

The Marketing of Legal Services in the United States, 1855-1912: A Case Study of Guggenheimer, Untermeyer & Marshall of New York City and the Predecessor Partnerships

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69

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Abstract

Purpose – This paper explores the marketing of legal services in the United States during the period 1855-1912 using Guggenheimer, Untermeyer & Marshall and its predecessor partnerships as a case study.

Design/methodology/approach – Historically few law firm records have survived because of client confidentiality. However, some of the early records of Guggenheimer, Untermeyer & Marshall have been donated to the American Jewish Archives (AJA). The AJA also holds the personal papers of two former partners in the firm, Samuel Untermeyer and Louis Marshall. These sources only provide a fragmentary view of the history of this firm. So this paper has also drawn upon the extensive newspaper coverage of the activities of this firm and its predecessor partnerships. The *New York Times* digitized archive, the Library of Congress Chronicling America digitized newspaper archive, and the Fulton History Newspaper Database (an unofficial digitized historic New York State newspapers database created by hobbyist Tom Tryniski) proved to be invaluable.

Findings – This paper suggests that notwithstanding the belief of the WASP legal establishment that the law was a gentlemen's profession, by the late 19th century changes in the structure of the American economy had profoundly altered the nature of the profession. Some firms considered the law had become a business. Hence legal services had to be marketed.

Originality/value – This paper is the first to explore the marketing of legal services in this period.

Keywords – Guggenheimer, Untermeyer & Marshall; relationship marketing; communication and public relations

Paper type – Research paper

Introduction

In the nineteenth century law was regarded as a gentlemen's profession (Altman, 2003, pp. 2412, 2486). Advertising was restricted to general business directories and from 1870 in J.H. Hubble's annual legal directory or, from 1868, in James B. Martindale's intermittent publication. There were also occasional directory type advertisements in newspapers (New York Daily Tribune, 1897). This advertising did not allow the differentiation of lawyers and law firms from their rivals. So lawyers and law firms relied upon relationship marketing to sell their services. As Susan Hart and Gillian Hogg (1998, p. 57) have observed "Law firms... have traditionally relied on the development of personal contacts and relationships, frequently based on nepotism or class connections." Although they are referring to British law firms, this observation also applies to nineteenth century American law firms. The kind of marketing used by other businesses was eschewed by the legal profession. In the 1980s Donna K. Darden, William R. Darden and G.E. Kiser (1981, p. 132) observed in a case study of the Arkansas legal profession that the use of advertising presented an ethical question for lawyers and that "communication and public relations are areas yet to be fully utilized."

This paper shows that some lawyers had been making use of communication and public relations in addition to relationship marketing since before the American Civil War. It is a case study of Guggenheimer, Untermeyer & Marshall and the predecessor partnerships. The Bavarian immigrant, Adolf Levinger, who founded the firm, clearly understood the importance of relationship marketing.

The paper shows that he also made use of the press to promote his firm. After Levinger's untimely demise, his firm was inherited by his cousin, Randolph Guggenheimer, who extended the firm's use of relationship marketing by forming an alliance with the New York City Democratic Party, popularly known as Tammany Hall. He subsequently brought into the firm as partners his half-brothers, Isaac, Samuel and Maurice Untermeyer. Guggenheimer was soon over-shadowed by his ambitious half-brother Samuel. As will be shown, in common with his three siblings, Samuel Untermeyer was part of a new generation of academically trained lawyers. The new Law Schools provided an opportunity to hyphenated Americans to enter a profession which had hitherto been dominated by the WASP elite. However, Untermeyer realized that clients would need to be persuaded to choose his firm instead of the old established WASP firms of gentlemen lawyers. In addition to relationship marketing this would require the use of communication and public relations. From a very early point in his career Untermeyer realized that the press could be used to market his firm. Its importance to the firm can be seen by the collection of huge scrapbooks of press cuttings covering the period 1895 to 1934 which have survived the demise of the firm and are now held at the American Jewish Archives. They indicate just how important press coverage was to the firm. He also realized that the firm's office accommodation and its location could be used to gain competitive advantage.

