



Journal of  
Case Research  
and Inquiry

Cases, Notes and Articles

A publication of the Western  
Casewriters Association

Vol. 2  
December, 2016

# *Journal of Case Research and Inquiry*

A publication of the Western Casewriters Association  
Published online at [www.jcri.org](http://www.jcri.org)

**ISSN 2377-7389 (online)**

The cases, notes, and articles included herein, and their respective accompanying instructors' manuals, were anonymously peer reviewed and accepted by the *Journal of Case Research and Inquiry*, Vol. 2, 2016.

Individual cases, notes, and articles in this volume are copyrighted by their authors. The authors and the *Journal of Case Research and Inquiry* grant state and nonprofit institutions the right to access and reproduce this manuscript for educational purposes. For all other purposes, all rights are reserved to the authors.

For membership in the Western Casewriters Association, visit [www.westerncasewriters.org](http://www.westerncasewriters.org)

Please address correspondence to:  
Editor, *Journal of Case Research and Inquiry*  
California State University, Los Angeles  
5151 State University Drive, STF 709  
Los Angeles, CA 90032 U.S.A.

Please send all Inquiries and Submissions to:  
[editor@jcri.org](mailto:editor@jcri.org)

Qualified instructors will be provided with peer-reviewed instructor's manuals for each case. To request an instructor's manual, please complete the request form at [www.jcri.org](http://www.jcri.org), or write to the editor of the journal.



## Western Casewriters Association

The Western Casewriters Association (WCA) is the Western regional association of business casewriters. Its purpose is to train, develop and support business case writing for research and pedagogical purposes. WCA organizes an annual conference for experienced and new case-writers and academics using cases for teaching, and publishes the *Journal of Case Research and Inquiry*. [www.westerncasewriters.org](http://www.westerncasewriters.org)

### JCRI Editorial Board Members and Reviewers

**Gulem Atabay**, Izmir University of Economics, [gulem.atabay@ieu.edu.tr](mailto:gulem.atabay@ieu.edu.tr)

**Jyoti Bachani**, Saint Mary's College of California, [jb19@stmarys-ca.edu](mailto:jb19@stmarys-ca.edu)

**Mark A. Clark**, American University, [mark.clark@american.edu](mailto:mark.clark@american.edu)

**Ellen A. Drost**, California State University, Los Angeles

**Linda K. Gibson**, Pacific Lutheran University, [gibsonlk@plu.edu](mailto:gibsonlk@plu.edu)

**Michael Germano**, California State University, Los Angeles, [mgerman@calstatela.edu](mailto:mgerman@calstatela.edu)

**Leslie Goldgehn**, University of San Francisco, [goldgehn@usfca.edu](mailto:goldgehn@usfca.edu)

**Armand Gilinsky**, Sonoma State University, [armand.gilinsky@sonoma.edu](mailto:armand.gilinsky@sonoma.edu)

**Burcu Guneri Cangarli**, Izmir University of Economics, [burcu.guneri@ieu.edu.tr](mailto:burcu.guneri@ieu.edu.tr)

**Issam Ghazzawi**, University of La Verne, [ighazzawi@laverne.edu](mailto:ighazzawi@laverne.edu)

**Duane Helleloid**, University of North Dakota, [duane.helleloid@und.edu](mailto:duane.helleloid@und.edu)

**Anne T. Lawrence**, San Jose State University, [anne.lawrence@sjsu.edu](mailto:anne.lawrence@sjsu.edu)

**Teresa Martinelli**, University of La Verne, [tmartinelli-lee@laverne.edu](mailto:tmartinelli-lee@laverne.edu)

**Steve McGuire**, California State University, Los Angeles, [steve@mcguire.net](mailto:steve@mcguire.net)

**Vijaya Narapareddy**, University of Denver, [vnapar@du.edu](mailto:vnapar@du.edu)

**Keith Sakuda**, University of Hawaii, [ksakuda@hawaii.edu](mailto:ksakuda@hawaii.edu)

**Jeff Shay**, Washington and Lee University, [shayj@wlu.edu](mailto:shayj@wlu.edu)

**James Spee**, University of Redlands, [james.spee@redlands.edu](mailto:james.spee@redlands.edu)

**Marie Palladini**, California State University Dominguez Hills, [mpalladini@csudh.edu](mailto:mpalladini@csudh.edu)

**V. Seshan**, Pepperdine University, [v.seshan@pepperdine.edu](mailto:v.seshan@pepperdine.edu)

**George Whaley**, San Jose State University, [george.whaley@sjsu.edu](mailto:george.whaley@sjsu.edu)

### JCRI Webmaster

**Ludwig Slusky**, California State University, Los Angeles, [lslusky@calstatela.edu](mailto:lslusky@calstatela.edu)

## ***Editorial Policy***

### ***Aim and goals***

The *Journal of Case Research and Inquiry* (JCRI) is a publication of the Western Casewriters Association ([www.westerncasewriters.org](http://www.westerncasewriters.org)). The *Journal of Case Research and Inquiry* publishes peer-reviewed teaching case studies (cases) prepared from primary and secondary research, as well as pedagogical notes and scholarly articles concerned with case research and teaching with cases. The journal publishes one issue per year, and if submissions so merit, may publish additional issues with editorial board approval. Cases, notes, and articles published in the journal are available online, full text, and free of charge at [www.jcri.org](http://www.jcri.org).

### ***Scope***

The journal publishes cases that address significant contemporary and perennial issues faced by organizations and managers in the areas of business and public administration, nonprofit management, and social entrepreneurship. All cases are necessarily accompanied by instructor manuals (IMs) that are not published but may be provided to the instructors upon request. All cases and IMs are double blind peer-reviewed by at least two reviewers. Cases may be derived from primary field research, secondary research, or a combination of both. JCRI does not accept fictional cases, nor cases, notes, or articles previously published elsewhere. Case authors are required to obtain release forms, when necessary, from the organizations studied.

Pedagogical notes that accompany a given case may also be published; notes may be summaries of industry characteristics and trends, or theoretical or legal analyses useful in the understanding of a case. All notes are blind peer-reviewed by at least two reviewers.

Finally, the journal publishes scholarly articles addressing significant issues related to case research, case writing, and teaching with cases. All articles are blind peer-reviewed by at least two reviewers.

### ***JCRI open source availability policy***

Cases, notes, and articles are available online at [www.jcri.org](http://www.jcri.org) at no cost to instructors and students at state and nonprofit educational institutions, who shall be granted the right to reproduce them for educational purposes. The journal shall encourage instructors to include in their course syllabi links to the JCRI website so that students can easily access cases, notes, and articles. For reproductions for commercial purposes in textbooks or elsewhere, authors shall retain all rights.

### ***Submission of manuscripts***

Authors should submit manuscripts electronically to [editor@jcri.org](mailto:editor@jcri.org). All submissions must follow the JCRI submission guidelines available in detail at [www.jcri.org](http://www.jcri.org). The minimum requirements for submission shall be:

When submitting manuscripts, authors should submit two WORD files, attached to a single email to editor@jcri.org. Each file sent to the journal should be saved with a name that clearly identifies the manuscript short title, type of manuscript, and date. At no place in any document except the Submission Form should authors be identified.

The first WORD file should contain the SUBMISSION FORM and the CASE SYNOPSIS (for cases) or ABSTRACT (for notes or articles). (See submission guidelines). This document contains the information required for contacting the author(s). It is used only by the editor and authorship is not revealed to reviewers. Please do not send PDF files to the journal.

The second WORD file should contain the CASE and INSTRUCTOR'S MANUAL (IM) for cases, or the NOTE or ARTICLE. (See submission guidelines).

In all documents submitted, use a size 12 Calibri font, 1 ½ spaced for text. Use a size 10 Calibri font, single spaced, for Exhibits, Tables, Appendices, Footnotes, Endnotes, Financial Statements, and References. Leave a one-inch margin on the top, bottom, and sides of all pages. Align text with the left except for major titles, and do not "justify" the text. Number (starting with 1) all pages of each document. Do not submit more than two files. Include any charts, graphs, figures, images, or photographs in the manuscript in the approximate place where it should be included. While IMs, notes, and articles may be written in the present tense, by convention all cases should be written in the past tense (e.g., "In 2015, Widgets-R-Us was the global leader in widget manufacturing.")

### ***Review policy***

At the editor's discretion, a submission to the journal may be rejected without going through a full review, particularly if the manuscript does not align well with the aim and scope of the journal.

Otherwise, all submissions shall be blind peer reviewed by at least two qualified reviewers. Authors shall receive the two reviewer's comments, together with a decision (reject, revise and re-submit, accept) by the editor. Unless approved by the editorial board, no cases or papers shall be invited and none published without undergoing the peer review process.

### ***WCA Membership requirement for authors***

There shall be no fees to publish in the journal, however the policy of the journal is that at least one author must be a WCA member for the year in which the case is published. To join WCA, please visit [www.westerncasewriters.org](http://www.westerncasewriters.org)

### ***WCA conference cases***

Authors of cases presented at the WCA conference will be invited and encouraged to submit their work to the journal. However, all submissions (whether presented at a NACRA, WCA, or other conference) will undergo the peer review process. No paper - even a WCA award-winning case - shall be guaranteed publication in the journal.

### **Content of the journal**

Published manuscripts may include CASE STUDIES, NOTES, and ARTICLES, which will be duly identified in different parts of the journal

**CASE STUDIES** - The main part of the journal shall contain peer reviewed teaching case studies (cases) by authors who conducted primary research, secondary research, or a combination of both. Cases shall be about real organizations or managers facing issues in business administration, public administration, nonprofit management, or social entrepreneurship. Cases must be submitted together with complete instructor manuals (IMs). IMs shall not be published in the journal, but shall be peer reviewed together with the case.

**NOTES and EXERCISES** - A second part of the journal shall contain peer reviewed Notes, which can be summaries of literature, theory, or industry descriptions designed to be assigned to students together with cases. Peer reviewed Exercises may be short case-like assignments that provide less context about the organization and its environment than do cases studies but permit some of the learning associated with the case method.

**ARTICLES** - A third part of the journal may contain peer reviewed scholarly articles which may address issues related to case research, teaching with cases, publishing case studies, and other topics related to case research.

### **Release forms**

The journal shall require signed release forms from organizations, which must be collected by case authors for any case to be published that was carried out using primary research. The journal shall not publish a case based on primary research without a signed release form.

### **Ownership and distribution of Instructor Manuals**

Instructor manuals (IMs) shall be archived by the journal for a period of at least three years after publication of a given case. IMs will only be provided to educators who so request them when such instructors are formally affiliated with a College or University.

No fees shall be charged to instructors who receive IMs, nor is membership in the WCA required to receive an IM. Educators seeking an IM should complete a request form on the JCRI website. IMs will then be sent by the journal editor to the requesting instructor with a cc to the case author, who may wish to know who is using his or her case and for what purpose. After the three-year period, inquiries for IMs should be made to the case author.



## ***Table of Contents with Case Synopses and Abstracts***

***WESTERN CASEWRITERS ASSOCIATION***, p. 1

***EDITORIAL POLICY***, p. 2

***LETTER FROM THE EDITOR***, p. 8

By Stephen J.J. McGuire

### ***Case Research***

***TRANSFORMING PINE STREAM LIBRARY:  
BECOMING THE BEST LITTLE LIBRARY IN THE U.S.***, p. 9

By Elaine Labach & Michael E. Valdez

The case described the transformation of the Pine Stream Library to a higher service delivery organization to achieve its new mission. It illustrated the condition of the library prior to adding 50% more space, and steps taken to improve services, some of which the impact on costs is unclear. The case ended with a brief description of the library of the future.

*Key words:* Service management, Library administration, service marketing, non-profit management, change management

***STARTER CLOTHING COMPANY: A PROFILE CASE STUDY OF NOSTALGIA***, p. 28

By Brian P. Soebbing, Chad Seifried, Adam G. Pfleegor & Khirey Walker

The sport apparel market experienced significant growth over the past 30 years allowing numerous companies the opportunity to establish brand awareness, recognition, and loyalty regarding their products and services. The case is a profile of the Starter Corporation, whose iconic jackets were one of the most recognizable pieces of merchandise in the 1980s and 1990s. The Starter Clothing Company, founded in 1971 by David Beckerman, was once a popular brand name for National Hockey League (NHL), National Basketball Association (NBA), National Football League (NFL), and Major League Baseball (MLB) fans. After filing for bankruptcy just prior to 2000, Starter executives expressed a desire to stay relevant in the sports apparel industry. One way was to reintroduce the Starter Jackets, a product that generated close to \$400 million in revenues per year as late as 1997. The Starter brand appeared to benefit from the feeling of nostalgia experienced by consumers wearing or viewing Starter brand clothing. The case study illustrates the potential of nostalgia as a solution strategy to help Starter regain financial and brand recognition relevancy in the market.

*Key words:* Starter Clothing, marketing, nostalgia, apparel, sport, brand, brand loyalty

***ATIKOKAN IN CRISIS: A COMMUNITY STRATEGIC DECISION***, p. 53

By A. Scott Carson, Erica Young & Jeffrey A. Dixon

In June 2009, Atikokan Mayor Denis Brown faced a major decision. As the Province of Ontario shifted towards green energy, the coal-fired generating station in his town of 3,200 was slated for closure by 2014. Situated among the pristine evergreen forests and lakes of northwestern Ontario, Atikokan had a history of industrial boom and bust. From a “boomtown with a future” in the 1950’s, the mines had long since closed, the lumber mill was recently shuttered, and the local fiberboard plant had filed for bankruptcy. Retail services struggled and even the high school wondered if it could survive as enrolments dwindled. The power station was the sole large employer and provided much needed economic stability. With its impending closure, the town faced an uncertain future. The Mayor and Garry McKinnon, CEO, Atikokan Development Corporation, met to consider four alternatives recommended by their strategic and economic planning consultants. The town’s situation was urgent. The town council was awaiting Denis and Garry’s report, and Denis felt it was important to make a clear recommendation. Which alternatives, if any, should go forward for detailed feasibility planning?

*Key words:* Community development, cluster, biomass, green energy, strategy

***WHAT IS THE BEST PUBLIC RELATIONS STRATEGY TO REVERSE MONSANTO’S REPUTATION AS AN EVIL CORPORATION?***, p. 83

By George L. Whaley

Despite Monsanto’s latest public relations (PR) actions, its reputation as an evil corporation continued and key external and internal indicators had begun to decline. Management was concerned about the reputational effects its genetically modified organism (GMO) products have on the firm’s stakeholders, strategy, and financial future. There was worldwide public concern about GMO effects on health, safety, ethics, costs, and product labeling that ran deep. Monsanto’s GMO products had stirred more public controversy than the GMO products of other firms in the industry. Monsanto’s negative reputation affected a highly publicized failed bid for the Swiss seed firm, Syngenta. There was concern among Monsanto’s stakeholders that the company’s negative reputation could harm the proposed merger with Bayer. The case ends with management looking for an effective PR strategy to ameliorate Monsanto’s negative reputation and reverse its downward trend in performance indicators.

*Key words:* Public relations, product marketing, strategic management, entrepreneurship, ethics, biotechnology management



***HOOTERS OF AMERICA: FIGHTING THE BREASTAURANT WARS***, p. 106

By Stephen J.J. McGuire & Nina O'Brien

Hooters of America President and CEO Terry Marks had a decision to make. Thirty years ago, Hooters had advanced a successful chain restaurant concept, which combined “good food, cold beer and pretty girls.” After a period of rapid growth and running a gauntlet of legal and community challenges, Hooters began losing ground to competitors in the expanding “breastaurant” sector in the 2000s. The death of majority owner Robert H. Brooks introduced more uncertainty and the eventual sale of the company in 2011 to Chanticleer. When Terry Marks took charge of the company, Hooters was faced with a choice: (1) it could emphasize a wholesome, neighborhood environment that would welcome men, women and families; (2) it could move in a more risqué direction and compete head-to-head with racier rivals; or (3) it could find some third way to position the brand in the highly competitive restaurant industry in 2016.

*Key words:* Strategy, competitive advantage, equal employment opportunity, Title VII, gender discrimination, sexual harassment, change management

## Notes

***NOTE ON GENDER DISCRIMINATION AND SEXUAL HARASSMENT***, p. 139

By Stephen J.J. McGuire

A summary and explanation of concepts, U.S. federal laws, and major court decisions on gender discrimination and sexual harassment. This note can be assigned together with a case that requires background knowledge of U.S. equal employment opportunity laws covering gender.

*Key words:* Title VII, gender discrimination, sex discrimination, sexual harassment

***SYSTEM MAPPING APPROACH TO TEACHING INTERNATIONAL BUSINESS***, p. 166

By Ellen A. Drost

Concept maps are a form of visual thinking. Most people are better able to remember a visual representation—such as a chart or graph—than a table full of numbers. The paper introduces a pedagogical tool, the Comparative Political Economy Systems Matrix, which can be used to develop students' understanding of the global business environment and how it affects a firm's business decisions. To gain such an understanding, students will use a concept matrix or matrix map to plot several countries' political economies into a single, compelling image.

*Key words:* matrix, International business, political economics systems, concept map



## LETTER FROM THE EDITOR

The *Journal of Case Research and Inquiry* (JCRI) publishes peer-reviewed teaching case studies prepared from primary and secondary research, as well as pedagogical notes or exercises and scholarly articles concerned with case research and teaching with cases. Cases, notes, exercises, and articles published in the journal are available online, full text, and free of charge at [www.jcri.org](http://www.jcri.org).

The journal and its parent, the Western Casewriters Association, are proud to present JCRI's second volume. In this volume, we present five new teaching cases, one note to accompany a case, and one exercise for classroom use.

We are confident that readers of the journal will find cases that can be used to enhance learning in undergraduate and graduate classes. All the cases provide extensive details and lend themselves to in-depth analyses. Educators are encouraged to request from the journal editor the detailed, peer-reviewed instructor manuals that accompany each case.

Each year, one case receives an award for best case in JCRI, based on nominations by reviewers and a final vote by the editorial board. In 2015, the best case award went to Tony Bell and Andrew Fergus of Thompson Rivers University for the case "Mouat's Trading Company." I encourage instructors to use this case in the classroom, as it generates a lively discussion about succession planning in a small, family-owned business. The best case award is presented annually at the Western Casewriters Association conference. In 2017, the conference will be held on March 23 in Palm Spring, California.

For the present volume, JCRI received 34 submissions, for an acceptance rate of 23.5%. We look forward to receiving well-written cases, notes, and articles for volume 3 in 2017, and urge you to consider the journal for your case research.

Sincerely,

Steve McGuire  
Editor, *Journal of Case Research and Inquiry*



## **TRANSFORMING PINE RIVER PUBLIC LIBRARY: BECOMING THE BEST SMALL LIBRARY IN THE U.S.**

**ELAINE LABACH**  
**MICHAEL E. VALDEZ**  
Fort Lewis College

In March 2010, Judy Dublin, the President of the Board of Trustees of Pine River Public Library, had scheduled a meeting with the current board members. While Dublin acknowledged the progress that had been made in the past year, she wondered what else could be done to transform the Pine River Public Library from a traditional, rural library to a library that served the expanding community, and help it move into the 21<sup>st</sup> century.

### **The Pine River Library Community**

The library was located in a small, but growing, rural community of Bayfield, Colorado, with about 2,110 residents. The surrounding area of the library (i.e., 510 square miles) had an approximate population of 7,140. The town was located approximately 172 miles from the nearest interstate highway. Median household income ranged from \$44,000 - \$50,000 annually, with an annual average household income of \$58,000. Approximately 28% of the district's residents had earned a high school diploma, with 37.8% having an Associate, Bachelor

---

The authors developed the case for class discussion rather than to illustrate either effective or ineffective handling of the situation. The case and its accompanying instructor's manual were anonymously peer reviewed and accepted by the *Journal of Case Research and Inquiry*, Vol. 2, 2016, a publication of the Western Casewriters Association. The authors and the *Journal of Case Research and Inquiry* grant state and nonprofit institutions the right to access and reproduce this manuscript for educational purposes. For all other purposes, all rights are reserved to the authors. Copyright © by Elaine Labach and Michael E. Valdez. Contact: Elaine Labach, Fort Lewis College, 1000 Rim Drive, EBH 178, Durango, CO 81301, (970) 247-7093, [labach\\_e@fortlewis.edu](mailto:labach_e@fortlewis.edu).

The names used in this case are pseudonyms.

or higher educational degree. (See Exhibits 5-7 for demographic information.) Pine River Public Library was located in a bedroom community that served the larger metropolitan area of Durango, Colorado, with an estimated population of 17,557. Because this community lacked many of the entertainment and educational services found in a larger city and/or town, Pine River Public Library played a pivotal role in offering such services to the community. As with many libraries in rural communities, Pine River Public Library appeared to face the challenges highlighted by the Rural Policy Research Institute, namely limited financial resources and expertise and resistance to change and innovation (Rural Policy Research Institute Rural Welfare Policy Panel, 1999).

From 2008 to 2010, Pine River Public Library's community underwent considerable population growth, averaging 2% annually. This growth was projected to continue over the next several years. At the start of 2010, this population growth increased the library's circulation to 94,228, with physical visits (139,000) with the number of patrons participating in programs (1,845) on the rise (see Exhibit 2). At that time, the library's chief function was to loan print volumes and videos to the local community. The library's collection did not contain any e-books. In addition, the library had increased from eight personal computers in 2008 to thirty in 2010 to meet community demand for technology and free Wi-Fi. Since the library was within walking distance of the city's middle and high schools, there existed a constant flow of teens and a strong interest in the summer reading program.

The library was set up as a special tax district, which was a common funding mechanism used in Colorado. The library was an independent district that had identical boundaries to those of the local school district. From the total annual budget of \$509,346, or \$77.23 per capita, \$42,824 went to materials and the rest kept the library open seven days (or 62 hours) a week, paying for a full-time staff of 7.5 employees.

## **The Board of Trustees**

Oversight of the library was the responsibility of a six-member Board of Trustees appointed by the County Commissioners. Board of Trustee members were selected to provide various skill sets to the library. The Board of Trustees was a governing (vs. advisory) body and was responsible for all aspects of the library's operations. Having a governing board meant that the Board of Trustees was responsible for a wide set of activities, including: policy making, funding and budgeting; community relations; interlibrary collaboration; director selection/evaluation; planning library services; and advocacy. The library also employed a Library Director, who was responsible for managing six full- and part-time staff and the library's day-to-day operations. The library is funded by tax revenues received from the County, along with donated and endowment monies available to run its operations (see Exhibit 3 for 2012 semi-annual budget).

In 2010, with its newly developed mission to continue as a high quality, small town library by supporting lifelong learning, the Board of Trustees began to feel a sense of urgency to transform and reinvent the Pine River Public Library. This urgency stemmed from the increase in active participation brought on by the community population growth, recognition of the transforming community needs, the challenges and opportunities brought about by technology and the internet, the desire to position the library for long-term growth and sustainability, as well as a \$2 million endowment that could be used.

### ***The Facilities Task Force***

In order to address the uncertainty facing the library's future direction, the Board of Trustees commissioned a Task Force to update its long-range plan as well as to inform community stakeholders. One of the goals in the long-range plan was Facility Planning. The Board of Trustees asked the Task Force to focus on the following long-range goal:

- Consider and evaluate the possibility of the development of various types of expansion.

- Plan for future expansion based on projected population growth and patron feedback.
- Ensure adequate parking for current and projected use.

Specifically, the Task Force was tasked with:

1. Develop surveys for adults (including high school students) and youth (grades 3-8) that ask about how people use the library, current satisfaction, and future needs.
2. Select an on-line survey company to manage the data—Constant Contact.
3. Develop a marketing plan for the survey and meetings with community organizations.
4. Distribute the survey to community groups, at community events, in the library, and on-line.
5. Attend meetings of community organizations to share the library’s long range planning process and solicit suggestions.
6. Compile results of the survey and meetings with community organizations.
7. Recommend revisions to the Long-Range Plan.
8. Report recommendations to the Library Board for approval.
9. Present a revised Long-Range Plan to the community.

The Task Force developed, pretested, and collected an adult and youth survey. The survey data were compiled using the online company Constant Contact. A pencil and paper survey was also available. Adult surveys were distributed at community events (i.e., Pine Stream second grade holiday program, Pine Stream middle school holiday music program, Old Fashioned Christmas in downtown Pine Stream, and the Pine Valley Church Craft Fair). In addition, announcements of the survey were made using the local newspaper, Pine Stream Schools’ newsletter, Pine Stream middle school holiday program, and the library kiosk and staff. Adults were also able to complete the survey at the library. Youth surveys were completed by Pine Stream students (grades 3 – 8) during an in-class “real world” exercise. 785 adults and 614 youths (grades 3-8) completed the survey.

The Task Force held approximately 10 external stakeholder meetings for community members to meet the Library Director and the Task Force and discuss the library's future. The meetings were marketed towards specific organizations (e.g., 4H clubs, Pine River Community Learning Center, Skills for Living and Learning, Pine Stream Study Club, and religious leaders). In addition to the external stakeholder meetings, two focus group sessions were conducted by the Pine River Public Library staff.

The results of the survey served a dual purpose: evaluating current services and recommending changes for the future. The most important strength that patrons reported was with the quality of service from library staff, especially their friendliness and helpfulness. In terms of programs, the library received positive comments on its programs for children, teens and the availability of technology. One improvement suggested was more shelf space, with two thirds of the respondents indicating a need for more space for books, movies, and audio material. Sixty percent of the adult respondents said the library needed more space for the children's area. Fifty-two percent indicated they wanted computer classes in the future on various devices and software programs. Because of this survey, the Board of Trustees dedicated a significant part of the budget to the design and construction of an expansion of the existing library building to increase its floor space by 50%. As part of the transformation, the library's collection would be reorganized from a traditional Dewey system to a topical system.

Additionally, service would be improved (e.g., self-checkout station that allowed for a more customer-centric approach with employees getting out from behind the circulation desk), sustainable construction materials would be used (i.e., conducting sustainable projects would provide an educational forum as well as allowing the library to model ideal practices), and an outdoor space would be added to coincide with a "living library" concept. The construction budget was set at \$1.7 million.

## Leading and Managing Change

The Board of Trustees asked Board Member Cheryl Ray to lead the Facilities Planning Committee to manage the library's expansion. This committee would be responsible for working with the architect, designers, builders and managing the bid process. The role of the Library Director would be to manage the budget and implement actions from the committee.

Soon after the first phase of the project started, the Library Director retired. Although an interim director was hired soon after, there was a leadership and communication vacuum and left Cheryl Ray with the key role in leading and managing the expansion. Cheryl reflected that there was a sense of urgency to get the expansion going, which introduced a large amount of change (e.g., services and programs) into the organization that in turn affected communication, personnel, and decision-making in the organization.

Efforts were also needed in facilitating design changes with the architect. For example, in the initial building design, there was a decorative wall included outside the meeting rooms. Although this wall was included in the initial planning of the building, an idea emerged that since the town's drive-in movie theatre was closing, there was a new opportunity for an outside video wall to show movies. Discussions about the movie wall idea with the community confirmed it was a good idea. The decorative wall just did not fit anymore and was eliminated from the design.

As a result of the issues brought up by the facility expansion and results of the community survey, it became clear early on that the whole idea of what the library did, and how it did it, would change. This transformation rested in four key areas: (1) organizational management, defined as a flexible structure and an effective management system; (2) facilities, to improve patron services and increase library efficiency; (3) increased services and service levels; and (4)



community involvement, to be more responsive to what people want and bring them into the library.

### Organizational Management

Prior to the expansion, the library faced a number of organizational challenges ranging from human resource to fiscal management. For example, the current budgets were done by hand, several job descriptions were out-of-date, and so were some library policies. As with many rural libraries, the Pine River Public Library served a relatively conservative community and had a lack of academically trained staff (Vavrek, 1995), with none of the current staff having an advanced Library degree. However, the library functioned with a strong, mission-driven organizational culture and shared values. All members of the staff prided themselves on their commitment to reach out to patrons and offer valuable services.

When the expansion phase of the library's transformation was first announced, there was much excitement and optimism from the library staff. The general staff sentiment was that the expansion of the library would be an incremental change to the normal operational procedures and not the large amount of change the Board of Trustees had envisioned.

With the Library Director's announcement to retire, communication became critical to manage staff expectations, ensure key staff was on the expansion committee, and that the staff's tacit knowledge could be leveraged in order to achieve the transformational goals of the library.

The interim director, a highly educated, trained, and experienced librarian, was put in place to allow time for a replacement director to be hired. However, the interim director was periodically pulled into the facility expansion and was unable to fill all the communication voids. As an example, when a staff member's desk was moved from the children's area to another

area of the library as part of the larger plan, staff members admitted that they did not know who was in charge.

### Facilities

Several opportunities uncovered through the community survey centered on the necessity to transform the library to a more focused, patron-service model in order to improve the library's effectiveness and efficiency. This transformation would require the library to address the layout shortfalls (i.e., partitioning the library based on specific use requirements), reorganizing library material through a new cataloging system, and employing energy- efficient and sustainable features. The entire layout of the library was changed (see Exhibit 1). The expansion designed busy, noisier areas near the front with back spaces designed for quieter activities (such as computer use). The children's area was now enclosed in a separate room for privacy and safety. Prior to the expansion, many children's summer programs were held outside since there was little dedicated space for these programs indoors, and during the winter, snow-filled months, this limited the ability to deliver children's programs. Special zones for children, teens and adults were designed with teens/children on one side of the building and adults on the other.

Prior to the expansion, there was one meeting room that was shared by the community and the library. There was tremendous demand for the library's one meeting room and it was fully utilized by the community. Typically, the demand by community members for meeting rooms was underserved with multiple requests being denied by the library on a daily basis. The new facility had two large meeting rooms (i.e., community rooms) that doubled the capacity (i.e., to 140 people) for meeting room availability. In addition, the library had a corresponding community room kitchen as well two designated study rooms.

The community also expressed frustration with the Dewey decimal classification system employed at the library to organize its holdings. The community thought that the Dewey system was difficult to use. With leading libraries moving to a bookstore model, the entire collection was reorganized into topical themes. This change, however, necessitated using a new system to categorize and manage the collection.

Lastly, the Board of Trustees recognized the need to be a role model in the community with respect to sustainability (e.g., construction methods and energy efficiency). The expansion prompted the use of sustainable wall insulation as well as solar power and drum lighting to reduce long-term utility costs. These lighting changes not only provided more light but also were more cost-efficient.

### **Services and Service Levels**

With added space, new programs could be offered based on community input. The library could now offer cooking classes, movies, exercise and hands-on gardening classes. Another popular service was digital devices. The library purchased 43 devices to loan out (such as Nooks, Kindle Fire, Sony eReaders, MP3 players, Tom-Tom, Garmin, and laptops).

Service levels also increased. Along with the capacity doubling for the meeting rooms, waiting times to check out material had decreased because there were now two ways to check out (i.e., via library staff at the central desk or at a new self-checkout area). The automated checkout area freed up staff to answer questions and be available to offer assistance to patrons similar to a concierge function at a hotel. However, as one staff member noted, some patrons missed the central checkout desk and the personal interaction they could have with the staff during check out.

## Community

The community survey was one of the first organized efforts of the Board of Trustees to understand current and future community needs. Due to the close proximity of the library to the middle- and high-schools, the library had always maintained close ties with the schools to design its school-aged programs. Library staff members attended public city board meetings and members of the community were invited to attend library Board of Trustees' meetings to express their interest in additional programs. The Friends of the Library, a key fundraising arm for the library, was another way to keep in touch with the community. As part of the Friends organization, \$130,000 was donated to help with the library expansion and another \$30,000 for technical equipment and a garden shed using the local High School construction class.

Library programs were driven by community requests. An outdoor garden expansion was one such community request. As Judy O'Henry (Library Development Director) stated:

*We are not just about books anymore. We are about people who want to get involved and work together. The importance of the outdoor space is that it draws people into the library. For example, we asked for some volunteers to build garden beds out of lumber. More than 25 people showed up over two weekends to build these beds and were people who did not usually come to the library.*

### Pine River Public Library in 2013

In March 2013, the Board of Trustees reviewed the results of the expansion. Three times more visitors walked around a space that was 50% bigger to view a collection that had almost doubled since 2010. The library was more spacious and drew in more physical and electronic visitors. The book loan rate had increased from essentially zero to 308 with a modest increase in staff (1 full time employee), and checkout times were reduced to less than a minute.

Three years prior, the Board of Trustees and the library staff had worked on changing the public's image of the library from a book repository to a place where people learn, explore, and discover. This move was part of what many libraries around the U.S. were attempting to manage: that is, staying relevant in a rapidly changing, technology-rich global environment. As one unique example, Bexar County public library in San Antonio, Texas was the first all-digital, bookless public library to offer electronic readers and housed no actual books (Weber, 2014). Librarian of Congress James H. Billington said, "If we didn't already have libraries, they would now have to be invented. There are the keys to American success in fully exploiting the information superhighways of the future" (Goodreads, 2013).

Board of Trustees ex-officio President Judy Dublin reflected upon what was next for the library:

*I am most proud of our library for weaving in the fabric of the community. People are now excited about the library. We need to embrace what libraries are becoming while recognizing that budgets are becoming more limited. In addition, we have not yet fully implemented or seen the results from our outdoor garden projects (the movie area was still awaiting licensure) which will bring even more people into our library. Currently, we exceed the full-time equivalent employee / patron ratio recommended for our library size and our staff costs are more than 60% of our operating budget. I am also worried about incurring a deficit in the upcoming fiscal year. We need to continue to be fiscally responsible. Moreover, the Board of Trustees has recently begun work on a new vision and a new long-term plan for the library.*

With the 2010 vision being fulfilled, discussions around vision and mission for the library were sure to involve staff and the community. Some saw the mission of the library to promote learning and social interaction as well as advanced technology, while others saw the mission as connecting communities. While the strategic process was being developed, the library was planning an open house for its garden area it called the "living library." It had also hired a new library director to manage future changes for the library in May of 2013.



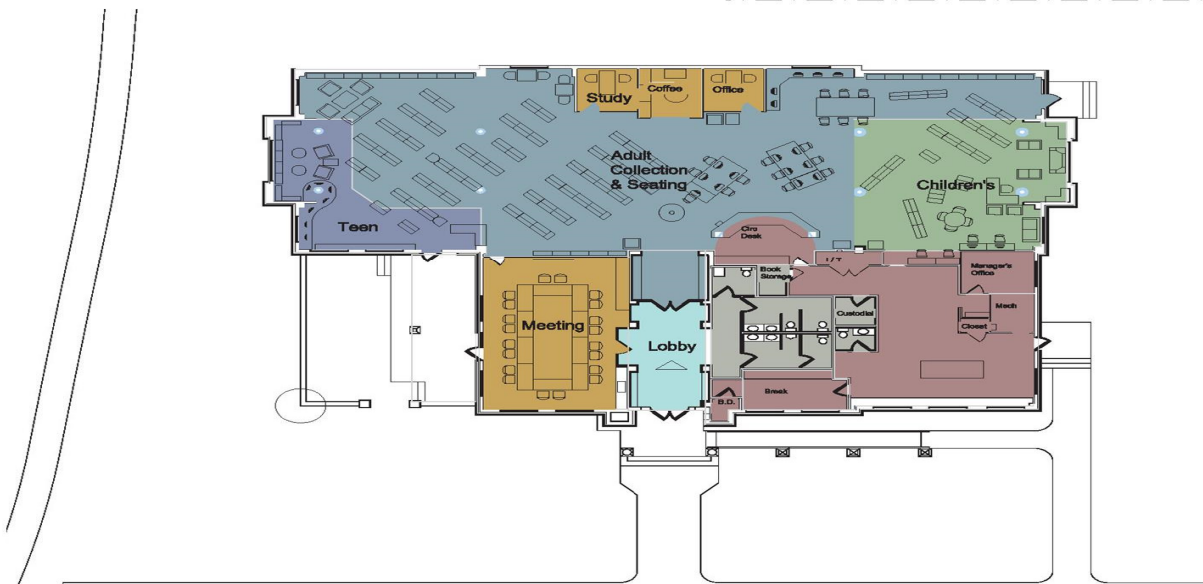
**Elaine Labach** is an Associate Professor of Management and the Associate Dean in the School of Business Administration at Fort Lewis College. She joined the college in 2008. Dr. Labach has led students on Study Abroad programs to Spain and Costa Rica. Prior to joining Fort Lewis, Dr. Labach has had a previous career in the insurance and pharmaceutical industries, working for Eli Lilly and Company, Progressive Insurance and Cardinal Health in operations and sales management. Dr. Labach is ex-officio President of the Western Casewriters Association and a past member of the board of trustees for the Pine River Public Library.



