

# Eyes WIDE Open

**Disasters are inevitable.  
Prevent, pre-empt and prepare**

Leah Thayer, Senior Editor



At around 4 a.m. on August 30 last year, a volatile brew of chemicals, weather, human error, and unfortunate scheduling set fire to one of Strum Construction's biggest ever remodeling projects three days before completion. Causing \$110,000 worth of damage and incalculable stress, the fire almost undid the 10-year-old company, of Asheville, N.C.

A lapse in judgment ignited the flames. A crew of subcontracted painters, after a day spent staining floors and trim, tossed their stain-soaked rags in a pile in a bedroom rather than into a Dumpster. "Stain is a mixture of chemicals, mostly linseed oil and kerosene," says Bruce Strum, who was asleep at his own home when the fire broke out. "As linseed oil dries out, it creates its own heat," enough, he says, "to launch the space shuttle." Making matters worse, the weather that night - temperature in the mid-60s, fairly high humidity - was "ideal for spontaneous combustion."

By the time Strum's clients realized that their home was on fire, the fire had burned through the subfloor, crawled along the joists, and caused damage so extensive that "we had to go all the way back to the frame," Strum says. "We literally took everything out - insulation, drywall, trim." Rebuilding took five months, about two weeks longer than the first go around, due to demolition and cleaning.

### 20/20 HINDSIGHT

There's no sure way to disaster proof a remodeling business, but it's usually instructive to look back and identify any mistakes, shortcuts, omissions, or denials that might have allowed little problems to snowball into big ones, and big problems to turn calamitous.

Jobsites weren't secured, and rains poured in, intruders entered, accidents happened. Risky practices were tolerated for years. Hunches were ignored, or questions weren't asked, and difficult clients disrupted cash flow or poisoned morale. Job costs weren't tracked as rigorously as they might have been. Files weren't backed up, or passwords weren't changed. You put too much trust in someone - or something, like the wording of a contract.

In the case of Strum Construction, while forensic evidence identified the stain rags as the catalyst, some minor provisions might have

prevented the fire or mitigated the damage. For instance, the project manager was on vacation the week of the fire. If someone else had been tasked with his end-of-day walk-through, would they have spotted the rags and disposed of them safely?

In addition, while both companies were insured, it was months before insurers released any checks. Strum had to finance the rebuilding himself, which he managed by begging, borrowing, and spending the capital he had built up in years of good relationships with vendors and suppliers. "Floating a \$110,000 problem for 88 days for a small company is unreal," he says.

At the same time, he surmises that many companies would never survive such an ordeal. "I would be out of business, dead in the water, if the painter wasn't insured," he says. Likewise if his trade partners hadn't had his back during his time of need.

Five months after the fire, Strum summarizes it as "welcome to Hell 101. It was excruciatingly unpleasant," and certainly an eye-opener, he says. Prior to it, his company's worst brush with danger was an employee getting dust in his eye.

### STANDARDS OF PRACTICE

"You're never going to prevent a tarp from blowing off in a 90-mile-per-hour freak thunderstorm," says Tim Faller, a

consultant and remodeling columnist. "But," he says, "there are things you can do to stem the tide" of the many jobsite disasters that can strike, and to maintain your clients' trust and goodwill when they do. At a minimum, Faller says, every company should have:

- A checklist of safety measures to follow at the end of each day;
- A designated point of responsibility for each job, typically the lead carpenter or project manager; and
- An after hours emergency system.

Heritage Builders, in St. Louis Park, Minn., has a 24-7 emergency call system and a 34-item "end-of-day checklist" that takes about 10 minutes to run through, says Ike Daughenbaugh, president. Items range from vacuuming the site and stacking piles of materials to pre-empting worst-case scenarios. "We've had tarps blow off in 60-mph winds, so our standard of practice is to assume that a 60-mph wind is coming," he says. After-hours calls have been slashed since the checklist became a habitual part of the routine.

**Re-evaluate routine practices.** In late December, two years after being commended by its insurer for having a stellar safety program, Mark IV Builders, in Bethesda, Md., made a "million-dollar mistake" on a \$250,000 project, says President Mark Scott. The mistake was to

leave propane heaters on overnight to help dry out just-hung drywall. Something ignited, the fire spread, all three propane tanks exploded, and the house burned down.