Guggenheimer, Untermeyer & Marshall was founded by Adolf Levinger in the mid-1850s. Levinger was the son of a Bavarian Jewish official (Steiner, 2000; Augsburg Staatsarchiv) and immigrated at the age of 21 to New York City in 1854 (US National Archives, 1854) with his brother Mathias (subsequently known as Max) (US National Archives, 1861). By the following year Levinger had established himself as a lawyer (Anon., 1855, p.235; NYT, 1856) and was admitted to the bar in 1856 (Hubbell, 1872, p. 767). Levinger had been a *studiosus juris* (student of law) before he emigrated, which explains his remarkable early career (US National Archives, 1853). At that time the Jewish community in New York City was very small and not particularly prosperous. Levinger decided to make use of his native tongue, German, and seek clients from the larger and more prosperous German-American Christian community. He appreciated the importance of relationship marketing. He helped form the Independent Singing Society which allowed him to network with fellow German-Americans (NYT, 1858). He also joined the Republican Party which provided him with access to another network. Levinger was elected as one of several vice-presidents of the 19th Ward Republican Wigwam in August 1860 (NYT, 1860). In 1865 Levinger stood for election to the New York State Assembly, campaigning as a "man of incorruptible honesty and integrity" (NYT, 1865a). He gained a seat from a Tammany Hall Democrat (NYT, 1865b). By zealously opposing excise measures he won the gratitude of the city's wealthy German-American brewers. But he was not reelected in 1866 (NYT, 1866). Levinger's marketing of his firm resulted in a client list that included a significant number of the city's German-American brewers and bankers. Indeed R.G. Dun & Co. (1874b) reported that he was a very popular man with his fellow Germans.

Levinger's success as a lawyer allowed him to accumulate considerable wealth during the 1860s. He owned considerable real estate and had between \$75,000 and \$80,000 invested in a lager beer brewery from the 1860s together with his brother Max and a J. Kahn, located first in Manhattan and later from 1868 in College Point, Flushing, Long Island (US Census, 1870; Dun, 1874a; Anon., 1882, p. XX; Lapham, 1977, pp. 138-9). Business was so good that Levinger established a second office uptown specializing in real estate (Milwaukee Sentinel, 1876; Ulman, 1872, p. 752) in partnership with his cousin Randolph Guggenheimer in 1871 (Hubbell, 1872, p. 767; Dun, 1873; Anon., 1874, p. 69). As a graduate lawyer, Guggenheimer was the beneficiary of a recent development in the American legal profession, professional training by a college or university Law School. Until the late 1850s lawyers had acquired their training in offices or by private reading (Dwight, 1889, p. 141).

As a Republican, Levinger was an opponent of the New York City Democratic Party, popularly known as Tammany Hall. The notoriously corrupt Tammany Hall dominated New York City politics and as a consequence was able to influence judicial appointments in New York. In 1871 Levinger as a member of a group called the German Lawyers of New York (NYT, 1871) became part of a campaign against judicial corruption in the city and specifically the Justices of the Supreme Court of the State of New York, including Justice George G. Barnard, who like his colleagues was a member of Tammany Hall. The campaign resulted in hearings by the Judiciary Committee of the New York State Assembly from February to April 1872 (Kaufman, 1998, pp. 16-8) which heard testimony from both Levinger and Townsend (State of New York, 1872, p. 742-46, 769-71). The Judiciary Committee decided to recommend Barnard's impeachment by the New York State Court for the Trial of Impeachments and

Correction of Errors. Townsend was one of those who testified in the trial (NYT, 1872a). Barnard was found guilty of most of the charges against him, removed from office, and disqualified (NYT, 1872b).

Levinger's brewery investment resulted in his downfall because it proved to be a bad investment (New York Sun, 1876). Indeed in December 1875 the brewery was seized by the United States government for non-payment of taxes (New York Daily Tribune, 1875a). It would appear that Levinger had embezzled clients' money in an attempt to meet his liabilities. His apparent malfeasance came to light after the failure of the German Uptown Savings Bank in December 1875 (NYT, 1875a). The bank's receiver subsequently discovered that Levinger, as the bank's attorney, had apparently misappropriated at least \$40,000. The receiver began a civil suit against Levinger. He was arrested on December 14, 1875 and had to post \$45,000 bail (NYT, 1875b). In February 1876 it was reported that Levinger had absconded to avoid arrest on a criminal action for stealing money from the bank. At the end of May 1876 Levinger's agent claimed that he received news that the lawyer had died of yellow fever in Havana, Cuba. The depositors decided in August to authorize an investigation into the report of Levinger's death and it would appear that it was subsequently found to be true, a view shared by R.G. Dun & Co., the commercial credit reporting agency (NYT, 1876a; Buffalo Evening Republic, 1876; NYT, 1876b; Milwaukee Sentinel, 1876; Dun 1876a, Dun 1876b; NYT, 1878b; New York Daily Tribune, 1878).

Both of Levinger's law firm offices survived his demise although they ceased to be connected since they no longer had a partner in common (NYT, 1878a). Guggenheimer's half-brother Isaac Untermeyer had joined the uptown office in 1871 as a clerk (NYT, 1926; Legal Times, 1986). Guggenheimer persuaded many of Levinger's German-American clients to stay with the uptown firm. This is a good example of the firm's early embrace of relationship marketing. These clients included Henry Clausen, Jr., a prominent brewer and business associate of Levinger (NYT, 1870; New York Evening Telegram, 1873), who had briefly served as president of the Up-Town German Savings Bank between its failure and decision to go into receivership (NYT, 1875b; NYT, 1875c). Guggenheimer persuaded them that unlike his cousin he was a man of probity. He also made sure they retained their faith in him by becoming a prominent member of the German-American community. He endeared himself to the community by promoting causes such as the teaching of the German language in the city's public schools (Richmond Times Dispatch, 1907; Lemke, 1891, pp. 104-5). Levinger was conveniently forgotten and Guggenheimer subsequently claimed to be the founder of the firm.

