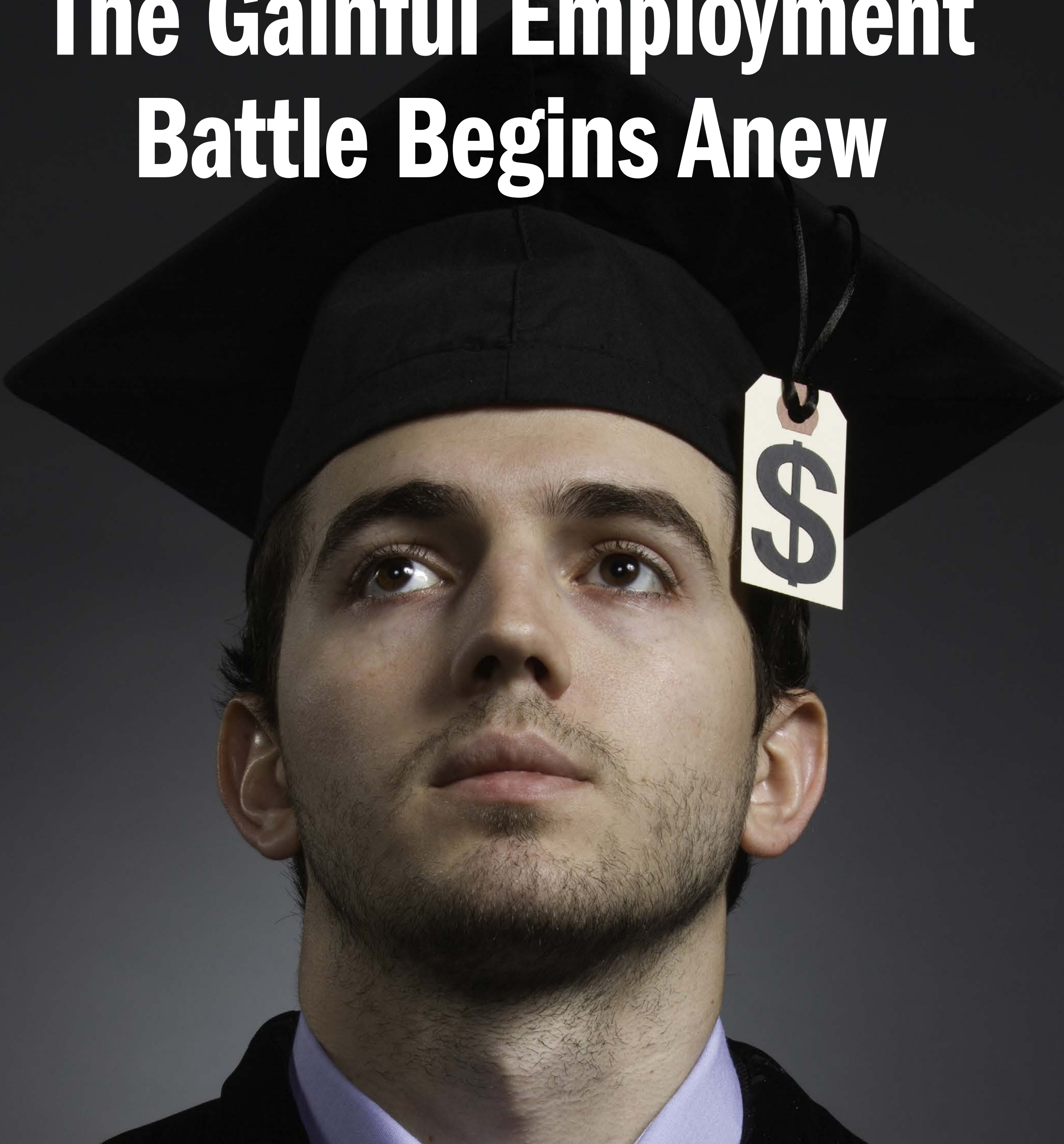
LEVICK

Monthly

APRIL, 2014

EDITION 9

The Gainful Employment Battle Begins Anew



Contents

The Gainful Employment Battle Begins Anew

[**Neal Urwitz**
Originally Published on LEVICK Daily]

We've written that the next three years are going to be difficult for for-profit colleges. The Administration, veterans' advocates, and scores of others have come to believe that for-profits do nothing but saddle unsuspecting people with debt while not providing a useful education. Whether they deserve it or not, for-profit colleges knew they were going to see another attack.

