9-1-2006

Just Words? Nah, It's Truth or Consequences

Glee Cady

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Just Words? Nah, It’s Truth or Consequences

Posted on October 1, 2006 by Editor

By Glee Harrah Cady

“Sticks and stone may break my bones, but names will never hurt me.”

Why on earth do we believe that saying? We do know that words cannot literally break bones but they surely can injure. So, we need to be careful of how we use them, don’t we?

Let’s take the current (Autumn 2006) scandals in technology companies as examples. There are some companies who used words, and numbers actually, to change the monetary value of the strike price of stock options by carefully choosing the date from which the price was calculated. This practice occasionally provided additional value to the option holders by lowering the price the option holder would pay for the stock. Thus the gain when the stock was to be sold

<table>
<thead>
<tr>
<th>MEASURE DATE</th>
<th>MARKET PRICE</th>
<th>STOCK OPTION PRICE</th>
<th>GAIN</th>
</tr>
</thead>
<tbody>
<tr>
<td>Oct 1</td>
<td>$18 / share</td>
<td>$4 / share</td>
<td>$14 / share</td>
</tr>
<tr>
<td>Sept 1</td>
<td>$12 / share</td>
<td>$4 / share</td>
<td>$8 / share</td>
</tr>
<tr>
<td>June 20</td>
<td>$8 / share</td>
<td>$4 / share</td>
<td>$4 / share</td>
</tr>
</tbody>
</table>

**Simplified illustration of how differing dates provide differing gains**

(presumably at a much higher price than that paid for the option) would be greater. Or perhaps the object was to lower the tax obligation owed when the option was exercised. Since the date chosen was in the past (back-dating), the strike price would be known when the options were granted, and the option holder would have a nice benefit. Unfortunately, this is not a good thing to do from a regulatory perspective. Companies are being challenged to restate their earnings — never a good thing for a public company. Names are being named. Reputations are being...
injured.

The “market” in our society is based upon rules and attitudes that are intended to keep the competition fair. The financial statements filed by publicly traded companies are intended to be one way for the marketplace to compare company A with company B. That is why we have agreed upon rules (Generally Accepted Accounting Principles from FASB – the Financial Accounting Standards Board). Accurate reporting in accepted categories help investors make informed decisions. Inaccurate, or misleading statements, hurt the market by giving advantage where it may not be earned. And, of course, just as your mother no doubt told you, lying is wrong.

The other widely discussed inaccurate or misleading statements were allegedly made by vendors to the executives at Hewlett Packard. The executives were seeking the source of a leak of strategic discussions at the board of directors’ level. The discussions involved directions the company was considering and included discussions surrounding the fate of the then leader of the company. HP has been a widely respected company for a long time. It was among the first to provide profit-sharing to employees. The company respected its employees and its customers. The founders used a management style that encouraged people to speak out, that rewarded innovation on behalf of the company, and their ‘management by walking around’ was (and may still be) widely taught in the nation’s best business schools. See the links to HP’s storied history at http://www.hpalumni.org/hp_history.htm and, of course, In Search of Excellence, perhaps the first of the widely read business books.

The techniques used to try to find the source of the leaks were ‘storied’, too. I mean that they were lies. ‘Pretexting’ is the word used to describe ‘obtaining personal information such as phone records’ (see http://www.ftc.gov/opa/2006/02/pretexting060208.htm). “Pretexting” is just another word for lying. When I hear it, I always have to stop and wonder what is being talked about. The word does not describe the text before something ‘a preface’ — but the act of pretending to be someone else. A lot of folks are upset about the HP incident, including a congressional committee, Senator Bill Frist (who is introducing additional legislation placing strictures on telephone companies), the California Attorney General, and the Federal Trade Commission. Two bills (S. 2178 and S. 2389) addressing pretexting have cleared their respective Senate committees. The House of Representatives has already passed a bill (HR 4709). A member of the board of directors resigned over the investigation. Another, who said he was the source of the leak, also resigned. The chair of the board has announced that she will step down. Clearly those affected are unhappy. Lying is wrong. And look at all the lovely publicity. The markets, too, are reacting with lower stock prices.

Now, you say to yourself, this is supposed to be a column about privacy and security in an academic journal, why is Glee nattering on about companies and lying. In any environment, the problem presented by the HP case is worth thinking through. In my current organization, we are vulnerable to leaks of customer information that may cause financial harm to the customer. As part of a publicly traded company and as part of a competitive market, we need to keep our
strategic directions closely held. And, we need to protect our intellectual property. Many
government regulations mandate how our data, processes, and strategic plans should be
managed and held. In the academic arena, the requirement may be to protect grades, the
financial aid system, or intellectual property of the individuals who use the systems. And
admissions decisions must probably be embargoed until the appropriate release date. Other
organizations will have similar concerns, regardless of the type of organization.