Well before Levinger's demise Randolph Guggenheimer decided that if he was to prosper as a lawyer, he would need to align himself with Tammany Hall (Lynch, 1927, p. 377). Many civic positions in New York City were non-salaried and as a result were filled by members of the business community (Lowi, 1964, p. 31). In 1887 Guggenheimer was appointed Commissioner of the Common Schools and a member of the Board of Education, a position he was to hold until March 1895 (NYT, 1895). Tammany had lost the election of November 1894 (Richmond Times Dispatch, 1907). Tammany won back control of the new Greater New York city council in November 1897 with Guggenheimer elected President of the City Council (Die Deborah, 1897). This position meant he was able to serve as acting mayor for a month each summer for four years while the mayor was on holiday.

As a member of Tammany Hall, Guggenheimer was able to attract new clients for his law firm from the Irish-American community and from fellow Tammany businessmen. Guggenheimer also used his Tammany Hall membership to become a highly successful real estate speculator and developer (Dun, 1878; Manufacturer and Builder, 1884; Untermeyer and Williamson, 1960, p. 59).

By 1878 Guggenheimer had relocated his office to 239 Broadway, close to Levinger's original downtown office at 231 Broadway and opposite New York City Hall (Wilson, 1878, pp. 557, 1429). Continuing the tradition started by Levinger, the firm was to employ many family members, both close and distant, as clerks over the years. Guggenheimer's half-brother Samuel Untermeyer was probably the most successful of these clerks. Notwithstanding Guggenheimer's initial skepticism, Untermeyer proved to have exceptional legal ability (Himber, 1970, p. 56). Untermeyer graduated from Columbia Law School in 1878 (Columbia College, 1882, p. 182). In order to enter he had to meet the admission test, a college diploma or an examination in Latin, that had been introduced in December 1874 to 'keep out the little scrubs (German Jew boys mostly) whom the School now promotes from the grocery-counters in Avenue B. to be "gentlemen of the bar."' (Taft, 1938, p. 146). Although Untermeyer was still too young to be admitted to the bar, he appeared in court on behalf of clients disguising his youth with a moustache and a beard. The 'Cantor with the beard' shaved it off the following year when he was old enough to be admitted to the bar, but retained the moustache for the rest of his life (Himber,

1970, p. 55). Untermyer proved to be a master of cross-examination. He quickly gained a reputation as a highly effective trial lawyer.

In 1882 Untermyer's brother Randolph made him a partner in the law firm although he and his brother Isaac were not made named partners until later in the decade¹ when the office was also relocated to the Stewart Building at 280 Broadway (opposite the New York County Courthouse) (New York Sun, 1888b).² During the 1880s the firm established itself as the preeminent law firm for the New York and New Jersey brewing industry, as well as acting counsel for the regional and national brewers' association. Samuel Untermyer, in his role as counsel for the United States Brewers Association, became well known in his role as 'counsel for the boss brewers' during a boycott of 'pool beer' by labor union members in 1888 (New York Sun, 1888a; Schlüter, 1970, pp. 148-66). However, by the late 1880s the firm's client list was still centered on the German-American business community and the expanding Jewish American business community. Both Untermyer and his brother Isaac wanted their firm to attract white Anglo-Saxon business and financial clients and become a competitor of the Wall Street law firms. But their way forward was effectively barred by WASP ant-Semitism.

In 1888 Isaac Untermyer realized that perhaps they could achieve their goal by promoting American companies in the City of London (New York Herald, 1889). He was a lifelong intimate friend of the Lehman family who had been neighbors of the Untermyers when his family first moved to New York (Lehman Oral History, pp. 69-70; Frank Untermyer Papers (d)). Over the next four years Isaac and his brother Samuel successfully floated a number of breweries, milling companies, an engineering company and a tin mine on the London stock market. As well as making a significant amount of money in commissions and legal fees, they also generated significant press coverage. Although Isaac was the first partner in the firm to have an interview published in a New York daily newspaper in which he explained the genesis of the company promotions (New York Herald, 1889), his brother Samuel quickly usurped the role of spokesman for the firm and credit for the genesis of the promotions.³ Untermyer realized that he could use the press not only to further the company promotions but also to advertise his law firm. The promotions generated press coverage not just in New York but in cities across the United States and also in the commercial centers of Britain (Saint Paul Daily Globe, 1888) which included interviews with Samuel Untermyer (Pittsburg Dispatch, 1889). The national recognition for the firm was not even marred by negative coverage of the tin mine promotion. However, as Isaac Untermyer observed to his brother Samuel after the latter had given a lengthy interview to the *New York Sun* (1890) that kind of business, which had its advantages in some aspects, rather smacked of charlatanism and might injure the brothers in London (Frank Untermyer Papers (b)). The *Pittsburg Dispatch* identified three other New York City law firms which had followed the example of Guggenheimer & Untermyer and had become involved in the promotion of American companies in London: Cary & Whitridge (another Wall Street firm which later became part of the Cravath firm), Seward, Da Costa, Guthrie & Lynde (which later became known as the Cravath firm), and Stetson & MacVeigh (of which Grover Cleveland was a member) (Pittsburg Dispatch, 1890).

