

# RISKING FAILURE

These Lawyers  
Took a Chance  
—and Gained  
Their Dreams  
in the Process

MARGARET GRAHAM TEBO

**E**

RIK HEELS HAS BEEN UP AND DOWN—AND UP AGAIN. HE prefers the ups, but he has learned how to deal with the downs.

Fresh out of the University of Maine law school in the early 1990s, Heels cast an eye on the already soaring dot-com rocket ship. As an undergraduate at the Massachusetts Institute of Technology, he had hung out with the folks who invented the concept of cyberspace.

Fascinated with the interplay between law and technology, Heels passed the regular bar exam and the patent bar, and in 1995 took a job with the first of several Internet startups.

"I remember saying, 'I'm going to put my law career on hold for two years and try this,'" says Heels.

Yet, caution nagged. "Every year you get that bar dues notice and you think, 'Is this the year I'm finally going to cut the cord?' But I just never could do it. I love the law and I worked on a lot of IP issues at the Internet firms," he says.

Six years later, when the rocket crashed to earth, Heels decided to open his own intellectual property law practice. He wrote a 35-page business plan, incorporating all he learned about why companies succeed and fail.

Heels planned a marketing launch, a trade show appearance that cost a small fortune, an open house and a campaign with 4,000 engraved announcement

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**Susan  
Nycum**

cards—for the week of Sept. 10, 2001.

The fallout from the terrorist attacks canceled his planned big opening. By October, Heels had spent his marketing budget, and he began to ask himself whether having his own practice was worth it.

"I felt like a bungee cord stretched to the max," says Heels. "Thankfully, it bounced back just before it snapped. That's when it was good to have a business plan full of contingency scenarios to execute on."

This August, Heels hired his first associate at his Boston firm. It's been a long road, Heels says.

And what has he learned? "You ask yourself, 'What's the worst thing that can happen here?' The answer may be, 'I lose all my money and the business goes under and I have to start over.' If you can live with that possibility, the fear is gone and you can concentrate on moving toward success. Failure is not even on the radar screen anymore," says Heels.

Ah, failure, an outmoded concept that hangs up the best lawyers and keeps many from seeking their dream jobs, the dreams they harbor in the deepest recesses of their corporate-attorney/partnership-track/golden-handcuffed souls.

Most will never act because they are too afraid of the consequences of failure to take the risk, says career expert Arlene S. Hirsch, who counsels lawyers on career issues.

What gives lawyers like Heels the courage to risk, while others merely daydream out the window, wishing mightily that they were doing something else?

Hirsch says many people hold the wrong definition of the word "failure."

"The mindset of being afraid to fail is a setup to fail," says Hirsch, vice chair of the career assistance committee

for the Chicago Bar Association. "If you try too hard to hold on to what you've got, you're in danger of getting stuck."

It's like risk tolerance in the stock market, says Hirsch. Investors who are less worried about losing might buy riskier stocks issued by untested or volatile companies. The potential for spectacular returns—or huge losses—exists. But those who need the security of guaranteed return invest in the tried-and-true, even though it will never offer the potential for a big payoff.

The same holds for people's investments in their own careers, says Hirsch, whose latest book, *How to Be Happy at Work*, was released in September. Career risk-takers tend to be willing to invest in themselves—to take risks with their careers—because they have faith in their ability to manage whatever obstacles arise.

#### **HAVE STAFF, WILL TRAVEL**

TAKE SUSAN H. NYCUM. IN 1986, NYCUM WAS HEAD OF AN intellectual property practice group at a now-defunct California law firm. She was responsible for 20 to 30 employees, including lawyers, paralegals and support staff.

In an era when law firm closings were virtually unheard of, Nycum was stunned to learn that her firm was dissolving. At the top of her field, Nycum could have walked out of her failing firm and into any of several others at the same or better salary. But there was her staff to consider.

"There was a bidding war for me, but it was not my style to walk away from the others. These people had been loyal and worked hard," Nycum says.

Nycum's risk? She turned down the firms bidding to hire her alone. She told her staff they were in this together, and she set out to find a firm that would accept her entire department as a package.