Last week, the attack came. The Obama Administration put forth new regulations – known as "Gainful Employment" – mandating that student debt accrued while attending for-profit colleges not exceed 20% of discretionary income or 8% of total income. The idea is that students can more easily afford the student loan payments if they have secured "gainful employment" (i.e., if their degree from a for-profit university helped them land a good job).

From a business and operations perspective, these regulations would be very damaging to for-profit institutions. To keep these regulations from taking effect both now and into the future, for-profits need to reframe the debate and themselves. Unless they can change the prevailing narrative about who they are, they will have to fend off attack after attack – until they ultimately lose.

This is not the first time Gainful Employment has come up. The Obama Administration pushed a similar proposal between 2009-2011, only to be beaten back by a campaign led by for-profit colleges. The Obama Administration tried another approach in 2012, only to have a federal judge rule many of the provisions of the new regulations illegal.

The third time is the charm, apparently. The Obama Administration clearly believes that the for-profit schools do not have the same sway they did in 2011. Certainly, the news about for-profits has been far more bad than good. Congressional reports, highly-publicized complaint databases, and unflattering media reports have a way of shifting public opinion. People both inside and outside the industry have developed a skepticism about the way for-profit colleges do business.

It is a shame the debate has become this black and white. Clearly, there are abuses in for-profit higher education, as there are in public higher education (where the six-year college graduation rate hovers around 50%). Some for-profits are bad actors, but others are cradles of innovation in a sector that desperately needs fresh ideas.

> **Whether they deserve it or not, for-profit colleges knew they were going to see another attack.**

Fundamentally, for-profits should do a better job of showing their value-add. It's not enough to say "just let students choose where to go." There are a bewildering set of choices in higher education – there are more than 3000 institutions available, not to mention innovative education startups like StraighterLine – and we cannot expect that students will always make the right decision.

The only way for-profits can stem the tide of ill will long-term is to show that they are leading the way towards improving higher education. They need to show they are coming up with the most innovative techniques for improving retention,

Fundamentally, for-profits should do a better job of showing their value-add.

educational efficiency (i.e., cost), and ultimately student ROI. They need to reframe themselves as the ones helping students succeed in a more real and sustained way.

If for-profits can't change the conversation, they will have a target on their back for years, and they only have to lose the battle once. That is no way for an industry to thrive. L

How to Measure the Success of a SEM Campaign

Peter LaMotte
Originally Published on LevickDaily

U.S. advertisers spent more than $109 billion on online ads in 2013, and that does not seem to be slowing down. In fact, digital advertising increased by 3 percent last year. Companies are becoming increasingly more familiar with the benefits of search engine marketing (SEM), which can make your website more visible to those who may not have found it organically. Using paid ads, companies are seeing an increase in website traffic, brand awareness, and in some cases, sales. The price of your campaign will depend on a wide range of factors, including specificity of targeting and desired reach. With a great SEM campaign manager, you can see great results from your digital ads.

You may know how a good SEM campaign can benefit your business, but how do you know that your campaign is actually working? Here are some helpful measures of success from Google Analytics and Google AdWords:

- **Increase in Website or Landing Page Traffic** – This one is pretty self-explanatory. If you are trying to gain awareness for your brand, increasing your website traffic should generally your primary objective. Using a combination of digital ads and targeted keywords, you can reach large audiences that will engage with your site.

- **High Average Visit Duration and Low Bounce Rate** – These two go hand in hand. A successful campaign may require visitors to remain on the site for an extended period of time to digest information. When users click through to your site and immediately exit that window, the visit duration is less than 10 seconds and your bounce rate increases. The higher your bounce rate, the less visitors are engaging with your site.