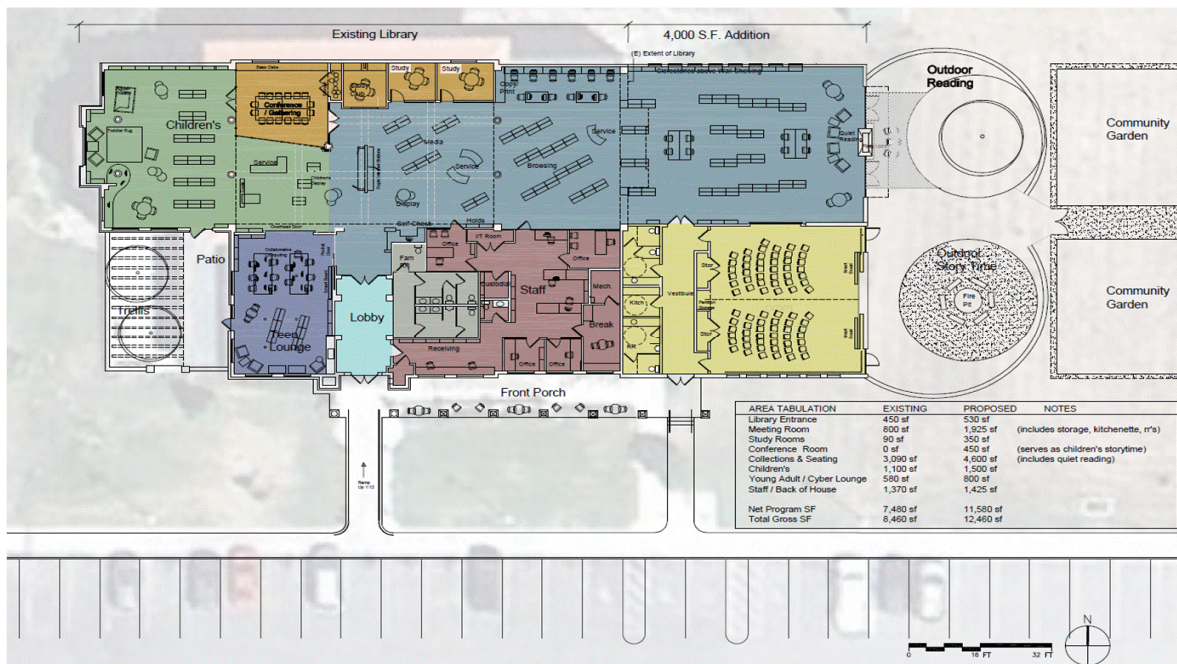
**Michael E. Valdez** is an Associate Professor at Fort Lewis College's School of Business Administration where he teaches courses in international management, organizational behavior, and strategy. Dr. Valdez's research interests center on international management, cross-cultural management, entrepreneurial success factors (micro and macro), and organizational reputation. His research has appeared in *Entrepreneurship Theory & Practice*, *Academy of Management Review*, *Journal of Asia Business Studies*, and *Transportation Journal*. Dr. Valdez has presented his research in various conferences in the United States and abroad and is a member of the Academy of Management and the Academy of International Business.

Exhibit 1: Previous and Current Layouts of Pine River Public Library

Previous Layout



Current Layout



## Exhibit 2: Statistics for Pine River Public Library 2009 and 2012

<b>Annual Services</b>	<b>2012</b>	<b>2009</b>
Visits	319,679	139,000
Patrons	8,552	7,051
Circulation	111,638	94,228
Books Loaned to other libraries	308	0
Collection:		
Print Volumes	30,805	23,185
E-Books	7,578	0
Total audio	4,738	1,852
Music	407	0
Electronic music	287	0
Total Video	3,874	3,031
Total Collection	47,689	28,068
Unique Visitors to Website	271,896	Not collected
Public access Internet computers	37	21
Misc. Operation Expenditures	\$171,448	\$129,257
Total Operation Expenditures	\$582,127	\$509,346
Capital Expenditures	\$1,002,813	\$180,730
Prof. Develop Expenditures	\$41,098	\$14,000
Number of Friends Group Members	20	10
Staff Expenditures per Capita	\$42.48	\$47.83
Materials expenditures per capita	\$5.54	\$6.07
Other expenditures per capita	\$20.05	\$18.33
Total expenditures per capita	\$68.07	\$72.24
Total revenue per capita	\$91.25	\$133.24
Staff expenditures per total operation expenditures	62%	66%
Materials expenditures per total operation expenditures	8%	8%
Total collection expenditures	\$47408	\$42824
Staff salaries and benefits	\$363271	\$337265
Square footage	12200	8200
Square foot per number of patrons	1.43	1.16
Total operating revenue	\$850,372	\$947,975
Staff per 1,000 served	0.99	0.92
Staff per 10,000 circulation	0.76	0.69
Staff per 1,000 reference transactions	111.84	216.67
Library visits per capita	37.38	19.71
Circulation per capita	13.05	13.36
Program attendance per 1000 served	738.19	848.67
Summer reading registrants	435	200



## Exhibit 3: 2013 Semi-Annual Library Budget

<b>REVENUES</b>	<i>In dollars</i>
Donations	1,000
Interest on CD	5,000
Property tax revenue	652,317
Services, charges, fees	30,000
<b>Total Revenue</b>	<b>661,317</b>
<b>EXPENSES</b>	
Audios	4,000
Cataloguing	700
E-Resources	12,200
Books and materials	50,000
Landscaping	1,150
Maintenance	16,275
Misc.	2,720
Postage and delivery	1,200
Building and equipment repairs	1,400
Security	275
Supplies	10,300
Furniture and equipment	16,000
Professional fees	16,000
Programming and marketing	41,680
Technology	45,500
Utilities	25,000
Personnel costs	489,300
County treasurer fee	22,582
<b>Total Expenses</b>	<b>733,700</b>
<b>Net Revenue/Expense</b>	<b>(72,383)</b>

**Exhibit 4: Population Race Comparison (2012)**

	<b>United States</b>	<b>La Plata County, CO</b>	<b>Bayfield town, CO</b>
<b>Total population</b>	309,138,711	51,443	2,110

	<b>Total</b>	<b>Percent</b>	<b>Estimate</b>	<b>Percent</b>	<b>Estimate</b>	<b>Percent</b>
White	236,362,158	76.5%	45,922	89.3%	1,995	94.5%
Black or African American	41,945,466	13.6%	441	0.9%	74	3.5%
American Indian and Alaska Native	5,049,092	1.6%	3,713	7.2%	55	2.6%
Asian	17,285,143	5.6%	571	1.1%	12	0.6%
Native Hawaiian and Other Pacific Islander	1,107,434	0.4%	54	0.1%	10	0.5%
Some other race	16,417,278	5.3%	1,845	3.6%	27	1.3%

	<b>Total</b>	<b>Percent</b>	<b>Estimate</b>	<b>Percent</b>	<b>Estimate</b>	<b>Percent</b>
Hispanic or Latino (of any race)	50,545,275	16.4%	6,119	11.9%	216	10.2%
Not Hispanic or Latino	258,593,436	83.6%	45,324	88.1%	1,894	89.8%

Source: U.S. Census Bureau, 2008-2012 American Community Survey

**Exhibit 5: Population Educational Attainment Comparison (2012)**

	<b>La Plata County, CO</b>	<b>Bayfield town, CO</b>	<b>United States</b>
Population 18 to 24 years	6,127	125	30,822,835
Less than high school graduate	9.1%	13.6%	16.2%
High school graduate (incl. equivalency)	19.9%	28.0%	29.6%
Some college or associate's degree	58.2%	51.2%	44.9%
Bachelor's degree or higher	12.9%	7.2%	9.3%

Population 25 years and over	34,900	1,336	204,336,017
Less than 9th grade	1.8%	0.7%	6.0%
9th to 12th grade, no diploma	4.1%	4.0%	8.2%
High school graduate (incl. equivalency)	19.9%	27.1%	28.2%
Some college, no degree	25.5%	30.8%	21.3%
Associate's degree	7.2%	5.8%	7.7%
Bachelor's degree	26.1%	21.7%	17.9%
Graduate or professional degree	15.5%	10.0%	10.6%

Percent high school graduate or higher	94.1%	95.4%	85.7%
Percent bachelor's degree or higher	41.6%	31.7%	28.5%

Source: U.S. Census Bureau, 2008-2012 American Community Survey

Exhibit 6: Population Poverty Comparison (2012)

	United States			La Plata County, CO			Bayfield Town, CO		
	Total	Below poverty level	Percent below poverty level	Total	Below poverty level	Percent below poverty level	Total	Below poverty level	Percent below poverty level
Population for whom poverty status is determined	301,333,410	44,852,527	14.9%	49,422	5,510	11.1%	2,064	274	13.3%

**AGE**

Under 18 years	72,869,122	15,188,844	20.8%	10,313	1,123	10.9%	605	115	19.0%
Related children under 18 years	72,535,954	14,882,336	20.5%	10,233	1,047	10.2%	605	115	19.0%
18 to 64 years	189,105,463	25,961,446	13.7%	33,195	4,114	12.4%	1,308	149	11.4%
65 years and over	39,358,825	3,702,237	9.4%	5,914	273	4.6%	151	10	6.6%

Source: U.S. Census Bureau, 2008-2012 American Community Survey

## References

- Berry, J. (2014, January 29). Best Small Library in America 2014: Pine River Library, CO. *Library Journal*.
- Cromartie, J. & Bucholtz, S. (2008). Defining the “rural” in rural America. *Feature: Rural Economy & Population*. Retrieved at <http://www.ers.usda.gov/amber-waves/2008-june/defining-the-%E2%80%9Crural%E2%80%9D-in-rural-america.aspx#.VWdZus9VhBc>.
- Goodreads. (2013). Retrieved from <http://www.goodreads.com>.
- Rural Policy Research Institute Rural Welfare Policy Panel. (1999). *Rural America and welfare reform: An overview assessment*. Retrieved from <http://www.rupri.org/Forms/p99-3.PDF>.
- U.S. Census. (n.d.). *State and County Quickfacts / Durango, Colorado*. Retrieved at <http://quickfacts.census.gov/qfd/states/08/0822035.html>
- U.S. Department of Veteran Affairs. (n.d.) *About rural veterans*. Retrieved at <http://www.ruralhealth.va.gov/about/rural-veterans.asp>.
- Vavrek, B. (1995). Rural and small libraries: Providers for lifelong learning. *National Institute on Postsecondary Education, Libraries, and Lifelong Learning*, Washington, DC.
- Weber, P. (2014, January 6). Library offers glimpse of bookless future. *The Durango Herald*, p. 1,10A.

## **STARTER CLOTHING COMPANY: A PROFILE CASE STUDY OF NOSTALGIA**

**BRIAN P. SOEBBING**, University of Alberta  
**CHAD SEIFRIED**, Louisiana State University  
**ADAM G. PFLEEGOR**, Belmont University  
**KHIREY WALKER**, Louisiana State University

When Carl Banks became President of G-III Sports, a division of the G-III Apparel Group, his primary responsibility was to search for alternatives to broaden G-III's outwear offerings. Banks was charged to decide if the company should use highly recognized brands or instead less well-known brands in the launch of an outwear line for men. On one hand, recognized brands would likely to help G-III products get into major department stores and chain retailers. On the other hand, lesser-known brands could produce a favorable licensing agreement for G-III Sports and help the company promote a broad spectrum of products to a wide variety of consumers.

From a division standpoint, the goal for G-III Sports was to "engage the entrepreneurial spirit that got it here by constantly seeking attractive new licenses and acquisitions to expand its reach and abilities" ("About G-III," n.d., para.12). Understanding that G-III sought to alter "the landscape of how outerwear was marketed and sold in department stores in the United States," Banks had been presented with an opportunity through Iconix, the new owner of the Starter brand, to decide whether or not revitalizing a formerly well-known sports outerwear brand would be in the best interest for G-III ("About G-III," n.d., para. 2).

---

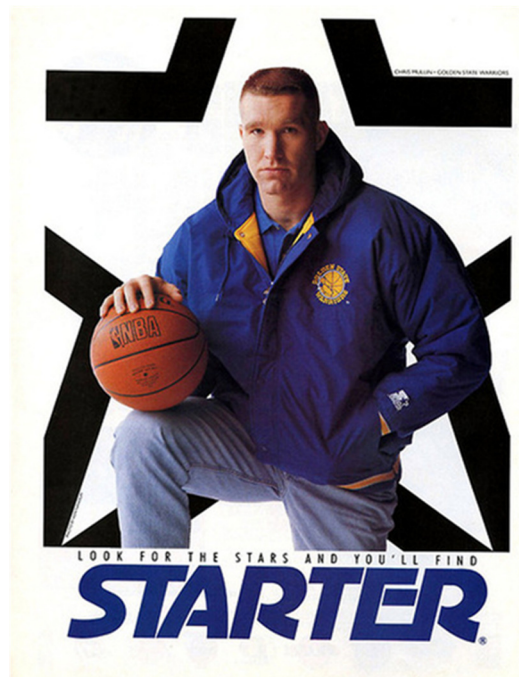
The authors developed the case for class discussion rather than to illustrate either effective or ineffective handling of the situation. The case and its accompanying instructor's manual were anonymously peer reviewed and accepted by the *Journal of Case Research and Inquiry*, Vol. 2, 2016, a publication of the Western Casewriters Association. The authors and the *Journal of Case Research and Inquiry* grant state and nonprofit institutions the right to access and reproduce this manuscript for educational purposes. For all other purposes, all rights are reserved to the authors. Copyright © by Brian P. Soebbing, Chad Seifried, Adam G. Pfleegor and Khirey Walker. Contact: Brian P. Soebbing, 2-130Q, University Hall, Van Vliet Complex, University of Alberta, Edmonton, Canada, 780-492-7308, [brian.soebbing@ualberta.ca](mailto:brian.soebbing@ualberta.ca)

Banks and G-III needed to consider whether or not G-III would be able to capitalize on nostalgia for the Starter brand (see Exhibit 1). In order to make a sound decision, Banks needed to learn more about the history of the Starter Corporation, the sports apparel market, and the concept of nostalgia in association with apparel and athletics.

### Exhibit 1. Chris Mullin, NBA player with the Golden State Warriors and Indiana Pacers

Retrieved from:

<http://www.buzzfeed.com/jpmoore/25-reasons-starter-jackets-were-the-coolestthings#.pmEnKa0bK>



### Background

The sport apparel market experienced significant growth over the past 30 years, which allowed companies to establish brand awareness, recognition, and loyalty to their products (Mullin, Hardy, & Sutton, 2014). In 2014, sports licensing revenue reached \$698 million in royalties and close to \$13 billion in retail sales (Heitner, 2014). Examples of regularly purchased merchandise included jerseys, sweatshirts, jackets, headgear such as hats and headbands, and other

products such as wristbands and socks. Sage and Eitzen (2013) suggested that wearable items were important opportunities for fans to declare their support for a favorite team or player.

Sport apparel companies also sought to expand the fan experience by providing a variety of options to fans including belts, sunglasses, earrings, dinnerware, barware, license plates, and even baby training toilet seats that were representative of favorite teams. For example, The NFL shop (2015) offered categories such as men's, women's, kids', collectibles, home & office, and tailgating. Seifried and Clopton (2013) and Seifried and Meyer (2010) noted that such products were produced for "fan nations" because they helped fans experience an interactional past defined by Clopton and Finch (2001) as involving reliance upon environmental cues to help the self-identification process focus on one identity. Many fans wanted to feel a personal connection with their favorite teams or "fan nation." Foster and Hyatt (2008) defined a "fan nation" as a group of fans who come together through "an imagined cohesiveness" shared with other through myths, symbols, tangible objects, and rituals (p. 269). The repeated wearing of a certain article of sport apparel helped highly-identified fans maintain a strong emotional attachment to a team, in part, because of nostalgia for their youth.

David A. Beckerman founded the Starter Clothing Company in 1971 in New Haven, Connecticut. Beckerman, a former collegiate basketball player at Southern Connecticut State University, originally planned for the Starter Company to develop uniforms for high school athletic programs (Sack & Nadim, 2002). Early on, the company created jackets for fraternities, bar and grills, and local area schools. Initially, these jackets were only available in four colors (red, blue, green, and yellow) and included the logo of the team or organization on the left chest (Sack & Nadim, 2002).

As a former college athlete, Beckerman understood the prospective emotions and loyalties of the passionate sport fan. He stated, "I always wanted to be a starter [...]. Maybe I called my company that because I never was one" (Lioz, 1997, para. 4). Beckerman believed many sport



fans would be willing to spend their money in order to represent and interact with their team(s), even if their interaction has no effect on the team's outcomes (Sack & Nadim, 2002; Sage & Eitzen, 2013; Seifried, 2011). This "fan nation" inspiration led Beckerman to promote the Starter brand to professional sport managers in an attempt to differentiate Starter from other sport apparel brands (Sack & Nadim, 2002).

In the late 1970s, Starter paid royalties of eight to ten percent to professional leagues in order to manufacture and sell replicas of the uniforms worn by professional athletes and staff. Using high quality satin and emblazoning logos onto jackets and headgear under the correct color scheme for each professional and collegiate sports teams, Starter soon became nationally popular and the preferred clothing manufacturer for sport teams and members of their "fan nations" (Smart, 1993). According to Sack and Nadim (2002), Beckerman wanted the Starter brand not only to offer team merchandise, but also to sell 'fantasy.' "Starter is about making you feel good," Beckerman said earnestly. "It's about having a dream. It's about belonging. It's about Pavlov's dog" (Lioz, 1997, para. 4). Starter was the first company able to promote its products as 'official' team merchandise (Exhibit 2).

### **Exhibit 2. Starter Jacket Zipper and Official Licensed Product Badge**

Retrieved from [https://img0.etsystatic.com/040/0/7574270/il\\_570xN.633823430\\_q1ql.jpg](https://img0.etsystatic.com/040/0/7574270/il_570xN.633823430_q1ql.jpg)



Brian Jennings, Group Vice President for Consumer Products Marketing in the National Hockey League, suggested, “It would be only a slight overstatement to say that Beckerman created the licensed sports apparel industry” (personal communication, March 20, 2001; Sack & Nadim, 2002, p. 41).

Officially licensed merchandise meant that permission was granted to a specific company to use trademarked names or logos. For sports apparel, this meant creating a virtual copy of the clothing worn by professional players and coaches during games. Prior to Starter, consumers may not have been aware that “official” licensed merchandise was not the same as the uniforms used by teams. Beckerman and the Starter Company utilized this confusion to their advantage and were able to capitalize on it by obtaining licenses from major sport leagues (e.g., Major League Baseball, National Basketball Association, National Football League, National Hockey League) and over 150 colleges and universities, creating authentic products for the teams to use, and similar, but not authentic, high-quality products for members of their respective “fan nations” (Exhibit 3).

In 1986, Starter created locker room and/or warm-up t-shirts for National Basketball Association (NBA) teams, which later went for retail sale. Soon thereafter, Starter was contracted to make the pullover parkas and hats worn by National Football League (NFL) coaches and staff during their televised competitions. Both younger and older generations of fans responded with great enthusiasm and considered the jackets and hats “must haves” for fashion-conscious fans. By the end of the 1980s and beginning of the 1990s, Starter jackets retailed for as much as \$150 per item. Starter’s revenue grew from \$58.9 million in 1989 to \$124.6 million by 1990.

Starter developed a persuasive marketing plan with the creation of the S-star logo and corresponding slogan (Exhibits 4 and 5). Starter merchandise had its own a logo on

merchandise alongside the team symbols. By “double branding,” Beckerman sought to combine the company logo and slogan with the logos of the licensor to create significant brand awareness (D. Beckerman, August 25, 2000; Sack & Nadim, 2002, p. 41). Starter placed its “S and Star” logo in visible areas of clothing such as zippers, collars, jacket sleeves, and the back of baseball hats. Frequently, youth of the hip-hop generation of the early 1990s wore their hats backwards so one often saw the Starter logo before the name of the team (Sack & Nadim, 2002).

**Exhibit 3. Eastbay Catalog**

Retrieved from:

<http://www.buzzfeed.com/jpmoore/25-reasons-starter-jackets-were-the-coolest-things#.pmEnKa0bK>



In 1991, Starter secured product placement in the then popular television comedies *Seinfeld* (starring Jerry Seinfeld), *The Fresh Prince of Bel Air* (starring Will Smith), and *in Living Color* (featuring the Wayans Family) as well as in the blockbuster films *White Men Can't Jump* (starring Woody Harrelson and Wesley Snipes). This product placement, together with advertising campaigns on networks such as MTV and ESPN and in magazines contributed to the status of the brand. According to Starter's 1993 annual report, it was the goal of Starter to "translate the fans' enthusiasm for sports into a demand for sports-related products" and to increase the willingness of consumers to pay more for sport apparel branded with the Starter logo.

**Exhibit 4. Starter Logo**

Retrieved from: <http://www.starter.com/>



### Exhibit 5. Starter Slogan

Retrieved from <http://www.buzzfeed.com/jpmoore/25-reasons-starter-jackets-were-the-coolest-things#.pmEnKaObK>



By building of relationships with prominent sports leagues and superstars in the United States, Beckerman developed the Starter brand. With the creation of the S-star logo, Starter began to be recognized as the premier sport apparel company of the major sport leagues. The licensing deals with the NHL, NFL, and NBA increased the value of the Starter brand immediately through simple association. The visibility of brand was at a level that no other sport apparel brand had previously achieved. The term “Starter Jacket” (Exhibit 6) was almost as generic as other popular brand names such as Kleenex, Jell-O, and Xerox (Lioz, 1997).

### Exhibit 6. All-Stars of Various Sport Leagues

Retrieved from

<http://www.buzzfeed.com/jpmoore/25-reasons-starter-jackets-were-the-coolest-things#.pmEnKa0bK>



By 1993, the widespread recognition of the Starter name allowed it to compete successfully with long-surviving sport apparel brands such as Champion Products and the Russell Corporation. Merrill Lynch and Company was hired to create a prospectus for Starter's interest in going public with the organization during the early 1990s. The prospectus showed that the company grew from net sales of roughly \$800,000 in 1976 to \$282.7 million by 1992. In April

1993, David Beckerman decided to take the company public on the New York Stock Exchange and changed the name of the Starter Clothing Company to the Starter Corporation (Sack & Nadim, 2002). Roughly \$124.1 million in gains were produced immediately as the initial stock offer of \$21.50 a share rose to \$28 a share. The overall net income for Starter was \$26.2 million for 1993 (Starter Annual Report, 1993).

In 1994, Starter reported its first ever loss (\$4.8 million) in company history and its stock price fell to \$6.62 per share at the end of the year (Sack & Nadim, 2002). Some of the downturn had to do with changes in the sports environment as both Major League Baseball and the NHL went through reduced seasons due to their respective lockouts (Annual Industry Report, 1995). In 1997, a lockout by the NBA owners and unseasonably warm weather were also problematic for the brand (Sack & Nadim, 2002). Another variable contributing to the loss included increases in royalty fees in what had become a \$13.8 billion business (Annual Industry Report, 1995; Kimes, 2014). Merrill Lynch had predicted increases in royalty fees, and argued that such increases would increase costs and result in declining profit margins. Between 1990 through 1992, Starter's licensing fees increased from \$11.1 million to \$23.6 million, and in 1997 reached \$33.8 million (Starter Annual Report, 1997).

Beckerman reported other factors contributing to the losses including late deliveries by vendors, shipping delays, and the construction of a new product distribution center in Memphis. Regarding Memphis, in 1994 Beckerman stated, "We invested more than \$15 million in a distribution center... which is a state-of-the-art facility. At this time, it is partially in operation....so there's been a little frustration in terms of trying to get things up to speed as quickly as we would like" (Gaffney & Pesky, 1994, p. 62). However, Starter's loss of control of the licensed sports apparel business was the major reason for the decline. As an example, Logo 7 Inc. secured the NFL's official manufacturer license. Other companies such as Champion Products, Russell Corporation, Apex-One, The Game, and Salem Sportswear were also identified as fierce competitors (Starter Annual Report, 1994).

Competition increased for professional licenses, as professional leagues and colleges actively sought licensing deals to promote their products in order to increase the size of their “fan nations.” For instance, in 1996, NFL Properties offered 400 licenses to various manufacturers for roughly 4,000 products (Bednarek & Peterson, 1996). Licensed products flooded into stores. By the second quarter of 1994, Starter was showing a loss. Other companies such as Salem Sportswear and Apex went out of business. Starter’s Form 10-K from 1997 showed how expensive just the NBA license was: Starter paid the NBA a 15% royalty on apparel and 11% on other merchandise. Another \$7.45 million was also committed by Starter to the NBA to assist advertising, special events, and national telecasts. Finally, Starter was required to provide all necessary apparel for nine NBA teams (e.g., socks, t-shirts, warm-ups, practice clothing, etc.).

With the decline in the financial performance of the Starter Corporation, Beckerman stepped down as company President and brought in new executives to develop novel marketing strategies. The new management implemented new strategies in order to keep the brand alive, including deals with the famous athletes Emmitt Smith and Cal Ripken, Jr. and a partnership with the department store chain J.C. Penny to “take a player to school program.” However, the company continued to decline financially (Sack & Nadim, 2002, p. 41; Starter executive communication, April 4, 2001).

After the reported loss in 1997 of \$36.9 million (See Appendix), Beckerman decided to take over once again as President and predicted that it would take 10 to 12 months to return the company to profit (Sack & Nadim, 2002; Starter Annual Report, 1997). However, Beckerman was unable to restore Starter’s market success or eliminate its mounting losses. In late 1998, the Starter Corporation filed for Bankruptcy (Securities and Exchange Commission, 1997).

In 2004, Nike bought Starter for \$43 million. Three years later, the Iconix Brand Group acquired Starter from Nike for \$60 million (Nike, Inc., 2007).



What was once considered a pioneer in the professional sports league licensed apparel business was now without any licensed apparel agreements. Even though the Starter brand was not as popular as it once had been, Iconix appeared to accept that Starter could compete with large sport apparel rivals. In 2008, Iconix signed Dallas Cowboys pro-bowl quarterback Tony Romo to a 5-year endorsement deal worth \$10 million (Mullen, 2008). The deal was the largest endorsement deal in NFL history at the time and was meant to bring the Starter brand back into the forefront of consumers' minds by involving themselves with the starting quarterback of the self-proclaimed "America's team." Tony Romo appeared in a few advertisements, and also in headshots on the National Broadcasting Company (NBC) and Entertainment and Sports Programming Network (ESPN) networks wearing a backwards Starter cap as he had done when he was a youth. The company experienced a slight rejuvenation from the on-camera appearances by Romo. However, the tremendous gap between Starter and other sport apparel brands (i.e., Nike, Reebok, Adidas, Puma, Under Armor, etc.) was obvious.

The question before Banks and G-III Sports was whether or not nostalgia for Starter and its former apparel products was a viable strategy to help G-III's secure placement in department stores.

### **Embracing Nostalgia as a Marketing Strategy**

Sierra and McQuitty (2007) defined nostalgia "as a yearning for the past, or a fondness for tangible or intangible possession and activities linked with the past, that is experienced when individuals feel separated from an era to which they are attached" (p. 99). Holbrook and Schindler (1991) offered nostalgia as "a preference (general liking, positive attitude or favorable affect) towards objects (people, places or things) that were more common (popular, fashionable, or widely circulated) when they were younger (in early adulthood adolescence, in childhood, or even before birth)" (p. 330). Research indicated that nostalgia could influence

purchasing decisions; moreover, as Davis (1979) argued, nostalgia presented an opportunity to give a generation an identity among others historically. Holbrook and Schindler (2003) suggested that individuals possessed the ability to establish connections with tangible objects because of previous emotions and experiences. This occurred because an “object evokes, symbolizes, instantiates or otherwise captures some sort of lost but still-valued experiences – namely, those associated with a set of pleasurable or at least personally significant memories from the past” (Holbrook & Schindler, 2003, p.121).

Nostalgia had been examined in the marketing and consumer behavior research. For instance, the use of nostalgia had been studied in order to determine how an organization could motivate consumers to buy certain products and services (Funk & James, 2006; Goulding, 2001; Havlena & Holak, 1991, 1998; Holbrook, 1993; Pascal, Sprott, & Muehling, 2002). Ramshaw and Gammon (2005) stated, “Heritage often seeks to remember, enliven, teach – and even create – personal and collective legacies for contemporary audiences. Its purpose is often to celebrate the achievements, courage, and strength of those who have come before” (p. 230).

Iconix’s Starter updated the company website and alluded to its illustrious past. Company executives proclaimed, “Starter stands for heritage.”

The legacy of the Starter brand might be forgotten considering that products were no longer as visible as they once had been. A search using the keywords “Starter Jacket” or “Starter Hat” at the EBay website yielded products with bids ranging from \$10 to \$150, suggesting that there was nostalgic value with these products from highly identified sports fans (Exhibits 7 and 8).

Banks needed to determine whether or not G-III Sports could use nostalgia to its advantage and begin re-building the Starter brand by displaying Starter’s history to consumers. If the company could accomplish this task, then there was a chance that Starter could be commercially relevant once again. Seifried and Meyer (2010) showed the potential of such ‘retro’ products during

their study of Major League Baseball ballparks when they suggested that nostalgia “provides a tangible center for the sport legacy of a community to demonstrate the existence of a cultural heritage for a fan nation” (p. 64).

### Exhibit 7. Vintage Chicago Bulls Starter Jacket

Retrieved from:

<http://blog.craniumfitteds.com/wp-content/uploads/HLIC/240004fe49d72f13d1a39d2a60a7c472.jpg>



### Exhibit 8. Starter Hats

Retrieved from

<http://s117.photobucket.com/user/colonskicks/media/starter%20hats/PB080022.jpg.html?t=1259500807>



## The Starter is Back

After significant debate, Carl Banks decided, “With a history dating back to the 70’s, the convergence of sports, fashion and entertainment was created and defined by Starter, which paved the way for many brands to follow suit. The Starter jacket was a beacon of 80’s and 90’s fashion and we can’t wait to bring it back with contemporary styling and a modern athletic fit” (“The Starter is back”, 2014, para. 3). Iconix president Seth Horowitz stated, “Anything from the '80s today is seen as cool [...]. Those who remember the times strongly associate with it. For those who are too young, they're already into the snap-back hat craze” (Rovell, 2013, para. 5).

In the end, the two companies teamed up to release a new line of Starter clothing apparel in fall 2013 with jackets of NFL and NBA teams (Rovell, 2013). When he announced the agreement between the two companies and the NBA to bring back NBA Starter Jackets, Banks stated, “We are excited to work with the NBA to celebrate basketball fandom and reintroduce the iconic Starter Jacket [...]. We look forward to honoring the brand's sports heritage and fashion tradition, while also reaching a new generation” (PR Newswire, 2013, para. 2).



**Brian P. Soebbing**, PhD, is an Assistant Professor in the Faculty of Physical Education and Recreation at the University of Alberta. His research interests include the strategic behavior of sports organizations and their constituents, as well as the social and economic impacts of gambling.



**Chad Seifried**, PhD, is the L.M. "Pat" and Mildred Harrison Endowed Professor in the School of Kinesiology at Louisiana State University. His major research interests embrace the use of historical methods to review the management history associated with organizations, individuals, and sport facilities to help highlight the contribution of history within contemporary management settings.



**Adam G. Pflieger**, PhD, is an Assistant Professor of Sport Administration at Belmont University. Dr. Pflieger's research interests and expertise include ethics and philosophy of sport, sport history, and sport and recreation facilities.



**Khirey Walker** is a doctoral candidate in the School of Kinesiology (Sport Management concentration) at Louisiana State University. His dissertation explores the role of social control agents and how they influence and punish misconduct of organizations and individuals.

**Appendix**  
**Starter Corporation Financial Statements**  
**(in thousands of U.S. dollars, except share data)**

STARTER CORPORATION CONSOLIDATED BALANCE SHEETS

	September 30, 1998	December 31, 1997	September 30, 1997
	-----	-----	-----
ASSETS			
Current assets:			
Cash and cash equivalents	\$ 3,612	\$ 149	\$ 3,824
Accounts receivable - trade, less allowance for doubtful accounts of \$4,000 at September 30, 1998, \$3,800 at December 31, 1997 and \$3,500 at September 30, 1997	82,439	38,424	96,056
Inventories	99,401	71,940	95,227
Prepaid expenses and other assets	7,669	11,888	12,603
Current deferred income taxes			6,470
	-----	-----	-----
Total current assets	193,121	122,401	214,180
Plant and equipment	35,029	36,197	35,607
Less accumulated depreciation	(11,189)	(9,691)	(8,979)
	-----	-----	-----
Plant and equipment, net	23,840	26,506	26,628
Other assets, net	18,927	11,614	14,102
	-----	-----	-----
Total assets	\$ 235,888	\$ 160,521	\$ 254,910
	=====	=====	=====

## Appendix, cont.

STARTER CORPORATION CONSOLIDATED BALANCE SHEETS (continued)  
(in thousands, except share data )

	September 30, 1998	December 31, 1997	September 30, 1997
	-----	-----	-----
LIABILITIES AND STOCKHOLDERS' EQUITY			
Current liabilities:			
Notes payable to banks	\$ 115,633	\$ 41,624	\$ 82,470
Accounts payable	15,548	16,600	18,641
Accrued commissions	3,103	1,830	3,052
Accrued licensing fees	12,383	4,788	11,579
Accrued expenses	21,127	14,482	25,215
Accrued advertising	4,019	8,181	6,394
Current portion of long-term debt	912	939	351
	-----	-----	-----
Total current liabilities	172,725	88,444	147,702
Long-term debt, less current portion	5,194	4,642	5,128
	-----	-----	-----
Total liabilities	\$ 177,919	\$ 93,086	\$ 152,830
Stockholders' equity:			
Convertible Preferred Stock (par value \$.01)			
5,000,000 authorized shares	--	--	--
Common Stock (par value \$.01)			
50,000,000 shares authorized; issued			
27,904,878 at September 30, 1998,			
27,872,232 at December 31, 1997 and			
27,863,070 at September 30, 1997	279	279	279
Additional paid in capital	82,861	82,774	82,743
Retained earnings (deficit)	(25,171)	(15,618)	19,058
	-----	-----	-----
Total stockholders' equity	57,969	67,435	102,080
	-----	-----	-----
Total liabilities and stockholders' equity	\$ 235,888	\$ 160,521	\$ 254,910

**Appendix, cont.**

STARTER CORPORATION  
MANAGEMENT'S DISCUSSION AND ANALYSIS OF  
FINANCIAL CONDITION AND RESULTS OF OPERATIONS  
September 30, 1998

General

The Company's business is seasonal with higher sales reported in the second half of the year due to the higher price points of a significant portion of the Company's products which are sold during the fall and holiday seasons. The seasonality of the Company's business also affects borrowings under the Company's Credit Facility. The amount outstanding under the Credit Facility fluctuates as a result of seasonal demands for the Company's products. Traditional quarterly fluctuations in the Company's business may vary in the future depending upon, among other things, changes in order cycles and product mix.

The Company's business is vulnerable to a number of factors beyond its control. These include: (1) player strikes, (2) owner lockouts including the present NBA lockout, (3) work stoppages, (4) the granting of additional licenses to competitors, some of which have greater financial resources and manufacturing capabilities than the Company, and (5) changes in consumer tastes and enthusiasm for spectator sports. The Company's business can also be affected by other matters which impact the retail marketplace, including increased credit and inventory exposure, consolidation and resulting decline in the number of retailers and other cyclical economic factors. The Company seeks to minimize inventory exposure by encouraging retailers to place orders five to six months in advance of the date products are scheduled to be delivered. This provides the Company with better information to purchase product for its reorder business.

The current NBA lockout is expected to have a negative impact on net sales and operating results for the foreseeable future. The Company may be exposed to excess NBA-related inventory should the lockout continue. However, the timing of the ultimate NBA settlement, and its impact on the resumption of NBA sales and inventory exposure cannot be estimated at this time.

The Company recently announced it would no longer sell authentic and replica NHL jerseys after the Company's current contract expires, because the financial requirements in the proposed new contract did not provide an adequate return on capital. As a result, the Company's NHL sales and related operating income for the second half of 1999 are expected to decline.

A substantial portion of the Company's products are manufactured through arrangements with independent contractors located in foreign countries. In addition, the Company's import operations are subject to constraints imposed by bilateral textile agreements between the United States and a number of foreign countries. The agreements impose quotas on the amount and type of goods which can be imported into the United States from these countries. The Company's operations may be adversely affected by political instability resulting in the disruption of trade from foreign countries in which the Company's contractors and suppliers are located, the imposition of additional regulations relating to imports, or duties and taxes and other charges on imports. The Company is unable to predict whether any additional regulations, duties, taxes, quotas or other charges may be imposed on the importation of its products. The assessment of any of these items could result in increases in the cost of such imports and affect the sales or profitability of the Company. In addition, the failure of one or more manufacturers to ship some or all of the Company's orders could impact the Company's ability to deliver products to its customers on time. Delays in delivery could result in missing certain retailing seasons with respect to some or all of the Company's products or could otherwise adversely affect the Company.



