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FBO MATTERS

AUTHOR Douglas Wilson

MEDIA RELATIONS AFTER AN ACCIDENT: Are You Ready?

Has our society become so litigious that we cannot sincerely apologize for a genuine mistake without causing additional liability for our company?

ON APRIL 20th, 2010 in the Gulf of Mexico, the Deepwater Horizon, a semi-submersible oil rig operated by Transocean on behalf of British Petroleum exploded, killing 11 workers. The worst oil spill in recorded history, Deepwater Horizon left scars not only in the fertile waters of the Gulf or on the families of those lost on the rig, but on BP's brand as public relations miscues by the company's chiefs mounted in the media echo chamber.

The public relations woes for Chief Executive at BP Tony Hayward started on May 3rd, with the first of a series of defensive statements: "This was not our accident... This was not our drilling rig... This was Transocean's rig. Their systems. Their people. Their equipment." By the end of the month, more gaffes: "There's no one who wants this over more than I do. I would like my life back." Certainly, those who lost family members didn't need to hear such callous cries for pity from a man whose compensation at the time amounted to a \$1.6M annual salary, with a reported \$17M pension.

The final blow to BP's public relations efforts came in June that year, when BP's chairman Carl-Henric Svanberg said, "I hear comments sometimes that large oil companies are

greedy companies or don't care but that's not the case with BP. We care about the small people." Small people? BP's stock price became very small after that last statement, losing around half its value overnight.

United's 2017 removal of passenger Dr. David Dao from flight 3411 set off a similar public relations firestorm. Initial statements by United CEO Oscar Munoz defended the crew and described Dao as "...disruptive and belligerent." As video evidence contradicting Munoz's statements went viral, so too did calls for his resignation. In short order a more conciliatory tone was struck by Munoz, but the damage had been done to United's brand. In the days following

the disaster, a poll of fliers who had heard of the incident revealed 79 percent of them would choose a non-United flight instead.

Today, Boeing faces a similar public relations disaster regarding the loss of two 737MAX aircraft with a total of 346 aboard. A worldwide grounding of the 737MAX fleet that began on March 11th continues as of this writing. While the media churns out new headlines each day, early revelations — particularly one — shattered public confidence in the 103-year-old aerospace giant. On May 5th this year, the Wall Street Journal headline read "Boeing Knew About Safety Alert Problem for a Year Before Telling FAA, Airlines." While the court of public opinion is yet to make its final ruling, history favors Boeing: both BP and United are quite healthy, with the latter recently enjoying near record stock prices.

All are examples of a situation that escalated — not because of the magnitude of the underlying issue — but because of a ham-handed public relations response. In each case, these are giant companies with professional emergency response plans (ERP), rarified public relations

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arms and a phalanx of attorneys. So how could this happen?

More importantly, and the question that affects all industries and all companies large and small is one deserving of reflection: Has our society become so litigious that we cannot sincerely apologize for a genuine mistake without causing additional liability for our company?

We asked Paul Lange, Managing Member of the Law Offices of Paul A. Lange, LLC, a boutique aviation law firm that litigates these issues following aviation accidents and incidents, and who proactively works with clients to prepare emergency response plans as well as advising on emergency response management. Says Lange: “There is a natural tension in the wake of an incident or accident, particularly in the highly-regulated environment of aviation. That tension involves two pieces. The legal piece, and business and public-relations piece. Superimposed on top of it is insurance, and the obligations the insured has to their insurer.”

As a result, it is often challenging to strike an appropriate balance and be genuine, conciliatory and apologetic, particularly in the eyes of a company’s General Counsel, who as Lange notes, has altogether conflicting needs and obligations than those of the public relations department or any other single constituency. “While industry culture has changed in recent years for the positive – you can’t just deny everything and go hide under the rug — you still have to be careful of what you say. Keep in mind a General Counsel’s primary obligation is protecting the corporation going forward.”

Insurance is another aspect altogether, equally at odds with the very human notion of apology. The wrong statement by an insured party

— even if the statement is the truth as it is then known — could render that insured party’s coverage invalid. Imagine faithfully paying your insurer for years — decades perhaps — and rendering all of it moot because of a 15-second soundbite.

It is no wonder when the media comes calling that companies go running for the hills. But a curt “no comment” is equally callous. Can one strike a balance? Most companies are not aerospace giants like United or Boeing. Most don’t have attorneys on staff, or public relations firms on retainer. And clearly, a policy where only the C-suite is authorized to make statements to the media is a fool’s errand when those CEOs may sound like out-of-touch fools.

Though even the most well-planned public relations response is a veritable field of landmines, there are a few universal best practices worth considering. First, ensure your public relations management plan is extensive and incorporated into your emergency response plan. A single line item buried in your ERP that says: “Only so-and-so individual is authorized to make statements on behalf of the company” is alarmingly inadequate.

Next, consider that just because a person is a C-level individual or has a fancy title doesn’t automatically qualify them to speak to the media. While one certainly hopes those skills intersect, the business of running a company is an altogether different skill set than being a thoughtful, articulate — and believable — speaker. Hence, send the individuals tasked with making statements on your company’s behalf to formal training on media relations.

Practice your ERP annually, if not more frequently if time permits, and place an oversized emphasis on the media aspects of the plan. In the wake of an incident or accident, it’s often not who

to involve at the FAA or the NTSB, or what forms to fill out that is the hard part. It’s the legal, public relations, and insurance pieces. Focus your ERP drill instead on the areas you’re not strong at, as opposed to the parts you’re already comfortable with.

Returning to Lange, he says: “Above all, let’s make sure the company speaks with one clear voice. Folks typically believe that if they just tell the truth, everything will be fine. The problem is that ‘the truth’ is only as accurate as how thoughtful and well informed the speaker is at that moment.” The situation involving the 737MAX is instructive: Pilots, mechanics, engineers and leadership at Boeing all experienced the same situation differently, so for each group, there is a different truth. To illustrate this point, Lange asks rhetorically: “When you or I say something inaccurate, is that a mistake, or is it a lie?” Only the court of public opinion (or a judge or jury) can make that determination — or be led to a conclusion by a savvy attorney.

Finally, though no canned statement will ever fully suffice — it doesn’t hurt to be straightforward and maintain integrity. Statements such as “We take ownership in everything that we do and if the investigation determines that we could have done something better, we’re committed to doing that” meets the public relations litmus test of “do no additional harm” because as a general matter, notes Lange, subsequent remedial measures are inadmissible in court.

In the aviation business, we have a duty to the travelling public to place safety of life above all else. When the unthinkable happens, we have an equal duty to be ready to provide a reassuring and accurate voice to affected families, employees, customers and the public. ▀