- **New Visitors and Returning Visitors** – Seeing an increase in new visitors is great, but returning visitors can tell you a lot about how well you are engaging with your audience. From returning visitor demographics and other metrics, we can see which landing pages are causing people to stay on the website and the path each user takes where perusing the site.

- **Increase in Click-Through-Rate** – Your click-through-rate (CTR) measures the number of clicks your ads receive over the number of impressions the ads get. The higher the CTR, the more effective your campaign is. If your CTR is low, that means users are not engaging with your ads once they see them. Average CTR for ads in the U.S. is 0.11%, but some ads start out with a higher rate. Use your own personal benchmarks to measure success.

All in all, each SEM campaign is different and will have different measures for success. Create a tangible goal to reach and ask your analytics specialist to tell you how they plan to measure progress and success. Putting money up to develop and maintain an SEM campaign will be less daunting if you know how it is progressing during, not after, the run of the campaign.

In the Heat of a Crisis,
Will Your PR Plan Work?

Gene Grabowski
Originally Published in PR News

I once faced an embarrassing moment during a presentation to more than 300 risk management professionals. It happened when I candidly answered a question about what I would have done to better handle communications immediately after the 2010 BP Gulf oil spill. Off the top of my head, I recommended that selecting different spokespeople, using more online visuals, inviting journalists aboard oil-spill cleanup boats and crafting more empathetic public statements might have made a difference.

I also suggested the company may have detoured from its crisis communications plan under pressure from attorneys anticipating massive litigation.

As soon as I finished, a young man dressed in a dark suit and wearing black-rimmed eyeglasses raised his hand and shot up from his chair in the last row of seats. “I’m from BP,” he declared. “And I helped manage communications for the Gulf spill. We worked from a crisis plan, but the news media was hostile to us from the beginning and things happened during the crisis that no one could have predicted. No matter what we did, we were criticized.”

He was right, of course. BP did a lot of things correctly in that crisis for which the company never received credit. Still, what happened to BP happens far too often to global corporations, nonprofit institutions and government agencies in the throes of a crisis. They put so much faith in their written plan that they have difficulty adapting quickly to the inevitable unforeseen events and developments that occur.

How then, can you ensure that your plan will hold up under the pressure of an actual crisis? Here are some of the things I’ve learned in more than 20 years of counseling clients in crisis matters.

How then, can you ensure that your plan will hold up under the pressure of an actual crisis?

Your plan is a blueprint, not a bible. Crisis craves structure, of course, but successful emergency management often depends on the agility and creativity of your team. Your plan should cover the all basics, including internal communications protocols, phone trees, contact information and statement templates. But your system must remain flexible enough to allow for improvisation.

Focus on planning more than the plan. As a rule, 80% of your time preparing for crisis should be spent testing and rehearsing your written plan. The time and effort your team in considering all the possibilities during “tabletop” exercises and mock crises will pay huge dividends in a crisis because you will have learned how to work together under pressure and more easily summon creative solutions to developments that arise. Harvard University, known for managing its crises extremely well, schedules and executes tabletop crisis exercises several times each year for all of its schools.

Limit your strategic crisis team to five or six members. Several years ago, I worked with a law firm whose crisis team numbered 15 senior partners. We wasted countless hours on two different crises considering multiple points of view and often arguing even after decisions had been made. The result was poor handling of both matters that left the firm’s staff, clients and prospects wondering about the firm’s capabilities.

Start with authority. It’s a truism of crisis communications that the first two hours are the most important. Why? Because when your leadership team demonstrates calmness, self-assuredness and credibility right from the start, it establishes the overriding tone for the entire process. A crisis team that’s confused, bickering or is perceived to be unable to make solid decisions during the first hours of a threatening event will lose the support and confidence of the organization. The scandal over the Obama administration's troubled federal Healthcare.gov website revealed just how much worse things can get when no one takes command in a crisis.

Your plan is a blueprint, not a bible.