### Appendix, cont.

This discussion contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. Actual results could differ materially from those set forth in such statements due to various factors. Such factors include product demand and market acceptance risks, the effect of changing economic conditions, the impact of competitive products and pricing risks associated with product development and the effect of the Company's accounting policies and other risk factors detailed above.

#### Results of Operations

The Company had a net loss of \$36.9 million for the year ended December 31, 1997 as a result of rapid unexpected deterioration in the athletic apparel industry during 1997 and the resulting decreases in sales levels and margins. These decreases resulted in the inability of the Company to recover its fixed selling, general and administrative expenses, which had increased significantly in 1997 due to investments made in anticipation of growth in sales. In 1996 and 1997, the Company made investments and built an infrastructure to support a business that had experienced growth in the past and was expected to continue to grow. In addition to anticipated general growth arising from the industry as a whole, the Company believed that its acquisitions provided a vehicle to support further increases in its market share. The market place began to soften in the second half of 1997 and, at that time, the Company began a plan to reduce selling, general and administrative expenses. Several changes were made in the management team, including the elimination of several positions. The cost containment initiatives are expected to result in reduced costs during 1998 via reductions in the Company's workforce, reductions in unprofitable outlet store operations, more cost effective marketing initiatives and other spending reductions. The majority of these cost reductions will be realized in the second half of 1998.

For the nine-month period ended September 30, 1998, the Company was not profitable and is not expected to be profitable for the year. While the cost containment initiatives have resulted in reduced costs, continued consolidation at retail, contraction of the licensed apparel market and above average temperatures in 1998 have led to decreased sales and increased margin deterioration. The Company is continuing to evaluate strategic and financial alternatives to enhance its operations, ensure it has adequate working capital and to return the Company to profitability. However, there can be no assurance that these strategic alternatives and cost containment initiatives will result in the Company's return to profitability.

Net sales for the three and nine month periods ended September 30, 1998 decreased approximately 14.2%, or \$21.3 million, and 9% or \$24.3 million, respectively, as compared to the three and nine month periods ended September 30, 1997. The decreased sales are primarily attributable to reduced consumer demand for licensed apparel products, primarily insulated outerwear. Also contributing to the sales decline for the three-month period ended September 30, 1998 were decreased NBA sales due in part to the ongoing NBA lockout. These decreases were partially mitigated by improved performance and printable sales.

The gross profit margin as a percentage of net sales for the three and nine month periods ended September 30, 1998 decreased to 32.5% and 30.6% respectively, as compared to 34.2% and 31.5% for the three and nine month periods ended September 30, 1997. The decreased gross margin as a percentage of net sales was primarily attributed to reduced volume and lower wholesale prices for insulated outerwear. The decreased volume resulted in the lower absorption of overhead costs for the three and nine-month period ended September 30, 1998.

Royalty income for the three and nine month periods ended September 30, 1998 increased to \$1.1 million and \$2.7 million, respectively, as compared to \$.8 million and \$2.6

million for the three and nine month periods ended September 30, 1997, primarily as a result of increased domestic licensees.

#### Appendix, cont.

Selling, general and administrative expenses were \$33.5 million, or 26.2%, of net sales and \$80.4 million, or 32.8%, of net sales for the three and nine month periods ended September 30, 1998, respectively, as compared to \$40.7 million, or 27.3%, of net sales and \$86.9 million, or 32.2%, of net sales for the comparable prior year periods. Royalties as a percentage of net sales increased to 10% for the three and nine month periods ended September 30, 1998 as compared to 8.7% and 8.3% of net sales for the three and nine month periods ended September 30, 1997, respectively. The increased royalty percentage results from increased licensed sales as a percent of total sales and increased royalty rates associated with certain player identified merchandise. All other selling, general and administrative expenses declined to \$20.8 million, or 16.2%, of net sales and \$56.0 million or 22.8%, of net sales for the three and nine month periods ended September 30, 1998, respectively, as compared to \$27.8 million, or 18.6%, of net sales and \$64.4 million, or 23.9%, of net sales for the three and nine month periods ended September 30, 1997, respectively. The other selling, general and administrative decreases are primarily related to the realization of certain containment initiatives such as reduced marketing costs and salaries.

Interest expense for the three and nine month periods ended September 30, 1998 was \$3.1 million and \$6.8 million, respectively, up from \$1.8 million and \$4.3 million for the comparable prior year periods, primarily due to increased interest rates and increased average borrowings needed to finance operations.

Income tax expense for the three and nine month periods ended September 30, 1998 consisted primarily of minimum state taxes. At December 31, 1997, the Company recorded deferred tax asset valuation allowances for certain tax benefits, including those tax benefits previously recorded during the nine-month period ended September 30, 1997.

#### Liquidity and Capital Resources

The Company's working capital at September 30, 1998 was \$20.4 million as compared to \$34.0 million at December 31, 1997 as a result of the net loss. Cash used by operations for the nine-month period ended September 30, 1998 increased to \$63.5 million as compared to cash used by operations of \$49.7 million for the nine-month period ended September 30, 1997, primarily due to the operating loss of \$9.6 million.

On March 31, 1998 the Company's Credit Facility was amended to provide for, among other items, an increase in permitted overadvances, increased advance rates and the elimination of certain financial covenants. The \$130,000,000 Credit Facility provides for a seasonal increase up to a maximum \$160,000,000 from April 1 through January 15 of each year; however, obligations outstanding under the Credit Facility cannot exceed \$85,000,000 for a period of 30 days during the first quarter of each year. Borrowings under the Credit Facility are subject to various limitations based upon eligible receivables and inventory, as defined in the Credit Facility, of the Company and its subsidiaries. Additionally, the Credit Facility provides for permitted overadvances of \$22,000,000 to fund seasonal working capital requirements from January 1 to October 15 of each year. From October 15, 1998 to December 31, 1998 the permitted overadvance decreases to \$7,500,000. Under terms of the Credit Facility, the Chairman and Chief Executive Officer of the Company (the "guarantor"), who is also the majority stockholder of the Company, has guaranteed up to \$22,000,000 of the Credit Facility. The guarantee may be terminated upon written notice to the banks by the guarantor. However, it is not the intent of the guarantor to terminate the guarantee during 1998. Any reduction in the guarantee will simultaneously reduce dollar for dollar the amount of any permitted overadvance. The Credit Facility, which expires on March 31, 2001, contains a covenant requiring minimum net worth of \$45 million plus 50% of the Company's cumulative net income, if any, for each fiscal year ending on or after

**Appendix, cont.**

December 31, 1998. The covenant is to be tested annually at the end of each fiscal year of the Company. The Credit Facility further places restrictions on distributions, mergers and asset acquisitions, as defined in the Credit Facility, and requires the

Company to enter into interest rate protection arrangements satisfactory to the banks for a notional amount of \$35,000,000. The Credit Facility also contains customary

events of default, as defined in the Credit Facility. The termination of the guarantee by the guarantor is an event of default under the Credit Facility.

Management expects that the Company will be able to comply with the terms of the Credit Facility throughout the remainder of 1998.

Amounts outstanding under the Credit Facility accrue interest at either the bank's base rate plus 1% or at LIBOR plus 3%, at the Company's option. The Company is required to pay a 2% fee on the face amount of each letter of credit issued under the Credit Facility and an annual fee, which can range from .375 to .5 percentage points, as defined in the Credit Facility, on the Credit Facility.

In addition, the Company was required to pay a transaction fee of 2% on the maximum available Credit Facility to the banks in connection with the amended agreement. The Credit Facility is secured by substantially all of the Company's assets.

At September 30, 1998, \$115,633,000 is outstanding under the Credit Facility. Additionally, \$6,931,000 has been committed under the Credit Facility for letters of credit related to vendors' orders for which the Company will become liable at the time these orders are shipped and \$20,051,000 is available for additional borrowing. At November 6, 1998 availability under the Credit Facility was \$14,100,000.

Cash generated from operations, together with the Company's existing Credit Facility, is expected, under current conditions, to be sufficient to finance the Company's planned operations in 1998.

**Year 2000 Conversion**

The Company recognizes the need to ensure that its systems, applications and hardware will recognize and process transactions for the year 2000 and beyond.

In continuing efforts to become more productive and competitive, the Company began in 1997 to replace significant portions of its software and some of its hardware so that its computer systems will function properly with respect to dates related to the year 2000 and beyond. The Company also has initiated discussions with its significant suppliers, customers and financial institutions to ensure that those parties have appropriate plans to remediate Year 2000 issues when their systems interface with the Company's systems or may otherwise impact operations. The Company is assessing the extent to which its operations are vulnerable should those organizations fail to properly remediate their computer systems.

The Company's comprehensive system conversion initiative, which encompasses Year 2000 issues, is being managed by a team of experienced internal and external professionals. The team's activities are designed to ensure that there is no adverse effect on the Company's core business operations and that transactions with customers, suppliers, financial institutions, and other third parties with which the Company has material relationship are fully supported. The initiative encompasses all business systems, including administrative, manufacturing and distribution equipment that utilize microprocessors. Project completion is expected by early 1999. While the Company believes its plans are adequate to address its Year 2000 concerns, many factors could affect its ultimate success including, but not limited to, the continued availability

**Appendix, cont.**

of outside resources and sufficient financing. The Company is unable to predict the effect on its results of operations, liquidity and financial condition in the event that it is unable to address its Year 2000 concerns successfully. The conversion initiative project is not expected to exceed \$11.5 million in cost. This cost range is

based on management's best estimates, which were derived utilizing assumptions about future events. The results could differ materially from those anticipated subject to uncertainties regarding the availability of resources and the impact of the issue on key suppliers, customers and other third parties. Through September 30, 1998, the Company has incurred costs of \$7,800,000 related to the project. Funding requirements for the conversion initiative have been incorporated into the Company's capital and operating plans, and are not expected to have a material adverse impact, at this time, on the Company's financial condition or liquidity.

The Company recognizes the need to develop a contingency plan in the event the Company's conversion initiative project is not successfully implemented. In connection therewith, the Company intends to complete a contingency plan by the end of the second quarter of 1999 which will allow its primary business operations to continue despite disruptions due to year 2000 problems. As the Company continues to evaluate the year 2000 readiness of its business systems and facilities, products and significant suppliers, vendors, customers and other third parties with which it has material relationships, it will modify and adjust its contingency plan accordingly.

## References

- About us. (2015). Starter. Retrieved from: <http://www.starter.com/nfl/about-us/>.
- Annual industry report. (1995). Team Licensing Business, 22-37.
- Bednarek, M., & Peterson, R. (1996). The North American sports explosion, *Managing Intellectual Property*, 60, 34-38.
- Clopton, A., & Finch, B. (2011). Re-conceptualizing social anchors in community development: Utilizing Social Anchor Theory to create social capital's third dimension, *Community Development*, 42, 70-83.
- Foster, W. M., & Hyatt, C. (2008). Inventing team tradition: A conceptual model for the strategic development of fan nations, *European Sport Management Quarterly*, 8, 265-87.
- Funk, D., & James, J. (2006). Consumer loyalty: The meaning of attachment in the development of sport team allegiance, *Journal of Sport Management*, 20, 189-217.
- Gaffney, A., & Pesky, G. (1994, July). The SGB interview: David Beckerman, President and CEO, Starter Corp., *Sporting Goods Business*, p. 62-63.
- Goulding, C. (2001). Romancing the past: Heritage visiting and the nostalgic consumer, *Psychology and Marketing*, 18, 565-592.
- Havlena, W.J., & Holak, S.L. (1991). The good old days: Observations on nostalgia and its role in consumer behavior. In R. Holman and M. Solomon (Eds.), *Advances in Consumer Research* (pp. 323-329). Provo, UT: Association for Consumer Research.
- Heitner, D. (2014, June 17). Sports licensing soars to \$698 million in royalty revenue, *Forbes.com*. Retrieved from <http://www.forbes.com/sites/darrenheitner/2014/06/17/sports-licensing-soars-to-698-million-in-royalty-revenue/>
- Holbrook, M.B. (1993). Nostalgia and consumption preferences: Some emerging patterns of consumer tastes, *Journal of Consumer Research*, 20, 245-256.
- Holbrook, M.B., & Schindler, R.M. (2003). Nostalgic bonding: exploring the role of nostalgia in the consumption experience, *Journal of Consumer Behavior*, 3, 107-127.
- Kimes, M. (2014, August 8). In search of Starter: Fifteen years after Starter went under, the fluorescent jackets' appeal is still strong, *ESPN The Magazine*. Retrieved from [http://espn.go.com/espn/story/\\_/id/11308395/starter-jackets-hold-nostalgic-appeal-espn-magazine](http://espn.go.com/espn/story/_/id/11308395/starter-jackets-hold-nostalgic-appeal-espn-magazine)
- Lioz, F. (1997, March 10). Sports apparel and high school hoops. SI.com. Retrieved from <http://www.si.com/vault/1997/03/10/223662/this-coach-knows-clothes-david-beckerman-ceo-of-starter-scores-in-sports-apparel-and-high-school-hoops>
- Merrill Lynch and Company. (1993). *Starter prospectus*. New York: Author.
- Mullen, L. (2008). Starter near deal with Romo, *Street & Smith's Sports Business Journal*, 11(10), 1-34.
- Mullin, B., Hardy, S., & Sutton, W. A. (2014). *Sport marketing* (4th ed.). Champaign, IL: Human Kinetics.
- NFL shop. (2015). NFL.com. Retrieved from <http://www.nflshop.com/>
- Nike, Inc. (2007, November 15). Nike sells Starter to Iconix Brand Group. Retrieved from <http://nikeinc.com/news/nike-sells-starter-to-iconix-brand-group>

- Pascal, V.J., Sprott, D.E., & Muehling, D.D. (2002). The influence of evoked nostalgia on consumers' responses to advertising: An exploratory study, *Journal of Current Issues and Research in Advertising*, 24, 39-49.
- Ramshaw, G., & Gammon, S. (2005). More than just nostalgia? Exploring the heritage/sport tourism nexus, *Journal of Sport Tourism*, 10, 229-241
- Rovell, D. (2013, February 13). Carl Banks relaunching satin Starter jackets. ESPN.com.  
Retrieved from [http://espn.go.com/blog/playbook/dollars/post/\\_/id/2903/carl-banks-relaunching-satin-starter-jackets](http://espn.go.com/blog/playbook/dollars/post/_/id/2903/carl-banks-relaunching-satin-starter-jackets)
- Sack, A. L., & Nadium, A. (2002), Strategic choices in a turbulent environment: A case study of tourism nexus, *Journal of Sport Management*, 16, 36-53.
- Sage, G. H., & Eitzen, D. S. (2013). *Sociology of North American sport*. New York: Oxford University Press.
- Securities and Exchange Commission. (1997). Form 10-K for Starter Corporation.
- Seifried, C. (2011). Sport facilities as a broadcast studio for human extensibility? GIS-based diagrams of a high and low-identified fan, *Journal of Sport Management*, 25, 515-530.
- Seifried, C. S., & Clopton, A. W. (2013). An alternative view of public subsidy and sport facilities through Social Anchor Theory, *City, Culture, & Society*, 4, 49-55.
- Seifried, C. S., & Meyer, K. (2010). Nostalgia-related aspects of professional sport facilities: A facility audit of Major League Baseball and National Football League strategies to evoke the past, *International Journal of Sport Management, Recreation & Tourism*, 5, 51-76.
- Sierra, J.J., & McQuitty, S. (2007). Attitudes and emotions as determinants of nostalgia purchases: An application of Social Identity Theory, *Journal of Marketing Theory and Practice*, 15, 99-112.
- Smart, T., & Recio, I. (1993, April 5). A sportswear house with major-league dreams, *Business Week*, p. 62.
- Starter Annual Reports. (1993-1997). New Haven, CT.
- The Starter jacket is back. (2014, January 30). Starter, Retrieved from <http://www.starter.com/news/the-starter-jacket-is-back/>
- Starter returns to courtside action with new line of NBA jackets. (2013, February 14). *PR Newswire*, Retrieved from <http://www.prnewswire.com/news-releases/starter-returns-to-courtside-action-with-new-line-of-nba-jackets-191201011.html>

## **ATIKOKAN IN CRISIS: A COMMUNITY STRATEGIC DECISION**

**A. SCOTT CARSON  
ERICA YOUNG  
JEFFREY A. DIXON**  
Queen's University

***“Climate change is the defining issue of our generation – we’ve come a long way, but we have more to do, together. By putting Ontario at the forefront of green innovation, we can meet our responsibility to the generations to come and create jobs and new opportunities for people today.”***

– Ontario Premier Dalton McGuinty

In June 2009, Dennis Brown, Mayor of the small, remote town of Atikokan in northwestern Ontario, was evaluating the strategic options to address the potentially dire consequences of Premier McGuinty’s environment policy. The Government’s plan to make Ontario the North American leader in arresting the growth of air pollution involved among other things the closure of all provincially owned and operated coal-fired power generation stations. Atikokan was home to one of those stations, the only remaining large employer in the town. The closure of the station would remove a mainstay of the local economy. Thunder Bay, the closest urban center, was 200 km away, so alternative large employers for Atikokans were far away (see Exhibit 1). The original deadline for plant closures had been 2007, but that had been extended to 2014 to allow Atikokan time to adjust. But adjust to what?

---

The authors developed the case for class discussion rather than to illustrate either effective or ineffective handling of the situation. The case and its accompanying instructor's manual were anonymously peer reviewed and accepted by the *Journal of Case Research and Inquiry*, Vol. 2, 2016, a publication of the Western Casewriters Association. The authors and the *Journal of Case Research and Inquiry* grant state and nonprofit institutions the right to access and reproduce this manuscript for educational purposes. For all other purposes, all rights are reserved to the authors. Copyright © 2016 by A. Scott Carson, Erica Young, Jeff Dixon. Contact: A. Scott Carson, Queen’s School of Business, Goodes Hall, Queen’s University, Kingston, ON K7L 3N6, (613) 533-3318, [scarson@business.queensu.ca](mailto:scarson@business.queensu.ca)

After nearly three years of planning discussions, Mayor Brown, the Town Council, and the Atikokan Economic Development Corporation headed by Garry McKinnon, were still undecided about how to proceed. Initially they wondered about the moral justification for a government knowingly harming its own citizens through public policy. They considered shaming the Ontario government into giving their community a reprieve,<sup>1</sup> but the mayor and his colleagues ultimately rejected that idea. They had to admit that the province was taking responsibility. Not only had it extended its closure deadline for Atikokan, but it had also attempted to mitigate potential harm. The Ontario and federal government jointly funded two consultants to make recommendations with respect to Atikokan's economic options: Quadra Consulting Group/William L. Lees & Associates, and Patrick Reid and Associate. (See Appendix B for the consultants' combined report). Brown and McKinnon knew that time was passing and decisions needed to be made. The extended 2014 deadline seemed far away, but major changes to the economic structure of the community required long timelines. As the mayor was fond of saying, "People want to see results now and unfortunately it doesn't happen."

### Exhibit 1 Canada Map Showing Location of Atikokan



Source: Google Maps



Brown and McKinnon divided the consultants' recommendations into two groups: those they thought to be important to building support services, enabling factors and infrastructure for economic growth; and four alternatives for business growth. The latter included:

- **Forest products.** This plan linked a rejuvenation of the region's existing sawmills and local fiberboard manufacturing facility with the potential development of a new laminated veneer lumber plant.
- **Energy.** Opportunities included developing new co-generation and run-of-the-river power generation facilities. The energy option could also involve converting the existing Ontario Power Generation (OPG) station from coal to biomass<sup>2</sup> wood pellets. This would require refitting the existing boilers to burn wood instead of coal, then establishing the most efficient form of heat generating wood pellets into which the wood-waste would be converted. Conversion to wood burning would avert the station's closure while complying with environmental regulations.
- **Mining.** With large known iron ore deposits, international prices rising, new survey techniques and technologies, and increasing entrepreneurial exploration activity in the region, a renewed focus on mining looked promising.
- **Tourism and recreation.** This would involve expanding the outdoor hunting, fishing and recreational experiences, capitalizing on the proximity of Quetico Provincial Park, developing Atikokan's existing cultural and heritage tourism facilities, and developing cottage lots on certain of the region's many lakes.

Brown and McKinnon needed to decide which ones held the greatest strategic promise. In addition, they were aware that other similar communities in distress, such as Elliot Lake and Prince Edward County (see Exhibits 2 and 3), were pursuing industry cluster strategies. Could any of the four alternatives, or some combination, be developed into a viable cluster?

**Exhibit 2**  
**Population: Atikokan, Elliot Lake and Prince Edward County, Ontario**

Population and dwelling counts	Atikokan Township	Elliot Lake City	Prince Edward
Population in 2006	3,293	11,549	25,496
Population in 2001	3,632	11,956	24,901
2001 to 2006 population change (%)	-9	-3	2
Total private dwellings	1,535	6,061	12,055
Private dwellings occupied by usual residents	1,418	5,647	10,319
Population density per square kilometer	10	17	24
Land area (square km)	317	698	1,050

**Exhibit 3**  
**Age and Gender of Population: Atikokan, Elliot Lake and Prince Edward County, Ontario**

Atikokan Township				Elliot Lake City			Prince Edward		
Age	Total	Male	Female	Total	Male	Female	Total	Male	Female
Total population	3,295	1,635	1,660	11,550	5,555	5,990	25,500	12,450	13,050
0 to 4 years	170	80	90	310	160	155	935	490	445
5 to 9 years	185	85	100	375	200	180	1,145	600	545
10 to 14 years	205	110	90	550	290	265	1,595	830	765
15 to 19 years	220	115	105	670	335	325	1,655	890	765
20 to 24 years	175	85	90	415	205	205	1,190	590	600
25 to 29 years	140	70	75	320	140	180	885	425	460
30 to 34 years	165	95	75	335	165	170	1,015	485	535
35 to 39 years	225	100	125	405	185	225	1,295	630	665
40 to 44 years	280	140	140	665	310	355	1,885	885	1,000
45 to 49 years	300	170	135	875	400	475	2,120	1,025	1,095
50 to 54 years	265	135	130	885	415	475	2,085	980	1,105
55 to 59 years	220	115	110	960	430	525	2,235	1,100	1,135
60 to 64 years	160	80	85	1,120	505	615	1,905	910	995
65 to 69 years	140	65	80	1,260	625	630	1,595	810	780
70 to 74 years	140	70	70	1,075	555	525	1,415	710	705
75 to 79 years	140	65	75	750	395	360	1,155	570	580
80 + years	160	50	100	565	240	325	1,390	520	860
Median age	43	42.7	43.3	54.8	54.7	54.8	47.7	47.1	48.4
% population >=15	83.1	83.1	83.1	89.3	88.4	90	85.6	84.6	86.5

## Atikokan, Ontario

Surrounded by the pristine evergreen forests and lakes of northwestern Ontario, Atikokan was a remote fur-trading center until the mid-19<sup>th</sup> century. It later developed as a mining town in the first half of the 20<sup>th</sup> century. In 1950, The *Toronto Star Weekly* named Atikokan a “Boomtown with a future.” The exploration and extraction of large ore bodies found in the Atikokan area led to rapid expansion of the town’s infrastructure and population. To support the mines, a robust logging and sawmill industry developed. By the early 1960s, Atikokan’s population had reached 7,000 people.

However, by 1979 the two iron ore mines that had driven Atikokan’s dramatic growth had both closed. Further, the main lumber mill was shuttered because of poor market conditions for softwood, and the local fiberboard plant had filed for bankruptcy. Predictably, local businesses and retailers struggled to survive as the local population dwindled. By 1996, Atikokan’s population had fallen to 4,050 and ten years later to 3,293. With a continuing out-migration of those under 40, the population was projected to continue downward as workers looked to opportunities in the burgeoning oil industry of Western Canada for jobs.

There remained - at least for now - one significant economic entity, the Atikokan coal-fired power generating station. Unlike the other three Ontario coal generators, which were near urban centers, the Atikokan station was located in a remote one-industry town. If it closed, where would the workers go? One study estimated that the plant closure would lead to a departure of families that would place one in eight houses on the market and depress home values by 40-70%. In addition, it would reduce the local school population by 20%, which in turn would lower the need for teachers. As the population dwindled, the quality of health, safety and recreational services would be hard to maintain.<sup>3</sup> Further, there could be negative

consequences for a major transportation artery with unfavorable implications for future economic opportunity. Canadian National Railway (CN) maintained a link to Atikokan to bring in coal to the power generator. If the station closed, continuing the rail connection would be hard for CN to justify. Clearly, the government's environmental sustainability policy had well-intended consequences for the citizens of Ontario and beyond. Nevertheless, it held potentially devastating outcomes for the existence of the community of Atikokan.

### Atikokan's Economic History

The indigenous peoples of the Atikokan region were the Ojibwa. Their economic relation to the French throughout the latter part of the 18<sup>th</sup> century was the fur trade.<sup>4</sup> After the fur trade's decline in the 1850s, Atikokan's economy developed along a resource-based path. Mining became its primary economic driver accompanied by lumber and forestry-related products second. As the resource-based economy waned, the Ontario government established a third path, the coal-fired power generation station.

In the late 1800s, gold was found approximately 45 miles southeast of Atikokan, and mining operations developed in the decades that followed. More significantly, a vast deposit of iron ore was discovered under Steep Rock Lake in 1930. In the 1950s, two mines were operating which by the early 1970s employed 1,400 workers, about 60% of Atikokan's workforce. However, the discovery of lower grade ore in Minnesota to the south, combined with new ore processing technology, made mining at Steep Rock uneconomical. Both mines were closed by 1980.<sup>5</sup>

The mining operations required a large quantity of softwood lumber, so numerous lumber mills grew in the surrounding area. The first large-scale stationary mill was constructed in 1945 at

Sapawe Lake. At capacity, it produced 160 million board feet of lumber annually and employed roughly 200 workers. In 1976, Fibratech Manufacturing, Inc. (then called Proboard Ltd.) was established to make particleboard from fiber supplied by Sapawe and other area sawmills. Fibratech, too, was a large employer with approximately 140 workers. However, like the mines, the forest products sector declined and Fibratech filed for bankruptcy in 2007, followed soon by the closure of the Sapawe sawmill.

Ontario Hydro (now Ontario Power Generation, or OPG) began construction of a coal-fired generation facility in 1978 that employed about 800 construction workers. The station received its first trainload of coal in time for the opening in 1984. As an employer, it was smaller than either the mines or forest products operations, but it provided jobs for roughly 100 skilled workers. However, as Atikokans were soon to learn, its future was perilous.

Although not likely to have been thought important three decades earlier, the boilers in the power station were designed to not only burn coal, but also wood waste. Could biomass pellets replace coal in the power generation process?

### **Environmental Sustainability and Ontario Government Policy**

In 1997, Canadian Prime Minister Jean Chrétien's Liberal government ratified the Kyoto Protocol thereby pledging to reduce carbon emissions to specified levels. The successor Conservative government of Steven Harper determined that meeting the stringent targets would have materially negative effects on the economy, so his government was not prepared to implement a program to meet the Protocol targets.

Ontario Premier Dalton McGuinty's government took a more aggressive environmental stance.<sup>6</sup> In June 2005, it announced a plan to replace all coal-fired generation in Ontario with cleaner sources of energy.<sup>7</sup> By these measures, the government was seeking to reduce greenhouse gas emissions in Canada by up to 30 megatons a year, the equivalent of taking almost seven million cars off the road. The closure of the coal-fired generating stations was expected to provide up to half of the province's greenhouse-gas-reduction contributions under the Kyoto Protocol.<sup>8</sup> Ontario's future electricity would be delivered through a more balanced supply, moving away from coal in favor of new nuclear and renewable energy sources.

### **Crisis and Strategic Response**

The town of Atikokan engaged Quadra Consulting Group/William Lees & Associates and Patrick Reid and Associates using \$400,000 of federal and provincial grants to prepare an economic development plan to counteract the negative economic impact of closing the power generating station. To oversee the strategic planning project, a committee was formed comprising representatives of the Council, Atikokan Economic Development Corporation, local businesses and other citizens. Quadra/Reid's process involved community consultation and two public meetings. Their joint report incorporating their consolidated analyses and recommendations was completed and delivered to the community on October 3, 2006,<sup>9</sup> then formally submitted to the Town of Atikokan on December 18, 2006.

A year later, as part of the Ontario Government's environmental program, the Ministry of Research and Innovation provided \$4 million to establish the Atikokan Bio-Energy Research Centre (see Appendix C). The Centre was a virtual entity whose main purpose initially was to fund research projects. The first of these involved grants to university and college-based research teams from Confederation College, University of Toronto, and Queen's, McMaster and

Lakehead Universities. Since the existing OPG generating station was originally designed with the capacity to burn wood waste as well as coal, a key research objective of the Queen's team was to develop a highly efficient wood pellet to replace coal.

Despite all of this government support, even the most optimistic members of the community were finding it difficult to see a positive future. The inevitable decline in social infrastructure, including healthcare, recreational facilities and hospitality would follow. Atikokan was in serious trouble.

### Four Directions

Brown and McKinnon had decided to make a recommendation to the strategic planning committee to concentrate on four key economic alternatives. However, the more that the Mayor reflected, the more he grew concerned about the potential severity of economic and social harm to Atikokan of moving too slowly. Making a decision about a strategic direction was becoming urgent. What course of action would combine the greatest impact with the highest likelihood of successful implementation?

#### ***Forest products options***

The Canadian softwood industry had been under considerable stress in recent years. Contributing to this was softwood import duties applied by the U.S. combined with a high Canadian dollar, rising transportation costs, and increasing electricity costs. Still, these cost factors could have a positive effect. They might provide an incentive to move away from basic volume commodity production such as bulk lumber, pulp and paper, and shift attention toward more profitable high value-added and specialty products. This could be beneficial for Atikokan. For instance, talks were under way with a potential buyer for the fiberboard plant. A new

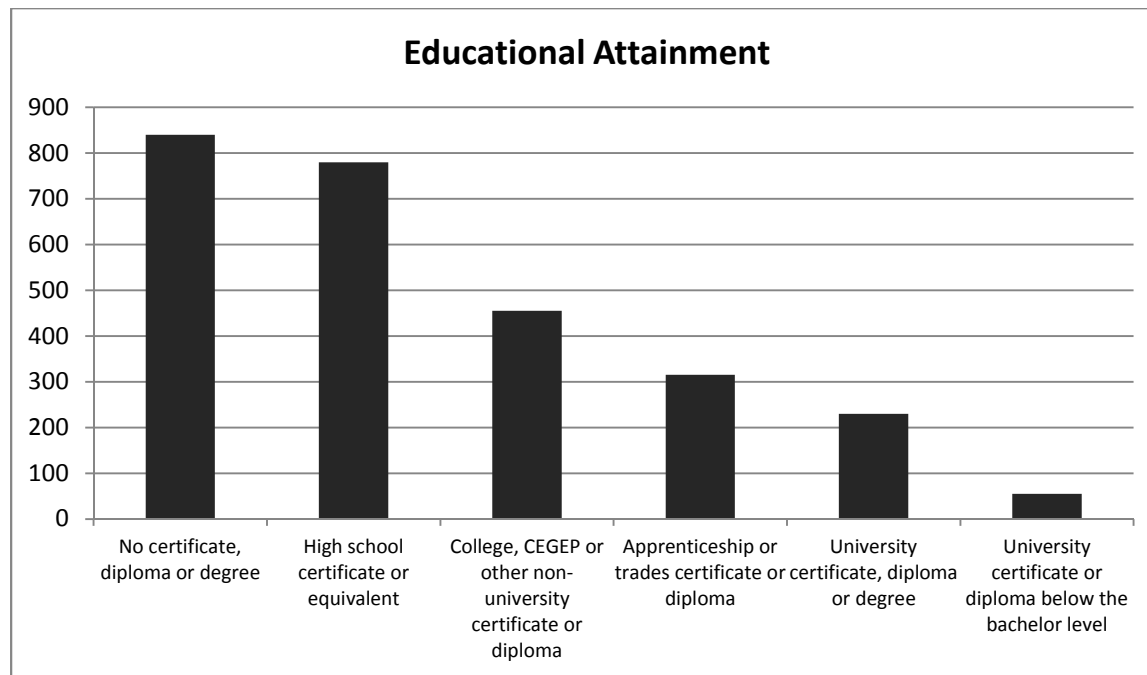
owner's investment in more efficient technology that lowered costs could also lead to reopening the big Sapawe sawmill.

Historically the fiberboard plant and sawmill had together employed 340 workers. If the re-engineered plant recommenced operations using new technology, it would likely replace the prospective 100 jobs to be lost from the OPG station closure. In addition, the Atikokan Economic Development Corporation had recently commissioned a study to analyze the feasibility of building a laminated veneer lumber facility. The manufacturing process would involve a gluing process that adhered multiple wafers of wood in varying lengths to produce a very dense high-strength wood product that could be used in construction, such as heavy load-bearing beams as long as 25 meters. Also, smaller non-structural products, such as furniture components, staircases, and door and window frames could be produced. The study estimated that if the new facility built only the structural beams, it would generate an inflow of 90 skilled workers and their families, resulting in 180 jobs. If the non-structural component manufacturing process were included, the incremental workforce requirement would increase to 140 workers and their families, which would generate 240 new jobs.<sup>10</sup>

To facilitate investment, Atikokan could provide infrastructure and support applications for government financing. Brown and McKinnon knew the community's labor market possessed the right skills to support such endeavors (see Exhibit 4). Still, private sector investors would need to be found, and they wondered if these developments would create enough jobs to sustain the town.



### Exhibit 4 Demographic Profile of Atikokan



Source: Statistics Canada. 2007. 2006 Community Profiles. 2006 Census. Statistics Canada Catalogue no. 92-591-XWE. Ottawa. Released March 13 2007. <http://www12.statcan.ca/english/census06/data/profiles/community/index.cfm?Lang=E>

### *Energy sector options*

Although the consultants had not been engaged to provide analysis of energy sector possibilities, they nevertheless offered some interesting suggestions. They raised the possibility of developing one or more co-generation facilities for both residential and industrial use. Biomass from the region's woodlands could be one of the potential fuels. Another idea was 'run-of-the-river' power generation that could be developed from a number of different river systems in the Atikokan area. Linked with this was 'pump-up-flow-down' peaking electrical power production. This would involve pumping water from the partly flooded former open iron ore pits and generating electricity from the water as it flowed back down.

The final energy alternative was using biomass wood pellets to replace coal in the OPG generator. This was being investigated by the university/college research-teams. If the pellets worked, this could save the plant and the loss of roughly 100 jobs. Of course, this would not be a growth strategy in itself. The Atikokan generator was relatively small, and keeping it active would only maintain the town's current population and economic base. But the question then arose: could pellet production be developed into a strategy with more scale and scope? In other words, could the rapidly growing global market for biomass energy in Europe and Asia offer commercial opportunities beyond simply a replacement of coal for the OPG station? The scope of the production could potentially be expanded to include an export strategy. The scale of production would depend on the projected size of the market and the economic viability of meeting the demand. On the surface, it seemed like Atikokan had the forestry resources, the potential to develop pellet production capacity, and at least some generation and exporting options to make this worth considering. (See Appendix D for an explanation of Biomass Energy Production).

### ***Mining sector options***

Although the region had a labor force appropriate to mining operations (see Exhibit 5), and sporadic private-sector exploration was occurring, a comprehensive area-wide geological survey had not been conducted since the early 1980s. The region was known for its high mineral potential. Meetings with the Ontario Ministry of Northern Development and Mines staff had been promising, as had discussions with the Ontario Geological Survey agency. However, to be pursued effectively, a mining strategy would require an area-wide geological/geophysical survey for iron ore, followed by advanced exploration. In terms of gold mining, the small entrepreneurial producers currently holding claims would need incentives to carry out further exploration and to acquire a gold milling and concentration plant.

**Exhibit 5**  
**Atikokan Labor Force by Industry and Occupation**

Industry	Percentage of Population
Manufacturing	22.6%
Other services	18.3%
Health care and social services	13.7%
Agriculture and other resource-based industries	10.9%
Educational services	9.4%
Business services	7.9%
Retail trade	6.7%
Construction	3.9%
Finance and real estate	3.3%
Wholesale trade	3.0%

Occupation	Percentage of Population
Sales and service occupations	21.3%
Trades, transport and equipment operators	21.3%
Processing, manufacturing and utilities	14.3%
Social science, education, government service and religion	10.9%
Business, finance and administration	7.6%
Management	7.3%
Primary industry	6.4%
Health	6.1%
Art; culture; recreation and sport	2.7%
Natural and applied sciences	1.5%

Source: Statistics Canada. 2007. 2006 Community Profiles. 2006 Census. Statistics Canada Catalogue no. 92-591-XWE. Ottawa. Released March 13 2007. <http://www12.statcan.ca/english/census06/data/profiles/community/index.cfm?Lang=E>

It had been some time since a viable mine had operated in the region and the potential for new mining operations remained unknown. In any event, it was hard to imagine an operating mine in today's highly technological world employing nearly as many workers as in the 1970s and before.