The financial crisis of 1893 put an end to the company promotions in the City of London. However, Samuel Untermyer had already embarked upon a new money making venture, the promotion of trusts in his own country. During the 1890s he floated a number of trusts including ones in the wallpaper, lithographic printing, enamelware, umbrella and steam pump industries (NYT, 1892a; NYT, 1892b; NYT, 1899b; New York Daily Tribune, 1899a; Moody, 1900, p. 900; Anon., 1977, pp. 394-5). Once again he used the press to promote the trusts. Similarly he and his firm survived negative coverage of a scandal relating to a paper mill trust in which allegations of fraud were upheld eventually by the United States Supreme Court (United States Supreme Court 1900; NYT, 1900). The company promotions and the trust floatations meant that Untermyer had achieved sufficient recognition for himself and his firm to use the press to promote his work as a lawyer and his firm.

¹ The firm still bore Randolph Guggenheimer's name in 1884 (Frank Untermyer Papers (a)).

² The Stewart Building had been built in 1846 to house the city's first department store. The building was converted into offices in 1884 (New York Daily Tribune, 1884).

³ A good example is an article in the September 1888 issue of the *Brewers' Journal* in which Samuel Untermyer is described "the brilliant" young lawyer responsible for the genesis of the company promotions (Brewers' Journal, 1888, p. 428).

In late 1889 the main office of the firm was relocated to the Bank of America's new ten story building at 44-46 Wall Street. A branch for the upper city was retained at 55th Street and 3rd Avenue (New York Herald, 1889; NYT, 1890; Lemke, 1891, pp. 103-6; Anon., 1896, p. 149; Anon., 1918, p. 36). In 1894 *The American Lawyer* noted that Wall Street, or the eastern side of Broadway, was generally regarded as the most desirable location for law offices. It is significant that Untermeyer's firm was the only Jewish firm at this location, although one other firm with several Jewish partners was located just outside of the favored location (*American Lawyer*, 1894, p.80). By the early 1890s office location had assumed an importance that it had not previously held. The practice of law had undergone a radical change in recent years. A lawyer was no longer judged solely by the number of litigated cases in which he was retained as an attorney of record. It was no longer the most lucrative area of work. Counsel work had replaced litigation as the leading feature of practice. The chief forum of the lawyer had shifted from the courthouse to the office. Changes in the way business was conducted meant lawyers were required to have expertise in business affairs. Large fees could be earned for example from the reorganization of companies. Hence litigation was no longer as important as it had been previously. Guggenheimer & Untermeyer was one of the Wall Street firms which been in the forefront of this shift. As *The American Lawyer* observed

Guggenheimer & Untermeyer, who represent more foreign capital, probably, than any single law firm the country, the organizers and legal advisers of the Brewers' Syndicate⁴ and other great combinations, have only thirty-six cases [on the current trial calendar of the circuit of the supreme court of this State, covering the city] (*The American Lawyer*, 1893, pp. 5-6)

As a result the firm's office accommodation and its location became another way to signal to potential and existing clients that Guggenheimer & Untermeyer was a major player its profession.

