals have been affected by the current situation. Therefore, we will be counseling clients on managing cash flow, tightening belts and preparing sound financial plans to carry them into 2010. We will also advise clients with the timing of selling securities to maximize tax benefits.

In the wake of the financial crisis, we will help clients find alternative financial resources when banks are not anxious to lend. In addition, the partners will offer advice when business restructuring is necessary.



**Grant J. Smith**  
Shareholder, Rothstein Rosenfeldt 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.

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Rita Offenberg and attorney Roy Oppenheim, who helped her arrange a short sale agreement on this home in Weston.

MARK FREERKS

## 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, Oppenberg 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 the trustees often have a difficult time finding the mortgage note – if they can locate it at all. Half the time, an assignment of mortgage was not filed in county court when a mortgage was sold, he said.

Broward County court is swamped with foreclosures, said Howard Forman, the county's clerk of the courts. He said one reason cases move slowly is that mortgage documents can take a while to produce.

If the lender can't produce the note after five years, the borrower owns the house free and clear because the statute of limitations has run out, Oppenheim said.

If the five-year rule doesn't apply, a borrower could use the "where's the note" defense to

delay a foreclosure and negotiate a short sale or loan modification, he said.

### LOANS THAT SHOULDN'T HAVE BEEN MADE

Another way to counter a foreclosure lawsuit is to revisit the mortgage origination and search for a violation of the federal Truth in Lending Act (TILA) or the Florida Unfair and Deceptive Practices Act. Stephen Dibert, president of Boynton Beach-based MFI-Miami, said his company specializes in helping lawyers do just that.

Through forensic mortgage auditing and mortgage fraud investigations, MFI-Miami services for a list of possible violations.

"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 not have the note often 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 servicer 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.

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