### ***Tourism and recreation options***

Brown and McKinnon were aware of how Elliot Lake, Ontario had transformed itself from a uranium-mining town into a tourist and retirement destination, and they wondered if Atikokan could do likewise. Beginning in the 1990s, Elliott Lake turned around its population decline by investing heavily in adventure tourism. (See Appendix E) The community mapped out scenic driving routes, built panoramic lookout stations, and attracted both U.S. and Canadian tourists with a range of well-developed options for year-round outdoor recreation. Elliot Lake had married its outdoor lifestyle options with affordable housing and accessible transit to attract retirees to relocate to the community.

Other communities were building tourism clusters as well. Prince Edward County, located in Southeastern Ontario between Toronto, Ottawa, and Montreal, had struggled with industrial development. Located on an island south of the major transportation artery, Highway 401, it had limited highway and rail access. In the early 2000s, developers looked to the food and arts communities to attract outside investment. The "Taste Trail" was established to help outsiders connect with the wealth of small food producers in the region, and a mechanism for area restaurants to promote local foods. Before long, the wine sector was booming and bed-and-breakfasts and gourmet restaurants began to flourish. (See Appendix F.) Similarly, the "Arts Trail" linked local artisans and provided venues for them to promote their work. While the region had no competitive advantage in manufacturing, it had successfully built a tourism cluster, which attracted high-income urban customers.

Compared with Elliott Lake, Atikokan had certain limitations. The town was developed in the 1950s and 60s to service the mines, so its commercial buildings, main streets and residential areas were built for utility, not aesthetics. Unlike Elliot Lake, which was located beside two beautiful lakes, Atikokan had no breathtaking scenery or quaint historical buildings. Unlike Prince Edward County, Atikokan was not easily accessible to larger urban communities, and lacked the critical mass of tourism businesses across the value chain that could lead to a flourishing cluster. If a tourism strategy were to be pursued, it would need to focus on other strengths.

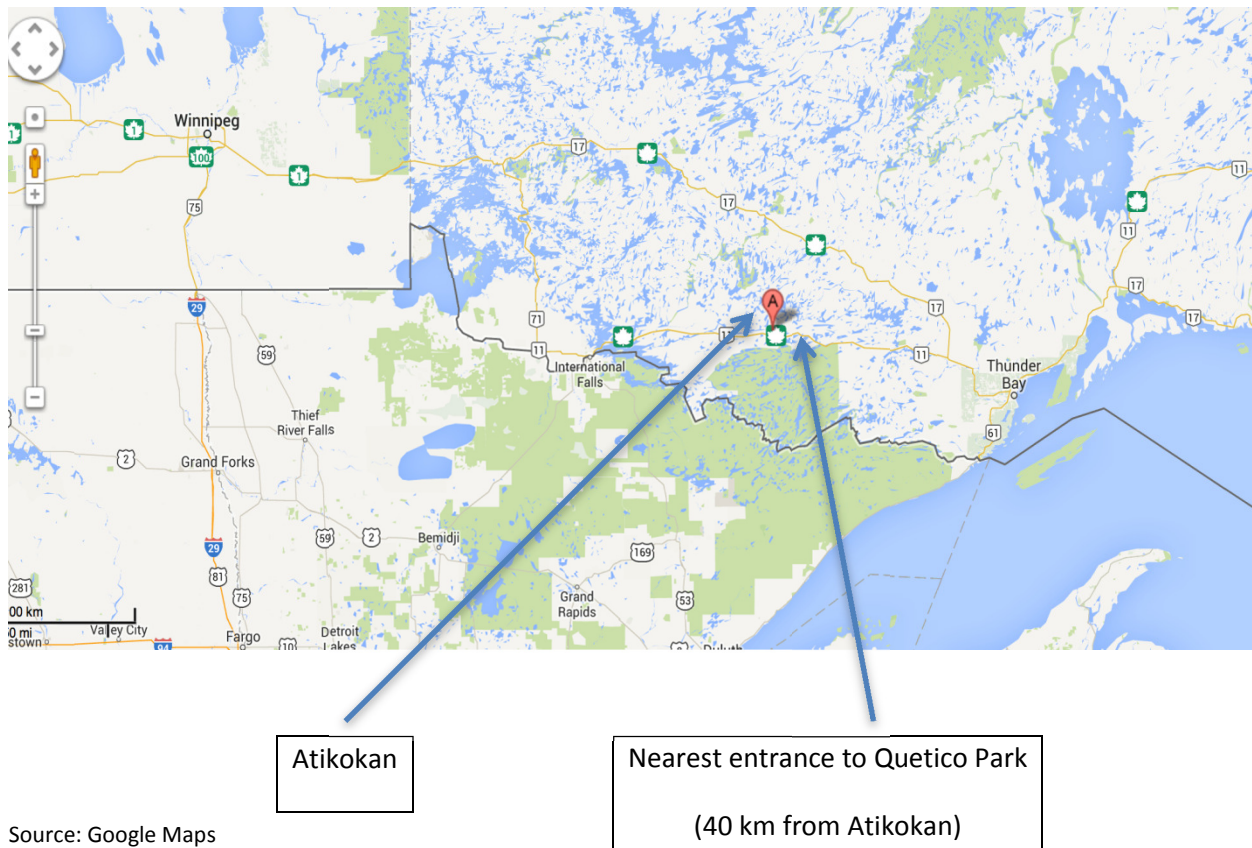
The Quadra/Lees and Reid report built on earlier tourism and marketing studies in recommending two basic approaches to development. While Atikokan had a nine-hole golf course, small ski hill, museum, and other cultural attractions, it needed to expand interesting local features in order to attract tourists. The consultants proposed an “Adventure Country” concept to promote Atikokan’s reputation for recreational hunting and fishing. It meant leveraging the strong brand of the Quetico Provincial Park’s pristine wilderness summer camping, canoeing, and winter snow machine recreation. Unfortunately, the closest entrance to the Park was 40 km from Atikokan, so a considerable effort would be required to find ways of drawing tourists into the town (see Exhibit 6). Important to success would not only be enhancing existing outfitter operations and expanding the range of outdoor activities, but also developing connected historical, recreational, and heritage tourism infrastructure with a variety of indoor attractions.

The second component of the tourism strategy was the sale of cottage lots on four lakes that the Ontario Ministry of Natural Resources had approved for economic development.

Development of 130 lots on the lakes would generate about \$4.1 million in local expenditures

on goods and services, equating to about 40 person-years of employment in the development phase. Assuming that families from outside Atikokan purchased the cottages, approximately \$700,000 annually would be generated, or seven full-time equivalent jobs.<sup>11</sup>

**Exhibit 6**  
**Quetico Provincial Park Entrance**



Source: Google Maps

Brown and McKinnon were cautiously optimistic about the four strategic alternatives. However, they were giving serious consideration to a fifth alternative. Could the forest products and energy alternatives be combined with biomass wood pellet production to form the nucleus of a cluster strategy?

### ***Biomass and Wood Pelletizing***

The use of biomass as a fuel source was considered environmentally sustainable because during the growth of the organic material, carbon dioxide was absorbed from the air. This carbon dioxide was released back into the air when the fuel was burned; thus, the system was considered carbon neutral.

With the global shift towards more environmentally sustainable public policy and an understanding of the detrimental impacts of consuming fossil fuels, the biomass industry had become a growing alternative to traditional energy sources.

In Ontario, biomass was particularly attractive as a lower-cost alternative to crude oil and natural gas, as well as a more environmentally sustainable energy source. Due to the presence of vast wood resources, the production, harvesting and processing of biomass presented significant opportunities for stimulating the provincial economy. According to BIOCAP Canada, a national, not-for-profit research foundation addressing the challenges of climate change, Ontario had sufficient biomass resources to support at least 27% of the total current energy needs of the province.<sup>12</sup>

Biomass products such as wood pellets, a form of biomass derived from wood fiber, were becoming a global commodity as a more sustainable substitute for fossil fuels.<sup>13</sup> Demand in the bio-energy market was very strong, particularly in Europe, considerably bolstered by the National Renewable Energy Action Plans (NREAPs), the legally binding commitments that all European Union member states were required to establish. European pellet production had risen from 1.4 metric tons in 2005 to 7.5 metric tons in 2007. European demand for biomass was expected to grow to 147.5 metric tons by 2020, with pellets representing an increasing share of the demand, creating significant opportunities for North American producers as

European consumption outstripped production.<sup>14</sup> Increasingly, China, Korea and the U.S. were becoming significant growth markets as well. In 2009, thirteen new biomass energy projects were announced in North America, creating up to 3,918,000 green tons of wood use per year. The total North American wood pellet demand in 2007-2009 would reach 19,218,000 green tons per year.<sup>15</sup> In all markets, expected continuing rising oil prices were expected to bolster demand for biomass.

Production in Canada was mainly from the Western province of British Columbia. Could the Atikokan region become a player in the biomass energy sector? Pellet production could potentially leverage both forest resources and dormant wood production facilities. Conversion of the OPG generator would create local demand and the rail line serving the power plant could be a window to a world of pellet exports. Could there be a sufficient base of businesses across the wood pellet value chain to nurture an industry cluster? Mayor Brown wondered if the town possessed the entrepreneurial spirit to head in this new direction.

### **Atikokan at a Decision Point**

Dennis Brown had been mayor for sixteen years and a town council member for eight before that. He had lived in Atikokan most of his life. He was an optimist by nature and could see glimmers of hope in the otherwise grim reality of the impending OPG plant closure. There had been interest from a potential purchaser for the fiberboard plan; some mining exploration was taking place; and one of the tourist projects, doubling the size of the bass fishing derby, had been implemented successfully.

However, working piecemeal on the recommendations of a consulting report was not the same thing as having a long-range strategic plan.



At one meeting, some of the members of Council and representatives from the Atikokan Economic Development Corporation expressed their concerns. Someone noted unhappily that it was June 2009 and not a single job had been created since the consultants' report in October 2006. Another commented that, "people can't see any progress; the interest is waning." "It doesn't appear as if anything is getting done," said still another. Toward the end of the meeting, one voice seemed to capture the sense of the group: "We don't have a vision and Council has readily admitted that...they're reacting to crisis right now."

Mayor Brown and Garry McKinnon were worried. The mayor repeated what he had said many times before: "Job creation and economic development take time, and it is unrealistic to expect it to happen overnight." But this was beginning to sound hollow. As the closing-out sale from the local children's clothing store was winding down, it was clear to many Atikokans that this could be a symbol of the town's own fate. A bold strategy was badly needed. Choices needed to be made.

Mayor Brown picked up his cellphone and punched in McKinnon's number. "Garry," he said, "we can't let the planning committee go back and forth endlessly debating which strategy to support. We need to spell out the options and give them our recommendation. My choice is...."



**A. Scott Carson** is Professor of Strategy & Organization at Smith School of Business, Queen's University, and formerly the Stauffer-Dunning Chair of Policy Studies and Executive Director of the Queen's School of Policy Studies. Prior to that, he was Director of The Monieson Centre for Business Research in Healthcare at Smith School of Business. In addition, Carson has been a dean of two Canadian business schools. He has also held executive positions in business and government, and been a director of many public and private sector organizations. Professor Carson is a graduate of Mount Allison and Dalhousie Universities, and received his PhD from University College London (UK).



**Erica Young** joined Chitiz Pathak LLP, Toronto, in 2012 and practices as a commercial litigator. She has acted as counsel before various levels of court, administrative tribunals, and in private arbitration and mediation. She earned her honors B.Com. from Smith School of Business, Queen's University and J.D. from the University of Toronto.



**Jeffrey A. Dixon** is an Associate Director in Information Technology at Smith School of Business, Queen's University. He was formerly, Associate Director of The Monieson Centre for Business Research in Healthcare at Smith. He is an honors B.Com. graduate of Smith, and he holds masters degrees both in Divinity from Tyndale Seminary and in Epidemiology from Queen's University. He is currently a doctoral student in Information Systems at Smith.

---

## Endnotes and References

- <sup>1</sup> Carson, A. S. (2010). Environmental Legislation and Harms to Remote Resource-Based Communities: The Case of Atikokan Ontario. *Business and Society Review*. 115: 4, 437-467.
- <sup>2</sup> Biomass refers to non-fossil organic materials like wood, straw, vegetable oils and wastes from the forest, agricultural and industrial sectors.
- <sup>3</sup> Quadra Consulting Group/William L. Lees and Reid, op cit.
- <sup>4</sup> "Atikokan: The First Fifty Years" from *A History of Atikokan: 100<sup>th</sup> Anniversary Edition*. Atikokan: 100th Anniversary Booklet Committee, 1999.
- <sup>5</sup> Sunset Country Travel Association "History of Atikokan, Ontario, Canada"  
<http://www.ontariotowns.net/Atikokan/History.cfm>
- <sup>6</sup> Ontario Ministry of Energy and Infrastructure. (2006). Backgrounder: Ontario's Electricity Supply Mix.  
[http://www.energy.gov.on.ca/index.cfm?fuseaction=english.news&back=yes&news\\_id=134&backgrounder\\_id=105](http://www.energy.gov.on.ca/index.cfm?fuseaction=english.news&back=yes&news_id=134&backgrounder_id=105)
- <sup>7</sup> Ministry of Energy and Infrastructure. (2005). News Release: McGuinty Government Unveils Bold Plan to Clean up Ontario's Air.
- <sup>8</sup> Ibid.
- <sup>9</sup> Atikokan Annual Report, (2006). <http://atikokaninfo.com/aedc/annualReports/acrobat/annualRe>
- <sup>10</sup> Quadra/Lees and Reid, op cit.
- <sup>11</sup> Ibid.
- <sup>12</sup> Layzell, David B., Stephen, Jamie and Wood, Susan M. (2006). Exploring the Potential for Biomass Power in Ontario. BIOCAP Canada Foundation.
- <sup>13</sup> Menzies, Brian. (2008). Biomass Forest Management: Talloil Case Study. Canadian Silviculture.  
<http://www.canadiansilviculture.com/win07/talloil.html>
- <sup>14</sup> European Biomass Association. A Pellet Road Map for Europe. (2008). [http://www.aebiom.org/wp/wp-content/uploads/file/Publications/BrochurePRME\\_LR.pdf](http://www.aebiom.org/wp/wp-content/uploads/file/Publications/BrochurePRME_LR.pdf) accessed June 3, 2014.
- <sup>15</sup> RISI. Wood Biomass Market Report. (2009).  
[http://www.silverbarrel.com/portfolio\\_websites/hummingbird/library/pdf/RISI-wood\\_biomass\\_market\\_report\\_august2009.pdf](http://www.silverbarrel.com/portfolio_websites/hummingbird/library/pdf/RISI-wood_biomass_market_report_august2009.pdf) accessed June 3, 2014.

## Appendix A

### Selections from News Release from the Ontario Ministry of Energy and Infrastructure

June 15, 2005

#### McGuinty Government Unveils Bold Plan to Clean up Ontario's Air

Replacing Coal-Fired Generation Means Cleaner Air and Better Health for Ontarians

**TORONTO** – The McGuinty government's aggressive plan to replace coal-fired generation with cleaner sources of energy and conservation will clean up our air, improve the health of our citizens, and contribute to the sustainability of our environment while ensuring a reliable supply of electricity, Energy Minister Dwight Duncan said today.

We are leading the way as the first jurisdiction in North America to put the environment and health of our citizens first by saying 'no' to coal," Duncan said. And as we have said all along, maintaining reliability is the first principle of our plan. It's a prudent and responsible path that will ensure cleaner air for the province." The first of the five coal-fired plants, Lakeview Generating Station (GS), was officially closed in April. The plan released today will see three out of the four remaining coal-fired generating stations close by the end of 2007, with the remaining station, Nanticoke GS, to close in early 2009...

Under the coal replacement plan:

- Lakeview GS, representing 1,140 megawatts of generating capacity, was closed in April 2005, following completion of projects to strengthen the transmission system in the Toronto area.
- Thunder Bay GS, representing 310 megawatts, will be replaced by gas-fired generation in 2007.
- Atikokan GS, representing 215 megawatts, will close by the end of 2007, following the replacement of Thunder Bay units and necessary transmission upgrades, with no direct replacement necessary.
- Lambton GS, representing 1,975 megawatts, will be replaced by the end of 2007 by two combined-cycle gas-fired generating stations in the Sarnia area announced as a result of the government's request for proposals for clean energy capacity.
- Nanticoke GS, representing 3,938 megawatts, will have units closed through 2008 with the last unit to close in early 2009. In addition to new generation capacity, transmission upgrades in southwestern Ontario are necessary for the closure of Nanticoke.

To support the replacement of coal-fired generation in Ontario, the McGuinty government has put the wheels in motion to produce well-over 7,500 megawatts of cleaner, more diversified power. Between 2004 and 2007, Ontario will secure more new generating capacity than any other jurisdiction in all of North America...

In creating new capacity, the government has placed particular emphasis on expanding renewable generation in the province, and is well on its way to meeting its target of adding five per cent, or 1,350 megawatts of new renewable generating capacity by 2007. By the end of 2007, it is expected Ontario will see a 75-fold increase in its wind capacity alone.

## **Appendix B**

### **Atikokan Strategic Community and Economic Development Plan – Executive Summary**

December 18, 2006

In 2005 the Province of Ontario announced the closure of coal-fired generating stations throughout the Province. The Atikokan Generating Station, which is coal-fired, was scheduled to close by the end of 2007. Closure of the AGS would have resulted in significant economic and social dislocations in Atikokan and the surrounding area. Although the closure has been delayed, the Township of Atikokan continues to face major economic uncertainties. There is clearly a need for the Municipality to "assume the worst and hope for the best". At the very least, the delay of the closure provides more time for the Municipality to implement a Community and Economic Diversification Strategy to mitigate the impending job losses and economic hardships.

In the fall of 2005, a consulting team led by Quadra Consulting Group and William L. Lees & Associates Ltd began working with the Township of Atikokan and the Atikokan Economic Development Corporation to identify and assess opportunities for economic expansion and diversification as well as broader community development and improvements. The Federal government, through FedNor, provided financial assistance to the Township to retain the consulting team. As well, the Province of Ontario, through the Northern Ontario Heritage Fund, provided financial assistance for the Township to retain Patrick Reid and Associates to act as liaison to Queens' Park, and Business Advisor, for a one-year period. The contracts with Patrick Reid and Associates and Quadra Consulting Group/William L. Lees & Associates Ltd. began at roughly the same time. It was evident to the members of Atikokan Council and the two steering committees that had been established to oversee the two consulting teams that it would be advantageous for the teams to coordinate their activities and report to a single steering committee. Over the last fifteen months, the consultants, the Township, AEDC, the steering committee and other area organisations have worked closely to identify a range of initiatives that, with sufficient support from the Federal and Provincial governments, could contribute to economic and community improvements.

This report is intended to be read in conjunction with the Economic Development Opportunities for The Township of Atikokan, prepared by Patrick Reid & Associates, November 2006.

All members of the combined consulting teams worked closely to ensure a successful outcome. Over the course of their work, the firms made numerous trips to Atikokan in order to gather information and meet with local people from Municipal government, not-for-profit organisations and the private sector. As well, an extensive series of meetings and interviews were conducted over the course of the engagement with representatives of the Federal and Provincial governments and numerous private and not-for-profit organisations outside the immediate area. Throughout this process, the combined consulting team maintained frequent contact with a provincially-organised committee of Assistant Deputy Ministers and representatives of FedNor in order to appraise them of the study's progress and to discuss promising initiatives as they were identified.

An extensive preliminary list of preliminary initiatives was identified. Upon further examination, several of these were deemed to be not worth pursuing. However, there were still a significant number of promising opportunities that could be considered. Those that held some promise were discussed with the steering committee and presented to both Council and the public at various meetings. Over the course of the study, opportunities were eventually segregated by priority.

### Appendix B, cont.

Priority One opportunities, deserving immediate attention and potential implementation; Priority Two opportunities, offering some potential possible implementation at a future point; and Priority Three opportunities, which offered less potential, but still warranted future consideration.

Priority One opportunities that have been identified and which are strongly recommended for implementation include the following, several of which are indeed currently underway:

#### **Forest Products**

- Laminated Veneer Lumber (LVL) Plant
- Other Value-Added Products (Confidential)

#### **Mineral Prospecting, Development and Mining**

- Atikokan Mineral Development Initiative: AMDI - Updated Geological/Geophysical Survey
- Bending Lake Iron Ore Mine

#### **Energy**

- OPG, AGS Alternative
- Bio-Energy Research Centre

#### **Tourism, Recreation and Culture Sector**

- Cottage Lot Development
- Quetico/ Atikokan Wilderness Adventure Area
  - Multi-Use Trail Loops- East and West
  - Trans-Canada Trail Designation
  - Beaten Path Nordic Trails
  - Atikokan/Batchewaung Access Road
  - Bio-Research Facility
  - Interpretive Centre and Trail User Staging Facilities
  - New Park Entrance
  - Private Sector Opportunities
- Charleson Recreation Area Facilities Upgrading and Expansion (Motocross, ATV, Snowmachine, Horseback Riding, Mountain Biking)
  - Market Analysis
  - Financial Analysis
  - Facilities Plan
  - Water/Hydro
  - Safety Fencing
  - Clubhouse Facilities
  - Short-Term Marketing
  - Long-term Marketing
- Bass Classic Expansion
- White Otter/Turtle Lake Park Links to Atikokan
- Atikokan/Quetico Tourism Marketing- Short Term (Community and Highway Signage)
- TV Series Production

## Appendix B, cont.

### Information Technology

- Business Support Services
- Atikokan Online ("Portal") - Single Online Source Multiple Users/Services

### Municipal/Community Development

- DARC (Downtown Improvements) Implementation
- Town Beautification
- Barrier-Free Initiative

### Government, Social, Health, Education

- Atikokan Hospital- Long-term Care Facilities
- Relocation Of Government Agencies
- Improved Eastern Hwy 11 Entrance To Atikokan

### Implementation Resources

- AMDI Coordinator
- Economic Geologist
- Implementation Committee
- Interim "Contract" Implementation Assistance

It should be noted that the Federal and Provincial governments have both been extremely helpful in providing immediate assistance to the Township to actively pursue some of these Priority One initiatives prior to the completion of this Strategy. At the same time, there are several other Priority One items on the list which will require both Provincial and Federal financial support if the Township and other organizations within the public and private sector are to proceed successfully. Several of the Priority One initiatives do not "fit neatly" within existing Provincial and/or Federal assistance programs. Yet they are initiatives that can have a major impact on the economic and social well-being of Atikokan and regional residents. Clearly, the Federal and Provincial governments will need to be flexible if the majority of the high priority initiatives are to be successfully pursued.

Virtually all of the initiatives identified will require financial contributions from the Municipality and/or other area organizations and businesses and the Federal and Provincial governments. Financial resources will be required to undertake further feasibility studies, design studies and market analyses, as well as significant capital contributions for a number of the initiatives. In addition, the Municipality must find resources with the assistance of the Federal and Provincial governments to have the human resources available to the Town and other organizations in the area that will be required to oversee and implement these initiatives.

Source: Quadra/Lees and Reid, op cit.

**Appendix C**  
**News Release from the Ontario Ministry of Energy and Infrastructure**  
September 5, 2007

**McGuinty Government Supports Clean Energy Projects in Northern Ontario**

*Projects Will Help Make Ontario a Leader in Cleaner Energy Generation*

**ATIKOKAN** - The McGuinty government is promoting the development of cleaner electricity generation in Ontario by investing \$4 million in the Atikokan Bio-Energy Research Centre to support six innovative projects that will include research and testing in northern Ontario, Bill Mauro, MPP for Thunder Bay-Atikokan announced today on behalf of Energy Minister Dwight Duncan.

"These projects will help us develop the technologies to make Ontario a leader in cleaner energy," said Mauro. "Producing electricity from bio-energy sources can reduce air pollutants and greenhouse gas emissions while providing new economic opportunities that will strengthen our communities in northern Ontario."

The six projects will be directed by researchers from Ontario universities and colleges and will receive additional financial or in-kind support from partner companies in the industrial sector.

"These projects will provide a number of benefits to our region and to the rest of Ontario," said Mayor Dennis Brown of the Township of Atikokan. "Every project has the potential to provide new economic opportunities to northwestern Ontario, while also providing training to students, increasing our expertise in bio-energy and helping to create a competitive commercial advantage for Ontario-based companies."

The Ontario Centres of Excellence (OCE), an organization that connects academia and industry to bring innovations to market, is managing the program on behalf of the Ministry of Energy. OCE has issued offers of funding through the Atikokan Bio-Energy Research Centre for six research projects.

The selected projects cover a range of practical, applied research topics in the field of bio-energy:

- Direct and indirect methods of co-firing peat and forest biomass with coal (Lakehead University);
- Assessing the environmental impacts of peat as a potential energy source (Lakehead University);
- Maximizing the economic benefit of utilizing wood biomass for energy production (Lakehead University and Confederation College);
- Optimizing power plant combustion processes for co-fired biomass fuels (McMaster University, University of Toronto);
- New technology to monitor mercury emissions (University of Toronto); and,
- Enhancing the capacity in Northwestern Ontario to develop a sustainable wood pellet industry (Queen's University).

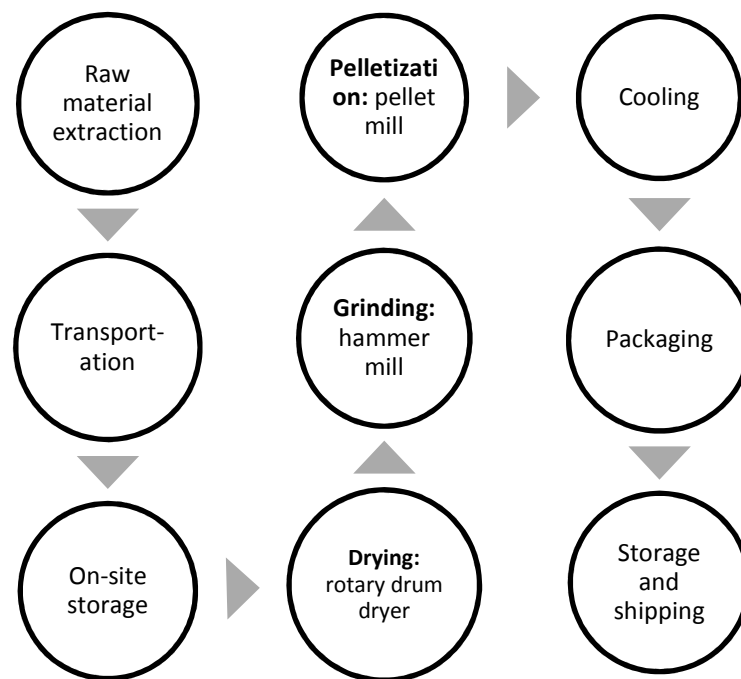
It is expected that research will begin this fall. The McGuinty government is committed to addressing climate change and building a more sustainable energy future for Ontario by supporting investments of up to \$15 billion in clean and green energy supply, conservation and investments in Ontario's transmission system.

Source: [http://www.energy.gov.on.ca/index.cfm?fuseaction=english.news&body=yes&news\\_id=163](http://www.energy.gov.on.ca/index.cfm?fuseaction=english.news&body=yes&news_id=163)



### Appendix D Biomass Energy Production

Biomass pellet production is an emerging global industry with significant potential for Canadian firms and communities, given the nation's ample natural resources. Pellet production is a relatively simple process involving three major steps: drying, grinding and densification (i.e., conversion to pellet form):



Source: S. Mani, S. Sokhansanj, X. Bi, and A. Turhollow. 2006. Economics of Producing Fuel Pellets from Biomass. *Applied Engineering in Agriculture* 22(3): 421-426.

The greatest barrier to entry for new producers, however, is capital costs, averaging over \$2m with installation. For existing wood products manufacturers, some existing equipment such as forklifts, trucks and packaging equipment might already be in place. A rotary drum dryer, hammer mill and pellet mill alone would be expected to cost over \$1m. A 2004 analysis found North American producers maintain a significant cost advantage. Where European production costs range from \$78-113/t, North American plants average \$51/t thanks to lower material and energy costs. Critical to efficient production, however, is locating pellet production within close proximity to the raw materials, thus minimizing transportation costs.

Demand for biomass energy, including biomass pellets was growing. The introduction of the Ontario Green Energy Act in 2009 pointed to the elimination of coal-fired power generation by 2014, creating new opportunities for renewable energy providers. Global forecasts predict that world biomass demand

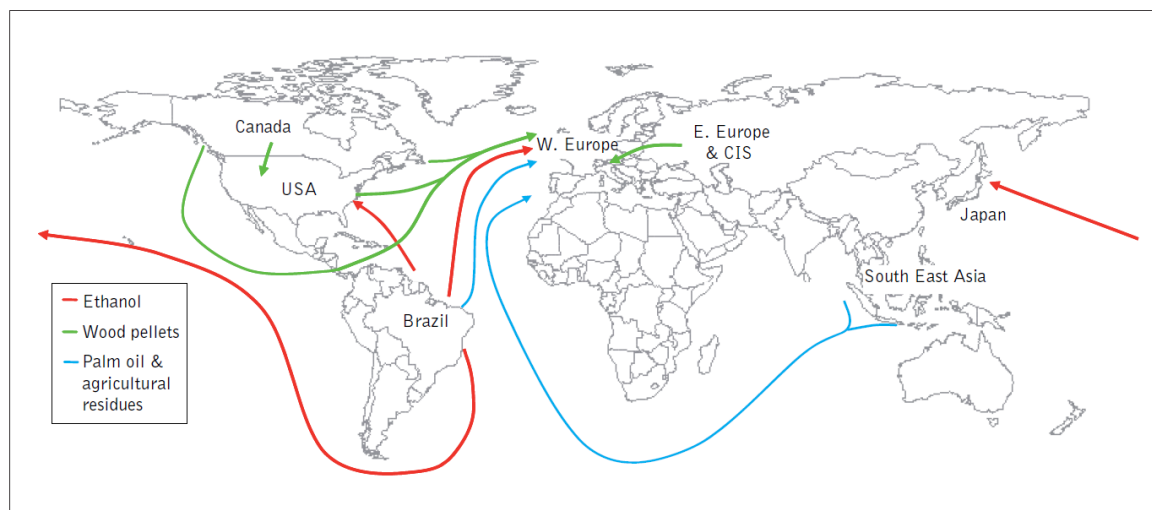
Appendix D, cont.

will grow from 50 EJ/year to 250 EJ/year. With Asian markets only being to emerge in this arena, significant opportunities exist for Canada to tap into new growth markets for biomass pellets.

Pellet Process Operations	Capital Costs (\$/t)	Operating Cost (\$/t)	Total Cost (\$/t)
Raw material	0.34	19.39	19.73
Drying operation	2.46	7.84	10.3
Hammer mill	0.25	0.7	0.95
Pellet mill	1.43	1.88	3.31
Pellet cooler	0.13	0.21	0.34
Screening	0.11	0.05	0.16
Packing	0.56	1.37	1.93
Pellet Storage	0.07	0.01	0.08
Miscellaneous equipment	0.42	0.33	0.76
Personnel cost	0	12.74	12.74
Land use and building	0.21	0.05	0.26
<b>Total cost</b>	<b>5.99</b>	<b>44.58</b>	<b>50.57</b>

Source: S. Mani, S. Sokhansanj, X. Bi, and A. Turhollow. 2006. Economics of Producing Fuel Pellets from Biomass. *Applied Engineering in Agriculture* 22(3): 421-426.

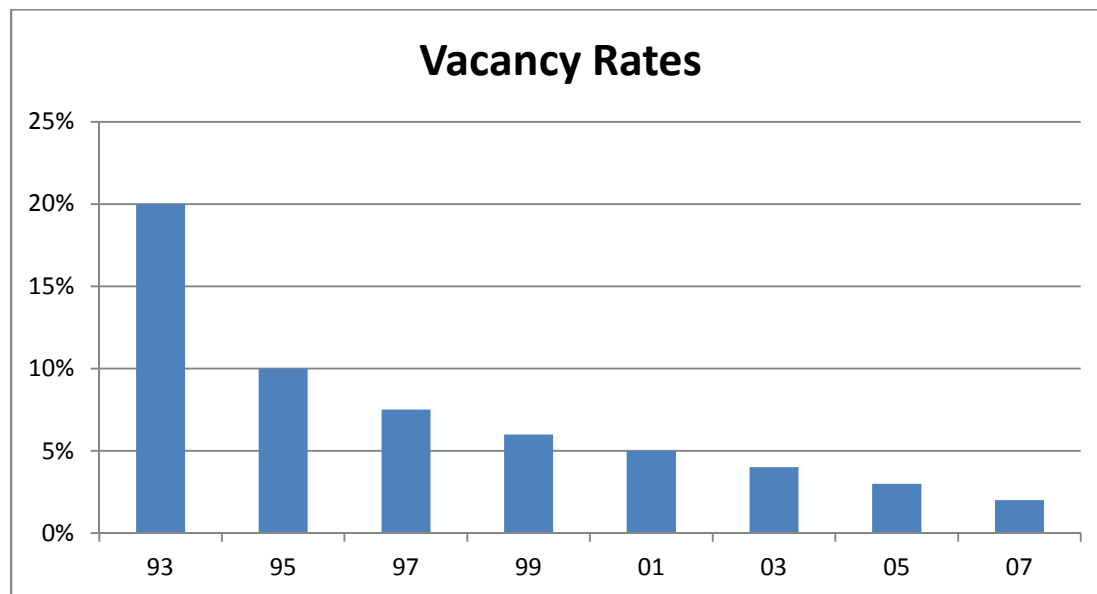
Bioenergy Trade Flows (Excluding Intra-European Trade)



Source: A. Bauen, et al. 2009. *Bioenergy – A Sustainable and Reliable Energy Source: A Review of Status and Prospects*. Utrecht: IEA Bioenergy.

### Appendix E Elliot Lake Retiree Attraction

Beginning in the early 1990s, Elliot Lake looked to reverse population decline created by the closure of the last of 11 local mines by attracting retirees as both tourists and residents. Population growth amongst this target demographic was expected to generate increased service sector jobs for young professionals. By the mid-2000s, the strategy appeared to be working. The real estate sector, in particular, showed a significant decline in vacancy rates.



At the heart of Elliot Lake's growth was Elliot Lake Retirement Living, a non-profit corporation set up to provide affordable accommodations to retirees. From their inception in the mid-1990s, the organization encouraged urban residents to relocate to Elliot Lake based on two key selling points: affordable housing and easy access to an outdoors lifestyle. By 2008, with vacancy rates in the city at an all-time low, they had planned a new waterfront condominium development on 400 acres of undeveloped land.

Tourism continued to boom in the region as well. Again, drawing on its pristine nature and waterfronts, the City created an innovative approach to cottage development in partnership with the Provincial Government. Working through another non-profit corporation, Lakeshore Properties, the city oversaw the development of almost 250 cottages – many year-round – from 2003-2008. By summer 2009, a new hotel would open in the city as well, creating added opportunities to develop its tourism offerings.

Source: Success Stories, 2008. Elliot Lake. <http://www.cityofelliotlake.com/en/invest/sucesstories.asp> Accessed June 14, 2014.

**Appendix F**  
**News Release from Prince Edward County**

September 26, 2007

**“TEAM” Prince Edward County wins at 2007 Marketing Canada Awards**

Picton, ON - The County of Prince Edward was awarded 1st place and Best of Category for its Taste Trail culinary tourism product in the 2007 Marketing Canada Awards held last week in Saskatoon. In addition, the County won 1st Place for its 5th Anniversary – TASTE! a celebration of regional cuisine event and 1st Place for the Prince Edward County Media Kit. These 4 awards follow the prestigious Lieutenant General’s Award of Excellence and 5 other awards the County received this past February at the 2006 Ontario Economic Development Awards in Toronto.

The 2007 Marketing Canada Awards were sponsored by the 700+ member Economic Developers Association of Canada. This year’s Awards program, termed ‘The Best of the Best’ consisted of 18 subcategories and attracted 173 submissions from across Canada.

“These national awards highlight the successes that are achievable when we engage the business community in partnerships to promote our strengths,” said Mayor Leo P. Finnegan. “The Taste Trail has certainly put us on the culinary map and I would like to extend my congratulations to our Economic Development Officer Dan Taylor, the team at Taste the County™ and the many community businesses that were involved in these programs.”

The Taste Trail and TASTE! event were developed in partnership with the Municipality, Taste the County™ and the agri-culinary businesses throughout the County. The 2007 Prince Edward County Media Kit was developed by Taste the County™ with partnership support from Prince Edward Lennox-Addington Canadian Futures Development Corporation (PELA CFDC) and the Municipality.

