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ATTORNEY SEARCH

TOP LEGAL MARKET TRENDS

Why Law Firms Are Dying and Lawyers Can't Find Jobs

1. Law Firms of All Sizes Are Closing and Going Bankrupt.

Law firms today are facing an unprecedented fight for survival. The list of firms that have closed, filed for bankruptcy, or imploded entirely has grown long in recent years. Some of the bigger names include Brobeck, ThacherProffitt& Wood, Thelen, Heller Ehrman, Dreier, Howrey, and Dewey & LeBoeuf. If one were to profile the type of firm that has failed to survive, there has been no single defining factor or pattern. The age or longevity of a firm is no safeguard: Thacher dissolved after 160 years of practice; Thelen closed its doors in 2008 after 73 years; and Brobeck went bankrupt after 77 years of practice. Size is no predictor of a firm's success or failure: Dewey &LeBoeuf, which filed for bankruptcy in May 2012, had more than 1,400 lawyers in 26 offices at its peak. Heller Ehrman, who at one point employed more than 730 attorneys, closed its doors in 2008; Howrey LLP, with over 500 lawyers, folded in 2011 after its partners defected en masse.

Some specialized firms have done incredibly well serving an emerging niche market, only to die when that same industry collapsed, taking with it the majority of their clientele. Such was the case for San Francisco law firm Brobeck, Phleger& Harrison, which successfully rode the Internet and start-up boom of the 90's. The firm even went so far as to forgo the traditional firm compensation structure in exchange for shares in the technology companies that made up the bulk of its business. This strategy worked well for years – until the dot com market went bust and Brobeck's shares became worthless. The firm dissolved in 2003 after filing for Chapter 7 bankruptcy.

The Great Recession has hit big firms especially hard. After a string of big law firms dissolved or filed for bankruptcy, commentators have questioned whether BigLaw culture is no longer sustainable in the current legal market. A *New York Times* article noted that "several of the largest firms have adopted business strategies that Dewey embraced: unfettered growth, often through mergers, the aggressive poaching of lawyers from rivals by offering outsize pay packages; and a widening spread between the salaries of the firm's top partners and its most junior ones."[1] Many argue that the profit-based culture and pyramid hierarchy at most big firms has destroyed the camaraderie and loyalty that used to keep partners together through tough times. Division eroded the firm as it continued to shell out multi-million dollar salaries to its partners even at a time of flagging profits. When Dewey began having financial difficulties, many of its partners were quick to defect and bring clients with them, which only hastened the firm's demise.

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[1] "Dewey &LeBoeuf Files for Bankruptcy." The New York Times. May 28, 2012. http://dealbook.nytimes.com/2012/05/28/dewey-leboeuf-files-for-bankruptcy/

Dewey's bankruptcy shocked the legal world as the largest firm collapse in U.S. history, but more law firms will go out of business in a similar fashion due to structural changes in the market. Fewer BigLaw firms have the financial clout they had in their hey day, and those that have managed to survive thus far will be fighting tooth and nail for the same limited pool of clients.

2. Firms Experiencing Decline in Demand for Legal Services.

Many firms struggled due to markedly slowed business in recent years.Yet strangely enough, this is *in spite* of growth in overall legal work due to the information boom.[2] The legal market is experiencing a seismic shift, with cash-conscious clients abandoning law firms for alternative providers due to the cost advantage. A recent ABA Journal report found that corporate clients are increasingly going in-house (where work can be done between $100-200/hour) or to non-traditional providers like Axiom Legal, which can provide legal temp services for $125-$250/hour; firms that use legal process outsourcers (LPOs) can have legal work done for $60/hour.[3] When you compare these rates to those of a large law firm, which can charge anywhere from $150/hour (for paralegal work) to $400/hour and above (mid-level associate), the choice is easy for many clients, particularly in today's money-tight economy.

Granted, much of the legal work being done by these companies is more in line with "process work" such as document drafting and standard contracts, which these providers are able to do with comparable quality. Law firms must work harder to show their value to clients – or risk losing more business to $60/hour alternatives.

