

Recruitment

# Crisis Management: Facing Down The Court of Public Opinion

By Theodore L. Dysart and Jack Oliver

There are crises and then there are crises. A hostile takeover attempt, the death or sudden departure of a CEO, a hurricane or blackout that threatens business continuity—all of these may come unexpectedly and require adept crisis management by boards of directors. These cases often pale in comparison to situations where the company could be seen as liable: defective products, large-scale accidents or environmental disasters. And today, the question of liability will not only be tried in the courts but also in the court of public opinion—immediately, continuously and without regard to the rules of evidence.

Of course, the court of public opinion has been well established since the first crowd at the Roman Coliseum gave the thumbs-up or thumbs-down. Today's version can be just as brutal—and far harder to grasp, with its instantaneous, pervasive and ideologically fierce jungle of news outlets, websites, blogs and social media. The result is not just a 24-hour news cycle but an uninterrupted torrent of competing information—accurate and inaccurate alike.

Although high-profile crises may jeopardize the existence of the company itself, many boards are caught off guard when such disasters strike. The board in its oversight role should, of course, try to ensure that management is doing all it can to avert obvious catastrophes. That includes developing, regularly reviewing and updating contingency plans and having in place a crisis-management team consisting of lawyers, public relations firm,

auditors and other relevant specialists.

In today's atmosphere of continuous news, an activist government and "got-cha" politics, the board should also be sure that once calamity hits, the company isn't hastily tried and convicted in the court of public opinion. At a minimum, directors can insist on these simple guidelines:

- **Closely coordinate communications and crisis-management strategy with legal counsel.** Leaving legal out of the loop is a recipe for further disaster. They should be deeply involved at the outset to assure consistency in defense efforts, maintain privilege, avoid inadvertent violations of rules on public disclosures on pending legal actions and to help protect the company's overall interests.

- **Initiate an impartial audit.** Direct management to undertake an impartial internal investigation into the causes of the disaster, both to get to the bottom of it and to create a comprehensive report that can be provided to outside investigators and to the public—without serving as catnip to trial lawyers.

- **Appoint a neutral figure of impeccable credentials to lead the audit:** When revelations about the widespread use of performance-enhancing drugs threatened the integrity of baseball, Commissioner Bud Selig appointed George Mitchell, the distinguished former U.S. senator and broker of peace in Northern Ireland, to lead an investigation.

- **Be transparent and be bold:** Make sure the company provides accurate and

open information about the disaster as it becomes available. And, be bold. Johnson & Johnson did not wait to pull Tylenol from the shelves: they were bold and tilted toward action.

- **Engage judges of the company's credibility:** Encourage management not to shy away from public dialogue with respected authorities—environmental scientists, for example, in the case of environmental damage, safety experts with industrial accidents, physicians or epidemiologists with healthcare issues, and so on.

- **Present the right face to the public:** In an unfolding disaster, the company should have a trustworthy, knowledgeable and open spokesperson conducting public briefings. After poor performances by other spokespeople following Hurricane Katrina, Lt. General Russel L. Honoré became the highly respected face of the recovery effort in New Orleans, welcomed by the public and the press alike for his directness.

Above all, remember that management of an ongoing crisis is not simply a question of managing perceptions and PR, but of providing a window into the company's underlying commitment to integrity—the best defense in any court.

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