

Managing a Crisis Liability

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pillsbury



A Crisis

An Event that could result in a
Catastrophic Reputational and Financial Loss



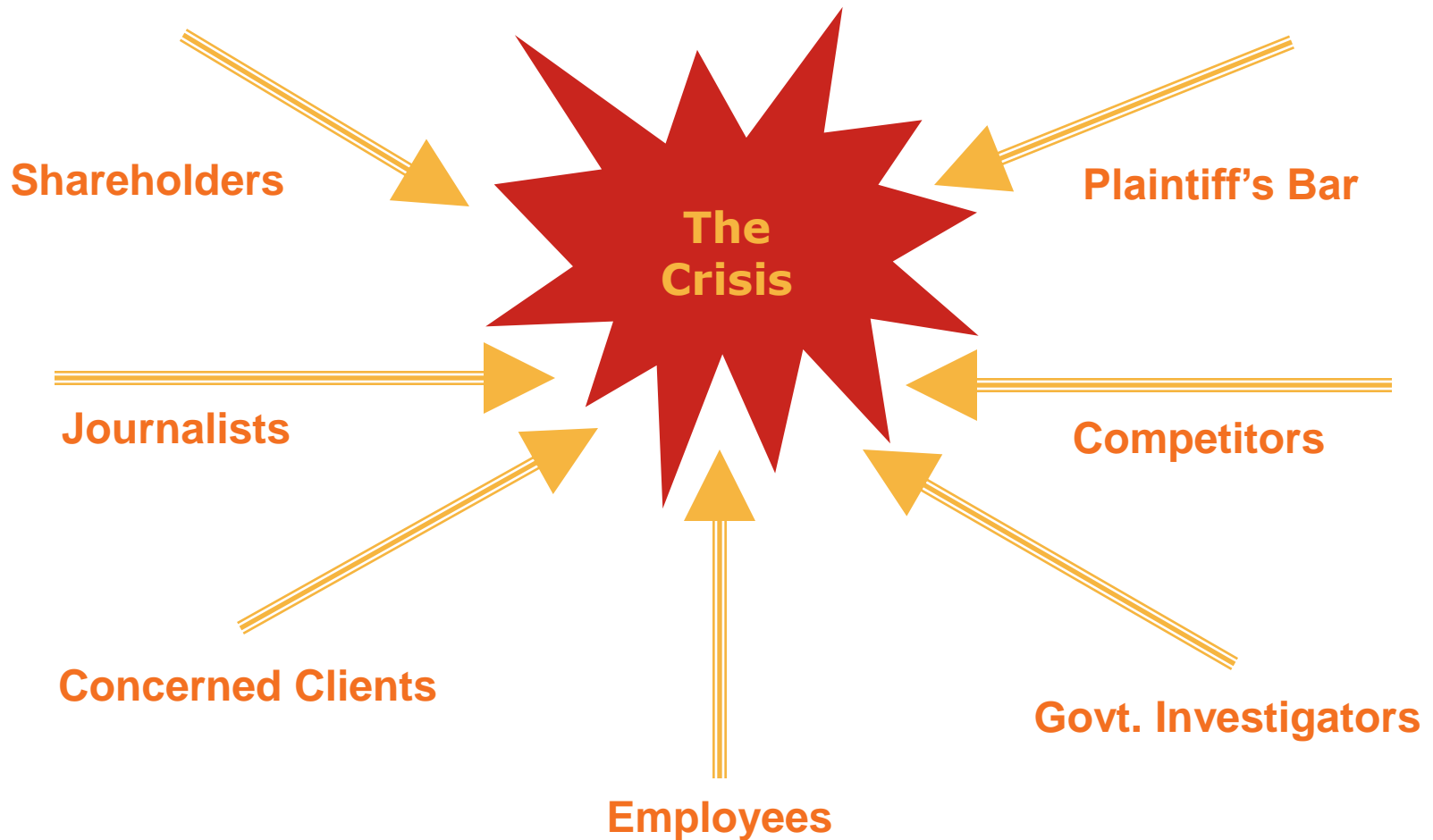








Pressure Comes From Everywhere and Impacts Entire Company



Crisis Response vs. Crisis Liability Management

■ The Crisis Event

- Grounding
- Explosion
- Whistle-blower
- Collapse
- Airline Crash

■ The Crisis Liability

- The liability resulting from “The Crisis Event”
- Guiding the Corporate Vessel through treacherous waters