"Leaving the heater on is standard practice," Scott says. "Everybody does it." Not Mark IV Builders, not any more. The company has banned open flames and unsupervised use of propane, and is actively researching alternative drying methods. Scott's production team is also working with the fire marshal and the company's insurer to develop a large-scale disaster plan that goes far deeper than its existing emergency plan.

**Confirm that you have a green light before starting work.** Recently, Acorn Design/Build, of Denver, discovered asbestos in the ceiling of a home built in the early 1980s. The job permit was ready, but Colorado law requires proof of asbestos testing before the actual permit can be handed over. "I didn't want my guys to go without work for a day or so, and they asked if they could go ahead and do some demo," says Joel Oatten, the company's owner. "We jumped the gun."

The test results followed shortly, and Oatten was stuck with an \$11,000 abatement bill. Penalties alone could have been as much as \$25,000 a day, but the state cut him a break for at least trying to play by the rules.

"We have since mandated that all jobs - regardless of

age - will be tested by a certified environmental company," Oatten says. Results are forwarded to homeowners, who must hire an abatement company, if needed, before remodeling begins. (Oatten adds that general liability insurance doesn't cover asbestos; his insurer quoted him \$100,000 to \$150,000 for asbestos coverage.)

Since last summer, Strum Construction has also incorporated additional preventive measures, most notably those involving trade contractors. Whereas scope of work used to be discussed orally, all crew and trades now receive a detailed, written scope of work. Strum also created a simple form for documenting each job's trade contractors and vendors, contact information, insurance certificates, and more. Strum, his office manager, and the site superintendent each get a copy.

## **PERSONALITY MINUS**

As with jobsite disasters, there's no sure way to avoid ever getting involved with a client who is in some way bankrupt - financially, ethically, or otherwise. "If someone's determined to take advantage of you, there's not too much you can do," says Boyd Petit of Petit Construction, in Highland, Md. "Most people - 98% of the population - pay their bills," he estimates. "But about 2% are deadbeats and will take advantage of any

business they can."

In the case of his one and only highly toxic client, Petit had "a watertight contract, photos, all kinds of documentation" on his side. Yet the project wound its way from bad to worse and ultimately into court, where, he says, "you lose even if you win. A deadbeat will find a way to get out of paying their obligation."

Caveats aside, Petit and other remodelers say these measures will reduce your exposure to difficult clients:

- Develop a system for screening prospects.
- Use clearly written contracts that specify payment terms and the consequences of nonpayment.
- Collect payments per the contract terms. Stop work if the client violates the contract terms.
- Consider including a clause noting that conflicts will be handled through construction mediation or arbitration prior to escalating to litigation.
- Hire an attorney who is experienced in construction and construction law.
- Change orders require either prepayment or the client's signature (both clients, if it's a couple).
- Above all, trust your gut.

"Remodelers' feelings are pretty sensitive," says Dennis DuRoff, who consults to the industry through Universal Business Design ([www.dennisdurhoff.com](http://www.dennisdurhoff.com)). "Often they know [a prospect is bad news]," he

says, "but either they're afraid to say no, or they think they can't afford to. It's a heck of a challenge when you need a job." The damage is often far greater than the amount of the contract, DuRoff adds. "The biggest thing my clients die from is the personal strain of dealing with a client like this." Second is the "opportunity cost" of having to divert time and resources from other priorities.

In Daughenbaugh's experience, bad clients slip in via one of two ways. Usually, the writing is on the wall. "We went in with our eyes wide open" to a big but difficult job recently, he says. "We knew [the client] would be high-maintenance and kind of nasty. We discussed it, and we turned out to be absolutely dead on. People say, 'I can manage that,' but of course you never can."

Less common are the stealth attacks. "Some people hide their true psyche from you, and they're really good at it," he says.

In either case, Heritage Builders uses separate design and construction contracts to filter out most bad eggs. "I would rather have someone who's nasty and can make up their mind than someone who can't make up their mind," Daughenbaugh says. Clients' true colors emerge during the design process, giving his company a chance - which it indulges two or three times a year - to say, in effect, "We don't think we're a good fit for you. Better to walk away than to get stuck in a morass."