"I told everybody who wanted me that the price for me was the price for everybody. I felt like taking care of them was part of my responsibility as a human being," Nycum says.

Not having a clue as to how to go about selling her group as a unit to another firm, Nycum found a recruiter whose business involved packaging and "selling" portions of dissolved businesses to other firms.

After several hectic months, Nycum found a place for her practice group.

When a year later, the new firm also went belly-up, Nycum knew she had to safeguard her employees' interests while she again tried to place the entire department with another firm. She set out to find malpractice, health, workers' compensation and other insurance and to renegotiate their office lease. Eventually, she took her staff to Baker & McKenzie, where many remain. Nycum has since taken emeritus status from the firm after 13 years.

Nycum says she realized the risk in turning down job offers when her first firm dissolved, but, she says, she felt she had to think of the others.

She also worried about losing clients as a result of the upheaval. But, she visited the clients and explained the situation to them, and all vowed to stay with her.

"There was this Asian company. Very big. I can't tell you the name, but you'd recognize it. Their president came to me and said, 'We will stay with you,' " says Nycum. "I like to think he saw the honor in what I was trying to do for my employees."

As for her climb to the peak of her profession, she says the route, while never simple, was straightforward. "Do world-class—at a minimum—work, and then take the credit for it," she says.

Now in her 60s, Nycum is still reinventing herself. She travels the globe conducting mediations and arbitrations in the highly specialized niche of high-tech intellectual property.

Having come of age in the law at a time when women were rare in big firms, and rarer still in intellectual property, she offers advice for those making their way today.

When she was a big-firm law partner, Nycum noticed that the young men associates were always "schmoozing" her, asking her to lunch, bringing her coffee, etc.

The young women seemed to hang back, waiting for Nycum to

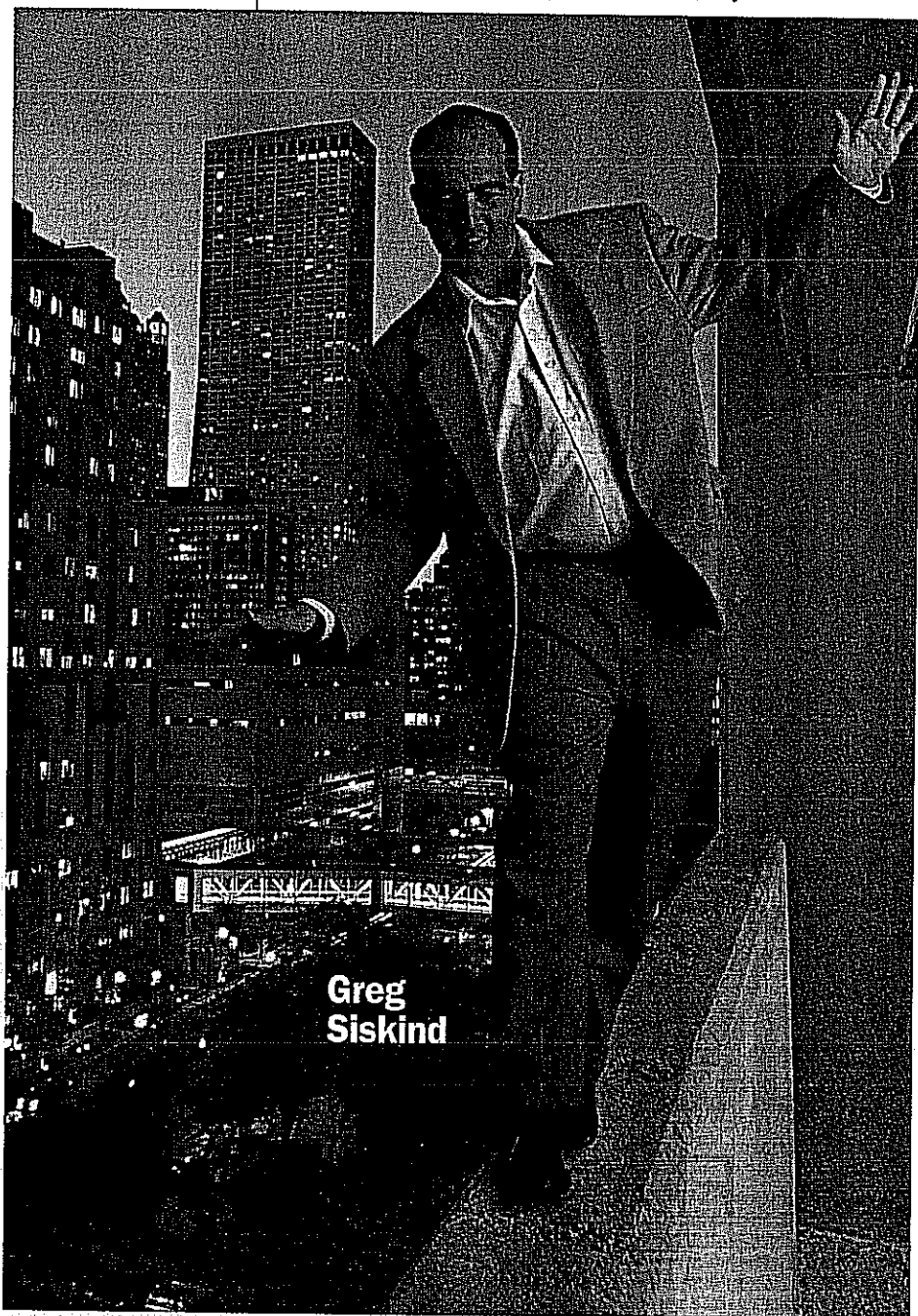
invite them into her circle.