Think like your consumer. In a crisis, concerns about issues such as a company's stock price, loss of business, an institution's legacy, individual job security and personal health often override everything else. But the organizations that do the best job in a crisis are those that immediately adopt the mindset of "What is my customer thinking?" If you start with the idea of satisfying the fears and demands of those who ultimately buy or use your product or service, you are far more likely to craft solutions that put you back on track. For an example of how looking out for selfish interests will sabotage your crisis work, consider the exasperated pronouncement of former BP CEO Tony Hayward after the Gulf oil spill: "I want my life back!" L

D&O Suits Reveal Historic Middle Market Chutzpah

Richard Levick

Originally Published on Forbes.com

A recent study by Cornerstone Research has garnered attention by focusing on a dramatic uptick in the number of Federal Deposit Insurance Corp. lawsuits naming the directors and officers of failed financial institutions.

Yet there's a parallel story embedded in Cornerstone's data that speaks – as eloquently as any facts or figures I've seen – to the culture of non-compliance, of sheer arrogance, that has persisted in certain areas of the financial sector before and beyond the economic crisis.

To be sure, the FDIC's increased number of D&O suits is itself compelling: 40 such suits in 2014 compared to 26 in 2012, 16 in 2011, and two in 2010. This uptick is in cases resulting from institutional failures in 2009 and 2010 when such failures were rife, according to Characteristics of FDIC Lawsuits against Directors and Officers of Failed Financial Institutions—February 2014. The FDIC cut a wide swath through the exposed populations as, for example, 46% of the directors and officers at institutions that failed in 2009 were either sued or settled before cases were filed.

But here's what caught our eye. According to Cornerstone's data, 46% of the settlements required total payments of at least $34 million by the directors and officers themselves. It is a rank understatement that such apparently pandemic individual exposure confirms a fundamentally flawed approach to risk management during the years in which these institutions were failing – not just the absence of multifaceted compliance-related regimens, but even the lack of that simplest risk management tool called insurance.

"I can count on one hand the number of times I've seen officers and directors forced to go into their own pockets like this," says Paul Ferrillo, counsel in the securities litigation department at Weil, Gotshal & Manges LLP. "We're talking WorldCom and Enron territory!"

Yet the institutions targeted by the FDIC were predominantly middle market entities, hardly massive global criminal conspiracies. Their failures were one-day stories, if that, and the events that led to those failures, and to the $34 million in losses by their directors and officers, are all traceable to what had been business-as-usual in Middle America – which is precisely why this irruption of personal D&O liability is of historical significance.

Grizzled observers may be taken aback, but Ferrillo offers a cogent explanation for this unprecedented metric. "It seems that the same mindset is at work in both instances," he says. "Many of these entities had the kind of 'see no evil, hear no evil' attitudes that often go along with being 'closely-held.' In that era, they played it fast and loose, with probably lip service at most to compliance and best lending practices." Such inference is likely supported by Cornerstone data showing that a preponderance of the FDIC suits targeted companies in Florida, Georgia, California, and Illinois, states not infrequently characterized as buy-and-flip markets.

46% of the settlements required total payments of at least $34 million

"If they don't think they have to worry about managing risk, about enforcing sound business practice, why should they reach into their own pockets to buy D&O insurance?" adds Ferrillo.

Chutzpah goeth before a fall, as they say.

Realistically, some of these directors and officers might have had trouble qualifying for D&O policies; to be sure, the insurers are likely better risk managers than they are. But that hardly explains the whopping $34 million that came out of the pockets of private citizens. After all, there are 65 companies that sell D&O insurance in the U.S. If each of the failed entities had made even modestly aggressive efforts to qualify with one of the 65 (and you only need one), that aggregate out-of-pocket penalty would predictably be noticeably lower.

Instead, it seems as if a whole market sector simply chose to go bare.

It is an additionally unsettling reflection on their woeful risk management strategies that these middle market entities are more susceptible to government suits because, absent the inexhaustible resources of the global banks, they're easier marks for regulators who inevitably serve their own bureaucratic interests by filing multiple lawsuits where they hurt the most.

> Chutzpah goeth before a fall, as they say.

