

Commencement Address 2008
Professor Joseph Bankman

It's a great honor to win the Hurlbut and a great honor to be asked to give this speech—but it's a little bit of a burden, too. You see, the stakes are pretty high. I've promised students my speech wouldn't be filled with cant. And over the years I've heard my colleagues give some *really* good graduation speeches.

George Fisher, for example, has—deservedly—won this award many times. George gives speeches on themes of personal and professional responsibility. In one memorable speech he asked the following question: "Suppose you worked for a big organization. It could be an Enron, it could be a law firm—in this case it was the Justice Department—and something bad's going on. Will you have the courage to do the right thing?" It is an issue that almost never comes up in day-to-day practice but when it does come up it can be a career-defining moment. From that beginning, George went on to talk about doing the right thing as a lawyer and voter in ensuring equal justice for all. It was a stunning speech. It's your bad luck, really, that you didn't graduate that year and hear that speech.

My colleague—in the multiple sense—Barbara Fried—has won the Hurlbut I think, nine times in the last 10 years, and her speeches tend to be about a different kind of dilemma: How do you know when it's the right time to leave a job? Is wisdom associated with qualities like perseverance and determination or should you follow your heart? And if the latter, how do you distinguish, career-wise, between a passing fancy and true love? Listening to that speech, you laughed, you cried, you went away wiser. A great speech and it would have been good for you, had you graduated during that year.

And then there's Pam Karlan's speeches and Buzz Thompson's speech. Joe Grundfest once came up here with a sledgehammer as a prop. Given that competition, and the high standards they set, I decided the only sane thing to do was to crib my speech. Actually, I went further than that. I asked some other people to write it for me.

I started teaching here in 1988 and emailed that first group of students. "I want to build my graduation speech around your collective experience," I wrote. You tell me what I should tell the class of '08. I'll be your mouthpiece. (Sidebar to graduating students: You'd be amazed at how good our development people are at keeping track of your email and address.)

Now, I had an ulterior motive for doing this. One of the odd things about my job—our job (motioning to faculty on the podium)—is that we come to know students, to know all of you who are graduating today, to respect you and to exult in your success. And then at the end of three years—you leave. And afterwards, do you write? Do you call? Do you come back on weekends? Well, some students do and I hope you are among them, but some don't. I wanted to know what had become of a class 20 years later, my first class.

I sent the class a questionnaire and began with a question designed to focus them at the task at hand: "Tell me about your graduation." They remembered the day as if it were yesterday. One remembered the weather—warm with a breeze—and that he was wearing khaki pants and a dark blue polo shirt. "It made me happy," said another, "that my 94-year-old grandpa came. He died a few months later, but before that he told me that my graduation was the proudest day of his life."

"How proud my parents were," said another. One said how stuffy the auditorium was. One said how good the strawberries were. Nobody, though, had anything to say about the speech. This was one day they weren't going to focus on what a teacher had to say. One student wrote, "I can't even tell you if the speaker were male or female." "That's good news for you, Professor Bankman," she added helpfully, "If you mess up, no one will remember."

The next question was: "The single thing I remember about Bankman's tax class was" and then there was a blank space for an answer. Now a few folks had become tax lawyers and for them tax never grew old and they had some things to say. One student said "I learned from your class that all government laws are really attempts at social engineering." Pretty nice for a teacher to hear, huh?

Most of what graduates remembered had nothing to do with the subject matter of the class. One student wrote, "What I remember is taking your final and betting you that I'd fail and having to buy you lunch when I passed." (Pause) Worried about failing my class? (Pause, and then addressed to parents and family in the balcony) My students up front are in on the joke. (Whisper) I don't fail anybody. Maybe that's why I won this award .

Another student crossed off Bankman's class, wrote in Kelman's class and the phrase "abandoned and malignant heart."

The vast majority of students said they didn't remember *anything* about the class. One said, "I *took* your class?"

The last question was the most meaningful to me: "How ya been and how ya doing?" And this wasn't about career— that was a different question I'll get to later. This question was about the other side of life. And so students told me of terrific successes and soul-satisfying moments of finding the right person and having kids of one's own. And other students told me about relationships that didn't work. There were loved ones lost through cancer and suicide and crippling bouts of depression. I was— am—so moved by the stories. I felt as I read it: I would have protected you from all that had I been able. And I feel the same as I look on you all. I'm sorry that our powers as teachers don't carry over to that more important realm.

The question that prompted the whole enterprise was: "What would you tell the class of '08?" Actually, though, I didn't ask that question. I asked a similar question: "Suppose you could travel back in time and have five minutes with your younger self at

graduation. What would you say?" See, I thought if I asked them to advise you I might get something a bit...cliched, but no one would B.S. their younger self. Not if they just had one shot at it.

Here, then, are their answers:

"This may be a bit practical for most people but I would tell my younger self: consider the commute. Is it really worth an extra two hours a day to take that big shot job in the city?"

"If you see a shrink, the only stuff that really works is cognitive behavioral therapy. Skip the rest."

"You don't need to be the best at everything to have a great career."

"Talk to as many alumni as possible."

"Don't spend six years of doing the same thing. Now I'm down to two years and it's a lot better."

"Money isn't everything."

"I feel so much more successful doing what I enjoy than making money at a big firm."

Now I, of course, agree with those last two sentiments about money. But as a social scientist, I should note that the people that said money isn't everything were people that took jobs that didn't give them a lot of it. So for all we know, some people think money is everything, they've gotten it and they are as happy as pigs in mud.

Mostly though, the class of '88 said the same thing, just in different words.