So, she took some of the women aside and exhorted them to be more assertive in forging relationships with partners—to take a risk. "You're missing out," I told them. "Jump in!"

#### ON THE CONFIDENCE TRAIL

THAT SORT OF KICK START MAY BE EXACTLY WHAT SOME people need to rev the engine of their risk-taking behavior. Hirsch says that some people do best when they start small. Taking baby steps, like speaking up within the security of the law firm environment, might help some people gain confidence needed to pursue bigger dreams down the road, such as striking out to open a solo practice.

If it all sounds overly optimistic, it is, says Hirsch. But



Greg Siskind

ABA JOURNAL PHOTOS/STEVE JONES AND ROBERT A. DAVIS; DIGITAL WORK BY JAMIE JACKSON

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optimism can be learned. Hirsch counsels clients to use techniques such as monitoring self-talk—catching yourself when you start to think negatively about a problem and re-training your internal voice to see a solution rather than a hurdle.

For Greg Siskind, the dream meant leaving a lucrative, but soul-deadening, corporate practice to become an immigration lawyer.

Since opening his own firm in Memphis in 1994, Siskind has grown his small shop to seven offices in five states. "I love immigration law," he says.

But back when he was a greenhorn associate doing transactional work; Siskind found himself questioning his commitment to law. Then he took a few immigration cases and knew he'd found a passion. For Siskind, the ability to see how the work he does directly and tangibly benefits his clients is key to his career satisfaction.

Like Heels, Siskind was an "early adopter" of the Internet. He participated in listservs and online chats in the pre-historic days when the Web was still the domain of geeky grad students at elite universities and tech schools.

#### CARPE DIEM

BUT SISKIND SAW AN OPPORTUNITY. He knew that many using the Internet in those days were foreign-born students and tech workers living in the United States. He figured he could tap the market of Internet users to find clients for his budding law firm.

So Siskind hung out a virtual shingle in the form of a primitive Web site and pointed his cyberpals to it. They loved the idea that one of their own could help them with immigration matters, and soon Siskind's practice was expanding.

He eventually needed to hire additional lawyers to help with the vol-

ume of work. As some of those lawyers moved to other cities, they opened branches of Siskind's firm. Other offices came through mergers with smaller practices.

Today, Siskind Susser represents clients as diverse as Cirque du Soleil, the Mayo Clinic and migrant farm workers, among others.

Siskind loves marketing his practice. For the past five years he has devoted most of his time to rainmaking, while colleague Lynn Susser acts as managing partner.