3. Law Firms Turn to Steep Discounts and Flat Fees to Survive.

Client use of legal process outsourcers and alternative legal service providers has eroded the value of a firm attorney and the services that a law firm can provide, and in many cases, that value has depreciated drastically. Increasingly, firms have resorted to alternative billing structures like flat fees and discount "rack rates" to stay competitive. The Washington Post ran a recent article analyzing how firms like ZwillGen (whose corporate clients include Yahoo, Blizzard Entertainment, and MySpace) have begun eschewing the billable hour for more flexible billing arrangements such as flat fees, monthly retainers, mixed rates, and bonuses based on success.[4]

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[2] "Citi: Demand for Legal Services Up, But Outpaced By Spike in Expenses." The Wall Street Journal. May 14, 2012. http://blogs.wsj.com/law/2012/05/14/citi-demand-for-legal-services-up-but-outpaced-by-spike-in-expenses/

[3] "The $60-Per-Hour Lawyer: Why Dewey Isn't Ab-Normal." ABA Journal. March 28, 2012 http://www.abajournal.com/legalrebels/article/the_60_hour_lawyer--why_dewey_isnt_ab-normal

[4] "Is time running out on the billable hour?" The Washington Post. January 15, 2012.

To put it bluntly, clients who would not have batted an eye in previous years now balk at being charged $200/hour for a five-minute phone call or memo.Driven by the recession, clients are increasingly challenging hefty legal bills for "legal miscellany" or "soft costs." [5] Gone are the days when law firms might bill clients for travel, meals, and photocopies – items that were once considered routine legal expenses. A poll by Mattern& Associates LLC surveyed 64 law firms and found that 80 percent of clients balked at paying for legal research, and 69 percent of clients simply refused to pay altogether. [6]Corporate clients are increasing scrutiny of law firm bills and more strictly enforcing budgets for legal work. A recent American Lawyer survey found that more than 81 percent of clients are now seeking discounts, with 55 percent seeking deeper discounts.[7]

Use of the "reverse auction" has also risen in recent years, where law firms vying for a single client submit anonymous bids in an online chat room. Because firms are able to see other firms' bids – and choose to further discount their fees to undercut a competitor's bid - the end result is that clients can get legal costs reduced from between 15 to 40 percent of the normal price.[8] Clients like Toyota and eBay have used the auction method in the past to hire outside law firms at significantly lower rates. In other words, even when clients do use law firms over alternative legal service providers, the firms are often making only a fraction of what they used to.

4. Law graduates today are facing the toughest job market in nearly 20 years.

Employment for law school grads is at its lowest leve lssince 1994. In a recent American Bar Association report, only 55 percentof those graduating in 2011 found full-time jobs in private practice, with 26 percent of graduates underemployed. [9]In other words, those graduating

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http://articles.washingtonpost.com/2012-01-15/business/35440090_1_law-firms-800-lawyer-firm-client-billings

[5] "Law Firms Face Fresh Backlash Over Fees." The Wall Street Journal. October 22, 2012. http://online.wsj.com/article/SB10001424052970203400604578070611725856952.html

[6] "Legal Research – Clients in the Driver's Seat." Slaw. October 22, 2012. http://www.slaw.ca/2012/10/22/legal-research-clients-in-the-drivers-seat/

[7] "Law Firms Discount 'Rack Rates,' While Boutiques' Flat Fee Deals Put Pressure on Billable Hour." ABA Journal. January 17, 2012. http://www.abajournal.com/news/article/law_firms_discount_rack_rates_while_boutiques_flat_fee_deals_put_pressure_o/

[8] "Firms Vie for Coprorate Clients in 'Reverse Auctions.'" The Wall Street Journal. August 2, 2011. http://blogs.wsj.com/law/2011/08/02/firms-vie-for-corporate-clients-in-reverse-auctions/

[9] "Only 55 Percent of 2011 Law Grads Had Full-Time, Long-Term Legal Jobs, Analysis Shows." ABA Journal. June 19, 2012. http://www.abajournal.com/news/article/only_55_percent_of_2011_law_grads_had_full-time_long-term_legal_jobs_analys/

from law school had little more than a 50/50 chance of finding a full-time attorney position within 9 months of graduating. The ABA data was significant because it only considered graduates who had found full-time jobs requiring the bar passage. In the past, employment data for recent law grads has been deceptively vague – counting both grads who had found jobs at law firms and those who had found employment in unrelated industries. A law graduate teaching SAT classes was considered employed and counted in job figures. Class-action lawsuits have been filed against law schools who have manipulated employment data for graduates to lure in potential students.