■ Inside vs. Outside the Room



The Golden Hour

- **In emergency medicine, the 1st 60 minutes can be outcome determinative**

- **Immediate Response:**
 - The Press
 - Government Agencies
 - Shareholders
 - Employees

- **Controlling the Narrative**
 - Technical issues
 - Legal issues
 - Governmental issues
 - Communication issues



Race to the Truth (Internal Investigation)

- What happened?
- What are the true risks?
- How, What, When and to Whom should we communicate?
- Investigation should be conducted under Work Product and Attorney Client Privileges
 - Controlling the timing of disclosure can be key
- Framing the Narrative
- Controlling the Narrative



Framing the Narrative with the Truth

- **Ideally - Separate Crisis Response and Crisis Management Teams**
 - Distracts from the Crisis Response & Opens the Company to criticism
- **Multi-disciplinary team**
- **Employees on scene, facing a catastrophic loss, will instinctually understate the loss**
 - “experiencing generator problems”



Crisis Communication vs. Crisis Litigation

“He won’t have a business unless he apologizes.”



Litigation vs. Communication Narrative

You can win the litigation and lose your company



Unlike Any Prior Experience

- **Catastrophic Loss - that may involve the loss of life**
- **Data Overload - “drinking from a fire-hose”**
- **Personal Fate and the Fate of the Company Hang in the Balance**
- **CNN Camping on Your Doorstep**
- **Family Members are Involved**
- **Normal Routines are Disrupted**
- **Sleep Deprivation**
- **Sensory Overload**

Riding the Tiger



Riding the Tiger

- Shock & Denial
- Anger
- Bargaining
- Depression/Malaise
- Acceptance
- Engagement

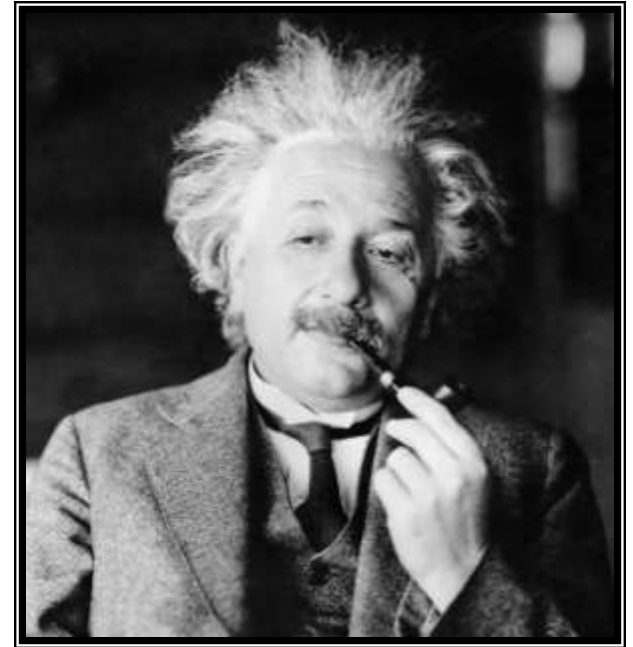
Denial

- **“This can’t be happening, not to our Company.”**
- **Employees on scene, facing a catastrophic loss, will instinctually want to understate the loss**
- **“... evidently we are leaking some oil...”**
- **Failure to comprehend the extent of a liability renders a company incapable of managing that liability**



Time is Not a Constant

(time dilation & contraction)



60 Days

Six Years



- 60% of the outcome will be determined in the 1st 60 days
- The sooner a loss is accepted the better the outcome

Costa Concordia: blame game begins between cruise ship owners and captain

The owners of the stricken cruise ship Costa Concordia have blamed its runaway captain for needlessly causing deaths and injuries as a bitter battle of words broke out between the two parties over the tragedy.



