

By Kwamina T. Williford and Steven H. Wright

## Tips for Managing Client Relationships During Challenging Economic Times



Kwamina T. Williford is a senior associate with Holland & Knight's Litigation Department and a member of the firm's Compliance Services Team.



Steven H. Wright is responsible for managing Holland & Knight's Boston office. In his practice, he leads teams of attorneys who provide counsel to several Fortune 500 companies in the areas of business, finance, intellectual property, litigation, regulatory matters and government relations.

These are challenging times, but there is hope for those who adhere to the fundamentals as we weather this economic storm. Anne Mulcahy, Chairman and CEO of Xerox Corp., said it best during a luncheon recently sponsored by the Greater Boston Chamber of Commerce. Mulcahy is known for pulling Xerox through the tumultuous times of the early 2000s and transforming the company into one that is stronger and more profitable than ever. When asked what companies should focus on in order to sustain and thrive through these tumultuous times, Mulcahy's response was succinct: focus on employees, clients, and return to the fundamentals. This article will not address employees, even though they are our firm's most important assets and warrant very significant institutional investment; instead, it will focus on clients and adhering to the fundamentals.

### A. Focus on Clients

The tendency during down times is to try to increase one's business by looking for new clients and casting a wider net. However, it is more effective to strengthen current client relationships. How do we do this? It is critical that we understand our clients' pressures and demands. The more we truly understand what challenges our clients face, the better the position we will be in to offer valuable solutions. We must remember that clients are our business partners. It is imperative that we understand their business objectives and business needs, and then work to tailor our approach and services to best fit those needs.

Clients are looking for true business partners who provide differentiated value and deliver innovative strategies. In the current economic environment, we can provide differentiated value in our services with a multi-disciplinary approach to our clients' needs. For example, many clients are trying to navigate recent regulations and policies in connection with the American Recovery and Investment Act (the "Act"). The Obama Administration and the new Congress are adopting numerous plans to reform the entire U.S. financial market system including building upon the new Troubled Asset Relief Program ("TARP"), and the Act. These initiatives will have far-reaching impact. Our clients understand that these efforts will transform the business and political landscape of the financial, banking, housing/finance, real estate industries and global markets for the foreseeable future. It will create opportunities and pitfalls that we can assist our clients in navigating.

Many clients are waiting in the wings, anticipating how this will affect them. They are searching for answers in these turbulent times and we are in the best position to assist clients in finding those answers. In response to these objective needs and concerns, Holland & Knight developed a Financial Recovery Team to assist clients with the dramatic and unprecedented developments in the global financial markets. The team takes an interdisciplinary approach by assembling lawyers and professionals from around the country with significant experience in banking regulations, government contracts, creditor's rights, finance, government relations, real estate, business issues and litigation.

The Financial Recovery Team's combined knowledge will be key in providing value added advice and representation during uncertain turbulent times. The Act provides tremendous opportunities and funding in the area of renewable energy, technology, health care, transportation and housing. Clients within these industries want to know about these opportunities, and lawyers can add value by providing succinctly tailored industry-focused solutions. The Act will also pose significant restraints and regulations on the funds distributed and on the way business is conducted. Clients will need to be aware of this, and, as business partners with our clients, we should position ourselves not only to inform our clients of these hurdles, but also to advise them on how to navigate these hurdles through putting together proper controls such as directed compliance policies and procedures.

## B. Return to the Fundamentals

Clients rely on excellent high quality work – this is what attracted many of our clients in good times, and this is what will help to keep our clients during these turbulent times. Clients need timely business focused legal solutions, which requires us to provide accurate and effective counsel in ever shortening time frames. With budgets tight, there is little room for second guessing or questioning the product they receive. Our service must be thorough, complete, and tailored to the client's needs.