The ABA report also dashed hopes for those who had entered law school with dreams of working in a big firm with a corner office: those chances are slim in today's market, where only 8 percent landed jobs in a law firm with 250 or more lawyers. [10]Only a dozen schools reported 80 percent of more of their graduating finding full-time, long-term legal jobs, with the top five schools including the University of Virginia (95%), Columbia University (94%), Stanford University (91%), New York University (90%) and Harvard University (90%). More than 20 law schools reported that fewer than 40% of their graduates had secured jobs, with the bottom five being: Whittier College (17%), University of the District of Columbia (21%), Golden Gate University (22%), Thomas Jefferson School of Law (27%) and Western New England University (30%).[11]

Employment rates for recent grads have gotten so bad that some Midwestern law schools are encouraging their graduates to consider taking positions in firms in rural areas. In 2012, the University of Iowa, Drake University in Iowa, and Creighton University in Nebraska partnered with the Iowa State Bar Association to place students in summer internships and permanent jobs in rural Iowa cities.[12] While jobs may be easier to find in rural areas, salaries usually start around mid-to-low five figures, and in some areas, as low as $40,000, far below the $160,000 that some big-city firms are still offering to first-year associates.[13] For students shouldering $150,000 in student debt, this can be a tough pill to swallow.

In a recent interview with The New York Times, Michael Trotter, an Atlanta corporate attorney and author of *Profit and the Practice of Law,* minced no words when asked about the state of the market: "It's extraordinarily competitive. We are turning out 45,000 or so law school graduates a year. The quality is very high, and there aren't jobs for them. Roughly half the

[10] "Law School Grads Face Worst Job Market Yet – Less Than Half Find Jobs in Private Practice." NALP, June 2012. http://www.nalp.org/2011selectedfindingsrelease

[11] "Law Grads Face Brutal Job Market." The Wall Street Journal, June 25, 2012. http://online.wsj.com/article/SB10001424052702304458604577486623469958142.html

[12] New Lawyers, Seeking Jobs, Are Advised to Think Small." The Wall Street Journal, June 25, 2012. http://online.wsj.com/article/SB10001424052702303506404577448974083992182.html

[13] "What America's Lawyers Earn." ABA Journal. March 1, 2011. http://www.abajournal.com/magazine/article/what_americas_lawyers_earn

lawyers in the country are solo practitioners. Seventy percent practice in firms with fewer than 20 lawyers, and for the most part they do not have the very high levels of income enjoyed by the major firms. Making a go requires three years of your life and $150,000 for a legal education. If you get a job at an elite firm, the odds of becoming a partner are probably less than 10 percent. So, it's a very rough row to hoe."[14]

The fact that a law career is no longer a guarantee for financial and employment security is sinking in for those who might at one time have considered law school: the number of law school applicants dropped by nearly a quarter for the 2012 cycle and the number of LSAT tests administered has fallen by 16 percent.[15] Even so, more than 78,000 applicants have applied for roughly 60,000 spots at ABA-accredited schools, based on Law School Admission Council numbers for the 2012 cycle.[16]

The ABA Journal chalked up the supply-and-demand imbalance to "youthful over-optimism, bleak job prospects for college grads, and the entry of several more universities and for-profit businesses into the legal education business."[17] To put it simply, there are too many lawyers and not enough jobs or legal work to employ them.

5. Firms Reluctant to Hire Entry-Level Associates.

The job market for recent law graduates is extraordinarily competitive. Traditionally, the most prestigious law firms only recruit from a set list of the Top 20 law schools. After the top 20 schools, the percentage of students hired by top law firms drops significantly, as national firms are often reluctant to bear the expense of visiting a second or third-tier school when they know that there is a slim chance they will hire more than a few graduates.[18]

An additional hurdle for entry-level hiring has been increased client pushback against associate billing. Law school curriculum has long emphasized the theoretical over practical training, with the end result being that recent graduates are "lawyers in the sense that they

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[14] "Dewey &LeBoeuf Crisis Mirrors Legal Industry's Woes." The New York Times, April 25, 2012. http://dealbook.nytimes.com/2012/04/25/dewey-leboeuf-crisis-mirrors-the-legal-industrys-woes/

