Joshua Stein with Donald H. Oppenheim

The best investment you make in your new law practice can consist of planning it right.

IN AUGUST 2010, I established Joshua Stein PLLC, after two decades as a partner at a very large global firm. Starting many months before my move, I worked with law firm consultant Don Oppenheim, co-author of this article, to develop a business plan and checklist based on my marketplace target and agenda, and the law practice I had in mind. We talked about options and possibilities and some issues I had never considered. Don put together a first draft of my business plan and checklist for me. We further customized and fine-tuned each of those tools as I went forward. Both were very useful. Both went through several dozen iterations. They helped me do most things right. Then, at the end of July 2010, I reached a memorable moment when I had accomplished just about everything on my checklist. It was time to send out my announcements and start work in my new law practice, with zero certainty about whether I would have any clients at all.

Working with a consultant to develop a business plan and checklist was a great way to think through what I wanted to do, just as drafting a complicated contract helps anyone recognize and think through issues. This article presents the final business plan and checklist that I used.
Throughout this article, Don and I have added in parentheses comments about how my plans worked out or didn’t; lessons learned; and pointers and suggestions. Some of these may be obvious to some readers. I’ve found, though, that “obvious” information is often so obvious that one misses it entirely. And what’s obvious to one person may be incredibly insightful to another. Erring on the side of caution, we have tried to mention everything we thought about in launching my law practice and in revisiting it two years later. Each reader will need to decide what they find useful.

My business plan violates rule one of business plans: keep them under five pages. That’s mostly because of Don’s and my extensive editorial comments for purposes of this article. Our very first draft was quite short. The experts also recommend revisiting any business plan every few years. I will start to do that soon.

If you are considering a move like mine, you should start your business plan and checklist from scratch, working with your own advisers. Don Oppenheim, like any other high-quality legal consultant, brought experience and knowledge that challenged some of my fantasies and reduced them to a realistic start-up plan. He contributed significantly to my success.

In addition to my business plan and checklist reproduced here, I would be happy to share copies of: (a) the Requests for Proposal (“RFPs”) that I circulated before engaging an offsite assistant (ultimately Michele Wong of www.reliablecyber.com) and a publicist; (b) my banking checklist; and (c) my office procedures manual. My technology specifications are available at www.documentcenter.us. If anyone would like to know why I specifically moved to my own practice as opposed to staying put or making some other move, I’m also happy to have that conversation, but it won’t hold many surprises.

BUSINESS PLAN FOR SMALL LAW PRACTICE
APRIL-JULY 2010
Opening Date: August 1, 2010
(Parenthetical comments added 2012)

I. GENERAL DESCRIPTION

A. **Mission Statement.** In my law practice, I want to serve high quality clients by delivering high quality ("big firm") legal advice, negotiations, consulting work, and dispute resolution for major commercial real estate transactions; troubled and distressed situations; and special projects. The work will include a mix, maybe 50/50, of New York City matters and matters elsewhere in the United States and abroad. (Most law practice mission statements sound about the same. I tried to be very specific about my overall goals, and have focused on those goals from the beginning. I have thus far come rather close to achieving my mission. I do find a mission statement useful, as a guiding light of sorts, but it is not essential. Many great law firm business plans don’t have mission statements.)

B. **Goals and Objectives.** My intermediate goals include:

1. I want to develop a client base of 10 high quality clients. *(I did this, and when I revise my business plan, I will raise the goal.)*
2. I'd like to handle interesting and sophisticated work, not commodity transactions, for high quality, nice, ethical people. Within three months of starting, I'll hire and train one paralegal and one contract attorney to achieve leverage. (I hired one full-time receptionist and three part-time contract attorneys during my first year. My business plan did not anticipate adding partners. I have stuck to that and don't intend to change it or my basic decision to create a solo but still leveraged practice.)

3. After my first three months, I plan to work at least 30 billable hours a week, including at least a full workday of 9 a.m. to 6 p.m. five days a week, including administrative time. (I did this, except 9 a.m. became 10 a.m. — I get to set my own office hours — and 6 p.m. became 9 p.m.)