In this climate, financial concerns regarding their legal strategies have become of paramount concern to many clients. At the forefront of most of our clients' agendas is the need to manage and reduce legal costs. Many clients have a growing resistance to the standard billable hour approach to legal fees, and are looking for outside counsel to be creative by proposing alternative fee arrangements. Some alternative fee arrangements welcomed by many clients include success fees, flat fees, volume discounts and blended rates.

However, when evaluating the cost concerns of our clients, we must be careful not just to focus solely on price. Alternative fee arrangements should be built on trust between the parties and not formulas. Price should be one component, but the overall approach should be more comprehensive, taking into account risk management and complexity. A comprehensive approach should focus on providing the client with efficient cost benefit resolutions and, to the extent possible, cost predictability. Such measures may include early case assessment, efficient and active project management, and providing tailored and focused responses.

Early case assessment is a key means of offering efficient cost benefit resolutions and predictability within the litigation context. For example, General Electric's Legal Department reduced litigation and fees over a four year period from \$120.5 million in 2002 to \$69.3 in 2005, largely due to implementing its early case assessment model. See <http://www.law.com/jsp/ihc/PubArticleIHC.jsp?id=1176800657225>. Under GE's model, when a lawsuit comes to the attention of their litigation group, the matter gets logged into the legal department's tracking system. Within 60 days to 90 days, lawyers assigned to the case identify and interview witnesses; collect, review, and report on relevant documents; and assess the risks. During this time period, GE would determine early on the risks and strengths of their case, then reach a reasoned conclusion whether to settle or litigate a case. The effect on legal costs was dramatic. The lesson to learn from GE is that a focus on an innovative approach to an efficient cost benefit resolution — early case assessment — as opposed solely to price, can result in a significant reduction in costs.

Similar to an early case assessment approach, efficiently managing a project may be another means of providing an efficient cost benefit resolution. Clients should be kept

apprised of all key developments in a timely manner, with an assessment of how the developments may affect the client's changing risk, tolerance and strategy going forward. Tremendous cost cutting measures could happen by employing this strategy. Moreover, costs savings may be achieved by employing leaner staffing, by effectively integrating attorneys with key expertise relating to the matter at hand on a case. Fewer attorneys devoting more time to a case promotes efficiency and enhances individual's comprehension of the client's business.

Another cost efficient approach is tailoring your work to the client's objectives. For example, many in-house counsel need executive answers to complex problems, and need succinct answers that are easily digested and may be communicated efficiently and effectively to their business units. In these instances, providing a response that reads like a treatise is neither cost effective nor efficient. In these situations, often an executive summary incorporating clear judgments on strategies is preferred to extensive memorandum and elaborate presentations. Providing the deliverable that best fits clients' objectives will likely save costs and emphasizes your value added.

Now more than ever this is the time to return to the building blocks upon which most of us built our practices — the fundamentals. As stated above, fundamentals include industry focused solutions, and excellent client service. It also includes adherence to core values, such as diversity and community service. These are fundamentals that attract our clients involved in community service in good times, and enable us to align with our clients' values, even in tough times.

There may be an inclination to move away from some of the values that go to the core of the firm. However, staying the course in these areas now will have more impact and more benefit for the firm when economic conditions rebound. For example, diversity is a core value for Holland & Knight. While it would be very easy for the value to take a back seat to other initiatives that may appear to directly affect economic times, our focus must extend beyond current times to the future. Many corporations still place a high priority on diversity as a competitive business advantage. For example, companies such as The Coca-Cola Company and Microsoft offer clear incentives and give priority in some instances to outside counsel who share their commitment to diversity. Holland & Knight's commitment to diversity will help strengthen our position in the future within the eyes of clients who see the differentiated value that exists when they are serviced by a diverse team. It can become a competitive advantage.

To weather these challenging times it has been proven by Ann Mulcahy and others that focusing on clients and fundamentals is critical. The organizations and firms that do this inevitably come out stronger and better positioned as the economy recovers and we move forward. We are firm believers that there is an opportunity for law firms to emerge as more innovative and effective organizations. ■