During the 1890s the firm expanded its scope to include the theatre industry, merchants, manufacturers (*Legal Times*, 1986) and mining companies. Undoubtedly relationship marketing, public relations and location marketing made a major contribution to this expansion. New clients included theatre owners David Belasco, the Shubert Brothers (Winter 1918, pp. 178-9; NYT, 1905; Stagg, 1969, pp. 42-3, 234), and his distant relative Moses H. Cone of Greensboro, North Carolina, whose company, the Cone Export and Commission Company was known as the 'plaid trust' by its competitors. Cone and his brother Caesar also established two fabric mills in Greensboro (*Raleigh News & Observer*, 1896; Kepos, 1994, p. 120). Untermeyer also probably helped Adolph S. Ochs finance the purchase the *New York Times* in 1895 (NYT 1928; NYTA 1899, NYTA 1933). During the 1890s the firm, notwithstanding ongoing litigation associated with the ill-fated tin mine promotion of 1888, attracted clients from a number of major mining companies including the Jewish mining promoter Samuel Newhouse (Rudd, 1979, pp. 291-307; Arrington and Hansen, 1963, pp. 17-18; O'Connor, 1937, p. 279.). However, the most important new mining industry clients were the Guggenheim brothers, who retained the firm as legal counsel in 1899. Untermeyer was to become Daniel Guggenheim's most trusted adviser (O'Connor, 1937, p. 109.) At the end of the 1890s Untermeyer also represented Standard Oil in negotiations to create a copper combine known as Amalgamated Copper (*Salt Lake Herald*, 1899). The mining industry proved to be a very lucrative line of business. Eleven years later Untermeyer received a fee of \$775,000 to arrange the merger of the Boston Consolidated Copper Co. with the Utah Copper Co. Paul D. Cravath, the head of a rival Wall Street law firm, was quoted by the *New York Times* as saying he had never received as big a fee (NYT, 1910a; NYT, 1910b; Arrington and Hansen, 1963, pp. 65-6). Untermeyer's fee was the highest one ever received apart from the possible exception of one of between \$750,000 and \$1 million reputedly earned by his rival William Guthrie in 1900 as counsel to the widow of a railroad magnate (NYT 1908).⁵

To meet the increased workload the firm took on a new partner in 1894. Louis Marshall was not the first non-family member to become a partner. Moses Weinman had earlier joined the firm in 1883 as a partner (*New York Daily Tribune*, 1912; NYT, 1912). However, Marshall was the only non-

⁴ This is a reference to the Ale Brewers' Association of the States of New York and New Jersey.

⁵ The official history of the Cravath firm says Guthrie was paid directly so that there is no record of the exact amount of the fee, although one partner recalled he had been told by Guthrie it was \$1 million (Swaine, 1945, p. 686).

family member in the history of the firm to be made a named partner. Although later Marshall married a member of the Guggenheimer and Untermeyer extended family. The firm was renamed Guggenheimer, Untermeyer & Marshall. Although Marshall is usually remembered only for his civil rights work, most of his time during his years at the firm was devoted to its corporate clients. Marshall was also one of the most prominent Jewish members of the Republican Party. He allowed the firm to access an additional network of potential clients. Marshall was a hard worker who even served the interests of the firm in his spare time. In 1899 he founded, together with a number of friends and clients, including mining tycoon Daniel Guggenheim, the Knollwood Club (a private resort) on Lower Saranac Lake founded in 1899. The resort is another example of the firm's use of relationship marketing (Kaiser, 1982, pp. 134-58; NYT, 1910c).

Although the firm now had a national profile it was still a challenge to attract major non-Jewish and non-German business clients for example from the railroad industry. However, fortunately the Untermeyer brothers had made a very good impression in London when they were promoting companies and established long-term relationships with the businesses and financiers they worked with at that time. So when these British businesses and finance houses required legal counsel in the United States, Guggenheimer, Untermeyer & Marshall was their first choice. This is how the firm was able to enter a lucrative new line of business, railroad reorganization. In 1899 they represented the London investment trust, Industrial & General Trust in litigation involving the reorganization of a railroad (NYT, 1899c).

Although Guggenheimer & Untermeyer used the press to market their firm during the 1890s (in particular to promote its role in formation of trusts), they had not forsaken other forms of marketing. Samuel and Isaac Untermeyer's alcoholic and gambling addicted brother Maurice was used to strengthen the ties between the firm and Tammany Hall. Maurice was a student at Columbia College like his two brothers. He initially studied to be a mining engineer but subsequently switched subjects to law. After Maurice graduated in 1882 he established a law office on 125th Street where he formed many valuable connections. He was one of the organizers of the Harlem Democratic Club and also became a leading member of the Tammany Society (Blake, 1901, p. 324). Maurice became an intimate associate of the Irish American Tammany leaders and in particular Tammany boss, Richard Croker (New York Daily Tribune, 1902). The firm was legal counsel for Croker and his business partner, the transit tycoon, Andrew Freedman (NYT 1899a; NYT, 1915b; Anon., 1974). Freedman also had other business interests, such as the New York 'Giants' Baseball Club between 1895 and 1902, which the firm also represented (NYT, 1901b; Hardy, Jr., 1996, pp. 156-91). Maurice was also the only one of the Untermeyer brothers to follow the example of his father and join the freemasons. As one of the leading masons of the State of New York Maurice became part of another useful network of potential clients (Blake, 1901, p. 324). In 1890 Maurice became a partner in his brothers' law firm (American Hebrew, 1909; Himber, 1970, p. 56). During the last few years of his life his value to the firm declined because Croker retired as Tammany leader in 1901 (New York Evening Post, 1908).