Especially after the economic crisis, that vulnerability should not have been lost on all those directors and officers who were inadequately insured if insured at all. Indeed, it should have been the first thing on their minds, a singularly overriding risk factor focusing them on sounder risk management simply as a matter of self-preservation.

From there it would have been a natural segue to pursue robust efforts to improve loan documentation and appraisal practices; to engage their boards in a heightened oversight that would have spared the board members themselves so much grief.

Should have, should have, should have...

well, if some middle market institutions are now bloodied and bowed, banks in this sector are by definition still necessary players in a diverse marketplace. For those survivors, there are direct lessons and, at this point, no excuses for not learning them.

First, don't wait for an invitation from the SEC or the FDIC. Use peacetime wisely. Always assume the economy can go south again in a Wall Street minute. What sort of reserves do you have against that eventuality?

Second, always assume that the regulators will continue to compete for federal dollars by hunting down ever-fresh causes of action. The FDIC flurry is a case in point as that regulator's zeal has certainly not abated in the aftermath of the Cornerstone report. To the contrary, Cornerstone SVP Katie Galley advises that three suits were already filed in January 2014, which suggests that her firm's statistics on middle market D&O suits will only be more daunting in the immediate future.

In all of this, finally, there is the specter of missed opportunity, as well as a promise of opportunity that can still be recaptured. Directly after the financial collapse, a window opened for smaller and middle market institutions as a stunned, angry public looked askance (to say the least) at the behemoths and their impenetrable practices. People wanted regional banks they could trust.

Cornerstone's data, and the apparent arrogance of some closely-held institutions, suggest that that opportunity has too often been squandered in the past few years. Yet the opening remains. From a marketing and communications standpoint, the middle market entities that are serious about compliance, not to mention customer service, need only convince their stakeholders that they are.

There will always be a receptive audience for the "small is beautiful" message, provided that message is demonstrably supported by actual practice. L

BLOGS *worth following*

THOUGHT LEADERS

Amber Naslund
brasstackthinking.com

Amber Naslund is a coauthor of The Now Revolution. The book discusses the impact of the social web and how businesses need to “adapt to the new era of instantaneous business."

Brian Halligan
hubspot.com/company/management/brian-halligan

HubSpot CEO and Founder.

Chris Brogan
chrisbrogan.com

Chris Brogan is an American author, journalist, marketing consultant, and frequent speaker about social media marketing.

David Meerman Scott
davidmeermanscott.com

David Meerman Scott is an American online marketing strategist, and author of several books on marketing, most notably The New Rules of Marketing and PR with over 250,000 copies in print in more than 25 languages.

Guy Kawasaki
guykawasaki.com

Guy Kawasaki is a Silicon Valley venture capitalist, bestselling author, and Apple Fellow. He was one of the Apple employees originally responsible for marketing the Macintosh in 1984.

Jay Baer
jaybaer.com

Jay Baer is coauthor of, “The Now Revolution: 7 Shifts to Make Your Business Faster, Smarter and More Social."

Rachel Botsman
rachelbotsman.com

Rachel Botsman is a social innovator who writes, consults and speaks on the power of collaboration and sharing through network technologies.

Seth Godin
sethgodin.typepad.com

Seth Godin is an American entrepreneur, author and public speaker. Godin popularized the topic of permission marketing.

INDUSTRY BLOGS

Holmes Report
holmesreport.com

A source of news, knowledge, and career information for public relations professionals.

PR Week
prweekus.com

PRWeek is a vital part of the PR and communications industries in the US, providing timely news, reviews, profiles, techniques, and ground-breaking research.

PR Daily News
prdaily.com

PR Daily provides public relations professionals, social media specialists and marketing communicators with a daily news feed.

BUSINESS RELATED

FastCompany
fastcompany.com

Fast Company is the world’s leading progressive business media brand, with a unique editorial focus on business, design, and technology.

Forbes
forbes.com

Forbes is a leading source for reliable business news and financial information for the Worlds vvbusiness leaders.

Mashable
mashable.com

Social Media news blog covering cool new websites and social networks.

COMMUNICATING
TRUST