[15] "Law School Applicant Numbers/Applications in Steep Decline." LSAT Blog: Ace the LSAT. April 8, 2012. http://lsatblog.blogspot.com/2012/04/law-school-applicant-numbers.html

[16] "The Law School Bubble: How Long Will It Last if Law Grads Can't Pay Bills?"ABA Journal. January 1, 2012. http://www.abajournal.com/magazine/article/the_law_school_bubble_how_long_will_it_last_if_law_grads_cant_pay_bills/

[17] "The Law School Bubble: How Long Will It Last if Law Grads Can't Pay Bills?"ABA Journal. January 1, 2012. http://www.abajournal.com/magazine/article/the_law_school_bubble_how_long_will_it_last_if_law_grads_cant_pay_bills/

[18] "Second-Year Law Students Await Offers From Big Firms." The Wall Street Journal. September 9, 2012. http://online.wsj.com/article/SB10000872396390443779404577641611988518878.html

have law degrees, but they aren't ready to be a provider of services."[19] Economic pressures have made firms now more reluctant to hire entry-level associates or recent graduates. According to the 2012 Real Rate Report, "Since the recession, in-house counsel have been increasingly reluctant to pay fees for entry-level associates. General Counsel often feel that they are paying for entry-level lawyers' on-the-job training."[20] An AmLaw survey found that 47 percent of firms have had clients expressly refuse to be billed for first- and second-year associates.[21] These industries pressures have resulted in a decrease in associate billing and hiring.

Since the 1990s, associate salaries have risen steadily at law firms of all sizes, with starting salaries for junior associates (those with three years of experience or less) showing the greatest jump.[22] While this would normally be good news for entry-level associates and recent grads, firms tend to view higher associate salaries as just another disincentive to hire. From their perspective, entry-level hires are paid more money for less efficiency. High associate salaries may be one of the biggest reasons firms shy away from hiring recent grads or junior associates.Although attorneys with more experience come with comparatively higher rates, firms still find it a better investment to hire lawyers who are "more bang for their buck," so to speak. A mid-level associate who has practiced for 5 year sin a niche area or, better yet, a partner who can bring business with him to the firm are worth more than an inexperienced, and still expensive, first-year associate.

6. As Average Law School Debt Increases, More Lawyers Unable to Pay Loans

As the cost of law school continues to rise, more law students are borrowing and graduating with significant debt and dim prospects for paying back their loans.

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[19] "After Law School, Associates Learn to Be Lawyers." The New York Times.Novembe 19, 2012.http://www.nytimes.com/2011/11/20/business/after-law-school-associates-learn-to-be-lawyers.html?pagewanted=all

[20] "'Entry' Fee: Surprise–Inexperienced Associates Cost More." ABA Journal, 1 July 2012. http://www.abajournal.com/magazine/article/entry_fee_surprise--inexperienced_associates_cost_more/)

[21] "AmLaw's Law Firm Leaders Survey Finds Recession-Prompted Internal Changes Are Here to Stay and May be the Reason for BigLaw Optimism." Law Librarian Blog. December 7, 2010. http://lawprofessors.typepad.com/law_librarian_blog/2010/12/amlaws-law-firm-leaders-survey-finds-recession-prompted-changes.html

[22] "How Much Do Law Firms Pay New Associates? A 16-Year Retrospective." NALP, October 2011. http://www.nalp.org/new_associate_sal_oct2011

The average debt for graduates at private law schools was $125,000 in 2012; at public schools, average student debt was $75,700.[23] According to a U.S. News & World Report, student debt was highest at California Western School of Law, with average debt of $153,145; Thomas Jefferson School of Law in California, with average debt of $153,006; American University in Washington, D.C., with average debt of $151,318; New York Law School, with average debt of $146,230; and Phoenix School of Law, with average debt of $145,357.[24]

Rising law school debt comes at a time when structural changes to the law market sheds doubt on the ability of new lawyers to pay back their loans, a fact that could mean future cutbacks infunds available for student loans. Law, medical, dental, and pharmacy students have traditionally been able to borrow with virtually no cap, under the expectation that as professionals, they would soon have the income to pay back their loans.[25] This is no longer the case, as an influx of lawyers in a shrinking job market means that many law grads are unable to find jobs. The Education Department does not collect data on the default rate of graduates at law schools, specifically. However, overall student loan default is at its highest in 14 years, with nearly 1 in 10 borrowers defaulting on their federal student loans.[26] Of 19 law schools surveyed by the American Bar Association, default rates were as high as 7.4 percent.[27] The ABA has received pressure to include standards for employment and default rates as part of its law school accreditation process.