So, when material is leaked or suspected to be leaked, there must be an investigation. It’s a
good idea to have a clear policy statement about monitoring and investigations, under what
circumstances they might be necessary and how they will be conducted, so that all can
understand what might happen. (By the way, it is amazing to me what people will send in email,
even when they have been told that email is monitored. I think they really don’t believe us. And
it’s a good thing we are looking for specific behaviors and not general complaints. Many people
can read your email – Pat wrote a well-received paper about Post-master ethics which you can
find at http://pat.nithaus.org/postethics.html.) Investigations seek specific actions – emailing
customer information, for example– not the general ‘try to figure out where the email is supposed
to go when the header gets mangled’ case.)

Investigation processes and procedures should include a review from Legal and HR to make sure
that conducting an investigation is appropriate. You need to be aware that someone might
suggest an investigation as a punitive matter. It’s also true that any investigation with written
results can potentially become “discoverable information” in a tort or other legal entanglement.
Protect yourselves and your organization by having several different types of people look at
investigation requests.

In addition, investigations need to be conducted by extremely trustworthy individuals. Ones who
will neither break the law nor discuss the matters with people who do not need to know. This
again will protect both you and the suspected person. After all, investigations also prove people
to be innocent.

In any investigation that may end in litigation (and most can), you also need to keep the chain of
evidence very, very clear and clean. The importance of evidence handling isn’t just necessary in
murder investigations or police procedural novels. Now that computer crime is easier to commit
and hard to detect, the data, computers, and network logs itself become part of the evidence.
Good computer forensics investigators can find the “fingerprints” on a hard drive or network login,
but just as in those movies and novels, the crime scene must be preserved.

This means that investigations of disk drives, for example, should be made on copies that are
exact images of the drive, not the drive itself. You may need to keep exact copies of the entire
email-box and you will need to demonstrate that it has not been tampered with. One way to do
that is to use the same techniques you would use for proving that software has not been
tampered with. Additional techniques to maintain the integrity of the investigatory results should
be discussed with your local information security experts. Only the person delegated by your legal
department to perform investigations and audits should collect and retain evidence. If anyone else handles the computer, disks, or attempts to investigate on their own, your case may not hold up in court.

Beginning an investigation is not easy: first you must admit to yourself that someone within your world may be cheating, and that person may be someone you like and trust. Then you must remember that the investigation itself must be protected from cheating. You must try to discover how the cheating is being done and mitigate the risk that it will happen more than once. And finally, you must take action against the cheater.

Whether that action is public or private depends on the magnitude of the offense, whether the action is a crime in your state or your country, and what your Legal Department advises that you do. As we’ve seen, letting an executive resign and take a generous severance package can be construed as a cover-up, and cause more damage than the original offense.

Public discussion of the incident may be a good idea – so many of us leave out that step: education by example. Security and privacy awareness training may be ignored by your staff if they think nothing like that could ever happen in their organization. Some people need a “smoking gun” before they take rules and procedures seriously.

When using an incident as a teaching example, you need not necessarily identify the miscreant, but by not discussing the incident and the consequences, you’ve kept yourself open for additional incidents. It’s a fine line we walk: protection by transparency, or protection by keeping everything confidential. Just be prepared for public release of the incident and the investigation, whether or not you intended.

Sometimes the truth is not free. If you don’t protect yourself by conducting your investigations with litigation and legality in mind, finding the truth may be very costly indeed. No one wants that consequence.

This entry was posted in Uncategorized by Editor. Bookmark the permalink [http://bcis.pacificu.edu/interface/?p=3296].

24 THOUGHTS ON “JUST WORDS? NAH, IT’S TRUTH OR CONSEQUENCES”

building names list singapore
on January 30, 2014 at 5:05 AM said:

My family all the time say that I am wasting my time here at net, however I know I am getting experience every day by reading such pleasant posts.
Mauricio  
on January 30, 2014 at 10:27 AM said:

Somebody necessarily assist to make critically articles I might state.  
That is the very first time I frequented your web page and to this point?  

I amazed with the research you made to make this particular publish extraordinary.  
Great task!

Whitney Mcclinsey  
on January 30, 2014 at 6:15 PM said:

Fantastic beat ! I would like to apprentice at the same time as you amend your site, how can i subscribe for a blog site? The account helped me a applicable deal. I have been tiny bit familiar of this your broadcast provided vivid clear concept

Make Money Mh3U  
on January 31, 2014 at 4:06 AM said:

Hey There. I found your weblog the use of msn.  
This is an extremely neatly written article.  
I'll be sure to bookmark it and come back to read more of your helpful info.  
Thanks for the post. I'll certainly comeback.