At the end of the nineteenth century Samuel Untermeyer achieved his goal when he became a millionaire. His purchase of Samuel Tilden's former Yonkers country estate, Greystone, in 1899 signaled to the outside world this achievement (Washington Times, 1899). Within four years he had converted the dilapidated estate into a country seat. Tilden's former home was filled with fine art (St. Louis Republic, 1903). Untermeyer had become one of the first celebrity lawyers, indeed perhaps the first. He cultivated his celebrity status with at least two feature length interviews. On 11 June 1905 his friend Adolph S. Ochs published a feature length interview on the front page of the magazine section of the Sunday *New York Times*. The journalist, William Griffith, described the scene in Guggenheimer & Untermeyer's busy law offices with over 30 clerks (at 30 Broad Street opposite the New York Stock Exchange)⁶ as he was ushered into Samuel's office. There was

...a large table-topped desk in a large topsy-turvy office, the windows of which commanded a sweeping view of the harbor. Starring at the desk were several freshly cut flowers – a daily contribution of the Greystone greenhouses. Ranged around the walls were rows upon regiments of tin receptaries, containing enough corporation secrets to satisfy an editor or make New Jersey sit up and look around.

⁶ The firm had been at this address since May 1896. It had outgrown its previous office accommodation (Marshall Papers 1896).

Standing at the desk was a man of medium height, shorn of jewelry, compactly constructed, and with a face as corrugated as roofing. Steel gray eyes, set far apart to permit of their owner seeing both sides of a room or question at once, punctuated the face, sharing distinctions with a strong, clean-carved nose, such as indexes force. Under the nose and hedging the mouth was a trim mustache, oddly at variance with dense bushes of hair receding upward from a broad and curiously muscular forehead...(Griffith, 1905).

The following year another feature length interview with Untermyer appeared in the magazine section of Frank Munsey's (O'Brien, 1928, p. 201) Sunday *Washington Times* (1906). Dexter Marshall's interview was syndicated and appeared in newspapers across the United States (Richmond Dispatch, 1906). This was the sort of publicity money cannot buy. Biographical reference books such as the *National Cyclopaedia of American Biography* (1898, pp. 241-2) had also begun to recognize Untermyer. However, Randolph Guggenheimer, his half-brother, had already been recognized a few years before him. A German language biographical essay had been published in 1891 (Lemke, 1891, pp. 103-6) and an English language essay in a biographical reference work on notable New Yorkers in 1895 (Hall, 1895, pp. 282-3).

The first decade and a half of the new century brought many new clients to the firm, many of whom were not Jewish or German. It is not clear whether Untermyer's marketing of himself and the firm was entirely responsible. For the first time the firm included a non-Jewish partner, Abraham Benedict. His wife was the sister of Untermyer's friend, Louis Wiley (Frank Untermyer Papers (c)), the business manager of the *New York Times* (1943). New clients included the fugitive British company promoter, Whittaker Wright (NYT, 1903), Adolph Lewisohn, the mining promoter (Economist, 1908b; NYT, 1908b), Caleb Van Hamm, the managing editor of the morning *New York World* who was sued for libel by President Theodore Roosevelt (NYT, 1909), James Hazen Hyde the heir to the fortune of the founder of the Equitable Life Assurance Company of New York (Buley, 1967, pp. 674-5), William Randolph Hearst (NYT, 1915a); Horace E. Hooper a former partner in the Encyclopedia Britannica Co. (NYT, 1911; Kogan, 1958, pp.183-9); the Imperial Tobacco Co. of Great Britain (Corina, 1975, p. 97), and the United Fruit Co. (New York Daily Tribune, 1904),

During the first decade of the twentieth century Untermyer became a prominent campaigner for economic and financial reform. Given that he and his firm had taken full advantage of the unregulated Gilded Age, Untermyer had firsthand knowledge of where reform was most needed. It is probable Untermyer was also influenced by an on-going feud with J.P. Morgan, Sr. who appears to have sought to exclude Untermyer from WASP society. When Untermyer was appointed special counsel to the Congressional Pujo Money Trust Inquiry in 1910 he took great pleasure in cross-examining his enemy (Hawkins, 2010b).

Entering the political domain was a risky strategy. Levinger received positive press coverage. But both Untermyer and his half-brother Randolph Guggenheimer attracted both negative and positive publicity. Guggenheimer actively sought press coverage. Thomas E. Powers, a political and satirical cartoonist for the *New York Evening World* used the opportunity to lampoon Guggenheimer. On one occasion the *Evening World* (1900) carried a report with a cartoon about Guggenheimer's role as an officiator at marriage ceremonies in City Hall illustrated with a cartoon entitled 'The Guggenheimer Kissing Face'. On another occasion Powers did a full-scale interview with the Acting-Mayor without an appointment. The interview, in which Guggenheimer discussed his vision of how the city might be improved, was illustrated with irreverent cartoons of the Acting-Mayor (New York Evening World, 1901). Untermyer, whose ambitions were national rather than municipal, was also lampooned by Powers (New York Evening World, 1905).

