

Dealing with the dollars

Why financial planning and management are as important as lawyering

Most lawyers know of at least one fellow practitioner who was so deeply indebted to the tax man that he lost his ability to focus on his law practice – and perhaps lost the practice itself.

We have also all read tales of lawyers who mishandle funds and misuse trust accounts.

The fact is: managing money is not every lawyer's strong suit. The Ontario Bar Assistance Program (OBAP) estimates that up to one half of the lawyers that come to it seeking help have money management issues that have escalated to the point where these problems adversely affect their practice and their personal lives.

Financial planning and management receive minimal attention during a lawyer's formal education and training. Yet they are also a critical factor in the success of any law practice – large or small. Financial stability lets you focus on what's really important: providing quality legal services and building a successful law practice. Conversely, poor financial management can and does lead to: an inability to focus on the job at hand; negligence; and even misconduct.

To assist lawyers with this critical but often overlooked aspect of law practice, LawPRO has prepared a booklet that walks you through some of the principal financial management needs associated with a law practice. A copy of *managing the finances of your practice* is included in this issue of LawPRO magazine.

As well, we have canvassed a number of lawyers in practices large and small who share their experiences and provide insight and advice from which others may benefit.

Make a plan

There's more to law practice than hanging out a shingle and opening the door, emphasize Fred Cameron and Graham Wilson, sole practitioners in the St. Catharines area. A line of credit, both say, is a must to help cover cash flow issues that can arise, especially at the start-up phase. To obtain that line of credit, you'll likely have to submit a detailed business plan – which they say is in itself an excellent reality check.

"Like so many others, when I first went into business with my father, I thought, 'well, I've gone to law school, I know all about this,'" says Wilson. "I learned the hard way that this is a business, and I have to keep an eye on all aspects of this business, my business, at all times. I must have a budget, and look at retainers and cash in and cash out on a regular basis."

An important benefit of a detailed and realistic business plan is that it forces you to plan for your tax and GST obligations, says Cameron, "so that you know how much you can realistically pay yourself. Understand these financial obligations right from the

outset so that you set realistic billing targets and have realistic numbers by which you can assess yourself regularly," he says. To ensure Revenue Canada doesn't spring any surprises on him, Cameron has set up a system of regular withdrawals for GST and tax obligations that come directly out of his line of credit on a monthly basis: "This way you don't bleed any less, just more slowly," he quips.

Check your overhead regularly as well, advises Cameron: "That \$10 monthly subscription may not sound like much, but it all adds up. In the same vein, Windsor lawyer Dawn Melville, recommends you shop around for services: "I found out after the fact that I had been paying much more than I had to for process servers." Ask fellow lawyers who they are using in the way of couriers, bookkeepers, or other services; shop around for the best prices for equipment, supplies and the like.

Glenn Rumbell, who has just gone solo for the second time after a stint in the venture capital arena, adds, "To make money, you have to spend money." Try running a law practice alone and you'll get yourself into trouble: "You need a bookkeeper and good secretarial support as there are a myriad of issues from having to remit GST and taxes to tracking your levy obligations and regulatory matters that have to be tended to," points out the Toronto area lawyer.

"But don't burn your savings to run your practice," he adds. A business line of credit helps keep things separate, simple and clean – and provides that extra measure of financial security you may need to help get on your feet.

Retainers rule

Even the most seasoned lawyers may balk at a discussion of retainers. Don't, advises Fred Cameron. "The reality is, many of us have trouble asking for money. But you quickly get over this after you've had to write off a few thousand dollars in bad debts. So the lesson is to pay attention to retainers. Get a retainer in writing – right from the outset."

Adds Rumbell: "When I first started out, I made the mistake of carrying a client through a transaction, even though my interim accounts weren't paid. As the receivable piled up, I couldn't afford to stop working on the file. I had too much time invested, and it ended up badly. Now, I'm careful not to let that happen. I insist on being paid on a regular basis."

In Graham Wilson's practice, his assistant gives new clients a heads up on the practice's policies on rates and retainers. "By the



Graham Wilson (left) and Fred Cameron (right)



Dawn Melville

time they get to me, they've been primed and I just fill in the details," says Wilson.

Dawn Melville of Windsor credits Robert Balance, a seasoned area practitioner with whom she now shares office space, with giving her some of the best advice a young lawyer could get: "I remember him saying that if your clients (largely family law clients) cannot afford this kind of retainer (typically \$1,500 to \$2,000), chances are there will be other financial issues with this client later on. So now I ensure that the retainer is sufficient to finance the initial work that is contemplated. Then I monitor the file, and try to ensure that I have a good handle on how much of the retainer I have used on a regular basis, so I can go back to the client and ask for more."

Cameron has made a habit of replenishing retainers as part of his reporting letter: "In my final line, I'll provide an accounting of where we are at, and ask to have the retainer replenished going forward."