“We are so proud of our Taste the County™ partners; we wouldn’t be able to develop this community’s winning formula without them. Our partnership with the Economic Development Office continues to reap many rewards and we are thrilled to have achieved these awards on behalf of the community.” Noted Rebecca LeHeup-Bucknell, Executive Director of Taste the County™

“All of these winning programs are a result of partnerships,” states Economic Development Officer Dan Taylor. “In most cases the partnerships include community organizations such as Taste the County, dozens and dozens of local businesses, multiple levels of government and PELA CFDC, as well as our talented suppliers. It’s pretty amazing to be selected as a top economic development region by our peers on a provincial and now on a national level, especially when you think of the size and scale of Prince Edward County.”

## **WHAT IS THE BEST PUBLIC RELATIONS STRATEGY TO REVERSE MONSANTO'S REPUTATION AS AN EVIL CORPORATION?**

**GEORGE L. WHALEY**  
San Jose State University

***"The thing that drives me a little bit nuts, and is the frustrating piece in this, is it's such a polarized debate and I don't think it should be."***

- Hugh Grant, CEO of Monsanto, Money CNN, 2016

Despite Monsanto's technological and worldwide product development success, it had gained the reputation as an "evil corporation." Monsanto had used makeover public relations (PR) methods for the last four years to address controversy, but these actions did not satisfy many of its critics (Kanso & Gonzales, 2015). Controversies over mergers and genetically modified organisms (GMOs), as well as a decline in various performance indicators suggested that Monsanto needed to treat its highly publicized negative reputation as a serious PR issue rather than a PR nuisance (Barrett, 2015; Campbell & Matthews, 2015; Kanso & Gonzales, 2015).

Monsanto's sales slowed, its negative reputation persisted, and stakeholders wanted to know how to turn these trends around (Kanso & Gonzales, 2015; Monsanto Annual Report, 2015). By August 2016, it appeared that the CEO's options to address the company's negative reputation and avoid a company downward spiral had considerably narrowed. What kind of PR framework did the firm need to develop, and how could it integrate PR into its product strategy?

---

The author developed the case for class discussion rather than to illustrate either effective or ineffective handling of the situation. The case and its accompanying instructor's manual were anonymously peer reviewed and accepted by the *Journal of Case Research and Inquiry*, Vol. 2, 2016, a publication of the Western Casewriters Association. The author and the *Journal of Case Research and Inquiry* grant state and nonprofit institutions the right to access and reproduce this manuscript for educational purposes. For all other purposes, all rights are reserved to the author. Copyright © 2016 by George L. Whaley. Contact: George L. Whaley, Lucas College and Graduate School of Business, San Jose State University, One Washington Square, San Jose, CA 95192-0070, 408- 924-3564, george.whaley@sjsu.edu.

Monsanto was proud of its technologies and believed that past company public relations efforts had been misunderstood (Monsanto: A history, 2009; Kanso & Gonzales, 2015).

The numerous awards Monsanto had won since Hugh Grant became CEO in 2003 were evidence that the firm had many admirers. For example, *Chief Executive* magazine named Grant 2010 CEO of the year. *Forbes* named Monsanto its company of the year in 2009, praising the firm's economic success and innovative new products in the GMO area (Monsanto: Awards and Recognition, 2015). The Monsanto Awards and Recognition section of its website (Monsanto, 2015) included numerous awards such as "2010 Working Mothers 100 Best Companies" and "The 100 best companies to work for in 2010."

Monsanto had created numerous innovative products over the years but its history was tainted with Agent Orange, super-fund clean-up sites, heritage crops in adjacent fields contaminated by GMO corn pollen, and so forth (Monsanto: A history, 2009; Kanso & Gonzales, 2015).

Monsanto's past involvement with unpopular products was a major contributor to its poor public image.

The company believed that farmers understood the benefits of GMOs and there was market opportunity among people in countries that wanted to increase yields in difficult situations (e.g., high heat, water shortages, and plant disease). However, Monsanto knew that many people worldwide did not understand the benefits of GMOs and were skeptical that Monsanto wanted to achieve its motto to save the world from famine (Monsanto: A history, 2009; Kanso & Gonzales, 2015). It was inescapable that Monsanto's label as the world's most evil corporation showed a "disconnect" between Monsanto's strategies, PR actions, and the perceptions of numerous stakeholders (Hopkinson, 2013; Anderson, 2014; Campbell & Matthews, 2015; Kanso & Gonzales, 2015).

## Public Relations Dilemmas

### ***Monsanto's Negative Public Image***

Despite the firm's widely acclaimed product innovations and worldwide product development success, the public viewed Monsanto in an extremely unfavorable light. In polls, research studies, and typical Internet searches of unfavorable firms, Monsanto's name usually appeared first. For example, in its yearly ranking of the ethical performance of multinational corporations, the Swiss research firm Covalence revealed that Monsanto was considered the least ethical company in the world (Kiser, 2010; Kanso & Gonzales, 2015). Pollster Harris Interactive's latest study of public perception of the 100 most prominent U.S. companies showed Monsanto ranked 97<sup>th</sup> (Campbell & Matthews, 2015).

Protest groups generally singled out Monsanto even when there were many firms doing similar things. A Google search on "GMO protests" showed that when a company name appeared, it was usually Monsanto. For example, Organic Consumers launched a campaign entitled "Millions against Monsanto," without mention of the other large multinational enterprises that produced GMOs and herbicides (Organic Consumers, 2015). Monsanto was named the world's most evil corporation (Sheets, 2013; Anderson, 2014). Monsanto's involvement with GMOs was featured in an article in *Modern Farmers* magazine entitled, "Why Does Everyone Hate Monsanto?" (Anderson, 2014).

Monsanto's past involvement with unpopular products (overhang) was a major contributor to its poor public image (Anderson, 2014; Campbell & Matthews, 2015; Kanso & Gonzales, 2015). Monsanto had made several unpopular products including saccharin, PCBs (polychlorinated biphenyls), polystyrene, nuclear weapons, DDT, dioxins, Agent Orange, petroleum-based

fertilizers, Roundup, aspartame, Bovine Growth Hormone (rBGH), and GMOs. Agent Orange was made infamous as a defoliant used by the U.S. during the war with Vietnam. DDT (dichloro-diphenyl-trichloroethane) was useful in the 1940s to fight insect-borne human and animal diseases. When evidence accumulated of its toxic effects, the Environmental Protection Agency (EPA) issued a cancellation order in 1972.

Although active resistance to GMOs remained, farmers and consumers in the U.S. accepted GMOs over time on a product-by-product basis. Recent TV commercials by some companies had started to reflect both voluntary and State regulations for GMO labeling on their products.

### ***Mergers and Acquisitions***

The most recent PR dilemma, 2016, involved the pending \$66 billion USD Monsanto-Bayer merger. Many observers declared the deal was the year's biggest takeover and cash transaction. Bayer's chief executive officer, Werner Baumann, acknowledged in a call when the deal was first made public that Monsanto's poor image did factor into consideration of the deal (Court, 2016). Moreover, Antonius Michelmann, CEO of the Coalition against Bayer-Dangers, contended in an interview with Money CNN, "Bayer [does] significantly better public-relations work than Monsanto, but that's it" (Henein, 2016). Thus, skeptics viewed both firms as caring more about profits than people. Many of Monsanto's stakeholders were concerned that the firm's negative reputation might harm the pending merger with Bayer.

In 2015, Monsanto's negative reputation was directly involved in a highly publicized failed merger with Syngenta, a large Swiss seed firm. Syngenta's board rejected Monsanto's initial bid valued at 41.7 billion francs (\$45.1 billion USD) and agreed to be acquired by ChemChina for \$43 billion USD. Syngenta's board (BOD) indicated prospects for a Monsanto merger created "significant execution risks, including regulatory and public scrutiny at multiple levels in many

*Monsanto*





countries” (Campbell & Matthews, 2015). Many industry observers were convinced that Monsanto’s negative reputation, rather than traditional financial and regulatory issues, was the deal breaker (Campbell & Matthews, 2015). Hence, negative press related to the proposed Bayer-Monsanto merger and the pending ChemChina acquisition confirmed the impact of Monsanto’s negative reputation and muddled its worldwide M&A strategy (Kanso & Gonzales, 2015; Bhardwaj, 2016; Money CNN, 2016; Hammond, 2016).

### Worldwide Controversy about GMO Safety

The term genetically modified organism had become a household word to many people; yet, GMOs were controversial in many ways. Often, the controversy started with different definitions of GMOs. As a prominent organization, Monsanto’s product strategy, company reputation and public relations plans, and actions were influenced by the public’s understanding of GMOs and the worldwide GMO safety controversy (Kanso & Gonzales, 2015). This influence extended to different GMO safety perceptions by multiple stakeholders such as the scientific community, government regulators, customers, and the general public. Even restaurants and retailers became involved in the GMO controversy. Chipotle ([CMG](#)), made a splashy announcement saying it would become the first national restaurant chain to go GMO-free (Money CNN, 2016). Whole Foods ([WFM](#)) joined in, proclaiming it was the first national grocery chain committed to providing GMO transparency. The retailer also said it was working to stock more non-GMO items (Money CNN, 2016). Furthermore, Whole Foods tried to inform consumers where GMO ingredients were likely to be found, such as in packaged foods (Whole Foods, 2016).

### ***Controversy over the Definition of GMO***

GMOs were defined as food or other organisms that were altered by placing genes from one organism into another by use of recombinant DNA biotechnology procedures (Junod, 2007; Schneider & Schneider, 2010; Woolsey, 2012; deGrasse Tyson, 2014). Schneider & Schneider (2010) made the definition simpler by indicating GMOs created changes that were not contained in the original organisms (e.g., delayed ripening and pest-resistance).

Many non-scientific stakeholders felt that changes in genes were unnatural and harmful to humans. A GMO advocate, Neil deGrasse Tyson, argued the GMO definition should have included selective plant breeding, which included almost all the food we consumed. He stated that food had been modified over thousands of years without harm to consumers. For example, the ancient Mayans adapted corn to improve cultivation and productivity. This GMO advocate noted that other pre-biotechnology era genetic modifications occurred in the 1930s. In the 1930s, Milford Beeghly developed hybrids that proved easier to grow than earlier varieties and that were also more insect resistant (PBS, 2002; deGrasse Tyson, 2014).

More recently, genetic modifications included the GMO revolution with plants, animals, and microorganisms. Over the past decade, a World Health Organization (WHO) consensus definition of GMOs evolved with new discoveries, regulatory decisions, and public safety concerns. The World Health Organization (2016) defined GMOs simply as organisms in which the genetic material (DNA) was altered in a way that does not occur naturally by mating and/or natural recombination. This consensus definition reduced controversy over the meaning of GMO, but it was not ended.

### ***The GMO Safety Controversy***

There were many myths that GMOs were harmful. One team of European scientists found no evidence of harm in animal feed that contained GMO foods (Snell, et al., 2012). Furthermore, McHughen (2013), a public sector educator, scientist, and consumer advocate at the University of California, Riverside, concluded that there had not been any harm done by GMO foods to humans, and he cited extensive expert studies.

The difference between public and scientific opinion regarding GMOs in the U.S. and Europe was large (Funk & Rainie, 2015). The GMO Literacy Project was an effort by scientists to explain GMOs and debunk myths (Schultz, 2014). Again, these scientists found that GMO foods had not harmed those who consumed them (Schultz, 2014; Funk & Rainie, 2015).

### ***U.S and Europe***

In spite of what scientists had said, the GMO safety controversy persisted in the U.S. and appeared to be even more widespread in Europe (Funk & Rainie, 2015). A company with GMO products faced more regulatory and reputational hurdles doing business in Europe than even in the U.S.

The U.S. scientific community and government regulators accepted GMO-based scientific testing evidence and the advantages of increased crop yields, reduced production costs, and higher nutrition with manageable disadvantages such as allergies and safety. Scientific research and regulatory approvals from U.S. government agencies such as the Federal Drug Administration (FDA) supported the safety of GMOs ranging from genetically modified foods to testing methods.

GMO safety issues in the U.S. ranged from general environmental concerns to legislation for labeling, as well as specific crop planning issues such as what seeds a farmer purchased. The primary controversial area in the U.S. was product labeling (Anderson, 2014; Campbell & Matthews, 2015).

Acceptance of GMOs in Europe remained controversial based on uncertain effects on health and the environment (Campbell & Matthews, 2015). Greenpeace and even Prince Charles of Great Britain came out against “Frankenfoods.” GMO products had been controversial in Europe for two decades due to skeptical regulatory agencies, food policy activists, and public opinion. Formal institutions in the European Union did not accept GMOs to the extent that institutions in the U.S. accepted them. Chereau (2014) concluded that U.S. regulatory agencies operated from a science-based perspective regarding GMOs while in Europe regulators relied on the precautionary principle. Thus, the GMO controversy in Europe was more challenging for global companies like Monsanto and when it attempted to sell GMO seeds in Europe; it was met with aggressive resistance.

### ***Africa***

Skeptical views by regulatory agencies, food policy activists, and public opinion existed to a lesser extent across the African continent based on the uncertain effects on agriculture, health, and the environment (Campbell & Matthews, 2015). For instance, there was a cassava failure in Africa and GMO success with Hawaiian papaya saved the crop. Given the importance of cassava to the diets of hundreds of millions of poor people in Africa, a solution to the pestilence that ruined cassava crops had to be found, probably through a combination GMOs and positive PR (Naam, 2014).

## India

Cotton was an important crop in India (Naam, 2014). India allowed GMO cotton to grow, referred to as Bt cotton. Cotton yields were flat in India from 1991 to 2001 at 300 kilos/hectare (Naam, 2014). Using Monsanto's seeds since 2002 allowed India to become a leader in cotton and Bt cotton yields jumped to 500 kilos/hectare (Naam, 2014). In January 2016, Monsanto was warned of troublesome regulation in highly politicized markets and withdrew its application to the Indian government in August for use of new GMO cottonseeds, which displeased many Indian stakeholders (Bhardwaj, 2016). Monsanto objected to the Indian government's proposal that Monsanto share its technology with Indian seed firms as well as a reduction in the royalties paid. However, analysts believed Monsanto would stay in India given the size of the Indian market. "India is too huge a seed market for anyone to leave (of) one's own choice," said Ajay Vir Jakhar, chairman of the *Farmers` Forum India* (Daily The Pak Banker, 2016).

## China

China had to feed a growing population in challenging circumstances including drought or perennial water shortage in the north (Roberts & Bjerga, 2015). In 2014, the agriculture ministry signaled that it had embraced GMO technology and China wanted to increase yields on marginal lands (Roberts & Bjerga, 2015). China also saw self-sufficiency in grain as a strategic imperative; importing 60% of global soybean exports was inconsistent with its strategy for self-sufficiency. Nevertheless, rather than allow U.S. based global companies like Monsanto and DuPont to dominate the GMO market in China, the government wanted to build a domestic GMO industry to improve its agricultural productivity (Roberts & Bjerga, 2015). Some suggested that one way to speed up the process was industrial espionage (Roberts & Bjerga,

2015). Another way China could gain intellectual property was through state-backed ChemChina purchasing Europe's leading GMO company, Syngenta (RT, 2016).

## **GMO Industry Background**

### ***GMO Industry Characteristics***

According to the North American Industry Classification System (NAICS), GMO foods were primarily classified in the biotechnology R&D (code 541711) with some overlap in the agriculture and chemical industries (NAICS, 2012). Major firms with GMO products crossed these three industry classifications. Monsanto was one of the top U.S. chemical companies until the late 1990s when it evolved into a firm that focused on agricultural applications of biotechnology (biotech). Although Monsanto was the first chemical firm to make this major move into agricultural applications of biotech, others quickly followed. Major peer firms with competing products such as Bayer, Dow, DuPont, BASF, and Syngenta also crossed one or more of these three industry classifications. Additionally, two pending consolidations between prominent firms in the industry (Dow-DuPont & Syngenta-ChemChina) muddled the once clearer boundaries between the chemical, agricultural, pharmaceutical, and biotech industries.

### ***Competition in GMO Industry and Niches***

Over the past twenty years, several industry niches had developed for the competitive GMO sector. Seed production, food processing, and agriculture productivity (fertilizer, insecticides, and herbicides) became major GMO niches and Monsanto had twenty-five competitors in these niches (Investopedia, 2015). The "attractiveness" of the GMO industry appeared to vary by industry niche and product. For example, Barker (2015) observed the demand for GMO seed

slowed in 2015 as concern over the effectiveness of glyphosate grew and the price of non-GMO crops rebounded.

### ***Threats and Opportunities***

Monsanto predicted declining company financials due in part to the worldwide drop in crop prices (Monsanto Annual Report, 2015). Organic farming methods competed with GMO seed and it was logical that public concern about GMO crops increased farmers' interest in non-GMO seed (Barker, 2015). Since price competition existed, sometimes suppliers and farmers substituted non-GMO products for GMO products at premium prices (Barker, 2015). Yet farmers and those opposed to large suppliers like Monsanto argued that many small farmers did not have the market power to bargain with large suppliers (Barker, 2015).

Some analysts contended that declining crop prices led to increased competition and a recent wave of mergers and acquisitions (M&A) in the industry (Barker, 2015). On the other hand, sometimes M&As led to decreased industry competition. U.S. anti-trust government regulators such as the Anti-Trust Division of the Department of Justice, the Federal Trade Commission (FTC), and the European Commission were the main external regulatory agencies. They were charged with the duty of raising questions and blocking M&As they deemed to hurt consumers due to less competition. The regulatory responses regarding the degree of industry competition was mixed. Some planned M&As in the industry had attracted regulatory and political scrutiny but no action was taken to date by regulators (Somayaji, Mulvany & Koch, 2016). Regulators had not blocked any major GMO related M&As due to lack of industry competition (Barker, 2015). As previously stated, some observers believed Monsanto's negative reputation played a larger role in the 2015 failed M&A with Syngenta than any regulatory concern for reduced competition. This failed merger only added to the public's

negative perception of Monsanto and possibly hurt its other opportunities for M&As, licensing, and industry partnerships.

Some threats had the potential to become strategic business opportunities for Monsanto. Kanso & Gonzales (2015) suggested Monsanto had overlooked pivotal groups such as scientific experts, organic consumer associations, conservation organizations, community leaders, shareholders, and employees that were potential allies for their anti-labeling strategy. Monsanto had fought many legislative attempts to pass laws concerning restrictive GMO labeling. A wider group of stakeholders that included pro-labeling activists and environmentalists potentially could help Monsanto to broaden its network, if it could find common ground with them (Phillips & Grant, 1998).

Any sizeable shift in market focus to non-GMO products actually helped Monsanto's brand with a segment of its GMO business. For instance, suppliers of non-GMO agricultural products also sold GMO seed. The failed 2015 merger with Syngenta opened the door for Monsanto to pursue other, different consolidation prospects such as purchase of the BASF or Bayer's seed units (Hammond, 2016). Additionally, Monsanto investigated other traditional strategic opportunities such as GMO licensing and strategic partnerships (Hammond, 2016). This expanded strategic approach to M&A improved the chances of Monsanto finding untapped stakeholders for its GMO products and non-GMO products. Hence, each of these new strategic consolidation moves had the potential to help repair Monsanto's negative reputation and declining financial indicators.

### ***Performance indicators***

Monsanto used benchmarking to compare its stock prices to its peers' stock prices. Since no group of companies precisely matched Monsanto, the firm created its own peer group. This

*Monsanto*





peer group included Bayer, Dow, DuPont, BASF, and Syngenta. Exhibit 1 shows a six-year comparison of Monsanto's stock prices to its peer group. In the Monsanto FORM 10-K section of the Monsanto Annual Report for 2014, the comparison showed that Monsanto's fiscal year end stock price had lagged behind both the S&P Index and its peer group for the previous six years. However, Monsanto started a three-year repurchase plan of its common stock in 2013 and another accelerated plan in 2015. The stock comparison to the S&P Index and its peer group improved; yet, the company's public image did not improve (Monsanto Annual Report, 2015; Kalso & Gonzales, 2015; Court 2016; Hammond, 2016).

**Exhibit 1. Monsanto's Comparison to Peer Group**

	8/31/2010	8/31/2011	8/31/2012	8/31/2013	8/31/2014	8/31/2015
<b>Monsanto</b>	\$100	\$133.09	\$170.77	\$194.86	\$233.88	\$200.93
<b>S&amp;P 500 Index</b>	\$100	\$118.50	\$139.83	\$165.99	\$207.89	\$208.88
<b>Peer Group</b>	\$100	\$124.63	\$140.87	\$178.64	\$219.31	\$198.18

Source: Monsanto FORM 10-K, 2015, p. 14; Monsanto Annual Report, 2015

### Monsanto's Business

As noted, although GMO foods were primarily classified in the biotech industry, Monsanto participated in three different industries, including agriculture. Many agricultural firms were involved in the development and distribution of GMOs, but Monsanto was the largest industry player (Kalso & Gonzales, 2015). The firm's strategic agricultural focus was modified corn; soybean, cotton, and canola seeds that helped farmers increase crop yields dealing with weeds, insects, and droughts (Schilling, 2010, Monsanto Annual Report, 2014).

*Monsanto*



### ***Products and Organization Structure***

Monsanto was structured by markets (major countries) worldwide and major product areas or segments (Monsanto Annual Report, 2015). Monsanto was structured in two major segments along the lines of its main product areas:

- **Seeds and Genomics (Traits)**

The Seeds and Traits segment consisted of the company's global seeds and traits business and genetic technology platforms - including biotechnology, breeding, and genomics.

- **Agricultural Productivity**

The Agricultural Productivity segment consisted primarily of agricultural and industrial, turf, and ornamental herbicide products.

The 2015 Monsanto Annual Report indicated that the seed and genomics segment was the larger of the two segments. Since 1996, Monsanto developed and sold GMO seeds to work with its well-known Roundup herbicide (glyphosate). Its seed brands included DEKALB (corn), Asgrow (soybeans), Deltapine (cotton), and Seminis and De Ruiter (vegetables). The Seeds and Genomics segment envisioned future growth; however, this vision for Seeds and Genomics contradicted the recent slump in sales and profits (Monsanto Annual Report, 2015). The smaller Agricultural Productivity segment related to crop protection and depended on global glyphosate producers' extensive supply capacity, which maintained downward pressure on recent profit margins (Monsanto Annual Report, 2015).

### ***Strengths and Weaknesses***

Among Monsanto's major strengths were strong brand recognition, strong organizational culture, innovative products, experienced leadership, and a strong R&D program (Monsanto: A history, 2009; Barker, 2015; Kanson & Gonzales, 2015). One example of Monsanto's value was a

great deal of scientific and management experience in new product development. Moreover, Monsanto had demonstrated the capability to reinvent itself in the past when it moved from a chemical focused company to an agriculture and biotech based company in the 1990s. The firm's investment in R&D, patent protection, and vigorous legal protection of GMO seeds helped Monsanto to increase the value of its products. Prior to 2015, this value was reflected in growing sales (Monsanto Annual Report, 2015). Although there were many competitors in the GMO seed business, vigorous legal protection of its intellectual property made Monsanto unique in the industry.

Some of Monsanto's strengths were also potential weaknesses. Strong brand recognition was a likely weakness because the firm's public image was negative. Numerous reports showed Monsanto's management was slow to react to external criticism about GMOs and the company's aggressive legal tactics with farmers and environmentalists harmed its reputation (Hopkinson 2013; Kalso & Gonzales, 2015). Monsanto's key financial indicators decreased in fiscal year (FY) 2015 and this decline continued in FY 2016. Declining financials possibly decreased Monsanto's reputation and made the firm a less attractive M&A or strategic industry partner than a few years prior.

### ***Financial Indicators***

Most management researchers agreed there was a strong historical correlation between reputation and financial performance (Kaplan & Norton, 1996; Grupp & Gaines-Ross; Hannington, 2004; Smith, 2013; Kalso & Gonzales, 2015). Despite Monsanto's declining reputation, key financial indicators from 2009-2014 showed improving financial performance (see Exhibit 2). Monsanto had four large U.S. agricultural distributors that made up 22% of global net sales and 40% in the U.S. during 2014 (Monsanto FORM 10-K, 2009-2015). In the Seeds and Genomics segment, the largest U.S. distributor accounted for 13% of global net sales

and 21% of the U.S. Monsanto's international sales, made up 46% of the company's total sales - 39% of the total Seeds and Genomics segment's sales and 59% of the Agricultural Productivity segment's sales (Monsanto FORM 10-K, 2009-2015). Its international sales were primarily to Brazil, Argentina, Canada and Mexico (Monsanto FORM 10-K, 2009-2015). As net sales increased, innovation came from increasing research and development expenditures: \$1,725 million in 2014, \$1,533 million in 2013 and \$1,517 million in 2012 (Monsanto FORM 10-K, 2009-2015). Assorted legal challenges arose but one that had been widely criticized in the press involved farmers, often in foreign countries, who saved non-hybrid soybean, canola, and cottonseeds that contained Monsanto's patented biotechnology traits, keeping Monsanto from maximizing its earnings on intellectual capital (Monsanto FORM 10-K, 2009-2015). Overall, however, financial indicators continued to increase through FY 2014 (see Exhibit 2).

### Exhibit 2. Key Internal Monsanto Financial Indicators

(in \$US millions)

FY Year/\$M	8/31/2009	8/31/2010	8/31/2011	8/31/2012	8/31/2013	8/31/2014	8/31/2015	8/31/2016
<b>Net Sales</b>	11,724	10,483	11,822	13,504	14,861	15,855	15,001	13,502
<b>EBIT</b>	3,007	1,568	2,387	3,047	3,460	3,952	3,500	2,408
<b>Net Income</b>	2,109	1,096	1,607	2,045	2,482	2,740	2,314	1,336
<b>Free Cash Flow</b>	1,513	564	1,839	2,017	1,963	959	2,089	1,724

Source: Monsanto FORM 10-K, 2009-2015; Monsanto Annual Report, 2015; Monsanto Corporation Fiscal Year 2016 Results

Yet the firm's key financial indicators turned in late 2014. Monsanto reported a 34% fall in earnings the fourth quarter of 2014. As previously reported, demand for GMO seed slowed in

2015 as concern over the effectiveness of glyphosate grew and the price of non-GMO crops rebounded (Barker, 2015). Monsanto's net corporate sales and net profit decreased from FY2014 - FY 2015 and fell more dramatically from FY 2015– FY 2016. These negative internal financial trends together with a persistent negative reputation, strongly suggested that Monsanto needed to take a more serious look at the relationship between its PR activities and its strategy and the sustainability of the firm (Barker, 2015; Barrett, 2015; Campbell & Matthews, 2015; Kanso & Gonzales, 2015; Monsanto Corporation Fiscal Year 2016 Results, 2016).

### **Monsanto's Public Relations Frameworks**

#### ***Monsanto's Reputation Management***

Most major firms with GMO-related products such as BASF, Bayer, Dow, DuPont, Syngenta, and Monsanto participated in efforts to educate the public about GMOs (Hopkinson, 2013; Monsanto Corporation, 2014-2015). The consensus was that the entire GMO industry was affected by negative public opinion, but Monsanto's reputation was more negatively affected (Kanso & Gonzales, 2015). Monsanto had attempted to improve its PR toward GMOs and these actions created both positive and negative public images. Industry observers pointed out negative opinions about Monsanto's involvement in GMO products primarily stemmed from its past involvement with unpopular products (overhang), its vigorous defense of GMO causes, and its aggressive legal activity (Hopkinson, 2013; Kanso & Gonzales, 2015). Monsanto's traditional makeover reputation management approach included product innovation, economic advantages, scientific community support, government regulations acceptance, and industry awards that provided a positive public image for some Monsanto products (Monsanto Corporation, 2015). Yet on balance, Monsanto's reputation had remained very negative (Kanso & Gonzales, 2015; Hammond, 2016; Court, 2016).

By 2011, Monsanto could no longer ignore public criticism that resulted in the firm being labeled as the world's most evil corporation. Monsanto began to: (1) implement a reactive approach through communicating with certain stakeholders and publics, (2) increase informational events, and (3) recognize public opinion (Kanso & Gonzales, 2015).

In 2013, Monsanto took several PR actions to change its public image such as revising the senior public relations staff, engaging a PR firm, and creating a website to answer questions regarding GMOs (Hopkinson, 2013). In so doing, Monsanto publically acknowledged that the industry's image was negative and serious public relations actions were needed to repair the company's reputation. Exhibit 3 summarizes the actions Monsanto had taken for reputation repair and PR makeover since 2013:

### Exhibit 3. Monsanto Reputation Repair Actions

1. Top management formally recognized the GMO public image problem
2. Top management reorganized its senior public relations staff
3. Top management engaged one of the country's largest public relations firms
4. The company answered questions on its website
5. The company partnered with various green organizations
6. The company contributed to charity
7. Monsanto explained how important its work was to feeding the world

Source: (Hopkinson 2013; Kanso & Gonzales, 2015)

Advocates for GMO labeling in the U.S. were revitalized as legislative bills were introduced in several states to require labeling of GMO foods (Anderson, 2014; APECSEC, 2014). Each time a new GMO controversy swirled or recent M&A deals involving Monsanto were proposed, the firm's negative reputation and PR efforts became issues in the deal making. Again, the recent dilemmas involving Syngenta, the Indian government, and the pending Bayer deal underscored the importance of Monsanto's negative reputation in all company strategic decision-making.

The risk of “doing nothing” or “doing the same thing” regarding these assaults on Monsanto’s reputation had potentially negative consequences for company sales and growth that were already trending down. Recent financial and non-financial indicators showed that Monsanto’s makeover PR actions had not gained traction and raised the question, what more needed to be done in the area of PR, as Monsanto’s PR efforts over the past four years had failed to repair its badly damaged reputation.

If you were the CEO of Monsanto in 2016, what reputation management or PR approach would you take to repair and restore Monsanto’s public image and turnaround the decline in company performance indicators? How would you use strategic management models to develop an effective PR strategy and integrate PR into the strategic product plans?



**George L. Whaley, Ph.D.**, is an Emeritus Professor of Human Resource Management for the School of Management in the Lucas College and Graduate School of Business at San Jose State University. Over the last twenty years, he has authored and co-authored numerous case studies of companies in the high technology and biotechnology industries. Professor Whaley holds a B.S. in Engineering Mathematics and a M.B.A. from the University of Arizona and Ph.D. in Organizational Behavior from the University of Colorado. He has forty years of combined management, consulting and teaching experience in the private sector, non-profit, government and education settings. Additionally, he serves on the editorial board of several academic journals. His research and publications focus on Strategic Human Resource Management, Sustainability, Leadership, Diversity and Entrepreneurship. Professor Whaley’s teaching focuses on the areas of Organizational Behavior, Human Resource Management and Organizational Change. Contact him at [george.whaley@sjsu.edu](mailto:george.whaley@sjsu.edu).

## References

- Anderson, L. (2014). Why Does Everyone Hate Monsanto? In recent years, no company has been more associated with evil than Monsanto. But why? *Modern Farmer*. Retrieved from: <http://modernfarmer.com/2014/03/monsantos-good-bad-pr-problem/>
- APECSEC. (2014). Should Genetically Modified Foods Be Labeled Pros And Cons. Retrieved from: <http://apecsec.org/should-genetically-modified-foods-be-labeled-pros-and-cons/>
- Barker, T. (2015). Why some farmers are deciding to go GMO-free. Retrieved from: [http://www.stltoday.com/.../article\\_16b29c16-7ea8-52](http://www.stltoday.com/.../article_16b29c16-7ea8-52)
- Barrett, M. (2015). Monsanto earnings fell 34% as farmers reject GMO crops. *Natural News*. Retrieved from <http://naturalsociety.com/monsanto-earnings-fall-34-farmers-reject-gmo-crops>
- Bhardwaj, M. (2016). Monsanto pulls new GM cotton seed from India in protest. Reuters. Retrieved from <http://www.reuters.com/article/us-india-monsanto-idUSKCN10Z1OX>
- Campbell, M. & Matthews, S. (2015). Forget Syngenta's Board. Monsanto Needs to Sway Public Opinion. (May 12, 2015). Retrieved from: <http://www.bloomberg.com/news/articles/2015-05-12/Forget-Syngenta-s-%20Board-%20Monsanto-Needs-%20to-%20Sway-%20Public-%20Opinion>
- Chereau, C. J. (2014). Biotechnology: Can the transatlantic trade and investment partnership reconcile EU and US differences on GMOs? *International Journal of Trade and Global Markets*, 7(4), 316-338.
- Court, E (2016). How a Bayer-Monsanto merger will wind up costing you at the grocery store. MarketWatch. Retrieved from: <http://www.marketwatch.com/story/bayer-monsanto-tie-up-not-good-news-for-anyone-who-eats-or-grows-food-2016-05-24>
- Daily The Pak Banker. (2016) Retrieved from: <http://www.hindustantimes.com/india/india-not-scared-if-monsanto-leaves-as-gm-cotton-row-escalates/story-wUqMOZ6dM04Aw9aynEOOUn.html>
- deGrasse Tyson, N. (2014). Retrieved from: <https://www.facebook.com/neiltyson/posts/10204439688771816>
- FORM 10-K Monsanto. For the fiscal year ended August 31, 2014. SEC.
- Funk, C. & Rainie, L. (2015). Public and Scientists' Views on Science and Society. Pew Research Center. Retrieved from: <http://www.pewinternet.org/2015/01/29/public-and-scientists-views-on-science-and-society/>
- Grupp, R. W., & Gaines-Ross, L. (2002). Reputation management in the biotechnology industry. *Journal of Commercial Biotechnology*, 9(1), 17-26.
- Hammond, E. (2016). Monsanto's Grant Seeks Partner at Dealmaking Dance He Started. Retrieved from: <http://www.bloomberg.com/authors/ASFJLIQykTc/ed-hammond>
- Hannington, T. (2004). How to measure and manage your corporate reputation. Gower Publishing, Ltd.