In January 1912 Samuel Untermyer announced that he, his brother Isaac, and Moses Weinman were retiring, although he himself would remain an associate counsel. Untermyer said he wanted to make room at the top for the younger partners in his firm. Louis Marshall succeeded him as senior partner. However, as *The Bench and Bar* presciently observed

The friends of Mr. Samuel Untermyer know that this "retirement" means for him not greater ease, but greater activity.⁷ With his boundless energy, unusual ability, clear insight into and knowledge

⁷ *The Bench and Bar* proved to be prescient when it predicted that retirement would mean 'greater activity' for Untermyer. Untermyer served as president of the Palestine Foundation during part of the

of public questions, coupled with the possession of means simple enough to enable indulge his tastes and propensities to the fullest, we predict that Mr. Untermeyer will be "heard from" in the future more frequently and to a greater extent than in the past (Anon, 1912).

Untermeyer could be proud of what he had achieved. As the *Economist* had noted in 1908 he was 'probably the best-known corporation lawyer in the United States' (Economist, 1908a). He had earned some of the highest fees in the history of the American legal profession. Furthermore his firm had become one of the major Wall Street firms. His firm had surmounted the WASP barriers to entry. While Untermeyer was the public face of the firm, his partner and closest friend, Louis Marshall, was also one of the country's leading corporate lawyers. In turn Untermeyer and Marshall were supported by other members of the firm who were mostly drawn from their families. None of this could have been achieved without successful marketing, in which press coverage played a central role.

The success of Jewish firms such as Guggenheimer, Untermeyer & Marshall was not well received by all of the firm's WASP peer group. A significant number regretted that the law was no longer a learned profession, but had become a business in which they were forced to compete with arriviste Jews. The opposition to the commercialization of the legal profession by the WASP elite is reflected in the Canons of Ethics adopted by the American Bar Association in 1908. Canon 27 prohibited personal solicitation and introduced a major change in American legal ethics, a general prohibition of lawyer advertising. In particular, the last part of the canon might well have been describing the most important part of Untermeyer's approach to marketing (Altman, 2003, pp. 2484-87).

...Indirect advertisement for business by furnishing or inspiring newspaper comments concerning causes in which the lawyer has been or is engaged, or concerning the manner of their conduct, the magnitude of the interests involved, the importance of the lawyer's positions, and all other like self-laudation, defy the traditions and lower the tone of our high calling, and are intolerable (Altman, 2003, p. 2985).

Although Altman suggests that there is no direct evidence that the committee who prepared the Canons were motivated by anti-Semitism, one of their number was Francis Lynde Stetson (Altman, 2003, p. 2490), J.P. Morgan, Sr.'s lawyer. Morgan was a bitter enemy of Untermeyer.

However, even prominent Jewish lawyers such as Julius Henry Cohen regretted the commercialization of their profession although not from anti-Semitic or nativist perspective (Levine, 2005, pp. 1-34). Samuel J. Levine argues that Cohen believed that 'the increasing number of large law firms serving the interests of business clients represented one of the most dangerous symptoms of the commercialization of the practice of law (Levine, 2005, p. 30). Cohen's description of a typical modern law office could have been that of Guggenheimer, Untermeyer & Marshall. He observes 'Living in such an atmosphere, with his office window closer to the Stock Exchange than it is to Trinity Church... the modern New York lawyer catches the atmosphere he breathes and fast loses the larger perspective of his profession (Cohen, 1916, p. 212). He goes on to observe 'If business is your forte, go into business; you will win greater honor and glory (Cohen, 1916, p. 212). Of course many of the partners in Guggenheimer, Untermeyer & Marshall had not only practiced corporate law but had gone into business on their own account as well. This is how Randolph Guggenheimer and Samuel Untermeyer and his brother Isaac had become millionaires. Furthermore Samuel Untermeyer for one did regard his firm as a business rather than as a manifestation of a learned profession. As he observed to Louis Marshall in 1894

1920s (Hawkins 2007b) and from 1933 to 1938 as president of the leading anti-Nazi boycott campaign organization in the United States (Hawkins, 2007a; 2010a). Untermeyer also found it impossible to actually retire from the law and was unable to honor his commitment to hand over the firm to the next generation. Victoria Saker Woeste (2004, pp. 902-3) has suggested that Untermeyer remained a partner in the firm. Rifkind (2008, p. 82) correctly observes that Untermeyer's formal role was actually 'of counsel' to the firm rather than partner. However, Rifkind (2008, p. 82) is wrong to suggest 'that relations between the two men, once close,' became distant. In fact Marshall remained Untermeyer's closest friend. Furthermore, despite Marshall's promotion to 'senior partner', he allowed Untermeyer to remain the effective head of the firm.

