

New York Law Journal



WWW.NYLJ.COM

VOLUME 242—NO. 123

©2009 ALM An ALM Publication

MONDAY, DECEMBER 28, 2009

IN THE LAW FIRMS

Big Firm Defectors Claim Risk of Starting Boutique Is Paying Off

BY NATE RAYMOND

A RECESSION may not seem like the perfect environment for starting a new law business, but with clients under pressure to manage costs and large firms favoring institutional clients in potential conflicts, dozens of boutiques have popped up offering sophisticated legal expertise at reasonable costs to clients large and small.

Chaffetz Lindsey was just one of many boutiques opened nationally in the last year by former big firm partners. While it is too soon to measure its success, the five partners who departed Clifford Chance say their gamble is working out better than expected.

Chaffetz Lindsey partners launched their firm in May and ever since have been pitching it as a cost-effective alternative to large law firms with a focus in international arbitration, reinsurance and commercial litigation.

"It's so far positive, more positive than I would have thought at first," said name partner David Lindsey.

Peter Chaffetz, 57, the other name partner and the former head of Clifford Chance's firm-wide litigation practice, said the new firm has "really been going full-bore since Labor Day."

Chaffetz Lindsey spun out of troubles that plagued Clifford Chance's litigation department last year, after the international firm's expected boom in litigation never



CHAFFETZ LINDSEY partners, standing, from left, **Peter Chaffetz** and **James Hosking**; seated, from left, **Cecilia Moss**, **David M. Lindsey** and **Charles Scibetta**

materialized. As was common at many large firms last year, conflicts also increased inside Clifford Chance after Lehman Brothers Holdings Inc. collapsed and businesses began suing financial institutions for losses, Mr. Chaffetz said.

Clifford Chance in October 2008 laid off 20 litigation associates, saying at the time that "sluggishness in litigation matters continues despite market volatility that historically has produced countercyclical balance."

The firm took further hits last December, when a three-partner white-collar litigation team left to join Skadden, Arps, Slate, Meagher & Flom, including John Carroll, a former managing partner for Clifford Chance in the Americas. With their defection, other partners also began to jump ship, Mr. Lindsey said.

"It was clear the department was in trouble and any partner who stayed had to think whether to stay," he said.

Mr. Lindsey, 47, said he was swayed to start a small firm when Mr. Chaffetz and another Clifford Chance partner, Charles Scibetta, presented him with projections and spreadsheets outlining a plan to take a different route and start a new firm from scratch.

Mr. Scibetta, 41, said they had researched and estimated start-up costs and ongoing operational costs and put them in a spreadsheet listing expenses by category.

They also thoroughly analyzed their potential revenue streams, he said.

"We considered how our practices had run over the years and how they were likely to be bolstered by the ability to take on matters that we previously couldn't handle due to conflicts or the large-firm cost structure," Mr. Scibetta said. "We also considered the potential for referrals from other large-firm lawyers who were facing the same cost and conflict issues we were facing at Clifford Chance."

The lawyers' pre-launch cost analysis has held up "very well," Mr. Scibetta said.

The attorneys took advantage of what they correctly assumed would be cheaper rents due to falling real estate prices. Asking rents for office space in Manhattan were down 22

NYLJ/RICK KOPSTEIN

percent in the third quarter, according to a report by Cushman & Wakefield.

Chaffetz Lindsey took one floor in 1350 Avenue of Americas near 55th St., 7,857 square feet of space that was previously occupied by high-end clothing store Burberry, which vacated five floors. The landlord threw in the furniture to get new tenants, Mr. Chaffetz said.

Another concern for a new firm is the cost of labor. Chaffetz Lindsey has only three associates, and while the firm may add more, it has no plans to become highly leveraged, Mr. Scibetta said. Partners declined to disclose how much associates are paid but confirmed the firm was not paying the class-based lockstep compensation found in large New York firms, where salaries usually start at \$160,000 for first year associates.