- Henein, M. (2016). Monsanto-Bayer: The Year of Merging Dangerously. *Truthout* Report. Retrieved from: <http://www.truth-out.org/news/item/37971-monsanto-bayer-the-year-of-merging-dangerously>
- Hopkinson, J. (2013). Monsanto confronts devilish public image problem. *Politico*. Retrieved from: <http://www.politico.com/story/2013/11/monsanto-agriculture-image-problem-100442.html>
- Investopedia (2015). Retrieved from: <http://www.investopedia.com/ask/answers/120314/who-are-monsantos-main-competitors.asp#ixzz3h2eulACf>
- Junod, S. W. (2007). Celebrating a Milestone: FDA's Approval of First Genetically-Engineered Product. *Update* magazine. Food and Drug Law Institute. Retrieved from: <http://www.fda.gov/AboutFDA/WhatWeDo/History/ProductRegulation/SelectionsFromFDLIUpdateSeriesonFDAHistory/ucm081964.htm>
- Kaplan, R. S. & Norton, D. P. (1996). *Using the Balanced Scorecard as a strategic management system*, Boston MA: Harvard Business School Press.
- Kanso, A.M. & Gonzales, A. (2015). World's "Most Evil Corporation"? Evaluating Monsanto's public relations in response to intense negative media coverage. *QRBD*, 2(3), 251-265.
- Kiser, G. (2010). The 12 least ethical companies in the world: Covalence's ranking. *Huff Post Business*. Retrieved from [http://www.huffingtonpost.com/2010/01/28/the-least-ethicalcompanies\\_n\\_440073.html](http://www.huffingtonpost.com/2010/01/28/the-least-ethicalcompanies_n_440073.html)
- McHughen, A. (2013). GM crops and foods: what do consumers want to know? *GM crops & food*, 4(3), 172-182.
- Money CNN (2016). Retrieved from: (<http://money.cnn.com/video/news/2016/04/18/monsanto-ceo-discussion-about-gmos-is-driving-me-nuts.cnnmoney/index.html>).
- Monsanto: A history. (2009). *GMWatch*. Retrieved from <http://www.gmwatch.org/gm-firms/10595monsanto-a-history>
- Monsanto Corporation. (2015). Awards and Recognition. Retrieved from: <http://careers/pages/company-awards-recognition.aspx>
- Monsanto Corporation Sustainability Report (2015). Retrieved from: <http://www.monsanto.com/sustainability/documents/monsanto-2015-sustainability-report.pdf>
- Monsanto Corporation. (2014). Retrieved from: <http://www.monsanto.com/improvingagriculture/pages/conserving-more.aspx>
- Monsanto Corporation. (2015). Annual Report, 2015. Retrieved from: [http://www.monsanto.com/investors/documents/annual%20report/2015/2015\\_annual\\_report\\_fullweb.pdf](http://www.monsanto.com/investors/documents/annual%20report/2015/2015_annual_report_fullweb.pdf)
- Monsanto Corporation. (2016). Fiscal Year 2016 Results and Fiscal Year 2017 Outlook. Retrieved from: [http://www.monsanto.com/investors/documents/2016/2016.10.5\\_mon\\_q4f16\\_financial\\_results.pdf](http://www.monsanto.com/investors/documents/2016/2016.10.5_mon_q4f16_financial_results.pdf)

- Naam, R. (2014). Why GMOs matter — especially for the developing world. GRIST. Retrieved from <http://grist.org/food/why-gmos-do-matter-and-even-more-to-the-developing-world/>
- NAICS Association (2012). Retrieved from: <http://www.naics.com/naics-code-description/?code+541711>
- Organic Consumers (2015). Millions against Monsanto. Retrieved from: <https://www.organicconsumers.org/campaigns/millions-against-monsanto>
- PBS. (2002). Genetically Modified Foods. Hybrid. Public Broadcasting System. Retrieved from: [http://www.pbs.org/pov/hybrid/getinvolved\\_article.php](http://www.pbs.org/pov/hybrid/getinvolved_article.php)
- Phillips, P & Grant, I. (1998). GMO labeling: Threat or opportunity? *AgBioForum*, 1(1), 25-30. Retrieved from: <http://www.agbioforum.org>.
- Roberts, D. & Bjerga, A. (2015). China Does an About-Face on GMOs: It sees bioengineered seeds as vital to a modern farming system. Bloomberg, Retrieved from <http://www.bloomberg.com/news/articles/2015-05-21/china-does-an-about-face-on-gmos>
- RT. 28 (2016). Spy confesses to stealing Monsanto and DuPont GM seeds for Chinese conglomerate. RT. Retrieved from <https://www.rt.com/usa/330504-monsanto-dupont-china-spy/>
- Schilling, M. A. (2010). Strategic management of technological innovation. McGraw-Hill Irwin.
- Schneider, K. R., & Schneider, R. G. (2010). Genetically modified food. Retrieved from: <http://edis.ifas.ufl.edu/fs084>
- Schultz, S. (2014). If activists really want to avoid GMOs, everyday life would shut down. Genetic Literacy Project. Retrieved from: <http://www.geneticliteracyproject.org/2014/11/07/if-activists-really-want-to-avoid-gmos-everyday-life-would-shut-down/>
- Sheets, C. A. (2013). Monsanto named 2013's 'most evil corporation' in new poll. *International Business Times*. Retrieved from <http://www.ibtimes.com/monsanto-named-2013s-most-evil-corporation-new-poll-1300217>
- Smith, R. (2013). Public relations: The basics. New York, NY: Routledge.
- Snell, C., Bernheim, A., Berge, J., Kuntz, M., Pascal, G., Paris, A. & Ricroch, A. E. (2012). Assessment of the health impact of GM plants diets in long-term and multigenerational animal feeding trials: A literature review. *Food and Chemical Toxicology*, 50(3), 1134-1148.
- Somayaji, C., Mulvany, L. & Koch, J. (2016). Bayer raises bid for Monsanto to \$54.7 billion. Bloomberg News. Retrieved from <http://www.expressnews.com/business/national/article/Bayer-raises-bid-for-Monsanto-to-54-7-billion-8378297.php>
- Whole Foods. (2016). Retrieved from: <http://www.wholefoodsmarket.com/gmo-quick-facts-what-why-where>

Woolsey, G. L. (2012). GMO Timeline: A History of Genetically Modified Foods. RosebudMag.com. Retrieved from:  
<http://www.rosebudmag.com/truth-squad/gmo-timeline-a-history-of-genetically-modified-foods#sthash.Wua7wing.dpuf>

World Health Organization (2016). Food Safety. Retrieved from:  
([http://www.who.int/foodsafety/areas\\_work/food-technology/faq-genetically-modified-food/](http://www.who.int/foodsafety/areas_work/food-technology/faq-genetically-modified-food/)).

## **HOOTERS OF AMERICA: FIGHTING THE BREASTAURANT WARS**

**STEPHEN J.J. MCGUIRE**

**NINA O'BRIEN**

California State University, Los Angeles

Hooters President and CEO Terry Marks had a decision to make. Thirty years ago, Hooters of America had advanced a successful chain restaurant concept that combined “good food, cold beer and pretty girls.” After a period of rapid growth and a gauntlet of legal and community challenges, Hooters began losing ground to competitors in the expanding “breastaurant” sector in the 2000s. When Terry Marks took charge of the company, Hooters was faced with a choice: (1) it could emphasize a wholesome, neighborhood environment that would welcome men, women and families; (2) it could move in a more risqué direction and compete head-to-head with racier rivals; or (3) it could find some third way to position the brand in the highly competitive restaurant industry.

### History

Known as the “Hooters Six,” friends Lynn D. Stewart, Gil DiGiannantonio, Ed Droste, Billy Ranieri, Ken Wimmer and Dennis Johnson established Hooters, Inc. in 1983 in Clearwater, Florida, and opened their first restaurant. As Hooters’ promotional materials described:

---

The authors developed the case for class discussion rather than to illustrate either effective or ineffective handling of the situation. The case and its accompanying instructor's manual were anonymously peer reviewed and accepted by the *Journal of Case Research and Inquiry* Vol. 2, 2016, a publication of the Western Casewriters Association. The authors and the *Journal of Case Research and Inquiry* grant state and nonprofit institutions the right to access and reproduce this manuscript for educational purposes. For all other purposes, all rights are reserved to the authors. Copyright © 2016 by Stephen J.J. McGuire and Nina O'Brien. Contact: Nina O'Brien, California State University, Los Angeles, Los Angeles, CA 90032, tel. (323) 343 2800, nobrien2@calstatela.edu

“The restaurant would combine their favorite manly finger foods with the 50’s and 60’s music they felt best exemplified a happy, nostalgic time in most Americans’ memories.”<sup>1</sup> The Hooters Girl, recognizable by her uniform of form-fitting logo tank top, tight orange hot pants, and sneakers, emerged immediately as a crucial component of the brand:

*Hooters Girls were the very essence of Hooters. Trained to excel in customer service, they provide the energy, charisma and engaging conversation that keep guests coming back. Much more than just a pretty face, Hooters girls have game. They’re intelligent and attentive – using their energy, experience and personalities to help guests everywhere to live in the moment and take a break from the outside world.<sup>2</sup>*

In 1984, Robert H. Brooks purchased franchising rights from the founders and established Hooters of America.<sup>3</sup> Brooks ran Hooters of America as Chairman from 2001 until his death in 2006, at which point his son, Coby Brooks, took the helm. The sale of Hooters of America to Chanticleer Holdings, a Georgia-based investment group, led by Hooters franchisee Mike Pruitt, was finalized in 2011. The sale value was estimated at approximately \$200 million.<sup>4</sup> Coby Brooks initially stayed on as CEO, writing to Hooters employees “I am today as I have always been, completely dedicated to this brand and to what my father built alongside all of you. I am not leaving.”<sup>5</sup> However, Coby Brooks left the company shortly thereafter to engage in franchising opportunities with a competitor.<sup>6</sup> He was replaced in August 2011 by Terry Marks. A former USC Trojan and Minor League Baseball pitcher, Marks’ managerial career began at Minolta where he stayed for four years.<sup>7</sup> Marks later served in several positions during his 21-year tenure at Coca-Cola enterprises before being named President of Coca-Cola Enterprises North America, directing 55,000 employees in 400 locations. Immediately before moving to Hooters, Marks served as the President and CEO of convenience store chain The Pantry, Inc., which operated 1,650 stores in 13 states.<sup>8</sup>

In a press release announcing his appointment to Hooters, Marks said:

*Hooters has become known around the world for great American food, a fun environment and of course the iconic Hooters Girls. This record of success is a credit to all those who have contributed to the development of the brand, and I look forward to working with the Hooters team as we lead the Company into its next phase of growth.*<sup>9</sup>

### Competition

The restaurant industry was highly competitive. In the U.S., growth in the industry had outpaced overall economic growth for the past 15 consecutive years.<sup>10</sup> In 2016, the U.S. restaurant industry reached \$782.6 billion.<sup>11</sup> The industry was characterized by fierce competition over customers, high reliance on consumer spending, and volatile food ingredient commodity costs<sup>12</sup>. Though growth in the restaurant industry was modest at 3.6%,<sup>13</sup> the casual-dining segment, to which Hooters and competitors like Buffalo Wild Wings and Applebee's belonged, was growing at three times the rate of the industry overall.<sup>14</sup>

Hooters was classified as a casual dining restaurant.<sup>15</sup> Establishments in this sector "provide food services in causal atmospheres to seated patrons who are served by wait staff and pay after eating."<sup>16</sup> Of the top 100 U.S. restaurant chains in 2015, 27 were classified as casual dining. These 27 chains represented \$38 billion in sales, accounting for 16.4% of the total sales by all 100 chains<sup>17</sup>.

In the casual dining sector, Hooters competed directly with other casual dining restaurants like Applebee's International, Buffalo Wild Wings and Ruby Tuesday, and with multiple-chain developers like Brinker (Chili's, Maggiano's Macaroni Grill) Carlson Restaurants (T.G.I. Fridays), and Darden (Olive Garden, Longhorn Steakhouse).<sup>18</sup> Nation's Restaurant News placed Hooters in the 55<sup>th</sup> position out of 100 top restaurant chains in 2015. Among the 27 casual dining establishments on the list, Hooters ranked 15<sup>th</sup> with sales of \$837 million in fiscal year 2014 (see Appendix A).<sup>19</sup>

Later competitors to the market included casual dining restaurants which “take inspiration from Hooters” and have embraced versions of the Hooters concept.<sup>20</sup> Termed “breastaurants”<sup>21</sup> by the press, these establishments also capitalized on attractive female wait staff, revealing uniforms, and sexual innuendo.<sup>22</sup> Perhaps unsurprisingly, more than 80% of their customers were male.<sup>23</sup> Each of the competitors listed in Appendix B represented a variation on the “good food, cold beer and pretty girls” formula: Mugs ‘n Juggs featured karaoke, Twisted Kilt sported a Celtic theme, and Cowgirls Espresso made a shift into the café sector of casual dining.<sup>24</sup> The breastaurant niche grew quickly, reaching \$2 billion in annual sales by 2013, and outpacing the rest of the industry. In 2015, Technomic reported that sales at breastaurants were up between 3.15% (Hooters) and 30% (Brick House).<sup>25</sup> Doug Guller, CEO of Bikinis Bar and Grill, noted that he was

*Very optimistic about the segment. There’s a lot of competition as the breastaurant industry has seen success over the last 5 to 10 years. It’s a somewhat recession-proof industry. I don’t think food, booze, sports or sex are going to die anytime soon*<sup>26</sup>

While they share Hooters’ basic formula, these new entrants pushed the envelope beyond the cheeky-but-wholesome Hooters Girl motif. As Mackey noted:

*Many say it’s high time someone challenged the “old man” of the industry: Hooters. It launched more than 3 decades ago, in 1983 – when Ronald Reagan was still President, big hair ruled, and the brat pack was on the prowl.*<sup>27</sup>

A *Daily Finance* story referred to Hooters as a “PG-13 version of Applebee’s” and references across trade publications alluded to Hooters’ “middle age.”<sup>28</sup> A 2012 statement by food industry consultants at Technomic asserted that “[Hooters] definitely needs an overhaul. It’s considerably outdated.”<sup>29</sup> Randy DeWitt, founder of Twin Peaks, proclaimed, “Hooters just wasn’t racy enough.”<sup>30</sup> According to DeWitt, “The idea of Twin Peaks is to take an outdated idea and make it fresh and innovative.”<sup>31</sup>

In addition to the sense that Hooters had not kept pace with the times, the restaurant also had difficulty making the case that its theme should be shielded from breasted restaurant competitors under trademark protection.

The first of these challenges came from a struggling Florida restaurant modeled after Hooters called Knockers, owned by retired NFL player Crawford Ker. In 1997 Hooters challenged Knockers on the basis of trademark infringement. The two parties reached an out-of-court settlement and Knockers reopened under the name Ker's WingHouse. In addition to the name change, WingHouse toned down its bawdy theme, and made increased efforts to appeal to families. As one profile noted: "Crawford nailed the pictures to the WingHouse's plywood walls himself, careful to put the bikini photos in the corners and the sports pictures at table level, so families would feel comfortable."<sup>32</sup> By 2004, WingHouse was making \$33 million in sales, and had opened 15 locations. Hooters again brought suit claiming trademark infringement. As reported in the St. Petersburg Times:

*Hooters' attorney, Steven Hill, argued that his client's success was based on a unique combination of elements that the chain's founders "bled and sweat for." Among those elements: parchment paper menus, rustic interiors and Hooters' Girls in tight-cut tank tops and shorts. 'Hooters blazed a trail that was a different trail from other sports bars and it paved that road with a substantial investment in marketing and promotion,' Hill said in opening arguments. 'Now that it's been a success, Crawford Ker wants to walk on that road, but he doesn't realize it's a toll road,'<sup>33</sup>*

The results of the three-week trial concluded that WingHouse did not infringe on Hooters' trademark, and further that Hooters would be required to pay \$1.2 million to satisfy a counterclaim by WingHouse for breach of the 1997 settlement which included an agreement not to reopen the trademark case.<sup>34</sup>

This was just one example of the many cases Hooters brought against competitors for infringement, and against non-restaurant businesses for dilution of a trademark. For example,



2015 litigation by Hooters claimed that the use of a modified Hooters costume by an escort service tarnished the reputation of the brand,

*because it portrays Hooters in an unwholesome and unsavory context. Especially, if the consuming public associates the Hooters brand to an escort service, the majority of people would be less likely to frequent the restaurant.*<sup>35</sup>

In 2012, Hooters entered into legal action against its own former CEO Coby Brooks and other former Hooters executives alleging that in their move to competitor restaurant chain Twin Peaks, they took “sensitive business information” with them. Hooters alleged that “in the weeks leading up to his departure to Twin Peaks’ development partner La Cima Restaurants, former Hooters executive Joseph Hummel downloaded and emailed to his private account a substantial volume of Hooters documents, including plans related to management, recruitment, distribution and sales.”<sup>36</sup> The case was settled in 2012 under undisclosed terms.<sup>37</sup>

It should be noted that these legal disputes were not unique to Hooters. In 2011, Hooters’ competitor Twin Peaks filed suit against rival “breastaurant” Grand Tetons, LLC, claiming that its restaurant, Northern Exposure, infringed on Twin Peaks’ “trade dress: namely their double-entendre-laden name and slogan, their wilderness lodge-themed décor, and of course, their scantily-clad female servers in low-cut plaid tops and short shorts.”<sup>38</sup>

A combination of increased competition, failed trademark litigation, reduced revenues, and changing consumer preferences for healthier options and more sophisticated fare<sup>39</sup> had been hard on Hooters: after consecutive billion-dollar years through the early 2000s, Hooters’ U.S. sales between 2007 and 2010 dropped from 960 million to 880 million, a decrease of 7.5%. While this was better than the 8.6% drop across the sector at large, CEO Terry Marks noted “the decline that Hooters experienced was not as deep, but we went into decline a bit earlier and have been slower to pull out of it.”<sup>40</sup> However, Hooters’ fortunes continued to suffer: by 2015, Hooters sales had fallen to \$837 million, a further decline of 4.9%.<sup>41</sup>

## Challenges: Human Resources and Hiring Practices

Starting with the very first restaurant in Clearwater, Florida, Hooters sought to hire attractive, buxom young women for the jobs of server, hostess and bartender. The Hooters brand was said to include wholesome, all-American sex appeal and an environment of fun that differentiated the restaurant from its competitors.<sup>42</sup> However, others argued that these elements of the Hooters brand created a discriminatory and hostile work environment. Over its 30-year tenure, Hooters faced many legal challenges regarding its hiring practices and human resources policies.

### *Hooters vs. The EEOC*

The Equal Employment Opportunity Commission (EEOC) was the federal agency charged with ensuring companies' adherence to federal equal employment opportunity laws. The EEOC was required to investigate all complaints, and could itself bring charges. When the Commission determined that there was evidence of unlawful discrimination, it filed a complaint against offenders and informed individuals of their rights to pursue legal action.<sup>43</sup> In 1991, using its power to initiate investigations, the EEOC opened an investigation of Hooters to determine whether the company was violating the civil rights of its workers.<sup>44</sup>

In September 1994, EEOC investigators concluded that Hooters' employment practices violated Title VII of the Civil Rights Act, which prohibited discrimination in employment on the basis of sex. The EEOC reasoned that Hooters' business was serving food, and that "no physical trait unique to women is required to serve food and drink to customers in a restaurant."<sup>45</sup> The EEOC then proceeded toward settlement on behalf of 1,423 males who unsuccessfully sought jobs at Hooters as waiters, hosts, or bartenders.<sup>46</sup>

In 1996 Hooters engaged the services of a prominent public relations firm based in Washington, D.C. and launched a \$750,000 media campaign aimed at influencing public opinion.<sup>47</sup> At the same time, Hooters also strengthened its legal team, hiring Washington litigator Patricia Casey and a former EEOC General Counsel, Don Livingston.<sup>48</sup>

Hooters implemented a sequence of carefully planned actions. First, selected portions of the EEOC's report were leaked to the press.<sup>49</sup> Second, Hooters customers and employees were provided with postage-paid postcards and Frisbee-like discs which they could send to the EEOC, their members of Congress, and members of the executive branch of government. The message: Get a grip, Washington! Both the volume - about 1,000 orange Frisbee-like discs per day at the height of the campaign - and the unusual shape of the "letters" overwhelmed the normal process of dealing with mail.<sup>50</sup>

Staff members in Congressional offices found that some of their normal procedures were inadequate. For example, lacking space for storing the bulky disks, they put them in boxes, sacks, hallways, attics, and any other areas they could find. This stimulated talk within (and between) Congressional offices, attracting attention and publicity.<sup>51</sup> The public's attention was redirected not to Hooters' employment practices but rather to the actions of regulatory agencies that Hooters argued represented neither common sense nor the voting public. One member of the public expressed his outrage in a letter to his newspaper's editor:

*Thank God for the EEOC controversy. Now, within the space of only two or three days, every American citizen will know what business people have known for a decade: the regulatory agencies are completely out of control.*<sup>52</sup>

As part of its campaign on Washington, Hooters even went so far as to dress one of its mustachioed male managers in a Hooters Girl outfit to make the point that a "Hooters Guy" would not work. While Vice President of Marketing Mike McNeil accompanied the Hooters Girls march on the White House, Cheryl Tyler, in her Hooters uniform, appeared on the steps of Congress. Tyler, then Hooters' Vice President of Human Resources and a former Hooters Girl,

protested the EEOC's demands because they threatened the job security of 10,000 female employees.<sup>53</sup>

After several months of silence, in May 1996, the EEOC quietly dropped its four-year investigation of sex discrimination at Hooters. In a letter to Congressional Representative Harris Fawell, the EEOC wrote that it would be "wiser" to focus on other cases.<sup>54</sup> However, the Commission left the door open for individuals to pursue action independently.

### ***Civil and Class Action Suits***

In 1993, while the EEOC case against Hooters was unfolding, four male job applicants who were not hired by a Hooters restaurant filed a lawsuit against Hooters alleging unlawful discrimination.<sup>55</sup> They claimed that although qualified for the positions for which they applied, they were not hired because of their gender. A class action suit soon followed to include a larger number of unsuccessful male job applicants.<sup>56</sup> In its defense, Hooters pointed to its application for employment, which included language about the decision of a 1993 Illinois district court that upheld the company's gender requirement for certain positions including "Hooters Girls on the Floor, Host, Staff and Service Bartender."

Hooters also invoked the Bona Fide Occupation Qualification and insisted that being female was a legitimate requirement for the job of Hooters Girl. The law recognized that hiring practices usually classed as discriminatory (such as hiring based on gender or age) could be allowed where the "qualification is reasonably necessary to the normal operation or essence of an employer's business."<sup>57</sup> The results of the class action suit, however, declared that Hooters' discrimination against males for the jobs of waiters, hosts, and bartenders was unlawful.<sup>58</sup> In 1997, Hooters agreed to an out-of-court settlement with the 1,423 men who were denied employment, amounting to approximately \$3.7 million.<sup>59</sup> According to one of Hooters' lawyers, Brenda Feis, the agreement was "mutually satisfactory."<sup>60</sup> An important consequence of the

out-of-court settlement was that the terms did not require Hooters to hire men in certain jobs. Hooters interpreted the terms of the settlement to permit it to continue to restrict hiring for Hooters Girls to women. However, the company opened up positions of service bartender, host and general staff (bussing) to men.

### ***Sexual Harassment***

In addition to claims of unfair hiring practices, Hooters had also been charged with creating a sexually charged environment that led to, or failed to protect workers from, harassment. In 1995, a sexual harassment suit was filed by Melissa Huston, a former Hooters Girl who alleged that her former general manager asked her to display her breasts, requested sex with her, exposed himself in her presence, and fired her in retaliation for complaining about the harassment.<sup>61</sup>

In January 1997, Annette Philips, another former Hooters Girl, led a class action lawsuit against Hooters, alleging that her restaurant's atmosphere subjected her and fellow female employees to a torrent of sexual harassment.<sup>62</sup> Philips, who worked as a server and bartender at the Hooters in Myrtle Beach, South Carolina from May 1989 to June 1996, claimed that she was sexually harassed verbally and physically by both a manager and a relative of a former Hooters executive. Phillips' case hinged on the claim that Hooters' uniform and marketing practices put its employees at increased risk of sexual harassment.

Hooters conceded that jokes and sexual innuendo occurred in the workplace, yet claimed they neither constituted sexual harassment nor came as a surprise to any employee. In fact, before they begin working, Hooters Girls were required to sign the following statement:

*"I hereby acknowledge and affirm that the Hooters Concept is based on female sex appeal and that the work environment is one in which joking and innuendo based on female sex appeal is commonplace."<sup>63</sup>*

Phillips' attorney claimed that requiring employees to sign this statement meant that Hooters not only failed to provide employees with proper protection from sexual harassment, but that it forced its employees to give up their civil right to be free from harassment as a condition of employment.<sup>64</sup> Vigorously denying that Hooters permitted, encouraged, or engaged in sexual harassment, Hooters quietly settled these claims out of court, on the condition that Huston, Phillips, and as many as 15 other former Hooters Girls signed non-disclosure agreements.

Other cases made it all the way to a trial decision. In 2000, former Hooters Girl Sarah Steinhoff alleged that she had been the target of unwanted sexual advances and demeaning behavior. During trial, other former employees testified that they were subject to similar behavior, such as being punished for challenging unwanted advances by being required to participate in weekly bikini contests.<sup>65</sup> This kind of behavior was presented as common in the Hooters work environment. A federal jury ordered the Hooters franchise to pay \$275,000 for emotional distress and \$250,000 in punitive damages but an appeals court later reversed the punitive damages, finding that the restaurant made good-faith efforts to prevent sexual harassment, for example by posting a toll-free number that employees could use to report complaints anonymously.<sup>66</sup>

In 2003 and 2004, suits were brought which claimed that management did not prevent male employees from invading female employees' rights to privacy. In the 2003 suit, male employees at a Chicago, Illinois restaurant were alleged to have spied on Hooters Girls as they changed in and out of their uniforms. The suit claimed that when peepholes were found in the walls, employees complained to management, who took no immediate action. The lawsuit stated that the peepholes were finally closed, but new holes appeared some months later. Again, complaints were made and four months later the holes were closed, only to re-appear after a few months. The complainant claimed that Hooters management "was aware of the peephole incidents and did nothing to change policy." A similar 2004 suit was brought by five female job applicants in West Covina, California. These employees claimed that they were secretly

videotaped while changing into Hooters uniforms during their interviews. Investigation of the complaint revealed a digital camera and computer with 180 video files of at least 82 women. Hooters dismissed the manager of that location, and no further charges were brought against the company. Mike McNeil, then CMO, asserted that that the behavior was expressly against company policy, and stated, “We’re outraged and sickened by this whole matter.”<sup>67</sup>

### Hooters’ Changing Strategy

#### ***Hooters’ Strategy under Robert and Coby Brooks (2001-2011):***

Under the Brooks’ leadership, Hooters moved into a period of rapid expansion, opening Hooters -owned restaurants as well as franchising restaurants in the U.S. and abroad. In the U.S., the restaurant chain focused expansion efforts in high traffic suburban areas such as malls, military bases, shopping areas, and airport venues while internationally Hooters entered into franchise agreements targeting highly populated cities and vacation destinations. At the peak of expansion, Hooters had 430 restaurants open in 43 U.S. states as well as 27 international locations in Canada, South America, China and Australia.<sup>68</sup> Following Brooks’ acquisition of the majority stake in 2001, the company further expanded to more than 400 locations and became a \$1 billion dollar-per-year business.<sup>69</sup>

Hooters expanded its brand beyond the restaurant through merchandising, sports sponsorships, and events.<sup>70</sup> A particularly grandiose example of expansion was Hooters Air, a 2003 partnership with Pace Air (a recent Brooks acquisition) in which Hooters-branded planes staffed by Hooters Girls transported passengers between 13 U.S. destinations as well as Nassau, Bahamas.<sup>71</sup> Hooters Air folded in 2006 at a reported cost of \$40 million to Hooters.

Publicity was generated when “Hooters Girls” assisted at golf tournaments, walk-a-thons, football and baseball games, auto races and other events. A multitude of available Hooters

merchandise, often emblazoned with the Hooters Owl logo, promulgated the restaurant's image at these events. In addition to an annual swimsuit pageant,<sup>72</sup> Hooters sponsored numerous promotional events for veterans and service members, such as sending Hooters Calendar Girls to visit American troops abroad<sup>73</sup> and offering discounts to veterans.<sup>74</sup>

Not all members of the communities Hooters sought to serve were impressed with the brand. Particularly under Brooks' tenure, the opening of new Hooters restaurants often prompted demonstrations and protests from community and women's groups. One city council member in Santa Monica, California summed up the general sentiment saying, "We do not need gangs of frustrated fraternity boys and dirty old men coming downtown to drink and ogle women."<sup>75</sup>

According to Hooters, approximately 10% of new Hooters restaurants met with protests in the early years.<sup>76</sup> In St. Louis in 1995, a judge had to order the city to issue a business permit to Hooters after City Hall was bombarded by calls and letters opposing the opening. In New Jersey the same year, members of the National Organization for Women carried signs in protest of a new store opening. In Boston in 1998, a restaurant opening was delayed leaving customers waiting in the cold because of a "longer-than-expected" fire inspection by the city. In Syracuse, New York, the opening of a Hooters in a shopping mall met with a protest. A resident of Fairfax, Virginia, near a Hooters restaurant, described Hooters as a "bad role model for kids," with an offensive name and uniforms that were demeaning to women.

Nor was opposition restricted to women: after four years of living near a Hooters restaurant, a male resident remarked:

*I see no reason to change my view. I continue to think that it demeans women. I object to the name of the restaurant, and I object to the name being in such large letters, and I really object to it being in my back yard.<sup>77</sup>*

Mike McNeil, then-CMO, found that most of these community conflicts actually helped in the promotion of new restaurants. They increased interest in the restaurant and generated highly



visible, free media coverage. According to McNeil, the typical effects of community opposition were as follows:

*There is often a petition when a Hooters is about to open, followed by the same news article that always includes the phrase: 'the highly controversial chain featuring scantily clad waitresses ....' Then somebody from NOW [the National Organization for Women], usually [saying] something like 'we don't like this concept because it objectifies females,' followed by the restaurant opening on time and the customers flocking in.<sup>78</sup>*

Acknowledging opposition from sources in the community, which found the Hooters brand distasteful or sexist, Hooters engaged in a number of endeavors designed to improve community relations.

Hooters garnered unlikely allies through its community service campaigns and the Hooters Community Endowment Fund. For example, Hooters engaged in a promotional event at three Chicago-area restaurants in which half of the revenue from spicy chicken wings, the most popular menu item, was donated to the Holy Family Church's school for underprivileged children. Pressed to explain the partnership, Church Pastor Infelt commented: "Some people don't know about Hooters. Anybody who has been there knows it's legitimate. I checked it out."<sup>79</sup> The organization also raised money for community and youth sports programs, particularly in promotion of young female athletes.<sup>80</sup>

### ***Hooters' Strategy under Chanticleer (2006 - ):***

A publicly traded company, Chanticleer was established in 2005 as a business development company by Mike Pruitt, a South Carolina Businessman who had close ties to Brooks and was a Hooters franchisee in South Africa. The two negotiated a deal for right of first refusal in the event of a Hooters sale in early 2006. Pruitt staked a \$5 million loan to Brooks, which helped keep Hooters Air afloat for a short while.<sup>81</sup> When sale of the company was court-mandated as part of the settlement of Brooks' estate, Chanticleer, with the backing of independent

investors, was able to match competitors' terms and secure the purchase. Also acquired in the deal was the largest Hooters franchise holder, Texas Wings, which contributed 161 wholly-owned and more than 300 franchised Hooters properties.

Settlement of the Brooks' estate and sale to Chanticleer Holdings in 2011 represented a time of transition for the organization. At the time of the sale, questions flew about what Chanticleer would do next. According to mergers and acquisitions expert Dave Schweiger:

*Chanticleer could bring in new discipline and close down some less profitable locations. Hooters might need to improve its cash flow so that the new owners see more of a return on their investment. It's hard to know what will be done since the deals were mostly struck behind closed doors. It's yet to be seen under the new ownership what they can really do with this brand and whether they can leverage the business to grow it.*<sup>82</sup>

In August 2011, Chanticleer appointed Terry Marks President and CEO of Hooters. Whether Marks would take the company in a racier or a more family-friendly direction was unclear. In a press release at the time of his appointment, Marks held his cards close, saying, "I look forward to working with the Hooters team as we lead the company into its next phase of growth."<sup>83</sup>

What that next stage of growth would look like was not yet evident. After 2011, the new leadership took stock by engaging in extensive market analysis.

## **Analytics**

A 2014 interview by Loyalty 360 included the remark by Hooters CIO Chris Duncan that:

*We have a very loyal customer base and want to reward them. The challenge we had was learning more about our customers and learning if what we were doing in the loyalty scope was working. We're in a day and age where we want to think we know what our customers want. I want to know what the customer likes and get that for them.*<sup>84</sup>

Terry Marks described Hooters' market analyses as "the most comprehensive body of work in trying to understand how users and lapsed users feel about the brand."<sup>85</sup> In late 2011, Hooters began an extensive online and in-store survey campaign to determine what consumers thought about where the company should go next. Other efforts to gather data and reward customer loyalty included a multichannel customer loyalty program and app called the Hooters HootClub.<sup>86</sup> CIO Duncan described the program as promoting opportunities to customize the Hooters experience for different demographics. For example, he said if customer data showed that a particular Hooters location trended toward customers in their late 40s, company officials could alter the music played in those locations that would be more of the classic rock genre. "That kind of customization is what we're seeking," Duncan said.

Another way Hooters capitalized on data analysis was revealed in its partnership with Forum Analytics, a "data and intelligence provider" which helped Hooters identify the best locations for national and international expansion. As Hooters' Senior Vice President of Global Development said:

*Instead of spending our time looking all over the country, we can focus in on the highest potential area for sales. That helps us prioritize on a market-by-market standpoint. If we see ... that there are three or four strong trade areas in one market, and only one in another market, we know to focus on the market with higher potential for not only sales, but units, as well.... So it's not just me saying, 'Yup, that looks like a good site.' Our system is also validating that; I think that gives [franchisees] an added comfort.<sup>87</sup>*

### **Repositioning the Brand**

The results of Hooters' analytics were not made publicly available. However, public statements and strategic moves revealed that Hooters was attentive to the need to reenergize the brand without alienating loyal customers.<sup>88</sup> A "brand refresh" which began in 2012 emphasized changes to the food and clientele.

In a 2012 report on the results of the consumer surveys, Marks noted, “It’s all about the food.”<sup>89</sup> Attention to revitalizing the menu was consistent with trends across the restaurant sector, which showed that more consumers sought healthier, more varied options.<sup>90</sup> At Hooters, additions included salads, light sandwiches and seafood dishes.<sup>91</sup> Hooters also experimented with expanding beverage offerings to include full liquor bars in addition to beer and wine.<sup>92</sup>

Hooters had long struggled with the tensions between its sexy image and its efforts to be a neighborhood favorite. For example, in explaining its hiring practices to the EEOC, the company argued that the business concept relied on female sex appeal, but when Hooters applied for business licenses in town halls across the country, it presented itself as a “neighborhood” restaurant, exemplified by the lack of hard liquor and the presence of a children’s menu. The presentation of Hooters and its female staff as “naughty, but not too naughty” had been problematic since the company’s inception, but became even more challenging in the face of new “breastaurant” competitors which offered racier and more provocative alternatives.

### Conclusion

Terry Marks needed to steer Hooters in the right direction: how the company should evolve and how it should position its brand were open questions. On the one hand, Marks could push Hooters to persevere in its “naughty but not too naughty” brand image by emphasizing the wholesome nature of its sexy appeal and reaching out to women and families. On the other, Marks could embrace the challenge of competing head-to-head with racier rivals like Twin Peaks, which appealed to a younger male demographic by being more provocative and sexually suggestive. Or perhaps Marks would find a different approach to differentiating the brand in the very crowded, competitive casual dining industry segment.



**Steve McGuire** is Professor of Management at California State University, Los Angeles, where he received the College of Business and Economics Outstanding Teacher Award and the University Outstanding Professor Award. He received his BA from Providence College, MBA from IESE Business School and Ph.D. from The George Washington University. Steve is a former partner of the HayGroup, where he worked as a management consultant for major organizations in 23 countries, CEO of HayGroup Portugal, and Director, International Business Group. He is author of *Managing Organizational Change* as well as several research articles and cases.



**Nina O'Brien** (Ph.D., University of Southern California) is an Assistant Professor in the Departments of Communication Studies and Management at California State University, Los Angeles. Nina's research focuses on the organizational and communication practices and systems which characterize creative industries like film, television and new media production, as well as the not-for-profit and civil society sectors.

**Appendix A**  
**Sales by U.S. Casual Dining Restaurant Chains<sup>93</sup> (in millions of U.S. dollars)**

Top 100 Ranking	Restaurant	2014	2013	2012
10	Applebee's	\$4,577.40	\$4,517.00	\$4,503.50
16	Olive Garden	\$3,763.00	\$3,625.00	\$3,662.00
17	Chili's Grill & Bar	\$3,634.00	\$3,537.00	\$3,559.00
19	Buffalo Wild Wings	\$3,238.20	\$2,784.10	\$2,463.70
26	Outback Steakhouse	\$2,487.00	\$2,455.00	\$2,392.00
28	Red Lobster	\$2,373.00	\$2,397.00	\$2,553.00
33	Texas Roadhouse	\$1,876.60	\$1,721.00	\$1,533.00
35	The Cheesecake Factory	\$1,782.40	\$1,684.50	\$1,604.80
36	TGI Fridays	\$1,775.00	\$1,772.50	\$1,816.60
39	Longhorn Steakhouse	\$1,548.00	\$1,384.00	\$1,231.20
41	Red Robin	\$1,438.30	\$1,331.70	\$1,289.50
45	Ruby Tuesday	\$1,182.40	\$1,222.40	\$1,309.10
51	P.F. Chang's	\$881.40	\$906.00	\$927.30
53	BJ's	\$845.60	\$775.10	\$708.30
<b>55</b>	<b>Hooters</b>	<b>\$837.00</b>	<b>\$845.60</b>	<b>\$838.60</b>
60	Carrabba's Italian Grill	\$714.00	\$710.00	\$697.00
61	Logan's Roadhouse	\$711.40	\$718.80	\$701.70
63	Cheddar's	\$668.00	\$613.20	\$545.80
69	California Pizza Kitchen	\$634.00	\$648.00	\$657.50
71	Bonefish Grill	\$622.00	\$573.00	\$512.00
76	Ruth's Chris Steak House	\$559.80	\$531.50	\$512.30
82	O 'Charley's	\$521.50	\$506.70	\$531.10
88	Famous Dave's	\$496.20	\$497.40	\$496.00
91	Yard House	\$478.00	\$395.00	\$338.00
94	Joe's Crab Shack	\$433.00	\$447.80	\$418.90
97	Maggiano's Little Italy	\$407.70	\$379.10	\$373.70
98	The Capital Grille	\$405.00	\$372.00	\$332.00
Total Casual Dining		\$38,889.90	\$37,350.40	\$36,507.60
Total Top 100		\$232,191.20	\$222,053.00	\$214,909.80

**Appendix B**  
**Selected Competitors in the Breastaurant Niche**

<b>Name</b>	<b>Year Founded</b>	<b>Locations</b>	<b>Website</b>
Ker's Wing House (formerly Knockers)	1994	24	<a href="http://www.winghouse.com">www.winghouse.com</a>
Mugs 'n Jugs	1998	2	<a href="http://www.mugstogo.com">www.mugstogo.com</a>
Bone Daddy's House of Smoke	2000	7	<a href="http://www.bonedaddys.com">www.bonedaddys.com</a>
Cowgirls Espresso	2002	12	<a href="http://www.cowgirlsespresso.com">www.cowgirlsespresso.com</a>
Tilted Kilt	2003	100	<a href="http://www.tiltedkilt.com">www.tiltedkilt.com</a>
Twin Peaks	2005	71	<a href="http://www.twinpeaksrestaurant.com">www.twinpeaksrestaurant.com</a>
Bikinis	2006	8	<a href="http://www.bikinissportsbarandgrill.com">www.bikinissportsbarandgrill.com</a>
Canz-a-Citi Roadhouse Restaurant	2009	1	<a href="http://www.canzaciti.com">www.canzaciti.com</a>

### Appendix C Male and Female Impression Scores for Hooters from YouGov<sup>94</sup>

YouGov Brand Index measured Hooters using its Impression Score, which was determined by asking respondents: "Do you have a general positive feeling about the brand?" All results for this research are for adults 18 years of age or older.