Business building

If it's not enough to just hang out a shingle, says Cameron, it's also not enough to depend on your LLB designation to bring clients

through the door. When he first went out on his own in the early 1990s, Cameron participated in a local business network that acted as a referral group: "We'd share information on leads we were looking for, pass around our cards and make a point of referring business to each other if we knew a client was looking for a particular service."

Wilson, who's been out on his own for only one year, sponsored a legal column in a local newspaper – a move that brought numerous clients in the door, he says. He's now marketing his business on many fronts, from participation in local clubs and organizations to providing local professionals, such as his dentist and doctor, with pens that advertise his law practice. A Web site and marketing brochure also are in the works, "but I still think the best advertising is a client referral," he says.

Influenced in part by the American media, Dawn Melville has tried television advertising, yellow pages and newspaper ads that focus on her services to build the business, which now, she says, depends largely on word of mouth.

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OBAP lends a helping hand

The Ontario Bar Assistance Program *lawyers helping lawyers* receives many calls from lawyers, law students and their families who are struggling with financial issues. The problems range from unexpected expenses, overspending and credit mismanagement, to bankruptcy and problem gambling.

The reasons lawyers face financial hardships are many:

- Young lawyers entering the profession are often burdened with a high debt load from student loans;
- Professional and start-up fees are often beyond the young lawyer's financial means;
- Lawyers may spend above their means to maintain an appearance of success;
- Because many lawyers do not have health benefit plans, health problems that affect the lawyer's earning power can be devastating financially;
- Financial problems can be an indicator of other personal or professional problems.

Whatever the reasons, when financial problems arise it is important to deal with them as soon as possible. OBAP helps lawyers in financial trouble by assessing any underlying cause

of problems, and assisting with budgeting and planning; they also provide the support of someone who has been there, and referral to services for help with specifics and planning. Their goal is to put the resources at your disposal, and help you return to financial health.

Information and help are available from:

- LINK (the Lawyers Assistance Program), English: 1-866-261-6704; French: 1-866-261-6718. For more information visit the Ontario Bar Association Web site at http://www.oba.org/en/admin/affiliated_en/link.asp
- Ontario Association of Credit Counseling Services offers many publications and a variety of assistance and information from budgeting to creditor communication to bankruptcy. Credit Counseling Service of Toronto 416-228-3328 or <http://www.creditcanada.com>
- OBAP volunteers have experience dealing with financial issues and can offer tips from their experience as well as support. Contact John Starzynski, Volunteer Executive Director 1-877-584-6227 or Leota Embleton Program Manager 1-877-576-6227 or visit www.obap.ca

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Administer and assess

Once the practice is up and running, it's vital that you continue to focus regularly on the administrative aspects of the business, says Rumbell. "Don't let lawyering get in the way of running your practice."

Technology, in the form of law office accounting software such as PCLaw, is indispensable. "It helps me keep my fingers on the pulse of the practice," says Cameron. "I can tell what our obligations are at any point in time; I can print out client ledgers, and pull off detailed reports because this software lets me add a great level of detail to each of my client files."

That higher level of detail makes it easy for Melville to meet the growing expectations of her client base. "Because today's clients are more knowledgeable, we as lawyers have to be more specific, more detailed, more forthcoming in the advice we provide and the details we offer," she says. "PCLaw is really my lifeline, because it lets me keep very detailed records, and makes it easy to manage and account for my time and for monies in trust accounts."

In Graham Wilson's practice, technology also is the foundation for a rigorous assessment process. He enters all dockets into PCLaw

daily, and runs a report to determine if he met docket and billing targets. Weekly, he and his assistant assess all docketed time and the status of trust accounts, issue interim billings to maintain required cash flow, and "determine what I have to do next week to stay on target." Monthly, they examine overall trends, billings, receivables, receipts and retainers, and periodically meet with their accountant to ensure everything is on track.

Part and parcel of the assessment process, points out Melville, is examining your client base. Like many new practitioners, she initially took on many legal aid clients as one way to generate cash flow. "It's a groundbreaker, but does very little to help with your overhead," she explains. "Legal aid files take time, the clients are very demanding and rates are not great." A decision to focus on clients who provide better return for the practice has paid off: "Not only do I have more time and better clients, but my message pile went from two inches to less than one-half inch, almost overnight!"

Leaving private practice

"Think ahead." That's the succinct advice that Kingston lawyer Tom Troughton has for every lawyer in practice. Because sooner or later, every lawyer will cease to practise law.



Maximizing registered retirement savings plan (RRSP) contributions, which all those interviewed for this article recommend, is just the beginning.

Leaving private practice also requires you to make numerous decisions, some of which need to be addressed as much as five or 10 years before the actual retirement date, points out Troughton, who himself is now practising on his own for only two to three days a week as an interim step towards retirement.