C. Business Philosophy.

1. Use my Mind and Judgment to Do Interesting Work. I will act as a counselor, and not just a closer. I will deliver value through ideas, expertise, and advice. I don't want to just be a communications channel, expeditor, and scrivener, delivering commodity services efficiently, although that's part of what I'll do when necessary. (Done. The total absence of “support” or “service” work from other departments has helped a lot in achieving this goal.)

2. Ethics. I will set a consistently and uncompromisingly high standard of quality and ethics, both for my own activities and for those of the clients I represent. (I established and follow intelligent rules, with no possibility of exceptions. It's easier and safer that way. The rules start from the rules of any large firm.)

3. Work Environment. I want to create a pleasant workplace and hire nice people. (This, I knew, had to start with me. Ultimately, it's easier to be nice in my own practice than it was as a partner at a large firm.)

4. Work Ethic. Remain serious and hardworking, but not driven to work every possible minute in response to the pressures of maximizing billable hours. (I have done this.)

5. Maintain a Reasonable Income and High Visibility in Both the Real Estate and the Legal Marketplace. (I have been able to do both.)

D. Target Markets; Pricing. I will target my services to:

1. Existing Clients. I'll approach clients from my previous firm, without intentionally “poaching” anyone from other partners absent their consent. (For reasons described later, I limited any such “approach” to sending announcements of my new practice, with no follow-
through. From the first distribution of announcements, I had the support of my pre-existing clients; this was very encouraging.)

2. **My Own Network of Real Estate Lenders, Developers, Investors, and Brokers.** This network is extensive, but I sensed a hesitancy to use me, based on the rates that my former large firm charged. To maximize the benefit from this group, I will need to offer a lower rate, as well as alternative billing, whatever that means. (Almost all my work has been hourly billing, at a rate somewhat higher than I projected when I prepared my original business plan, and much higher for expert witness work.)

3. **Others — Lawyers and Non-Lawyers — in New York City and Nationally.** I will use my visibility in the real estate bar, and to a lesser degree the real estate marketplace, and my reputation as a means of attracting clients. (This seems to have worked well. I had no specific expectations about sources of referrals, but most have probably come from other lawyers. This was the single most notable fact about where my clients have come from.)

4. **Referrals.** I also expect to obtain referrals globally from my former firm. (This has occurred repeatedly and has been a terrific source of clients.)

5. **Billing.** Offer fixed fee and other “alternative billing” arrangements. (I have done a bit of “fixed fee” work. In negotiating these arrangements, the clients have trouble with the idea that a “fixed fee” is fixed even if the deal dies once I have started work, though I’ve sometimes agreed to “busted deal” alternatives as part of a fixed fee arrangement. This quickly becomes more complicated than it’s worth. For any fixed fee arrangement, I recommend: (a) some outside date after which additional fees apply, perhaps a fixed monthly amount; and (b) payment in advance, given that the amount of the fee is entirely known at the outset.)

E. **Summary of the Legal Services Industry.** Over the 20 years ending in mid-2008, the legal industry boomed as deal flow and boom times led globally to massive investment in real estate and other assets. Ultimately, this boom was a bubble. From mid-2008, it changed completely. Clients smell blood and demand lower fees and better service. (Once I started my own practice, I did not see as much of this as I had feared, and of course at time of writing we are back in another commercial real estate boom, at least in New York. I have to remain ready for economic pressures, though, as another dip will surely come. And having these pressures in the back of my mind forces me to provide the highest level of service at a reasonable rate.)

F. **Shifting Work.** The bulk of legal real estate work has shifted from development and financing, where everyone is excited and happy, to disputes, distress, and defaults, where no one is happy and litigation plays a larger role. I plan to develop a close working relationship with one or more litigators who do not work in my office, and expect to be involved in litigation work for my clients. (This did not happen. The work has been transactional and has felt very “normal.” My only involvement with litigation has consisted of a nice volume of expert witness work, where my background, publications, and lack of conflicts have proven crucial.)