The Telegraph iPad. Download now

Shattered parts of the Costa Concordia Photo: EPA

Anger and Blame

- “How can this happen to Us?”; “Who is to blame?”
- In this stage, a Company recognizes that denial cannot continue but is unwilling to accept and deal with the reality of the loss

Costa Concordia vs. Exxon Valdez

■ Costa Concordia

- Costa Crociere has indicated that Captain Schettino had deliberately misled executives <http://www.canada.com/news/Costa+Concordia+captain+Francesco+Schettino+facing+charge/6196877/story.html>
- Captain Schettino said Costa Crociere was aware of the scale of the disaster

■ Exxon Valdez

- “Was it Joseph Hazelwood's fault, the shipmaster with an alcohol problem? Or was the accident the result of cost cutting measures, inevitable in a culture of corporate greed?” <http://www.takepart.com/article/2011/02/27/retro-action-february-27-1990-big-oil-goes-down-exxon-valdez>
- Exxon could have blamed Captain Hazelwood but didn't
- Hazelwood never spoke against Exxon

Depression/Malaise

- **What's going to happen to the Company?**
- **What's going to happen to me?**
- **In this stage, a Company and it's employees may become withdrawn**
- **Employees begin to look for other opportunities**
- **Inordinate time is spent by employees worrying about their future and the future of the company**
- **If not properly informed employees lose motivation and the workforce experiences a general loss of moral**

Acceptance & Engagement

Anadarko Agrees to Pay \$4 Billion to BP

10/18/2011 10:54:06 AM

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BP ([NYSE:BP](#)), the British based oil company on Monday said that Anadarko Petroleum ([NYSE:APC](#)) has agreed to pay \$4 billion in order to settle claims related to the oil spill in the Gulf of Mexico last year.

This settlement brings a conclusion to a long dispute between BP and Anadarko and will also pave the way for other BP contractors to come forward with an agreement. Both BP and Anadarko were operating at the gulf oil well in which 25 percent stake was owned by the latter. Anadarko accepted responsibility to compensate for those affected by one of the worst ever oil spills in the history of United States.

British Petroleum continues to fight with its contractors, Halliburton, who is responsible for cement work and also

Transocean who operated the rig, to take part in the compensation payments. BP on Monday said that the Anadarko settlement should be an example for the two contractors. Adding BP spokesperson said that this settlement was not to encourage liability, concluding the investigation BP said that the accident was involving several companies resulting in multiple mistakes on their behalf.

Robert Dudley, Chief Executive Officer for BP said that this settlement shows clear progress with both parties taking initiatives to fulfill their obligations and facilitate fund for the environmental and economic restoration of the Gulf of Mexico. Mr. Dudley added that it's time for the two contractors Halliburton and Transocean to do the same.

Anadarko the Huston based petroleum company will no longer pursue gross negligence claims with British Petroleum, according to the settlement. Anadarko will also transfer its stakes to BP that it owns in the Gulf well. BP in turn, said in a statement that it will indemnify Anadarko for some claims excluding criminal, civil, administrative fines and punitive damage claims.

James T. Hackett, the chief Executive of Anadarko, in a statement called the settlement as the perfect move for companies shareholders. Mr. Hackett said "the deal removes significant uncertainty regarding future liabilities and associated risks"

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AdChoices

- **“It’s going to be different but it’s going to be okay.”;**
- **I am willing to accept my loss and will take the elements we have been given and forget a New Reality**
- **The quicker a company moves to full engagement the better the ultimate outcome**

Our Disaster Recovery Plan Goes Something Like This...



Questions?

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