Siskind says failure is all about definition. "If you spend years in a practice where you're unhappy, that's failing," he says. "I judge success by happiness, and I'm pretty happy."

Exactly what one might expect, says Hirsch. Too many lawyers make the mistake of equating job security and career security, she says. There is practically no such thing as job security anymore in the traditional sense, she says. It's rare for lawyers or any-



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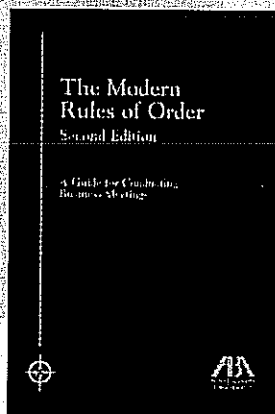
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one else to stay with the same firm throughout their working lives. Instead, lawyers should work toward career security, positioning themselves with the skills and flexibility to know they can always get a job in their field if they need one. Having that security frees people to search out new opportunities in their careers, according to Hirsch.

Sometimes, the urge to take a risk

simply amounts to deciding it's OK to step off the fast track—not to open your firm but to dedicate yourself to public service.

Chuck Barlow spent six years on the partnership track at a major law firm in the South. He did the usual corporate transaction work that young associates do, and his partnership application was up for review. It

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## ASSESS THYSELF

Some attorneys happen upon work they love, but for others it's hard to find. What's a lawyer to do? A self-assessment is the place to start, says Lisa L. Abrams, a Chicago lawyer and career consultant. "People need to like the day-to-day rhythms of the job," says Abrams, author of *The Official Guide to Legal Specialties*, for which she interviewed satisfied practitioners about what they liked about their work.

"It's one thing to say, 'I want to be an entertainment lawyer.' It's another thing to say, 'What does an entertainment lawyer do all day long?'" One told Abrams he spent his whole day on the phone. So "if that's not your type of daily rhythm," it's not the job for you, Abrams says. One disadvantage, she says, is that law schools don't give students a sense of what it's like to practice in a particular area, even after taking courses on the subject. "There are some tremendous surprises out there, areas of law that you might not have thought about that require you to call on skills that are really strong for you."

For example, when she went into practice as a litigator, Abrams says, it never occurred to her to consider estate planning, which she vaguely thought of as involving "dead people and taxes." But, she says, "This whole field really is very related to planning and counseling. I'm a much better counselor than I am a litigator."

Once you have a handle on your skills and the type of work you enjoy, start pursuing jobs that match, she says. Talk with people who do the work. Only they can answer the questions, "How do I make it happen? What markets can I approach, and what kind of approach should I make?" Says Abrams, "If I had one secret for success in finding a satisfying career, it would be to encourage people to talk with people who do what they think they want to do."

Carole Aciman might agree. "Lawyers tend to be very passive" about developing their careers, says Aciman, "especially in large firms." She adds, "Go out and network and do some pro bono work and get involved in some bar associations or community organizations."

Aciman is a case study. After coming to the United States from her native France, she got an LL.M. and took the New York bar exam. It was hard to find work, but she finally got a job by offering to do a two-month trial without pay.

She moved from a small firm to corporate transactional work at a midsize firm. But she wasn't thrilled with it. Yet, because of her European background and fluency in French, she was frequently assigned to work with foreign clients. The most interesting, she says, were involved in intellectual property ventures.

"The more I did work with them, the more I learned about the business and the legal issues and was interested in them," she says. So she educated herself in technology. "By the time the work started coming in, I was the only one who, at least theoretically, had experience and knowledge," says Aciman, who moved in 1999 to senior counsel at Skadden, Arps, Slate, Meagher & Flom working on intellectual property and e-commerce.

But to be happy as a lawyer, she says, you have to enjoy not only your clients and your work, but your colleagues. Ask yourself, she says, "Whether you like them, you trust them, you respect them, and they can really teach you something. When you don't have that, it's a really good test of whether you should consider your options." —Martha Neil

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about clients, other lawyers and what it takes to really thrive in the practice of law.

Where did each one originate—in the outside world, or within you? To what extent does each message reflect your true feelings? Or do they merely reflect cultural clichés?