Mei  
on February 1, 2014 at 12:26 PM said:

Excellent way of telling, and nice post to obtain facts on the topic of my presentation topic, which i am going  
to deliver in institution of higher education.
forex trading signals wiki

on February 1, 2014 at 6:15 PM said:

I’m impressed, I must say. Rarely do I come across a blog that’s both educative and amusing, and without a doubt, you have hit the nail on the head. The problem is an issue that not enough men and women are speaking intelligently about. Now i’m very happy I came across this in my hunt for something concerning this.

launch com irs tax settlement twilight princess æ¬ç¬ä½ å www candystand com super smash implantation bleeding jack off reservationless conference call high interest checking lawsuit advance asbestos lawsuits consolidation debt loan mortgage ref

on February 1, 2014 at 10:58 PM said:

Have you ever thought about including a little bit more than just your articles? I mean, what you say is important and everything. However think of if you added some great pictures or video clips to give your posts more, “pop”! Your content is excellent but with pics and video clips, this blog could certainly be one of the greatest in its niche. Terrific blog!

lose weight unhealthy

on February 1, 2014 at 11:33 PM said:

Hello there, You have done a fantastic job. I will definitely digg it and personally suggest to my friends. I’m confident they will be benefited from this web site.

Brodie

on February 2, 2014 at 3:17 AM said:

Magnificent beat ! I wish to apprentice at the same time
as you amend your site, how could i subscribe for a weblog website? The account aided me a applicable deal. I had been tiny bit familiar of this your broadcast provided bright transparent idea

money fast on runescape
on February 2, 2014 at 5:34 AM said:

Your style is so unique in comparison to other people I have read stuff from. Many thanks for posting when you have the opportunity, Guess I will just bookmark this blog.

Bernie
on February 2, 2014 at 8:56 AM said:

I have been browsing on-line greater than three hours lately, but I never found any attention-grabbing article like yours. It’s beautiful worth enough for me. In my view, if all site owners and bloggers made excellent content as you did, the net will be much more helpful than ever before.

e-mail marketing emma
on February 2, 2014 at 7:07 PM said:

Ahaa, its good conversation regarding this post here at this weblog, I have read all that, so at this time me also commenting here.

make Money Coding
on February 2, 2014 at 7:38 PM said:

Hurrah, that’s what I was seeking for, what a information! present here at this website, thanks admin of this website.
Shad

on February 3, 2014 at 3:30 AM said:

Hey would you mind letting me know which web host you’re working with? I’ve loaded your blog in 3 completely different internet browsers and I must say this blog loads a lot quicker then most. Can you suggest a good web hosting provider at a reasonable price? Many thanks, I appreciate it!

earn online forum

on February 3, 2014 at 5:24 AM said:

Hey there I am so thrilled I found your website, I really found you by mistake, while I was researching on Digg for something else, Nonetheless I am here now and would just like to say kudos for a fantastic post and a all round interesting blog (I also love the theme/design), I don’t have time to look over it all at the minute but I have book-marked it and also added in your RSS feeds, so when I have time I will be back to read a lot more, Please do keep up the excellent jo.

affiliate xfer

on February 3, 2014 at 10:20 AM said:

I’ve been browsing online more than 2 hours today, yet I never found any interesting article like yours. It is pretty worth enough for me. In my opinion, if all site owners and bloggers made good content as you did, the internet will be much more useful than ever before.

Signals VhdI

on February 3, 2014 at 6:31 PM said:

Greetings! Very helpful advice within this article!
It is the little changes which will make the greatest changes.
Thanks for sharing!

**Stephania**
on **February 4, 2014 at 5:30 AM** said:

Howdy would you mind letting me know which hosting company you’re utilizing? I’ve loaded your blog in 3 completely different browsers and I must say this blog loads a lot quicker then most. Can you suggest a good internet hosting provider at a honest price?
Many thanks, I appreciate it!

**Freddy**
on **February 4, 2014 at 6:37 AM** said:

Hmm it appears like your blog ate my first comment (it was super long) so I guess I’ll just sum it up what I submitted and say, I’m thoroughly enjoying your blog.
I as well am an aspiring blog blogger but I’m still new to everything. Do you have any suggestions for first-time blog writers?
I’d genuinely appreciate it.

**Lachlan**
on **February 4, 2014 at 7:19 AM** said:

Neat blog! Is your theme custom made or did you download it from somewhere?
A design like yours with a few simple adjustments would really make my blog shine.

Please let me know where you got your design.

With thanks
mobile odin
on February 4, 2014 at 10:14 AM said:

Hello my loved one! I wish to say that this post is amazing, great written and include approximately all significant infos. I’d like to look more posts like this.

cash flow Journal Entry
on February 4, 2014 at 11:50 AM said:

Appreciate the recommendation. Let me try it out.

construction estimating software bombay com roofing contractor stock information baby carriers framingham state college amherst college panda antivirus bathroom furniture learn to play guitar fairfax county st augustine fl brain cancer rochester condos br
on February 4, 2014 at 2:21 PM said:

Wonderful post however I was wondering if you could write a little more on this topic? I’d be very grateful if you could elaborate a little bit more. Thank you!

full windows 8 tablet
on February 4, 2014 at 10:27 PM said:

Hello! I could have sworn I’ve visited this site before but after browsing through some of the posts I realized it’s new to me. Anyways, I’m definitely happy I stumbled upon it and I’ll be bookmarking it and checking back regularly!