For example, those in partnership with other lawyers may want to revisit their partnership agreement. "Tax, liability and other issues are very different today than they were 15 or 25 years ago, when you first became a partner," points out Troughton. Similarly, older lawyers may want to rethink their ongoing liability for issues such as leases and other contractual obligations affecting the firm and its partners. "It may make sense for you to renegotiate your arrangements with the firm and become an associate, or counsel to the firm rather than continue in partnership right to retirement," says Troughton. "It may be better in the long run for you to limit your liability on matters affecting the firm by leaving the partnership."

Solo and small practice lawyers will also want to examine all contractual matters, he adds. "If you own a building, you should, at about 50 years of age, start thinking about how you will get your equity out of that building. If you're leasing, look seriously at shorter term leases that leave you the flexibility to make decisions on a one- or two-year basis once you are in your 60s. It can cost you plenty to get out of a five-year lease, two years into the term."

Income planning

Although the conventional retirement age is 65, you can apply for your Canada Pension Plan (on a reduced basis) as early as age 60, provided your income has decreased below the level of the maximum CPP monthly benefit, says Troughton. Working part time and drawing on that pension provides some measure of income security, while also allowing you to disengage slowly from practice, says Troughton. Those with RRSPs or other retirement incomes should also look at all the options available to them as part of an overall retirement income plan, he adds.

Client files

What to do with client files, how much to store and where are perennial (and potentially costly) problems for lawyers, exacerbated by plans to leave practice. Troughton's advice: purge often and purge thoroughly. "Leaving the process of cleaning up your files until your last year in practice will consume a huge amount of billable hours just at the time when you need those billable hours the most," he says.

His advice – which he takes: When you close a file, be ruthless about what you keep. Return to clients any and all of their documents; documents that can be accessed in a court file are trashed: "If the client wants them at a later date, he can pay to get copies," reasons Troughton. Items that have to be stored indefinitely to comply with Revenue Canada regulations are either returned to the

client (minute books, corporate records etc) or put into long term storage; clients (or other lawyers) who subsequently request these documents are charged a retrieval fee, says Troughton.

Troughton also took the same reasoned approach when advising clients of his pending semi-retirement. "Think in advance of the matters you are taking on and the time horizons involved," he says. "If you know that you are not interested in that file, advise the client that you may have to move the file to another lawyer, or refer the client to another lawyer from the outset." Troughton also became more pragmatic in his approach to files he would accept: "No legal aid, no family matters where there is no money, no litigation, except specific matters within estate practice," he says. Juggling that reality against the need to keep business coming in the door can be tricky admits Troughton. "You don't want to lose business but you need to ensure your practice pays – so you really have to deal with this on a client-by-client basis."

If all of this sounds like a lot of work, it is, admits Graham Wilson. "Managing finances, both practice and personal, is work and worry. But it's worth the effort – because when I'm in the know, I am in control. I can make things happen – they don't happen to me."

Simon Chester (left) and Keith Cassidy (right)



Business basics on the menu at “Binch Camp”

McMillan Binch LLP wastes little time ensuring its new lawyers get an inside view of the firm. At “Binch Camp,” as its orientation program is known, Executive Director Keith Cassidy and other managers provide a solid grounding in business fundamentals: basics on the firm and its history, the type of information it captures and shares, its productivity expectations, firm expenses, and other salient financial information. “Binch Camp” is then supplemented by additional practice-specific information sessions that deal with business development, client relationship management, billing targets and the correlation between billings and collections.

“We see associates as the future of our firm,” explains law firm partner Simon Chester. “The more they understand what is happening at the firm, the more motivated they will be to contribute and perform.” To that end, the firm provides regular financial updates to its associates, “we aim for quarterly.”

Partners are updated monthly, or more frequently if necessary, on the overall status of the firm, with a focus on the financial health of their practice areas. Productivity, receivables, budget targets and more all are on the table at these sessions. Those in transition from associate to partner, have access to a multi-faceted professional development program aimed at upgrading their

knowledge of business, economic and client relationship issues, and financial administration through in-house programs, and external seminars and conferences.

Although it takes a more hands-off approach to personal financial management needs, McMillan Binch does facilitate access to these types of services. As well as being able to work with the personal financial advisory services offered by the firm’s bank, firm members have access to an Employee Assistance Plan which, among other services, provides some financial counseling. As well, the firm subtly encourages sound financial management: “Distributions are arranged to encourage lawyers to make tax instalment dates,” says Chester, “and at bonus time we take a lead in encouraging firm members to invest in RRSPs and other retirement savings opportunities.”

“As a major law firm, we feel it is incumbent on us, and the profession, to be doing these things,” explains Cassidy. We believe new young lawyers need to have a solid grounding in all business issues, including human resources management, business development, financial management ...and we believe our clients expect us to be doing these things. They want to know that we are running the business well, from a business point of view.”