The difficulty of the current legal market has led to the highest attrition and job dissatisfaction levels in years. Rising law school debt has many lawyers working just long enough to pay off their loans and then leaving the profession. Many law firms are having enormous difficulty in both attracting and retaining talent, with nearly 80 percent of all associates leaving the

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[23] "Average Debt of Private Law School Grads is $125k; It's Highest at These Five Schools." ABA Journal. March 28, 2012.
http://www.abajournal.com/news/article/average_debt_load_of_private_law_grads_is_125k_these_five_schools_lead_to_m

[24] "Whose graduates have the most debt?" U.S. News & World Report, 2012.
http://grad-schools.usnews.rankingsandreviews.com/best-graduate-schools/top-law-schools/grad-debt-rankings

[25] "The Law School Bubble: How Long Will It Last if Law Grads Can't Pay Bills?"ABA Journal. January 1, 2012.
http://www.abajournal.com/magazine/article/the_law_school_bubble_how_long_will_it_last_if_law_grads_cant_pay_bills/

[26] "Student-Loan Default Rates Rise as Fderal Scrutiny Grows." Bloomberg. September 28, 2012.
http://www.bloomberg.com/news/2012-09-28/student-loan-defaults-soar-as-government-scrutiny-grow.html

[27] "ABA faces scrutiny as job prospects, debt levels for law school grads worsen." The Washington Post.
http://articles.washingtonpost.com/2011-07-24/business/35237959_1_law-school-default-rates-accreditationaccreditation

profession by the end of their fifth year.[28] The "working for a paycheck" mentality threatens both the quality and stability of the legal profession, as a constant churn of entry-level associates enters the market annually, but few stay in the profession long-term.

7. Traditional Factors that Firms Use to Evaluate Potential Hires Are Not Enough to Predict Success

We've said it before: law firms today are in an unprecedented fight for survival. They face a contracting legal market and decline in demand for legal services; a devaluation of their profession as clients turn to alternative providers; downward pressure in fees; and overall, an extraordinarily competitive job market. More than ever, hiring the right talent is essential. With rising law school debt leading to higher attorney attrition rates and job dissatisfaction, it is imperative that law firms hire lawyers who will not only be successful at what they do, but be loyal to the firm.

Traditionally, large law firms have used factors like work experience, involvement in the legal community, and work continuity as key criteria for lateral hires; for entry-level attorneys, "pedigree" factors like the law school attended, grades, and law review participation were of especial importance. This is in spite of the fact that statistics have shown that elite law school graduates tend to be less satisfied working at large law firms and have higher attrition rates than their regional law school counterparts.[29] More firms are realizing that the traditional hiring criteria is no longer enough to predict the success of a potential hire. Many firms are turning to alternative interview methods such as behavioral interview techniques to gauge whether candidates can not only do high-quality work, but have the skills and core. [30]In this economy, no firm wants to invest the time and money into hiring a candidate who will leave in 6 months to a year.

And the door swings both ways: now, more than ever, lawyers have a high priority to find law firms where they can find fulfilling work and be happy in the long term. Having a work history with frequent moves between firms can raise questions of instability and has always been a red flag for firms. This would be especially true now in the current, extraordinarily competitive job market.

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[28] "Who Says Being a Lawyers Has to Suck?" San Francisco Magazine.http://www.axiomlaw.com/sfmagazine/
[29] Henderson, William D. "The Bursting of the Pedigree Bubble," *NALP Bulletin*, Vol. 21, No. 7 at 1 (July 2009).http://www.law.indiana.edu/lawlibrary/services/bibliography/doc/NALPHenderson.pdf
[30] Chamberlain, William A. (2009) "Grades Matter, But Service Matters More." *National Law Journal*. Special to NLJ.com / December 02, 2009.
http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202435980553

The Solution: Why Lawyers Need BCG Attorney Search

It is a difficult time to be an attorney, particularly for an entry-level associate or one looking to make a lateral move. Now, more than ever, lawyers hoping to get hired by top firms need more than stellar credentials – they need someone to advocate on their behalf. They need someone who will ensure that a job is a good fit in the long-term, both for the hiring law firm and especially for the candidate.