In August 2015, the women’s impression score for Hooters stood at negative 26. For men, it was negative 3. In January 2015, the women’s impression score had moved to negative 21; the men’s score was positive 2.





Appendix D  
 Examples of Changes to the Brand following Chanticleer Purchase in 2011

The Uniform: Under Brooks<sup>95</sup>



The Uniform: Under Chanticleer<sup>96</sup>



The Logo: Under Brooks<sup>97</sup>



The Logo: under Chanticleer<sup>98</sup>



Restaurant Exterior: Under Brooks<sup>99</sup>



Restaurant Exterior: Under Chanticleer<sup>100</sup>




Restaurant Interior: Under Brooks<sup>101</sup>



Restaurant Interior: Under Chanticleer<sup>102</sup>



Menu: Under Brooks<sup>103</sup>



**LOOK  
DEEPLY INTO  
MY EYES  
AND CONSIDER  
THIS**

NEW ENGLAND STYLE CLAM CHOWDER (Bowl) ..... 1.45  
 MANHATTAN STYLE CLAM CHOWDER (Bowl) ..... 1.45  
 RAW OYSTERS (12 on the Half Shell)..... 2.95  
 RAW CLAMS (Likewise) ..... 3.95

**STEAMED SHRIMP** with Drawn Butter or Hooters Marinade  
 EXTRA-LARGE SHRIMP SERVED HOT & READY TO PEEL - FIELD TESTED IN RURAL IOWA - SO YOU KNOW THEY'RE GOOD. 1/2 DOZ. 2.65 1/2 LB. 4.95 (BY OUR SCALE)

**CAROLINA STYLE OYSTER ROAST** - IN THE SHELL - A ROASTERFULL  
 A TASTE LIKE YOU'VE NEVER HAD - YOU'LL LOVE 'EM SERVED WITH DRAWN BUTTER - OR HOOTERS MARINADE ... 5.95

**STEAMED CLAMS** - HOOTERS STYLE - Served with Drawn Butter or Marinade  
 MADE SEMI-FAMOUS RIGHT HERE AT HOOTERS... 3.95

The Obligatory **STEAK SANDWICH**  
 4 oz. Tenderloin marinated to within a hair of Perfection served on a Sesame Seed Bun ..... 4.95

**HOOTERS** NEARLY WORLD FAMOUS  
**CHICKEN WINGS**  
 OFTEN IMITATED - HARDLY EVER DUPLICATED

(SERVED - MILD, MEDIUM OR HOT) THE HOT ONES WILL DEFINITELY GET YOUR ATTENTION	10	2.95
	20	5.50
	50	9.95

**A MEAL OR A SNACK!!!**

**CURLY FRENCH FRIES** ..... .95  
 PEELLED AND SQUARED ENTIRELY BY HAND BY AN IDAHO REFUGEE WHOM WE HAVE CHAINED TO THE WALL IN THE BACK ROOM - TOURS ON REQUEST - PLEASE DO NOT FEED THE EMPLOYEES.

**COLE SLAW** ..... .49  
**GOURMET HOT DOGS**..... .95  
 A UNIQUE LITTLE ITEM - CATCHING ON AROUND THE COUNTRY.

**BEFORE, DURING, OR AFTER YOUR FEEDING FRENZY WASH IT DOWN WITH ONE OF THESE BEVERAGES. GO AHEAD, BE DARING, YOUR MOM'S NOT WATCHING.**

**MILK** ..... .50  
**PEPSI, 7UP, FROSTY ROOT BEER, DIET PEPSI, SUNKIST ORANGE** ..... .60  
**COFFEE, ICED TEA**..... .50

**BEER** - DRAFT - BUDWEISER, MICHELOB, MILLER LIGHT GLASS .85 PITCHER 3.75  
 12 oz. DRAFT BEER IN "YOUR VERY OWN" HOOTERS CUP (GOOD TO BE A COLLECTORS ITEM IN SEVERAL SOUTHERN FLORIDA COUNTRIES) ..... 1.25  
 DRAFT HEINEKEN ..... GLASS 1.25 PITCHER 4.65  
 IN "YOUR VERY OWN" HOOTERS 12 OZ CUP 4.95 EXTRA

**BOTTLE BEER** ..... 1.25  
**IMPORTED BOTTLED BEER** ..... 1.75

**WINE** ..... GLASS 1.25  
 WE PROUDLY POUR CELLA HOUSE WINES 10 CASKS 2.95  
 HOMEMADE SANGRIA (IMPORTED FROM TAMPA) CASKS 4.95  
**CHAMPAGNE (BRUT) FOR THE LADIES** ..... 3.95

**WTSP.COM**

Menu: Under Chanticleer<sup>104</sup>

**SOUPS**

A BOWL OF ONE OF OUR DELICIOUS SOUPS

**NEW ENGLAND STYLE CLAM CHOWDER**  
**BAKED POTATO SOUP**  
**VEGETABLE SOUP**  
**HOOTERS CHILI** (BOWL)  
 ASK FOR CHEESE & ONIONS

**SALADS**

Bleu Cheese, Honey Mustard, Lite Ranch, Honey French, Thousand Island, Golden Italian, Oil & Vinegar, Fat Free Rasperry, Creamy Cilantro, Balsamic Vinaigrette

**HOOTERS COBB SALAD**  
 BACON, CHEESE, CRUNCHY FRIED CHICKEN, TOMATOES, EGGS AND MORE. SORRY, THERE'S NO CORN ON THIS COBB

**SOUTHWEST FIESTA SALAD**  
 ROMAINE LETTUCE TOPPED WITH GRILLED CHICKEN AND CRISPY FRIED TORTILLA STRIPS. SERVED WITH CREAMY CILANTRO DRESSING.

**GRILLED CHICKEN or STEAK CAESAR SALAD**  
 FRESH ROMAINE LETTUCE WITH SHREDDED PARMESAN CHEESE, HOME STYLE CROUTONS AND CREAMY CAESAR DRESSING. TOPPED WITH CHUNKS OF GRILLED CHICKEN OR STEAK.

**CAESAR SALAD**  
**SIDE CAESAR SALAD**  
**GRILLED CHICKEN or STEAK GARDEN SALAD**  
 LETTUCE, TOMATOES, CUKES, ONION, CARROTS AND CROUTONS TOPPED WITH CHUNKS OF GRILLED CHICKEN OR STEAK. ONLY THE RABBIT HIMSELF IS MISSING.

**GARDEN SALAD**  
**SIDE GARDEN SALAD**

Hooters has the "Coldest Beer in Town"  
 Try Our Fresh Made Sangria

**SEAFOOD**

**\*OYSTERS** (Raw On The Half Shell)  
 There is a risk associated with consuming raw oysters or any raw animal protein. If you have a chronic illness of the liver, stomach or blood or have immune disorders, you are at greater risk of serious illness from raw oysters, and should eat oysters fully cooked. If unsure of your risk, consult a physician.

**OYSTER ROAST CAROLINA STYLE** - IN THE SHELL  
 A TASTE LIKE YOU'VE NEVER HAD, YOU'LL LOVE 'EM. SHUCK AT YOUR OWN RISK. Served with Drawn Butter

**FISH AND CHIPS**  
 BEER BATTERED FISH. COMES WITH COLE SLAW AND CURLY FRIES, BUT NO CHIPS. GO FIGURE.

**WILD SALMON FILLET**  
 AN 8 OZ. SALMON FILLET GRILLED IN A TERYAKI SAUCE.

**STEAMED CLAMS HOOTERS STYLE**  
 EVERYBODY'S CLAM-ORING FOR THESE BABIES! SERVED WITH DRAWN BUTTER OR COCKTAIL SAUCE MADE SEMI-FAMOUS RIGHT HERE AT HOOTERS.

**SNOW CRAB LEGS**  
**NEW ORLEANS SHRIMP**  
 PEELEEM & EATEEM SHRIMP - TALK ABOUT BIG EASY. SIMMERED IN A SPICY ROUX SAUCE. WITH TOASTED FRENCH BREAD FOR DIPPING.

**TRADITIONAL STEAMED SHRIMP**  
 ACTUALLY, JUST A LITTLE JEALOUS OF THE NEW ORLEANS SHRIMP.

**\*MORE THAN A MOUTHFUL BURGER**

THE OBLIGATORY BURGER, ONLY BETTER.

**CREATE YOUR OWN**  
 Cheese: American, Cheddar, Swiss, Pepper Jack, Provolone, Bacon, Grilled Mushrooms, Onions, Chili.

## References

- <sup>1</sup> Hooters History (2015). Accessed online on January 8, 2015. <http://www.originalHooters.com/saga/the-beginning/>
- <sup>2</sup> About Hooters. (2015). Accessed online on January 8, 2015. <https://www.Hooters.com/Company/About.aspx>
- <sup>3</sup> Heylar, J. (2003, September 1). Hooters: A Case Study: This Things Has Incredible Legs, an early Investor Said. Twenty Years Later, the Restaurant Chain has Finally Hit Its Stride. *Fortune*. Accessed online on January 4, 2015. [http://archive.fortune.com/magazines/fortune/fortune\\_archive/2003/09/01/348187/index.htm](http://archive.fortune.com/magazines/fortune/fortune_archive/2003/09/01/348187/index.htm)
- <sup>4</sup> O 'Daniel, A. (2011, January 28). Close Ties Led to Hooters Deal for Chanticleer's Pruitt. *Charlotte Business Journal*. Accessed online on January 8, 2015. <http://www.bizjournals.com/charlotte/printedition/2011/01/28/close-ties-led-to-Hooters-deal.html?page=all>
- <sup>5</sup> McWilliams, J. (2010, April 2). Hooters of America Facing Sale Deadline. *Atlanta Journal Constitution*. Accessed online on January 10. <http://www.ajc.com/news/business/Hooters-of-america-facing-sale-deadline/nQdqm/>
- <sup>6</sup> Ruggless, R. (2011, August 23). 'Breastaurant Chain Twin Peaks Taps Hooters Execs for Growth. *Nation's Restaurant News*. Accessed online on January 4, 2015. <http://nrr.com/archive/breastaurant-chain-twin-peaks-taps-Hooters-execs-growth>
- <sup>7</sup> Morrison, M. (2011). Parting from the Pantry: Departing President, CEO Talks About His Two-Year Term. Accessed online on April 14. <http://www.cspnet.com/industry-news-analysis/corporate-news/articles/parting-pantry>
- <sup>8</sup> PR Newswire (2011). Hooters Names New CEO. Accessed online April 15. <http://www.prnewswire.com/news-releases/hooters-names-new-ceo-128248988.html>
- <sup>9</sup> PR Newswire (2011). Hooters Names New CEO. Accessed online April 15. <http://www.prnewswire.com/news-releases/hooters-names-new-ceo-128248988.html>
- <sup>10</sup> National Restaurant Association (2014, January 16). Restaurant Industry Enters Fifth Consecutive Year of Sales Growth, Will Continue Strong Job Creation Despite Challenges. Accessed online January 10, 2015. <http://www.restaurant.org/Pressroom/Press-Releases/Restaurant-Industry-Enters-Fifth-Consecutive-Year>
- <sup>11</sup> National Restaurant Association (2016) 2016 Restaurant Industry Pocket Factbook. Accessed online April 4, 2016. [http://www.restaurant.org/Downloads/PDFs/News-Research/PocketFactbook2016\\_LetterSize-FINAL.pdf](http://www.restaurant.org/Downloads/PDFs/News-Research/PocketFactbook2016_LetterSize-FINAL.pdf)
- <sup>12</sup> Hoovers (2015). Casual Restaurants. Accessed online January 3, 2015. <http://subscriber.hoovers.com/H/industry360/overview.html?industryId=1443>
- <sup>13</sup> National Restaurant Association (2014, January 16). Restaurant Industry Enters Fifth Consecutive Year of Sales Growth, Will Continue Strong Job Creation Despite Challenges. Accessed online January 10, 2015. <http://www.restaurant.org/Pressroom/Press-Releases/Restaurant-Industry-Enters-Fifth-Consecutive-Year>
- <sup>14</sup> Nation's Restaurant News (2016). 2015 Top 100: Growth Patterns Shift for Major Restaurant Brands. Accessed online on April 4, 2016. <http://nrr.com/us-top-100/2015-top-100-growth-patterns-shift-major-restaurant-brands>

- <sup>15</sup> Giang, V. (2011, June 2). How 'Breastaurants' Took Over the Casual Dining Industry. *Business Insider*. Accessed online on January 10, 2015. <http://www.businessinsider.com/breastaurant-2011-5>
- <sup>16</sup> Hoovers (2015). Casual Restaurants. Accessed online January 3, 2015. <http://subscriber.hoovers.com/H/industry360/overview.html?industryId=1443>
- <sup>17</sup> Nation's Restaurant News (2016). 2015 Top 100: U.S. Chain System wide Sales. Accessed online April 4, 2016. <http://nrn.com/us-top-100/2015-top-100-us-chain-systemwide-sales-0>
- <sup>18</sup> Hoovers (2015). Casual Restaurants. Accessed online January 3, 2015. <http://subscriber.hoovers.com/H/industry360/overview.html?industryId=1443>
- <sup>19</sup> Nation's Restaurant News (2016). 2015 Top 100: U.S. Chain System wide Sales. Accessed online April 4, 2016. <http://nrn.com/us-top-100/2015-top-100-us-chain-systemwide-sales-0>
- <sup>20</sup> Berman, J. (2015, January 15). Breastaurants Booming as the Restaurant Industry Struggles. Accessed online April 4, 2016. [http://www.huffingtonpost.com/2015/01/13/breastaurants-growth\\_n\\_6443274.html](http://www.huffingtonpost.com/2015/01/13/breastaurants-growth_n_6443274.html)
- <sup>21</sup> Miller, M. (2013, April 12). It's Official: 'Breastaurant' Trademarked by Texas Sports Bar. *Brandchannel*. Accessed online December 28, 2014. <http://www.brandchannel.com/home/post/2013/04/12/Breastaurant-Trademark-041213.aspx>
- <sup>22</sup> Ruggless, R. (2011, August 23). 'Breastaurant Chain Twin Peaks Taps Hooters Execs for Growth. *Nation's Restaurant News*. Accessed online on January 4, 2015. <http://nrn.com/archive/breastaurant-chain-twin-peaks-taps-Hooters-execs-growth>
- <sup>23</sup> Bukszpan, D. (2013, August 20). The Triumphant 30-year Reign of the American 'Breastaurant.' *CNBC*. Accessed online on January 10, 2015. <http://www.cnn.com/id/100972153#>
- <sup>24</sup> Mackey, M. (2014, February 13). Bodies, Brews and Boys: Restaurants with High T. *The Fiscal Times*. Accessed online January 3, 2015. <http://www.thefiscaltimes.com/Articles/2014/02/13/Bodies-Brews-and-Boys-Restaurants-High-T>
- <sup>25</sup> Berman, J. (2015, January 15). Breastaurants Booming as the Restaurant Industry Struggles. Accessed online April 4, 2016. [http://www.huffingtonpost.com/2015/01/13/breastaurants-growth\\_n\\_6443274.html](http://www.huffingtonpost.com/2015/01/13/breastaurants-growth_n_6443274.html)
- <sup>26</sup> Mackey, M. (2014, February 13). Bodies, Brews and Boys: Restaurants with High T. *The Fiscal Times*. Accessed online January 3, 2015. <http://www.thefiscaltimes.com/Articles/2014/02/13/Bodies-Brews-and-Boys-Restaurants-High-T>
- <sup>27</sup> Ibid
- <sup>28</sup> Watson, B. (2010, February 11). Hardship at Hooters: Family Feud Drives CEO to Seek Investment Partners. *Daily Finance*. Accessed online on January 11, 2015. <http://www.dailyfinance.com/2010/02/11/hardship-at-Hooters-family-feud-drives-ceo-to-seek-investment-p/>
- <sup>29</sup> Eber, H. (2012, March 9). 'Breastaurants' Take Aim at Hooters. *The Fiscal Times*. Accessed online on January 6, 2015. <http://www.thefiscaltimes.com/Articles/2012/03/09/Breastaurants-Take-Aim-at-Hooters>

- <sup>30</sup> Lutz, A. (2014). This Racy Breastaurant Is the Fastest Growing Food Chain in America. Accessed April 15. <http://www.businessinsider.com/twin-peaks-is-the-fastest-growing-chain-2014-9>
- <sup>31</sup> Eber, H. (2012, March 9). 'Breastaurants' Take Aim at Hooters. *The Fiscal Times*. Accessed online on January 6, 2015. <http://www.thefiscaltimes.com/Articles/2012/03/09/Breastaurants-Take-Aim-at-Hooters>
- <sup>32</sup> Benham, K. (2005, July 15). A Wing and a Player. *The St. Petersburg Times*. Accessed online on December 27, 2015. [http://www.sptimes.com/2005/07/15/Floridian/A\\_wing\\_and\\_a\\_player.shtml](http://www.sptimes.com/2005/07/15/Floridian/A_wing_and_a_player.shtml)
- <sup>33</sup> Hundley, K. (2004). Hooters Loses its Battle in Court. *The Tampa Bay Times*. Accessed online on April 14, 2015. [http://www.sptimes.com/2004/12/03/Business/Hooters\\_loses\\_its\\_bat.shtml](http://www.sptimes.com/2004/12/03/Business/Hooters_loses_its_bat.shtml)
- <sup>34</sup> Lattman, P. (2006, June 20). Hooters' Girls' Outfits Don't Deserve Trade Dress Protection. *Wall Street Journal*. Accessed online on January 8, 2015. <http://blogs.wsj.com/law/2006/06/20/Hooters-girls-outfits-dont-deserve-trade-dress-protection/>
- <sup>35</sup> Tucker IP. (2015). Hooters Trademark Attorney Alleges Dilution. Accessed online January 3, 2015. <http://www.tuckeriplaw.com/Hooters-trademark-attorney-alleges-dilution/>
- <sup>36</sup> Quirk, M.B. (2011, October 3). Hooters Sues Twin Peaks Restaurant in Breastacular Battle. *Consumerist*. Accessed online on December 29, 2014. <http://consumerist.com/2011/10/03/Hooters-sues-twin-peaks-restaurant-in-breastacular-battle/>
- <sup>37</sup> Couret, J. (2012, April 30). Hooters Settles Suit Against La Cima, Hummel. *Atlanta Business Chronicle*. Accessed online on December 29, 2015. <http://www.bizjournals.com/atlanta/news/2012/04/30/Hooters-settles-suit-against-la-cima.html?page=all>
- <sup>38</sup> Browning, J. (2011). The battle of the 'breastaurants.' *DMagazine*. Accessed online on January 5 2015. <http://www.dmagazine.com/publications/d-ceo/2011/january-february/the-battle-of-the-breastaurants>
- <sup>39</sup> Wolf, B. (2015, January). Nine Fast Food Trends for 2015. *QSR Magazine*. Accessed online on January 1, 2015. <http://www.qsrmagazine.com/reports/9-fast-food-trends-2015>
- <sup>40</sup> Eber, H. (2012, March 9). 'Breastaurants' Take Aim at Hooters. *The Fiscal Times*. Accessed online on January 6, 2015. <http://www.thefiscaltimes.com/Articles/2012/03/09/Breastaurants-Take-Aim-at-Hooters>
- <sup>41</sup> Nation's Restaurant News (2016). 2015 Top 100: U.S. Chain System wide Sales. Accessed online April 4, 2016. <http://nrrn.com/us-top-100/2015-top-100-us-chain-systemwide-sales-0>
- <sup>42</sup> About Hooters. (2015). Accessed online on January 8, 2015. <https://www.Hooters.com/Company/About.aspx>
- <sup>43</sup> EEOC. (2015). About the EEOC. Accessed online on December 27, 2014. <http://www.eeoc.gov/eeoc/index.cfm>
- <sup>44</sup> Bovard, J. (1995, November 17). The EEOC's war on Hooters, *The Wall Street Journal*, A18.
- <sup>45</sup> Ibid.
- <sup>46</sup> Ibid.



- <sup>47</sup> Funding Universe (2015). Hooters of America, Inc. History. Accessed online on January 7, 2015. <http://www.fundinguniverse.com/company-histories/Hooters-of-america-inc-history/>
- <sup>48</sup> Bovard, J. (1995, November 17). The EEOC's war on Hooters, *The Wall Street Journal*, A18.
- <sup>49</sup> Schneyer, K. (1998). Hooting: Public and Popular Discourse about Sex Discrimination. Accessed online on April 16, 2015. [http://scholarsarchive.jwu.edu/cgi/viewcontent.cgi?article=1025&context=humanities\\_fac](http://scholarsarchive.jwu.edu/cgi/viewcontent.cgi?article=1025&context=humanities_fac)
- <sup>50</sup> Reinsch, Jr., N.L. (1999) Who blinked? Understanding the effectiveness of the Hooters PR campaign. Presented at Georgetown University, November 22, 1999.
- <sup>51</sup> Ibid.
- <sup>52</sup> Howe, C. (1996). Sex discrimination: Does refusing to hire men as food servers violate the civil rights act?" *ABA Journal*, Vol. 82, 40-41.
- <sup>53</sup> Bovard, J. (1995, November 17). The EEOC's war on Hooters, *The Wall Street Journal*, A18.
- <sup>54</sup> Hutchcraft, C. (1996, May 2). Hooters Case Won't Get a Second Look. *Chicago Tribune*. Accessed online on December 4, 2014. [http://articles.chicagotribune.com/1996-05-02/business/9605020273\\_1\\_Hooters-girls-Hooters-restaurants-eeoc](http://articles.chicagotribune.com/1996-05-02/business/9605020273_1_Hooters-girls-Hooters-restaurants-eeoc)
- <sup>55</sup> *Latuga v. Hooters, Inc.*, No. 93-C-7709, 1996, WL 164427 (N.D. Ill 1996)
- <sup>56</sup> *Ginter v. Hooters, Inc.*, No. 94-C-6338 (N.D. Ill. filed Oct. 20, 1994)
- <sup>57</sup> Gillman, G.A. (2007, July 30). You Can Hire Based On Beauty – Within Reason. *Advertising Age*. Accessed online January 5, 2015. <http://adage.com/article/talentworks/hire-based-beauty-reason/119544/>
- <sup>58</sup> Dwyer, D.J. (2008). Discrimination in Employment: Understanding the Legalities. *Society for Human Resource Management*. Accessed online on January 8, 2015. [http://www.shrm.org/Education/hrededucation/Documents/Dwyer\\_Discrimination%20in%20Employment\\_IM%20and%20SW\\_REPOST\\_FINAL.pdf](http://www.shrm.org/Education/hrededucation/Documents/Dwyer_Discrimination%20in%20Employment_IM%20and%20SW_REPOST_FINAL.pdf)
- <sup>59</sup> Poole, S. (1997, October 1). Hooters settles lawsuit, will hire more men, *Atlanta Journal and Constitution*, 1E.
- <sup>60</sup> Ibid.
- <sup>61</sup> Murphy, K. (1996, May 17). Ex-waitress hits Hooters with lawsuit, *Capital Times*, 1A.
- <sup>62</sup> CNN Interactive (1997, January 21). Former Hooters Employee Sues for Sexual Harassment.
- <sup>63</sup> Finkel, D. (1996, July). Even if you're not funny, we'll laugh, *The Washington Post*, W8.
- <sup>64</sup> CNN Interactive (1997, January 21). Former Hooters Employee Sues for Sexual Harassment.
- <sup>65</sup> Vela, S. (2000, November 13). Hooters court ruling second-guessed, *The Cincinnati Enquirer*.
- <sup>66</sup> Ibid.

- <sup>67</sup> *Nation's Restaurant News* (2004, April 5). Hooters in video scandal, settles wrongful-death suit, 3.
- <sup>68</sup> Martin, D. (2006, July 18). Robert H. Brooks, 69, Owner of Hooters Restaurant Chain, Is Dead. *New York Times*. Accessed online on January 5, 2015. [http://www.nytimes.com/2006/07/18/business/18brooks.html?\\_r=0](http://www.nytimes.com/2006/07/18/business/18brooks.html?_r=0)
- <sup>69</sup> Ibid.
- <sup>70</sup> Kallman, D. (2011, August 29). 1992 Hooters 500: Need I Say More? *Milwaukee Wisconsin Journal Sentinel*. Accessed online on December 28, 2015. <http://www.jsonline.com/blogs/sports/128607323.html>
- <sup>71</sup> Fox News (2006, March 29). Hooters Air Dropping Almost All Service. Accessed online on January 10, 2015. <http://www.foxnews.com/story/2006/03/29/Hooters-air-dropping-almost-all-service/>
- <sup>72</sup> Times Free Press (2014, August 18). Ashley Dill Places 3<sup>rd</sup> in 18<sup>th</sup> Annual Hooters International Swimsuit Pageant. Accessed online January 3, 2015. <http://www.timesfreepress.com/news/life/entertainment/story/2014/aug/18/dill-places-3rd-in-Hooters-swimsuit-competition/264540/>
- <sup>73</sup> PR Newswire. (2010, August 16). Hooters Girls Visit Troops in Iraq & Kuwait. Accessed online on January 3, 2015. <http://www.prnewswire.com/news-releases/Hooters-girls-visit-troops-in-iraq--kuwait-91074794.html>
- <sup>74</sup> Taylor, K. (2014, November 11). Starbucks, Hooters and 10 Other Chains Honoring Veterans With Deals. *Entrepreneur*. <http://www.entrepreneur.com/article/239598>
- <sup>75</sup> Gilonna, J.M. (1998, September 2). The Hooters chain's bid to open a restaurant in Santa Monica – its first in the county – is shaping up as contentious battle over feminism, fairness and taste, *Los Angeles Times*, Metro, B1.
- <sup>76</sup> Halberstroh, J. (1995, November 29). Cry raised over Hooters opening, *Newsday*.
- <sup>77</sup> Finkel, D. (1996, July). Even if you're not funny, we'll laugh, *The Washington Post*, W8.
- <sup>78</sup> Ibid.
- <sup>79</sup> Gibson, R. (1995, February 8). Hooters tries to do good works by selling lots of chicken wings, *The Wall Street Journal*, B1.
- <sup>80</sup> Hooters Facts (2015). Accessed online on April 16, 2015. <https://www.hooters.com/Company/DidYouKnow.aspx>
- <sup>81</sup> Joplin Globe. (2011). Investors Buy Hooters Restaurants from Founding Family. Accessed online on January 4, 2015. [http://www.joplinglobe.com/news/investors-buy-Hooters-restaurants-from-founding-family/article\\_47862f72-0601-509d-8e8f-c62c0ef604e9.html](http://www.joplinglobe.com/news/investors-buy-Hooters-restaurants-from-founding-family/article_47862f72-0601-509d-8e8f-c62c0ef604e9.html)
- <sup>82</sup> Ibid.
- <sup>83</sup> PR Newswire (2011, Aug. 23). Hooters Names New CEO. Accessed online on April 16, 2015. <http://www.prnewswire.com/news-releases/hooters-names-new-ceo-128248988.html>
- <sup>84</sup> Tierney, J. (2014, May 1). Loyalty 360 Interview: Chris Duncan, CIO Hooters of America. *Loyalty 360*. Accessed online on January 5, 2015. <http://loyalty360.org/loyalty-management/may-2014-online-issue/loyalty360-interview-chris-duncan-cio-Hooters-of-america>

- <sup>85</sup> Eber, H. (2012, March 9). 'Breastaurants' Take Aim at Hooters. *The Fiscal Times*. Accessed online on January 6, 2015. <http://www.thefiscaltimes.com/Articles/2012/03/09/Breastaurants-Take-Aim-at-Hooters>
- <sup>86</sup> Tierney, J. (2014, May 1). Loyalty 360 Interview: Chris Duncan, CIO Hooters of America. *Loyalty 360*. Accessed online on January 5, 2015. <http://loyalty360.org/loyalty-management/may-2014-online-issue/loyalty360-interview-chris-duncan-cio-Hooters-of-america>
- <sup>87</sup> FSR (2015). Hooters Real Estate Tool Fuels Expansion Strategy. Accessed online on January 7, 2015. <http://www.fsrmagazine.com/real-estate/Hooters-real-estate-tool-fuels-expansion-strategy>
- <sup>88</sup> White, M.C. (2013, March 8). Hooters is Chasing Women – As Customers. *Today Money*. Accessed online on January 2, 2015. <http://www.today.com/money/Hooters-chasing-women-customers-1C8762802>
- <sup>89</sup> Eber, H. (2012, March 9). 'Breastaurants' Take Aim at Hooters. *The Fiscal Times*. Accessed online on January 6, 2015. <http://www.thefiscaltimes.com/Articles/2012/03/09/Breastaurants-Take-Aim-at-Hooters>
- <sup>90</sup> Hoovers (2015). Casual Restaurants. Accessed online January 3, 2015. <http://subscriber.hoovers.com/H/industry360/overview.html?industryId=1443>
- <sup>91</sup> Dorstal, E. (2013, June 20). Hooters Unveils Newly Built Restaurant Prototype. *Nation's Restaurant News*. Accessed online on December 29, 2014. <http://nrn.com/operations/Hooters-unveils-newly-built-restaurant-prototype>
- <sup>92</sup> Sanburn, J. (2012). Hooters' Big Experiment: New Menu, New Décor and a New Target Audience. *Time Magazine*. Accessed online January 10, 2015. <http://business.time.com/2012/08/02/Hooters-big-experiment-new-menu-new-decor-and-a-new-target-audience/>
- <sup>93</sup> Source: *Nation's Restaurant News*, <http://nrn.com/us-top-100/top-100-chains-us-sales>, accessed April 4, 2016. <http://nrn.com/us-top-100/2015-top-100-us-chain-systemwide-sales-0>
- <sup>94</sup> Source: Marzilli, T. (2013). Hooters Woos Women. YouGov Brand Index. Accessed online on April 16, 2015. <http://www.brandindex.com/article/hooters-woos-women>
- <sup>95</sup> Source: Hull (n.d.) Hooters. Accessed online on April 16, 2015. <http://ahsaplithull.weebly.com/hooters1.html>
- <sup>96</sup> Source: Hooters. Accessed online April 15, 2015. <http://www.hooters.com/>
- <sup>97</sup> Source: Tepper, R. (2013). Hooters Logo Gets a Makeover. Accessed online on April 16, 2015. [http://www.huffingtonpost.com/2013/07/19/hooters-logo\\_n\\_3625226.html](http://www.huffingtonpost.com/2013/07/19/hooters-logo_n_3625226.html)
- <sup>98</sup> Source: Tepper, R. (2013). Hooters Logo Gets a Makeover. Accessed online on April 16, 2015. [http://www.huffingtonpost.com/2013/07/19/hooters-logo\\_n\\_3625226.html](http://www.huffingtonpost.com/2013/07/19/hooters-logo_n_3625226.html)
- <sup>99</sup> Source: RestaurantNews.com (2014). Hooters Reopens Five Texas Locations with New Contemporary Design. Accessed online on April 15, 2015. <http://www.restaurantnews.com/hooters-reopens-five-texas-locations-with-new-contemporary-design/>

- 
- <sup>100</sup> Source: Restaurant News Resource (2013). Hooters Unveils New Design in Louisiana. Accessed online on April 16, 2015.  
[http://www.restaurantnewsresource.com/article72256Hooters Unveils New Design in Louisiana.html](http://www.restaurantnewsresource.com/article72256Hooters%20Unveils%20New%20Design%20in%20Louisiana.html)
- <sup>101</sup> Source: Wikipedia (n.d.) Hooters. Accessed online on April 15, 2015. <http://en.wikipedia.org/wiki/Hooters>
- <sup>102</sup> Source: *Nation's Restaurant News* (2013). A Look at Hooters' New Restaurant Design. Accessed online on April 15, 2015. [http://nrn.com/latest-headlines/look-hooters-new-restaurant-design#slide-0-field\\_images-68971](http://nrn.com/latest-headlines/look-hooters-new-restaurant-design#slide-0-field_images-68971)
- <sup>103</sup> Source: WTSP News Tamp Bay (2015). The Past and Future of Hooters. Accessed online on April 15, 2015.  
<http://archive.wtsp.com/news/photo-gallery.aspx?storyid=314382>
- <sup>104</sup> Source: MenuClub.com (n.d.). Hooters of Sacramento Menu. Accessed online on April 15, 2015.  
<http://www.menuclub.com/californiarestaurantguide/sacramentorestaurants/hootersofsacramento-1906.php>

## ***NOTE ON GENDER DISCRIMINATION AND SEXUAL HARASSMENT***

**STEPHEN J.J. MCGUIRE**

California State University, Los Angeles

It may very well be that ever since organizations began, some organizational members have taken advantage of others, treating them unfairly because of their demographic characteristics, including gender. In the United States, however, a series of laws and court decisions have influenced the way organizational members must treat each other. Specifically, Title VII of the Civil Rights Act of 1964 explicitly made discrimination in the workplace based on sex unlawful. Subsequent court decisions have also established that sexual harassment is a form of gender-based discrimination, and therefore an unlawful employment practice.

In the 1991 Senate confirmation of the nomination of Clarence Thomas to the U.S. Supreme Court, Anita Hill (who had worked as Thomas' subordinate at the Department of Education and the Equal Employment Opportunity Commission) grabbed the nation's attention with her allegations that Thomas had sexually harassed her. Although Thomas' nomination was in fact confirmed, national TV exposure ensured that sexual harassment as a pervasive and significant problem in the workplace had come "out of the closet."

---

This note was peer reviewed and accepted by the *Journal of Case Research and Inquiry*, Vol. 2, 2016, a publication of the Western Casewriters Association. The authors and the *Journal of Case Research and Inquiry* grant state and nonprofit institutions the right to access and reproduce this manuscript for educational purposes. For all other purposes, all rights are reserved to the author. Copyright © 2016 by Stephen J.J. McGuire, College of Business and Economics, California State University, Los Angeles, Los Angeles, CA 90032, tel. (323) 343 2897, [steve@mcguire.net](mailto:steve@mcguire.net)

## Gender Discrimination Lawsuits

One of the largest reported settlements in a sex discrimination lawsuit occurred in October 2002 when a court approved a \$47 million settlement involving a class action lawsuit in which women alleged that Rent-A-Center unlawfully fired or forced out women from the company after it was acquired by Renter's Choice.<sup>1</sup> Even larger was the 2010 jury-ordered payment of \$250 million by Novartis, the pharmaceutical giant, to female employees who claimed:

*For years, the company paid them less than similarly situated men, discriminated against them in assignments and other career-enhancing opportunities, and denied them promotions in favor of ... men.<sup>2</sup>*

In spite of the enormous pay-out, Novartis' problems do not appear to have gone away, as in 2015 a second lawsuit, this time for \$110 million was filed by women who claimed that the company had a "boy's club atmosphere" that was hostile to women and kept them from being promoted to high-paying positions.<sup>3</sup>

In 2004, a court allowed approximately 1.5 million current and former female Wal-Mart employees to file a class-action lawsuit against Wal-Mart for alleged systematic discrimination against women in salaries, bonuses, and training. If this class-action lawsuit had gone forward, it would likely have been the largest sex discrimination lawsuit in U.S. history. In August 2013, the U.S. federal court denied the women class certification, which meant that if the women wanted to pursue the claims against Wal-Mart, each one would have to file a lawsuit individually. In 2016, Wal-Mart quietly settled out of court with five of these women, and suits may continue to be brought against the company.<sup>4</sup>

## **Sexual Harassment Lawsuits**

Several well-known companies have faced major sexual harassment lawsuits. In the late 1990s, Mitsubishi Motors faced several sexual harassment lawsuits concerning women employees at its factory in Illinois. Mitsubishi settled one harassment suit with 27 women for an estimated

amount of \$9.5 million. In addition, the EEOC brought action against Mitsubishi for sexual harassment on behalf of more than 300 women in a class action lawsuit. In 1998, Mitsubishi settled that suit for 34 million dollars.<sup>5</sup>

Dial Corp. agreed to pay \$10 million and submit to 2 ½ years of independent monitoring to settle a sexual harassment lawsuit involving approximately 1,000 employees at its Illinois factory.<sup>6</sup> PepsiCo, which owns SoBe, settled a class action sexual harassment lawsuit for \$1.79 million.<sup>7</sup> In 2011, Ashley Alhford was awarded \$40 million after being sexually assaulted by her boss, who had harassed her for over a year at Aaron's Rent-to-Own in St. Louis. The largest sexual harassment payment to date, \$167 million in 2012, was likely the award to Ani Chopourian, a physician's assistant at Mercy General Hospital, where doctors "constantly asked her for sex" and called her a "stupid chick."<sup>8</sup> Babies "R" U.S., Inc., a division of Toys "R" U.S., Inc., settled a same-sex harassment lawsuit involving a male employee for \$205,000.<sup>9</sup>

### The Civil Rights Act of 1964

In 1964, the United States Congress passed the Civil Rights Act, which was signed into law by President Lyndon Johnson. The Act established a number of important legal protections for employees and applicants for employment. It applies to all organizations in the United States engaged in interstate commerce with 15 or more employees working 20 or more weeks a year, as well as state and local governments, employment agencies, and labor organizations. Title VII, that part of the Civil Rights Act that refers to employment, prohibits discrimination in any terms or conditions of employment based on race, color, religion, sex or national origin. The Act also established the Equal Employment Opportunity Commission (EEOC), which is responsible for enforcing EEO laws. The Civil Rights Act was passed by Congress in order to respond to America's civil rights movement of the 1960s, one year after Martin Luther King's moving *I Have a Dream* speech in front of the Washington Monument. Although the initial

focus of the civil rights movement was the establishment of equal treatment for people of all races, the Act includes protection against sex discrimination. This protection was added to the original civil rights bill by Congressmen from Southern states in the belief that if protection against sex discrimination were included, it would derail passage of the entire Civil Rights Act!

