

# **Risk Management and Liability of Multinational Professional Practices**

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BARLOW LYDE & GILBERT

# Risk Management and Liability of Multinational Professional Practices

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## Three Sources of Pressure

1. from within the professional firm
2. from clients
3. from regulators
  - WHY?
    - Work has dried up
    - Clients cutting back on the cost of professional advice



## 1. Pressure From Within The Firm



- Suing for fees
  - Late payment of fees by unreasonably tardy clients



- Claim for payment followed by counterclaim
- Original fees eventually written off
- Poor communication and consultation before action
- Bad calls

# 1. Pressure From Within The Firm



- Redeploying professionals in fields out of their expertise
  - Specialist work dropping off and too much capacity
- +
- Other areas becoming busier and at full capacity



= REDEPLOYMENT  
&  
RISKS

- Specialisation should not be underestimated





# 1. Pressure From Within The Firm



- Accepting inappropriate instructions and accepting instructions from inappropriate clients
  - Bending the rules on the type of work and the type of clients the firm accepts
  - Warning bells and red flags
  - Turning a blind eye to a suspicious sign







# 1. Pressure From Within The Firm

- Knock on effect from boom time





# 1. Pressure From Within The Firm

- Knock on effect from boom time
  - Overtrading leads to...



- Mistakes begin to surface from
  - overtrading and
  - cutting corners and
  - commoditisation



# 1. Pressure From Within The Firm

- Redundancy
    - 92,300 in professional services 2007 reducing to 77,300 by the end of 2009 (*Centre for Economics and Business Research*)
    - Careful management of cases assigned to departing lawyers
  - Taking an eye off the risk management ball...
    - Risk personnel made redundant
    - “...as firms make staff redundant there will be fewer people left to carry out the necessary compliance tasks” Peter Williamson, Chairman of Solicitors Regulation Authority
    - Potential for **serious** problems to occur
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## **2. Pressure From Clients**





## 2. Pressure From Clients

- Outsourcing
  - Cheaper advice
  - *Rio Tinto* outsourcing to India, *Pinsent Masons* outsourcing litigation work to South Africa
  - Work done at a lower cost but at the price of an increased risk?
  - Who's responsible?





## 2. Pressure From Clients

- Remote Working
  - Working from cheaper locations
  - Potential data loss resulting from remote working (*Kroll Ontrack*)
- Greater risk... same rewards
  - Greater lengths to please clients
  - Unusual level of responsibility
- Secondments





## 2. Pressure From Clients

- Working for unrealistically low fees
  - Commonly seen in the construction field
  - June 2009: RIBA warns architects against...
    - Making unrealistic bids for work
    - Dangerous as the practice cannot adequately resource the project and deliver work of sufficient quality





## 3. Pressure From Regulators



- Increase in regulation on the horizon
  - FSA heavily criticised for credit crunch





- *“There is a view that people are not frightened of the FSA. I can assure you that this is a view I am determined to correct. People should be very frightened of the FSA”*  
Hector Sants, FSA Chief Executive, March 2009
- Law society increasing its grip
- Accountants facing the most scrutiny following investigations by liquidators, the SFO or the DTI