"Don't buy into the whole 'pay your dues' philosophy. Your work should be rewarding and interesting from day one."

"Don't put off what you want to do to pay bills, get experience or take the safe roads."

"Ask yourself if I could do anything in the world for a living what would I do, and then ask yourself: why not?"

"Follow your dreams. Take risks. Work with people and issues, and in places, that you enjoy. Life is too short for compromise. Follow the path that your instinct suggests."

"Don't worry so much about your career and financial well-being. Trust your judgment."

“Don’t make decisions based on fear. Make decisions when you are feeling strong and confident, your best self, be true to what that version of yourself genuinely wants. And don’t feel compelled to take *any* path because other people think you should. It’s your life and you owe it to yourself to find something soul-satisfying to do during your working hours.”

Of course faith and experience make any piece of advice at best provisional.

"I could give the graduates some advice, like, if you’re not happy, don’t suffer. Don’t be afraid to try something new. Don’t listen to all the negative voices. But there’s no substitute for life itself and all of the experience it brings. That’s what (potentially) makes us wise.”

That’s one of my favorite responses. What I love is the parenthetical “potentially.” Life doesn’t make us wise—it *potentially* makes us wise. This grad was too analytical, too much of a good lawyer, to say simply say life makes us wise. Because of course it doesn’t make *everybody* wise, so she qualified it a little bit.

“I would advise my younger self not to waste time—years—on jobs or relationships that really weren’t what I wanted. Oh, and that life takes you in directions you never expected, and that’s OK.”

It’s not really like they’re telling you something. It’s like they’re grabbing you by the lapels and shouting something in your face.

Of course, some of my more sophisticated colleagues might quibble with my methodology. In a nod to them, I did at least look for one flaw. Did I get responses only from those who started at a big firm—the safe route—and were unhappy and left? Or worse, from those who were unhappy at a big firm and haven’t left?

Surprisingly, a number of those who urge you to follow your own path work at big firms and are by all accounts happy. Why would *they* tell you to follow your own path? I think the reason for that is that there is no big firm practice—within a big firm there are hundreds of individual practices. There’s the lawyer who loves to advise on everything, to get involved in the business decisions of her clients, who is comfortable trusting her instincts and giving quick answers to most questions. And when she gets a good, juicy legal issue that requires a lot of thought—a choice of law issue, for example—(turn to Dean) she gets rid of it as fast as she can. She gives it to someone else at that firm that has written the treatise on that subject and who finds it most meaningful to be the expert who can help clients and the profession get things right in that area. The trick is to find out which practice suits you.

Having said that, I should tell you that most graduates aren’t working for big firms. They’re working for smaller firms, spin-off firms, in solo practice. They work for the government or in-house in high-tech and entertainment. They started their own

companies. There is a professor of religion, a novelist living in Paris, and one lawyer who spends all of his time in South America on legal and political developments concerning his only client, a 750-year-old Buddhist organization.

Trust your judgment. Listen to that little voice inside you. It's important advice, but it's not exactly as concrete as you might want, is it? I mean, it would have been better if they'd said something like "Labor law is where it's at." or "Everything grows tall in Seattle." But they didn't. And so they left you with the responsibility of listening for and following that inner voice.

(Pause) I understand from the class of '88 that today isn't really a day for listening to a long speech. I also remember a conversation of sorts I had with a colleague last week. I was about to leave the building and there blocking my path was my friend, Buzz Thompson. Buzz looked at me and I looked at Buzz and he looked at me. "Well," he said finally, "Will it be short?"

I'm almost done, Buzz.

I want to end by picking up one final thread in my conversation with the class of 1988. A number of them asked how I'd answer my own questions. "How about you, Professor Bankman? What's your story?" And then some were sweet enough to ask for a copy of the speech—perhaps just to see if I'd comply with that request.

I feel reluctant to give my story because I'd like this speech to be about you—not some much older faculty member. But in the interest of fair play, I'll comply, so here goes. My memory of graduation is sitting in the hot sun somewhere between, say, Gilford and Bridgeport, Connecticut, and feeling like a fraud. I was *miserable*. I believed at the time that there was no place in the entire legal profession where I could flourish. What was the point of getting the degree I couldn't use? And I continued to feel that way until, a couple of years later, a partner I worked with asked me to help him teach a course at UCLA Law School.

After the first two-hour class I knew what I wanted to do: I wanted to teach. The next day I went out and bought a law school admissions book to get a list of accredited law schools. There were *lots* of them. And I found someone who had a job teaching and said: "Look, I don't have the resume that will get me a job with a school like UCLA. But if I quit my job and I work hard and I do everything it takes, can you tell me that I'll get a job with some law school somewhere?" And she said: "If you do it, you will."

And I did, and I did. And for me, it turned to be the right thing. For you see, I really love explaining things. I love taking something opaque and make it seem a little less opaque. I love the look in your eyes you when I've finally gotten a point across and I love the mental exercise of wondering if I've gotten enough of those looks to move on to the next subject.

But what I love even more than that is to be around interesting, brilliant people. That's what really does it for me. And every year I get to meet a new class of Stanford Law Students. And you are all so smart and so learned and, within the confines of being so smart and so learned, so different from one another. I never get over the pleasure of getting to know you all. Every year, I think with amazement: I can't believe I have this job.

So I guess the advice of the class of 1988 worked for me. In a kind of back-to-the-future sense, I took the advice of my former students and became their teacher. I followed my heart. And I *so* hope that advice works for you, and that you can be as happy in your career as I am now in mine. And I thank you for the great honor of asking me to give this speech and the even greater honor of accepting me so enthusiastically as your teacher for these past few years.

Thank you.