...You seem to have become impregnated with Ike's [Isaac Untermyer] optimism concerning business but there is little more excuse for you than for him partly because of your ignorance of the conditions prevailing in our office & of the way in which the practice has been created from small beginnings but mainly because of your notorious ignorance of the first principles concerned with the commercial part of the practice of law in a large city where the love of the science must be combined with a realisation of the dawning of real-day (Marshall Papers, 1894).

Conclusion

This paper suggests that the success of Guggenheimer, Untermyer & Marshall was based on the effective use of both relationship marketing and communication and public relations. The prime movers in the firm were German-American Jews. The firm gained many clients through its partners' active participation in the cultural and political life of the German-American and Jewish communities. But the firm did not want to restrict its client base to its own communities. This is why the prime movers joined cultural and political organizations with a wider membership such as the Democratic Party. As a significant proportion of their work with clients began to shift from the courthouse to the office, the partners also recognized that their office could be used to market its services. From the 1880s the firm successfully used the location of their office, the building in which it was situated, and quality of its accommodation as a form of advertising. However, the firm's attraction of media coverage became the most important part of its marketing strategy. In the period covered by this article, both Randolph Guggenheimer and Samuel Untermyer actively sought press coverage. Adolf Levinger had also done so too before his demise. Both Guggenheimer and Untermyer became celebrities. Untermyer realized that to retain his celebrity status he would need to manage his image. For example, from the early twentieth century Untermyer began to appear in court with a fresh flower, such as a carnation, in his lapel (New York Sun, 1905). He soon decided that only a fresh orchid grown at his Yonkers estate was appropriate for his image, and henceforth never appeared in court without one in his lapel (NYT, 1911). Untermyer used his status as a celebrity lawyer to intensify the marketing of his firm, thus probably helping to inspire the American Bar Association's Canon 27, which he chose to ignore.

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Guggenheimer, Untermyer & Marshall Timeline

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| 1854 | Adolf Levinger emigrates from Bavaria to the United States. |
| 1855 | Levinger founds a downtown law firm. |
| 1856 | Levinger admitted to bar. |
| 1860 | Levinger forms a partnership with Martin L. Townsend (State of New York 1872, p. 769). |
| 1869-70 | Levinger employs his cousin Randolph Guggenheimer as a clerk while the latter is studying law at New York University Law School. |
| 1870 | Guggenheimer graduates from New York University Law School. |
| 1871 | Partnership expanded to include Marcus J. Waldheimer. Levinger establishes a second office in uptown New York at 906 Third Avenue with his cousin Randolph Guggenheimer. Guggenheimer's half-brother, Isaac Untermyer, employed in uptown office as a clerk. |
| 1874 | Isaac Untermyer graduates from Columbia University Law School. |
| 1875 | The receivership in December of one of Levinger's clients, the German Uptown Savings Bank, reveals he may be partly responsible for missing funds. |
| 1876 | Levinger flees New York in February to avoid arrest on a criminal charge of stealing money from the bank. In May he is reported to have died in Havana, Cuba of yellow fever. Both Levinger's downtown and uptown law firm offices survive, but as unlinked partnerships. |
| 1876-78 | Guggenheimer employs his half-brother, Samuel Untermyer, as a clerk while he is studying at Columbia University Law School. |
| 1878 | Samuel Untermyer graduates from Columbia University Law School. Office now located at 239 Broadway. |
| 1882 | Isaac and Samuel Untermyer become partners in their half-brother's firm. Office located at 231 Broadway. |
| 1883 | First reference in New York Times to Guggenheimer & Untermyer (NYT, 1883), although a letter from the following year suggests that Randolph Guggenheimer is the only named partner. Moses Weinman becomes unnamed partner. |
| c.1884 | Office relocated to Stewart Building, 281 Broadway. |
| 1889 | Office relocated late in year to Bank of America Building, 44-46 Wall Street. Branch office retained at 55 th Street and 3 rd Avenue. |
| 1890 | Maurice Untermyer, brother of Isaac and Samuel, joins the firm as a partner. |

- 1891 Theodore L. Herrman joins firm as clerk.
- 1894 Louis Marshall joins firm as named partner.
- 1896 Firm relocates to 30 Broad Street.
- 1898 Randolph Guggenheimer's son Charles S. joins firm as clerk.
- 1900 Abraham Benedict joins firm as the first non-Jewish partner.
- 1906 Samuel Untermyer's son Alvin joins firm as partner.
- 1907 Death of Randolph Guggenheimer. Theodore L. Herrmann becomes partner.
Charles S. Guggenheimer becomes a named partner.
- 1909 Arthur Manley Wickwire joins firm as partner.
- 1911 Samuel Untermyer's son Irwin joins firm as partner.
- 1912 Retirement of Isaac Untermyer, Samuel Untermyer and Morris Weinman.