If a message comes from an external source, to what degree have you internalized it? Can you recall a time before this idea was part of your mental landscape?

Listen closely: Whose voice do you hear? Is the source someone or something you respect?

Can you imagine yourself conveying the same message to a friend, to your child or to someone else whose well-being is important to you? Would it ring true coming from your lips?

If a message comes from the inside: What is the basis for it? To what extent does it influence your day-to-day decisions or color your sense of who you are and what your destiny is? Is it based in fear or a sense of inadequacy?

If it relates to your core beliefs about other people, do these beliefs inhibit you, or enable you to work and live happily and successfully?

Wherever the message may have come from, if you've

internalized it, this may be the time to examine it closely.

Ask yourself whether this idea enhances your experience of practicing law. Does it make it more meaningful? More enjoyable? Does it emphasize your own, your clients' and your colleagues' better natures, or does it assume the worst about people's motives?

Does allowing the message's implications to color the way you look at work and life create walls between you and people you care about?

#### **TAKING IT ALL IN**

SIT FOR A WHILE AND CONSIDER THESE MESSAGES. TAKE one at a time and try to simply hold it in your awareness. Look closely at it, allowing yourself to suspend judgment. Get a sense of its dimensions, its weight and the feeling it carries. Is it life-enhancing or a drain on your energy? Does it comport with what you know to be right and true?

If you've looked at a message's contours and determined the nature of its power, you can work with it. If, for example, you have found it to be detrimental to your well-being, ask yourself a question: What is one thing I can do today to reframe this message in a way that makes me feel better about what I do? ■

## **RISKING FAILURE**

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appeared the brass ring was within his grasp.

It was about that time that Barlow learned of an opening with the Mississippi Department of Environmental Quality. A lifelong admirer of the natural world—he had an LL.M. in environmental law—Barlow knew he'd love the government job. And it would mean more regular hours and more time to spend with his wife and his children. But was it fair to ask his family to forgo the lifestyle of an up-and-coming hotshot attorney for the brown-bag world of a government lawyer?

Barlow sat down with his mentor at the law firm, asking, "Am I crazy?" To his credit, the mentor told Barlow to follow his heart, even admitting that he wished he'd done the same years earlier. So, swallowing his doubt, Barlow talked to his wife. She was all set for him to make partner at the firm, ready for the financial opportunity and prestige the appointment would bring the family. But she looked at her husband and knew he really wanted the government job. "If you promise to come home at 5 o'clock every day, you can take that job," she told him.

So the Jackson, Miss., resident announced he was leaving the firm. To his surprise, many of his colleagues expressed envy, not chagrin, at his choice.

At the state job, Barlow enforced Mississippi environmental regulations, loving just about every minute of the years he spent there.

He also coached his kids' sports teams, spent time with them every evening and joined his family on the sort of vacations that make happy memories.

"Now, I get up in the morning and feel like I'm doing an important job of protecting the environment," says Barlow.

In October, Barlow made another change. As much as he loved his work for the state, as his children got closer to college age, he began to think he needed to do more to save for their education.

Once again, the right opportunity presented itself. Entergy Corp., the New Orleans-based utility firm, asked him to become its in-house counsel for environmental issues.

Barlow was familiar with Entergy, which has business interests in Mississippi. He admired the company's proactive approach to environmental quality. He felt he'd be leading the company on environmental issues, not defending corner-cutting as an environmental lawyer might be forced to do at some companies. The job would boost his salary and allow him to spend less time in the courtroom, a change he was ready to make. It seemed like a good fit.

But Barlow didn't want to uproot his family from Jackson, so he cut a deal where he keeps an office in his hometown and commutes a few times a month to New Orleans.

Barlow believes that that one risk—taking the government job and doing it exceptionally well for a number of years—led to his ability to take the other—asking for his ideal work circumstances when he returned to the private sector. And he hopes he's set an example for his children about how to conduct their work lives.

"I've been able to keep my main priority—my family—at the forefront. And I do work I love. I'd like to think both of them will raise their own families the same way," he says. ■