On the revenue side, Mr. Scibetta said the firm is beating its own expectations. "We are ahead of where we all expected to be in terms of revenue generated by this point in the life of the firm," he said.

Part of the firm's model is designed to take advantage of the conflicts that routinely scuttle new business at large firms. The partners say the firm had matters for new clients who arrived largely through conflict referrals from Clifford Chance, Quinn Emanuel Urquhart Oliver & Hedges and Kirkland & Ellis. Other firms, including Chadbourne & Parke and King & Spalding, have also contacted Chaffetz Lindsey.

"When we were at Clifford Chance, we had to view every other firm as a competitor," Mr. Chaffetz said. "By and large, we now view the firms as sources for referral work."

The partners say the ability to offer billing rates lower than their large-firm counterparts is attracting and keeping clients. Chaffetz Lindsey lawyers have been able to bill up to 20 to 30 percent less than they did at Clifford Chance, Mr. Scibetta said. The firm's preference is to try to negotiate with clients to sign a fixed fee agreement or make a deal with a contingency fee component, Mr. Scibetta said.

So far, most clients are billed on an hourly basis, though the firm is in talks with some to move to non-hourly arrangements, he

said. Mr. Chaffetz said the firm charges one rate for partners, one for associates and one for paralegals.

"What I believe is going to be important to a client is we have the big firm expertise but we're at a smaller place now and we're able to be more flexible on rates" said Cecilia Moss, 40, another partner who was previously counsel at Clifford Chance.

Clients say they appreciate the rate flexibility.

"Given that I was getting the same lawyer for a lower billing rate, it was attractive to me," said Eric Kobrick, deputy general counsel and chief reinsurance legal officer at American International Group Inc.

Chaffetz Lindsey lawyers are also free to take a broader range of cases. Ms. Moss, who at Clifford Chance principally worked on insurance and reinsurance litigation and arbitration, said while she is still handling those cases, the fact that the firm is free of conflicts allows its lawyers "to expand the type of matters we're handling."

James Hosking, the fifth Chaffetz partner, said the split from Clifford Chance has also meant, in the case of international arbitrations, the firm can take work in any location. At Clifford Chance, the lawyers in the New York office would work on an international arbitration only if it took place in the Americas or involved New York law.

"Now we're involved in cases that can have a seat anywhere in the world," said Mr. Hosking, 39.

Kevin Mutch, group legal director at London-based jeweler Fabergé Services Ltd. had turned to Mr. Hosking for litigation over a licensing deal initially at Clifford Chance and then at Chaffetz. Mr. Mutch said he could see continuing to tap Mr. Hosking at his new firm. "He's done a good job with us, there's a good connection," Mr. Mutch said.

The Chaffetz Lindsey model does face challenges when it comes to being tapped for major litigations. While the partners say they feel comfortable handling large and complex cases, they acknowledge they are competing with better-known, larger firms that have had years in the market and have established reputations for handling major,

complex disputes.

The challenge is to position Chaffetz Lindsey to be brought in by hiring counsel for large matters. While Chaffetz Lindsey is relying on a low-leverage model to keep costs down, it has made arrangements with Jaeckle, Fleischmann & Mugel, a Buffalo firm where Mr. Scibetta used to work, to staff cases should the need arise. "We wanted to signal we're still here for the big engagement," Mr. Chaffetz said.

And while the partners are hesitant to disclose client names, large cases are arriving, Mr. Scibetta said. A client recently hired the firm for a case with more than \$2 billion at risk. It also has other multi-million dollar cases open, he said.

"After only eight months, we already are handling multiple disputes of \$100 million and above, and we are currently in the running for two more," Mr. Scibetta said.

It is too early to measure success, but Chaffetz Lindsey partners insist they are in it for the long haul.

"There are times in your life when an opportunity comes up and you think, 'Do I take this opportunity or risk?'" Mr. Lindsey said. "And that's how I felt about this."

@Nate Raymond can be reached at nraymond@alm.com