BCG Attorney Search is the largest search firm in the United States, dedicated exclusively to placing associates and partners in law firms. Every year, BCG and its affiliated companies place an estimated 10,000 attorneys at firms of all sizes across the nation, with a reputation among law firms for only accepting candidates of the highest caliber. We offer:

Access to Thousands of Unlisted Job Openings: In today's competitive legal market, getting an interview and landing a job is all about who you know. Many firms do not actively advertise openings and rely instead on recruiters to provide candidates. BCG is contacted almost daily by firms of all sizes, looking for qualified applicants for specific job openings. Lawyers who use recruiters are better positioned to learn of unlisted openings and act immediately after the posting goes up.

Relationships with the Nation's Top Firms: BCG has placed lawyers at some of the nation's most prestigious law firms. Our recruiters have cultivated relationships with these firms that are years in the making, so that firms often come directly to us when looking for qualified candidates. Our firm only accepts less than 2 percent of all applicants for placement with client firms. Law firms know that our highly selective screening process makes us the best source for high-caliber lawyers. Here is a list of BCG's most recent placements.

Recruiters Who Fight for You: BCG has the best recruiters in the business. Most of them were formerly attorneys themselves at the nation's top firms. Our recruiters do far more than merely submit application materials; most importantly, they advocate on your behalf, day in and day out, ensuring that you put your best face forward to hiring law firms and guiding the application process along over any bumps that might come along the way. A recruiter's long-standing relationship with a firm can be especially useful when employers have questions over potential issues regarding a candidate, such as gaps in work history, layoffs, or summer associate positions that did not lead to job offers. In those instances, the recruiter relationship with the firm and their ability to effectively clarify the issues can be crucial for securing the candidate's placement.

In-Depth Knowledge of Your Market: By only placing attorneys at law firms, BCG has a singular focus in the legal industry that is unmatched by our competitors. Our recruiters are market experts in the regions that they operate, knowledgeable of both current and emerging trends so that our candidates can be better informed as well.We provide our recruiters with a multi-million dollar research budget and carefully study every firm we work with so that we have a thorough understanding of their work cultures and hiring needs.The unrivaled resources of BCG and its partner companies is what sets us apart from competitors and help our recruiters ensure that candidates will be a good fit for a particular firm.

Highest Ethics Standards: Many legal recruiters will employ unethical practices, like bribing candidates to accept positions. Recruiters receive a fee for every candidate they place, which can range from 25 to 30 percent of the associate or partner's starting salary. For unscrupulous recruiters, it makes sense to offer a kickback to "sweeten the deal" for a candidate – especially if it means that they will receive a commission from the hiring firm.

Recruiters at BCG will *never* offer bribes or kickbacks to candidates to take a job. Our refusal to take shortcuts, no matter the cost, is part of our commitment to the integrity of the legal profession.

Candidate-focused approach: BCG Attorney Search differs from typical recruiters in its candidate-focused approach. Many recruiters either juggle too many candidates at one time or fill positions without considering the candidate's long-term career goals. BCG takes a remarkably different approach to the job search process, striving to ensure that placements are a good fit based on the hiring firm's work environment and billable hours expectations, as well as the candidate's unique skills, personality, and long-term goals.

Attorneys looking to make a lateral move are often in "flight mode": they are deeply unhappy in their current position and are willing to take a job - any job, anywhere - that will allow them to escape their present circumstances. BCG recruiters are skilled at helping candidates make a transition that fits not merely in the short-term, but is in line with their long-term goals as well.

One East Coast recruiter for BCG puts it this way: "The reason I picked BCG is because it had such a candidate-focused approach. I think of myself as less of a head-hunter who has a specific position I'm hunting heads for. I look at myself as someone who an associate or partner will come to for advice on what a good transition would be and to help them generally in their job search, not to help them with one particular position I'm trying to place at that time. I'm trying to help candidates more with a long-term approach."