One of Mark Scott's favorite sayings came from

a colleague of his: "I made the most money on the job I didn't get." Mark IV Builders came close to taking one of those jobs a few years ago after "the desperation signing of a contract by one of my salespeople," Scott says. "The first thing [the prospect] did was return my boilerplate four-page contract with 35 pages of changes." The prospect then refused to meet with Scott to discuss his objections. Mark IV Builders declined the job. Several remodelers interviewed for this article expressed frustration that there's no "bad client" registry on the Internet. Mark IV Builders has a more subjective way to vet prospects: Its design agreement specifies that a credit check will be performed using their Social Security number. No client has objected yet, Scott says, and if they did, there would probably be a reason. For a modest fee, a local company does the checks, which also reveal involvement in lawsuits. It's all in the public record, he says.

Kathleen Squires says that most clients withhold funds not because of workmanship issues, but because they simply run out of money. "Often they've refinanced to pay for the project," she says, "and they get all that money in their bank accounts, and they end up spending it," especially before longer jobs are completed.

To pre-empt this scenario, Squires Company Design, in Anchorage, Alaska, requires the entire contract amount - sometimes

a little more, to cover extras - to go into an escrow-type account before any work begins. A mortgage company arranges the account, and the client pays a small fee for it. Both the client and the contractor must sign to withdraw payments.

As with Mark IV Builders' credit checks, clients are fine with this requirement. "The way we sell it to them, it protects them, too," Squires says. She notes that her contracts are precisely worded about how the draws work.

## THE GAME-CHANGERS

What else could torpedo your company, short of an economic calamity that entirely dries up the remodeling market?

"There are going to be some identifiable disasters that can be planned for," DuRoff says. "These circumstances need to be identified, and proactive systems and procedures put in place to minimize or eliminate the impact of the inevitable."

Heritage Builders deliberately set out to identify such threats a few years ago. "We brainstormed the game-changers," Daughenbaugh says, "and the biggest, without question, was if our building blew down" or something similarly catastrophic wiped out years of data files, hard drives, and/or physical access to either. "So we back up our computers like nobody does," he says, including backups to an online source and to portable devices that are taken off-site.

Redundant backups kept in a secure environment are essential, says Dan Canfield, Heritage Builders' tech consultant and owner of KISS Networks in Salt Lake City. If you can only afford to lose a day's worth of data, he says, you should back up daily. Then, using writeable CDs, DVDs, or backup devices, also do a less-frequent backup - perhaps weekly - that you store off-site, and an additional monthly backup as well. Keep backups separate, and don't override old copies, to make it easier to rebuild files that are damaged or lost.

You probably know to keep your virus protection software current, but what about passwords? David Alpert, a consultant with

Continuum Marketing Group, says these areas merit particular vigilance:

- **Wireless router:** This could be your "biggest security hole," Alpert says. If you haven't changed the user name and password that came with the factory setting, do it now.
- **Disgruntled exes:** Change the passwords and close the accounts of employees (or anyone with access to your system) *before* giving them notice. Never use one password for the entire company or for all systems.
- **Phishing:** Hackers and spammers are unlikely to target any one small business - until they find its vulnerabilities. Change passwords often, using codes that only you will be able to remember.

Another potential game-changer, DuRoff says, is the loss of one or more key employees who are "so valuable or irreplaceable that the company would be in a world of hurt if they left."

Emotionally, and to some extent operationally, you can never fully prepare for such an event. But DuRoff says that a "panic manual" could help. First, identify employees whose responsibilities are central to the company. Second, develop a list of their top 10 responsibilities. Third, file those items in a 10-tab binder for each employee, fleshed out with relevant details: account numbers, phone numbers, important dates, etc.

If possible, get your key employees to create the manuals for themselves. Farlow Group, in Wilmington, N.C., started this process with its long-time office manager, with others to follow. "We're attempting to document everything we all do," says Jim Farlow, executive director. "It's not perfect, but it's a starting point."

## Deal Breakers

If you find yourself doing business with a difficult client, "look back and identify all the little background red flags that turned into screaming red flags," says consultant Dennis DuRaff. Using those flags, you can then: 1) define who your ideal client might be, and 2) develop a list of "deal-breakers" for prospects going forward. For instance: missing more than two meetings in a row, asking for price concessions, making caustic references to other contractors, or insisting on ordering their own materials in violation of your usual terms.