Section 703 of Title VII of the Civil Rights Act of 1964 identifies as unlawful the following:

**(a) It shall be an unlawful employment practice for an employer**

**(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or**

**(2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.**

*[Subsections (b) and (c) refer to employment agencies and labor organizations]*

**(d) It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on the job training programs to discriminate against any individual because of his race, color, religion, sex or national origin in admission to, or employment in, any program established to provide apprenticeship or other training.**

**(e) Notwithstanding other provisions of this subchapter,**

**(1) it shall not be an unlawful employment practice for an employer to hire an employee, for an employment agency to classify, or refer employment any individual, for a labor organization to classify its membership or to classify or refer for employment any individual, or for an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any individual in such program, on the basis of his religion, sex, or national origin in those certain instances where religion, sex or national origin is a *bona fide* occupational qualification reasonably necessary to the normal operation of that business or enterprise, and**

**(2) it shall not be unlawful employment practice for a school, college, university or other educational institution of learning to hire employees of a particular religion if such school [ ...] is, in whole or in substantial part, owned, supported, controlled or managed by a particular religion or by a particular religious corporation, association or society, or if the curriculum of such school [ ...] is in whole or in substantial part, owned, supported, controlled or managed by a particular religious corporation [....].**

*[Subsection (f) provides that actions taken by employers in relation to individuals who are members of the communist party do not constitute "unlawful employment practice" as described in the Act.]*



## The Equal Employment Opportunity Commission

The EEOC is the federal agency responsible for enforcing Title VII and other federal equal employment opportunity laws (such as the Equal Pay Act, Age Discrimination in Employment Act, Americans with Disabilities Act, Pregnancy Discrimination Act, Genetic Information Nondiscrimination Act, and others). The Commission is composed of five Commissioners who are appointed by the President and confirmed by the Senate.

The EEOC has three main areas of accountability: 1) investigating and resolving charges of discrimination in employment, 2) gathering information for the Executive and Legislative branches of government, and 3) issuing equal employment opportunity regulations and guidelines.

Individuals who believe they have been the victims of unlawful discrimination may file a charge with the EEOC through one of its 53 offices across the country. The EEOC may launch an investigation, or select the charge for the EEOC's mediation program if both the complainant and employer express an interest in mediation. If a settlement is not reached through mediation, an investigation is conducted by the EEOC.

The EEOC will dismiss a charge if it finds that a violation is not established. When a charge is dismissed, the complainant may still file a lawsuit on his or her own behalf. If the EEOC finds that unlawful discrimination *has* occurred, the complainant will be given a letter of determination that details the EEOC's finding. The EEOC will attempt conciliation - negotiations that do not involve the courts - to remedy the alleged discrimination. If the case is not settled, the EEOC will decide whether to bring suit in federal court on behalf of victims of unlawful discrimination. If the EEOC decides not to initiate a lawsuit, a "right to sue" letter will be issued to the complainant and the complainant may bring a lawsuit. In addition, the complainant can

request a “right to sue” letter from the EEOC 180 days after the charge was filed and then file a lawsuit.

U.S. organizations with 100 or more employees are required to file annual reports with the EEOC, indicating the number of women and members of under-represented groups in different job categories. This information is provided to Congress and the President. However, it is also used by the Commission to identify possible violators of equal opportunity employment laws.

Finally, the EEOC issues regulations and guidelines that detail the EEOC’s interpretations of the law. While these regulations and guidelines are not law, courts often defer to the EEOC’s interpretations and have supported the EEOC views in numerous landmark decisions.

Although its mandate is ambitious, it is important to note that the EEOC, like all government agencies, must be responsive to the decisions and political agendas of publicly elected officials. Its budget and headcount, for example, have been severely constrained under some administrations. With an increasing number of complaints to investigate, limited resources, and pressures from the administration, the Commission needs to “pick its battles” carefully – pursuing some charges with full vigor, while providing only minimal resources to others.

### **Gender-Based Discrimination in Employment**

Webster defines the verb discriminate *as* “to distinguish by discerning or exposing differences; to make a distinction; to make a difference in treatment or favor on a basis other than individual merit (such as in favor of your friends).”<sup>10</sup> Managers by necessity discriminate – not all applicants for employment are hired, not all employees are promoted or given pay increases, etc. Discrimination based on gender and other characteristics protected by EEO laws, however, is unlawful.

### ***Disparate Treatment and Adverse Impact***

Disparate treatment and adverse impact are two of the primary theories used to establish discrimination claims under Title VII. In cases involving **disparate treatment** discrimination, a plaintiff attempts to demonstrate that he or she was intentionally treated differently because of her gender (or another characteristic protected under EEO laws). Intent is an important component of the disparate treatment theory. For example, if an organization were to refuse to promote a woman to managerial positions, this would be a case of disparate treatment. Not all cases of discrimination are intentional, however.

Under the **adverse impact** theory, unintentional discrimination may be unlawful. When a uniform neutral standard is applied to both men and women, yet systematically has a negative effect on members of one sex, then adverse impact discrimination has occurred. (Adverse Impact is also referred to as Disparate Impact). For example, some police departments in the United States formerly had height requirements that systematically kept out women; this requirement has either been voluntarily abandoned or struck down as unlawful by the courts. In addition, the standards that employers use for hiring, promotion, admittance to training, etc., must be shown to be job-related. Standards that are not directly related to the job and that result in adverse impact discrimination against either women or men will be found unlawful.

In its landmark *Price Waterhouse v. Hopkins* decision, the Supreme Court noted that discrimination may also be based on **mixed-motives**. In a mixed-motive case, the employer considers both proper (e.g., job performance) and improper considerations (e.g., impermissible sex stereotypes) in making its employment decision. In the *Price Waterhouse* case, Ann Hopkins, a senior manager at Price Waterhouse was twice passed over for partner. She sued her firm, claiming that although her work had been highly praised and that she had generated more business and billed more hours than any other partnership candidate, she was treated

differently than males were and denied partnership. The record established that Price Waterhouse had a sex-based stereotype of the characteristics of a partner, but Price Waterhouse asserted that in any case Hopkins would not have been made a partner because of her “interpersonal skills.”<sup>11</sup> The record showed that Hopkins was counseled by the firm to walk, dress, and act more femininely to improve her chances to make partner. The Court found that if Price Waterhouse could demonstrate that Hopkins’ “interpersonal problems” alone were the reason the firm decided not to admit her to the partnership, it could avoid liability. Price Waterhouse could not.<sup>12</sup>

### ***Burden of Proof***

The burden of proof for complainants and employers varies depending on the theory of discrimination that is being used to establish a discrimination claim. In a disparate treatment case, the complainant must establish that he or she was subjected to different treatment because of gender. Under *McDonnell Douglas Corp. v. Green*, the complainant must establish: that s/he is a member of a group that has protection under Title VII; that s/he applied and was qualified for a job for which the employer sought applicants; that, despite his/her qualifications, s/he was rejected for that job; and that the employer continued to seek applicants for the positions having the same qualifications as did the plaintiff.<sup>13</sup> Once a *prima facie* case is established, the complainant creates a rebuttable presumption that the employer unlawfully discriminated against him/her. The burden of production (of evidence) then shifts to the employer to show a “legitimate, nondiscriminatory” reason for the employment decision. Where the employer meets the burden of production, the complainant must establish that the employer’s proffered reason was not the true reason for the employment decision but merely a pretext for discrimination.

In an adverse impact theory case, once a complainant establishes that an employment practice excluded significant numbers of a group of individuals who have protection under Title VII, the

employer has to establish that its employment practices were justified and necessary (job necessity).<sup>14</sup>

### **Gender Identity**

Although courts do not consider that Title VII extends to sexual orientation, the EEOC has put forth that discrimination on the basis of gender identity does constitute a violation of Title VII. In 2011, Mia Macy applied for a job at a laboratory of the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives and was informed by phone that she “had the job” as long as her background check did not uncover any problems. Macy informed her employer that she was “in the process of transitioning from male to female.” About a week later, she was told that she could not be hired due to “budget restrictions.”<sup>15</sup> It later turned out that the position had been filled by another applicant. When Macy complained to the EEOC, the agency concluded that, “claims of discrimination based on transgender status, also referred to as claims of discrimination based on gender identity, are cognizable under Title VII’s sex discrimination prohibition.”<sup>16</sup>

### **Lawful Exceptions**

Not all cases of gender-based discrimination are unlawful. Title VII provides that discrimination is not unlawful “in those certain instances where religion, sex, or national origin can be a **bona fide occupational qualification** reasonably necessary to the normal operation of that business or enterprise”<sup>17</sup> A *bona fide occupational qualification* (BFOQ) is a legitimate characteristic that must be present in all employees to perform a particular job. According to the EEOC’s guidelines, the BFOQ exception is not applicable to situations involving the refusal to hire a woman when it is based on the assumption of employment characteristics of women in general (e.g., turnover rate higher among women); refusal to hire is based on sex stereotypes (e.g., women cannot be aggressive salespersons); refusal to hire is based on the preferences of co-

workers, clients, customers, or the employer; and the fact that the employer may have to provide separate facilities.<sup>18</sup>

There are very few jobs in which sex qualifies as a BFOQ. One example of a job in which sex is a BFOQ would be male stripper. In that case, an employer may discriminate against women for this job without violating Title VII. Over the years, the courts have clearly established that the BFOQ exemption is an extremely narrow exception and have rejected attempts by employers to assert BFOQ as a defense to charges of sex discrimination. A leading case in this area is the 1991 Supreme Court decision in *Auto Workers v. Johnson Controls, Inc.*,<sup>19</sup> in which the court rejected employer's claim that the BFOQ was a defense for its refusal to hire some women for certain jobs. Johnson Controls adopted a "fetal protection policy" that prohibited fertile women of childbearing age from holding a number of jobs in its car battery manufacturing plant. Johnson Controls asserted that a BFOQ existed because these women would be exposed to lead, which caused birth defects in children. The Supreme Court, however, ruled that BFOQs are limited to aspects that directly relate to an employee's (or potential employee's) ability to perform a job and that because a women's reproductive potential does not prevent her from performing the job, Johnson Control's policy did not qualify as a BFOQ. (The company had to redesign the production process to make is safe for all jobholders.)

Although the majority of the BFOQ cases involve attempts by an employer to exclude women from certain jobs, there are several cases that have held that employers may not exclude men from certain jobs because they are men, unless an employer is able to establish a BFOQ. For example, both Southwest and Pan Am Airlines unsuccessfully argued that sex was a BFOQ to do the job of flight attendant (then called stewardess), in the cases *Wilson v. Southwest Airlines Co.* and *Diaz v. Pan American World Airlines*.<sup>20</sup> In fact, in the *Diaz* case, Pan Am provided evidence including testimony from a psychiatrist that women have "the unique talent of calming passengers."<sup>21</sup>

Airlines and other employers may believe that employing women or men in certain jobs facilitates and improves service to customers and therefore has a positive impact on the business. In one case, an employer was sued for replacing men with women wearing sexy or alluring uniforms in jobs that did not strictly require women. In the case *Guardian Capital Corp. v. New York State Division of Human Rights*,<sup>22</sup> the Court rejected the employer's BFOQ defense to justify its replacing male wait staff with females wearing alluring uniforms in order to increase food sales. Customer preference will not support a BFOQ for sex discrimination except in very unusual circumstances. One such circumstance involved the Playboy Clubs.<sup>23</sup> In these cases, the Playboy Club was able to justify sex as a BFOQ for Playboy Bunnies because female sexuality was reasonably necessary to perform the job, which was found to be "titillating and enticing male customers."<sup>24</sup>

In 2008, Physicians Weight Loss Centers settled a lawsuit by the EEOC on behalf of men who the Centers refused to hire as weight loss counselors. The Centers alleged that being female was a BFOQ for this job. Part of the counselors' job was measuring the skin folds on the customers' bodies using calipers to determine their percentage of body fat. The court rejected Physicians Weight Loss Centers' argument that because customers preferred women, this rendered being female a BFOQ. The court ruled "preferences by customers have little, if any, legitimate role in make determinations of the legitimacy of discrimination under Title VII."<sup>25</sup>

A second defense to a claim of sex discrimination is **job relatedness**. Even if an employer's practices result in discrimination, the company may be able to defend itself on the grounds that the criteria used were directly related to a person's ability to do a job. For example, an airline can require a pilot's license for the job of pilot, even if doing so were to keep a disproportionate number of women out of that job.

A third defense to charges of discrimination is seniority. For example, some organizations have formal, **universally applied seniority systems** that are used as a criterion upon which to make

decisions regarding promotions, layoffs, etc. Even if the application of these rules results in disproportionate consequences for men and women, the courts have ruled that universally applied seniority criteria are legitimate and do not result in unlawful discrimination.

The fourth type of defense is called **business necessity**. Under this defense, an employer can justify employment practices or decisions that result in discrimination when these practices are necessary for the “safe and efficient operation of the business.”<sup>26</sup> When employment practices that result in discrimination are put in place to ensure the safety of employees and customers, the business necessity defense has been successful. For example, in *Levin v. Delta Airlines* and *Burwell v. Eastern Airlines*,<sup>27</sup> courts upheld the validity of an airline’s mandatory pregnancy leave for flight attendants in order to promote passenger safety.

In other cases, it has been argued that the “central mission” of an enterprise is an appropriate basis for the business necessity defense. Courts, however, have placed strict restrictions of the use of this defense. A business necessity defense cannot be used unless it can be demonstrated that the employer has no other equally acceptable defense, and that decisions made out of business necessity have a lesser impact on members of groups that enjoy protection under Title VII (in this case, women).<sup>28</sup> For example, when Wynn Oil Company removed a female sales representative from her job because customers in South America did not want to deal with women, the court found that this form of discrimination based on gender was unlawful: business necessity was an insufficient defense.<sup>29</sup>

### Sexual Harassment

Although Title VII of the Civil Rights Act of 1964 specifically provides that discrimination based on gender is unlawful, it does not define the concept of sexual harassment, nor was it clear that the Act intended to protect against it. However, the EEOC interpreted Title VII to include



protection against sexual harassment. Supreme Court decisions have validated the EEOC's interpretation. Sexual harassment is defined as:

**Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:**

- (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment,**
- (2) submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual, or**
- (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.**

### ***Quid Pro Quo and Hostile Work Environment***

There are two categories of sexual harassment: ***quid pro quo*** sexual harassment and **hostile work environment** sexual harassment. *Quid pro quo* harassment involves an individual who has been forced to choose between suffering a job-related detriment and submitting to unwelcome sexual demands. An example of *quid pro quo* harassment is a case in which a supervisor requires an employee to engage in sex as a condition of keeping his or her job. In contrast, hostile environment sexual harassment involves an individual who has been required to endure a work environment in which behavior of co-workers, supervisors, customers, or third parties creates an intimidating, hostile, or offensive working environment that interferes with an individual's job performance. A leading case recognizing hostile environment sexual harassment is *Harris v. Forklift Systems, Inc.*<sup>30</sup> Teresa Harris, a manager at an equipment rental firm, Forklift Systems, was subjected to numerous comments by the company president's such as, "You're a woman, what do you know?," and a suggestion that the two of them "go to the Holiday Inn to negotiate her raise." Another harassing comment occurred after Harris had negotiated a deal with a customer, and the company president asked her, in front of other

employees,” What did you do, promise the guy ... some [sex] Saturday night?”<sup>31</sup> The Court found that these comments constituted a hostile working environment.

In the 1976 case of *Williams v. Saxbe*,<sup>32</sup> a court first recognized sexual harassment as a form of sex discrimination under Title VII. Cases of *quid pro quo* harassment, if substantiated, are easy to recognize since they often involve women or men suffering an adverse employment action when they refuse to submit to a supervisor’s advances. However, courts have struggled with cases involving sexually hostile work environments. In 1986, the Supreme Court, in *Meritor Savings Bank v. Vinson*,<sup>33</sup> recognized the concept of **hostile environment sexual harassment**. Mechelle Vinson claimed that she had been harassed and forced to acquiesce to numerous sexual encounters with her bank branch manager in order to keep her job at the bank. The court ruled that unlawful sexual harassment occurs when sexual advances are “unwelcome.” The court in *Meritor* held that an employer violates Title VII when it knew, or should have known, that its female employees are subjected to severe or pervasive, unwelcome sexual comments and/or touching – and the employer fails to take prompt and effective remedial action.<sup>34</sup>

The EEOC guidelines address the standards in determining if conduct was unwelcome based on a “reasonable person” standard: behavior that is considered sexual harassment is not what a particular woman (or man) may consider to be harassment, nor even what a majority of Americans might think, but rather what a “reasonable person” would judge it to be.

Notwithstanding the EEOC’s guidelines and numerous court decisions on sexual harassment, there appears to be uncertainty as to what constitutes “unwelcome” behavior. In a hostile work environment case, the sexual harassment must be sufficiently severe or pervasive to alter the conditions of complainant’s employment and create an abusive environment. In determining whether the unwelcome conduct created a hostile environment, the EEOC considers the following factors in determining whether a hostile environment has been created:

- whether the conduct was verbal, or physical, or both;
- whether the conduct was a one-time occurrence or was repeated;
- whether the conduct was hostile and patently offensive;
- whether the alleged harasser was a co-worker or a supervisor;
- whether others joined in perpetrating the harassment; and
- whether the harassment was directed at more than one individual.<sup>35</sup>

Thus, a single incident or a few isolated instances of offensive sexual conduct or remarks generally will be insufficient to create a hostile work environment. As one Court noted, Title VII does not create a claim of sexual harassment “for each and every crude joke or sexually explicit remark on the job” made by employees or supervisors.<sup>36</sup> However, the EEOC and the courts have ruled that one incident may constitute sexual harassment where the harasser touched the employee in an offensive manner.<sup>37</sup>

In July 2016, a former TV host of “Fox and Friends” and “The Real Story” on Fox New, Ms. Gretchen Carlson, filed a \$20 million suit against Fox News Chairman Roger Ailes. Carlson alleged that Mr. Ailes had sexually harassed her for years and, when she refused his advances, he created a hostile work environment; later he refused to renew her contact with the TV program.<sup>38</sup> Shortly after, Fox News anchor Megyn Kelly published a memoir titled *Settle for More*, in which she claimed that Ailes had made inappropriate remarks about her clothing and hinted that he could help her advance in her career “in exchange for sexual favors.”<sup>39</sup> Eventually, more than 20 women came forward to allege sexual harassment by Ailes.<sup>40</sup> In July 2016, Ailes was forced to resign from Fox.<sup>41</sup>

### ***Men and Women and Sexual Harassment***

In 2015, the EEOC received 6,800 claims alleging sex-based harassment, a decrease from a high of 7,944 in 2010.<sup>42</sup> While both men and women can be sexually harassed, 80% to 85% of sexual harassment claims to EEOC are by women. In one study of working people in Los Angeles, Konrad and Gutek (1986) found that women were nine times more likely than men to report

having quit a job because of sexual harassment, five times more likely to have transferred, and three times more likely to have lost a job.<sup>43</sup> The issue of what constitutes sexual harassment has led to several studies concerning what is perceived by individuals to constitute “unwelcome” sexual behavior. Not surprising, studies have found important differences between what men consider to be harassment and what women think it is.<sup>44</sup> One study found that whereas 64% of female respondents felt that “uninvited sexual remarks” by a co-worker constituted sexual harassment, only 47% of male respondents agreed.<sup>45</sup> (See Exhibit 1.) In addition, identical behavior by supervisors and co-workers is not always interpreted the same way. (See Exhibit 2).

In a review of the literature, Riger (1991: 499) summarized the following differences between men’s and women’s perceptions of sexual harassment:

*Men label fewer behaviors at work as sexual harassment (Kenig & Ryan, 1986; Konrad & Gutek, 1986; Lester et al., 1986; Powell, 1986; Rossi & Weber-Burdin, 1983).*

*Men tend to find sexual overtures from women at work to be flattering, whereas women find similar approaches from men to be insulting (Gutek, 1985).*

*Both men and women agree that certain blatant behaviors, such as sexual assault or sexual bribery, constitute harassment, but women are more likely to see as harassment more subtle behavior such as sexual teasing or looks or gestures (Adams et al., 1983; Collins & Blodgett, 1981; Kenig & Ryan, 1986; U.S. Merit Systems Protection Board, 1981).*

*Even when they do identify behavior as harassment, men are more likely to think that women will be flattered by it (Kirk, 1988).*

*Men are also more likely than women to blame women for being sexually harassed (Kenig & Ryan, 1986; Jensen & Gutek, 1982).<sup>46</sup>*

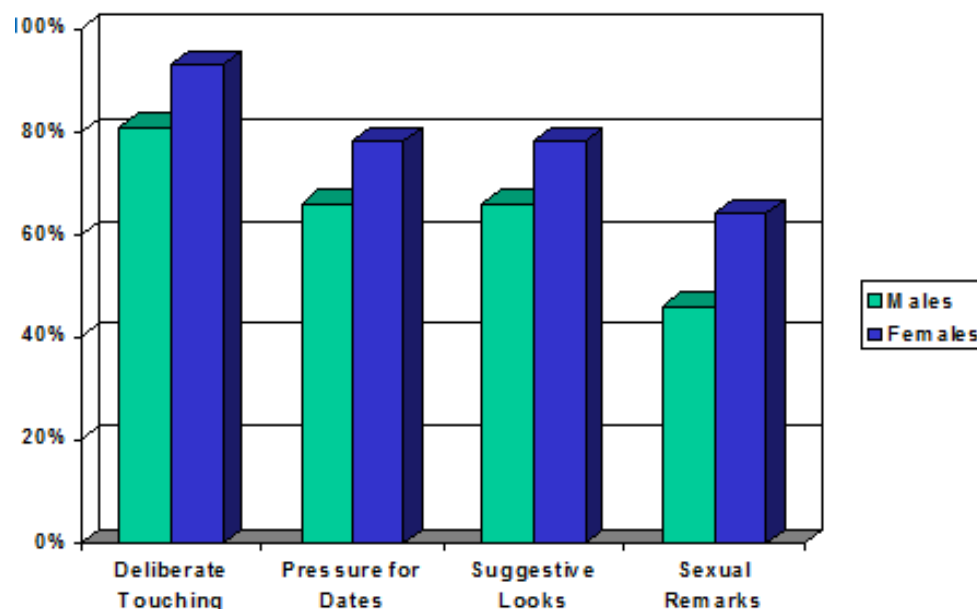
### ***How Common is Sexual Harassment in the Workplace?***

Studies have been carried out to determine how pervasive sexual harassment is in the workplace. One of the earliest studies was conducted by *Redbook* magazine in 1976. Ninety

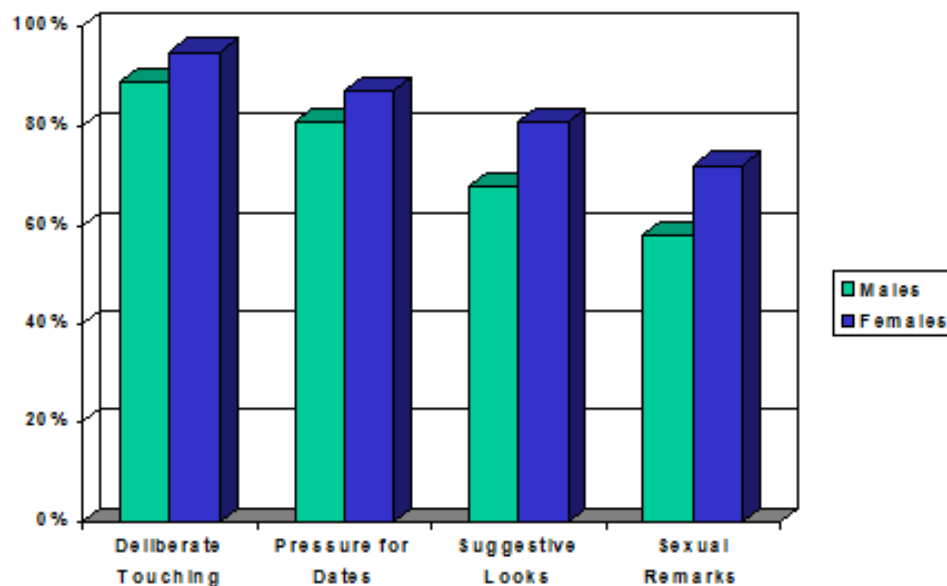
percent of *Redbook* respondents reported they had encountered sexual harassment on the job.<sup>47</sup> Although the results of this survey can be criticized because of probable response bias, the extent of the problem appeared to be vast. In 1978, Cornell University conducted a survey and found that 70% of women workers responded that they had been victims of sexual harassment.<sup>48</sup> From its survey of 23,000 people in 1981, the National Merit Systems Protection Board found that 42% of respondents believed that they had been sexually harassed.<sup>49</sup> Also in 1981, a study conducted jointly by *Redbook* and the *Harvard Business Review* found that 63% of responding managers reported sexual harassment in their companies.

A decade later, in spite of the publicity over sexual harassment in the workplace and a number of lawsuits, it seemed that little had changed. In 1991, *Time* magazine conducted a poll and found that 34% reported experiencing sexual harassment at work. This survey was done in October, shortly after the Clarence Thomas hearing.

**Exhibit 1**  
**What Uninvited Behavior from a Co-worker Constitutes Sexual Harassment?**



**Exhibit 2**  
**What Uninvited Behavior from a Supervisor Constitutes Sexual Harassment?**



According to the National Association for Female Executives, women who hold positions as executives or who work in male-dominated companies are more likely to be victims of sexual harassment than are non-executives or women working in companies that have a large female employee population. This 1992 survey found that 60% of respondents reported being harassed.<sup>50</sup> A 1994 Harris Survey found that 31% of women disclosed that they had been sexually harassed in the workplace.<sup>51</sup>

Today sexual harassment has been reported in nearly all industry sectors and job categories. Although not in an employment situation, university students, including graduate business students, also report experiencing sexual harassment.<sup>52</sup> In 2011, a survey of just under 2,000 school children by the American Association of University Women found that 56% of girls and 40% of boys aged 12-18 reported that they had been sexually harassed in school or digitally (on Facebook or through texts or emails), typically by their peers.<sup>53</sup> In 2015, *Cosmopolitan*

magazine reported that 33% of the 2,235 females surveyed reported that they had experienced sexual harassment in their workplace.<sup>54</sup>

Where – in that range between 31% and 90% – the rate of sexual harassment in the workplace actually is, it is clear that the problem is pervasive.

### ***Many Types of Harassment and Harassers***

Although just about anybody in the workplace can be a harasser, it is not uncommon for harassers to occupy more powerful positions than the people they harass. A survey by *Working Women* found that of people who reported being harassed, 83% indicated that their harasser occupied positions of greater power than they did.<sup>55</sup>

One example of a case involving a man as the victim of sexual harassment occurred in 1995 when David Papa, a former store manager at Domino's Pizza brought suit against Domino's and was awarded \$237,000 in back pay, plus interest, in a sexual harassment lawsuit. Papa was fired after he rejected the advances of his female supervisor who had made unwelcome sexual advances toward him. The court found that the supervisor's comments and actions created a hostile work environment.<sup>56</sup> According to *Psychology Today*,

*Men who deviated from 'traditional' stereotypes of masculinity, whether by belonging to a sexual minority or who were actively involved in feminist causes were far more likely to experience some form of harassment. [...B]acklash was particularly common against heterosexual men who challenge traditional gender roles.<sup>57</sup>*

A sexually hostile environment also can be created by discriminatory dress requirements. Several cases have held an employer liable for a work environment that fosters an environment in which employees are subjected to harassment by customers. For example, in the case *EEOC v. Sage Realty Corp.*,<sup>58</sup> a court ruled that an employer violated Title VII by firing a woman lobby attendant after she refused to wear a revealing uniform that subjected her to sexual comments and harassing behavior from nonemployees. In *EEOC v. Newtown Inn Assoc.*,<sup>59</sup> a court held

employer liable for sexual harassment of employees caused by the provocative theme night attire and dancing required of cocktail waitress.

Employers need to be aware of the pervasiveness of sexual harassment and that the EEOC and courts have held employers liable for harassment by supervisors, co-workers, customers, and third parties, including in cases in which the employer asserted that it had no direct knowledge of such harassment.<sup>60</sup> In *Faragher v. City of Boca Raton*, the Supreme Court held that an employer could be held liable for sexual harassment committed by its supervisors even if it had no direct knowledge of that harassment. The Court noted that in these types of cases an employer may defend itself by showing that it reasonably tried to prevent or correct sexual harassment and that the employee “unreasonable failed” to alert the company about the harassment. Thus, an organization that does not have an effective sexual harassment policy and company practices against sexual harassment could be held liable for harassment, even if it had no direct knowledge of the harassment. After the *Faragher* decision, many organizations adopted written anti-harassment policies and formal complaint procedures. In addition, organizations instituted mandatory training programs for their employees.

Claims of sexual harassment by third parties are also recognized by the courts in both *quid pro quo* and hostile environment claims. In these cases, Title VII protection is extended to persons who are injured by gender-based conduct directed at someone else or not directed at anyone in particular.<sup>61</sup> The EEOC’s regulations and Policy Guidelines on Sexual Favoritism address such cases.<sup>62</sup>

Courts also view same-sex harassment as unlawful. In 1998, the Supreme Court, in *Oncale v. Sundowner Offshore Services, Inc.*,<sup>63</sup> established that same-sex harassment, not just harassment between different sexes, could be actionable under Title VII. Joseph Oncale, an oil-rig worker, alleged male co-workers and his boss physically and verbally abused him with sexual comments and threats. The Court held that such conduct and statements could constitute unlawful sexual



harassment because nothing in Title VII necessarily bars a claim of discrimination “because of ...sex,” when the plaintiff and the defendant [or the person charged with action on behalf of the defendant] are of the same sex.

In addition to federal law (Title VII), many states and cities in the U.S. have laws that prohibit sexual harassment in the workplace. Specific definitions and remedies often differ from federal law. Employers should be advised to review laws of their state and city to determine additional responsibilities and liabilities.

### **Legal Liability and Costs of Discrimination**

Before the Civil Rights Act of 1991 was enacted, there were several cases that resulted in media headlines over the high cost imposed on employers for sex discrimination, particularly sexual harassment cases. In 1986, an Ohio woman won a \$3.1 million verdict against her employer in a case of *quid pro quo* sexual harassment, in which she was told that providing oral sex was necessary in order to keep her job.<sup>64</sup> In 1991, a California court awarded \$3.1 million to two female police officers who were subjected to a hostile work environment.<sup>65</sup> In 1992, the law firm of Baker & McKenzie was found liable for sexual harassment committed by one of its partners who, among other things, grabbed the breast of a secretary while pouring M&Ms into her shirt pocket. The jury awarded Rena Weeks, the lawyer’s secretary, \$6.9 million in punitive damages and \$1.85 million in legal fees. The award was later reduced by the judge to \$3.5 million.

### ***Caps on Damage Awards***

The Civil Rights Act of 1991 provided caps on damage awards. Congress enacted the Civil Rights Act of 1991 mostly because members of Congress believed that recent Supreme Court decisions had diminished the impact of the Civil Rights Act of 1964, not because of large

damage awards against employers. In addition to clarifying the burden of proof in discrimination cases and prohibiting the use of quotas, the 1991 law provided for the right to a jury trial and the right to receive compensatory and punitive damages in sex discrimination cases. **Compensatory damages** are awarded to the plaintiff to compensate for financial, physical, or psychological harm resulting from the discrimination. **Punitive damages** are awarded to the plaintiff as a means of punishing the defendant for wrongdoing. Such punitive and compensatory damages are capped at \$50,000 to \$300,000, depending on the size of the employer. However, in class actions, employers can be liable for each victim at the capped rate. Thus, under the Civil Rights Act of 1991, in class action lawsuits, employers could be ordered to pay damage awards in the millions or more.<sup>66</sup>

### ***Harm from Sexual Harassment***

In addition to job consequences, victims of sexual harassment experience both psychological and physical harm. A counseling service (the Working Women's Institute for Information, Referral, and Counseling Service) found that 90% of harassed women experienced psychological stress symptoms (nervousness, fear, and anger) while 63% experienced physical symptoms such as headaches, nausea, and fatigue.<sup>67</sup> While an employee need not suffer physical or psychological harm to successfully prevail in obtaining punitive damages,<sup>68</sup> such injuries may affect an employee's ability to perform a job and his/her morale. Organizations that have sexual harassment in its workplace may also suffer decreased productivity, increased turnover, and risk injury to their public image.<sup>69</sup>

Sexual harassment claims by employees may also place employers at risk for wrongful termination and defamation lawsuits filed by the alleged harasser. Legal scholars have noted that generally juries are unsympathetic to discharged harassers.<sup>70</sup> Employer liability in such cases is most likely found when the employer fails to conduct an investigation or negligently conducts such an investigation.

## Conclusion

Gender-based discrimination and sexual harassment have become serious issues for U.S. organizations. For more than 50 years, federal law has prohibited discrimination based on the gender of employees or applicants for employment. Legally defensible justifications for employment practices that do result in discrimination against one gender include *bona fide* occupational qualifications, job relatedness, universally applied seniority systems, and business necessity. The EEOC and the courts have also found that sexual harassment is unlawful gender-based discrimination.

## Endnotes and References

- <sup>1</sup> EEOC Press Release (2002, October 4). Court Gives Final Approval to \$47 Million Settlement in Sex Discrimination Suits Against Pent-A-Center by EEOC and Private Plaintiffs.
- <sup>2</sup> Reuters.com (2015, Mar. 17). Novartis unit hit with \$110 million gender discrimination suit, <http://www.businessinsider.com/the-9-most-damning-workplace-sexual-harassment-lawsuits-filed-in-america-2012-8#>
- <sup>3</sup> Ibid
- <sup>4</sup> Huffpost.com (2016, July 20). Sex Discrimination Wal-Mart: The ‘Bitches’ Story That Won’t Go Away, [http://www.huffingtonpost.com/entry/sex-discrimination-t-wal-mart-dthe-biktches-story\\_us\\_578bbafae4b0b107a24147d3](http://www.huffingtonpost.com/entry/sex-discrimination-t-wal-mart-dthe-biktches-story_us_578bbafae4b0b107a24147d3)
- <sup>5</sup> Weimer, D. & E. Thornton (1997). Slow Healing at Mitsubishi, *Business Week*, September 22, 74-75.
- <sup>6</sup> Burns, Greg (2003, April 30). Dial Settles Sexual Harassment Case, *Chicago Tribune*.
- <sup>7</sup> EEOC Press Release (2002, Dec. 23). EEOC, SoBe, and PepsiCo Settle Sexual Harassment Suit for \$1.79 Million.
- <sup>8</sup> BusinessInsider.com (2012, Sept. 3). The 8 Largest Sexual Harassment Verdicts In History, <http://www.businessinsider.com/the-9-most-damning-workplace-sexual-harassment-lawsuits-filed-in-america-2012-8>
- <sup>9</sup> EEOC Press Release (2003, Jan. 15). Babies R U.S. to Pay \$205,000, Implement Training due to Same-Sex Harassment of Male Employee.
- <sup>10</sup> *Webster’s Ninth New Collegiate Dictionary*, 1984. Springfield, MA: Merriam-Webster, Inc.
- <sup>11</sup> *Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989).
- <sup>12</sup> For a discussion of sex stereotypes and the *Price Waterhouse* case see, Bridge, Diane L. (1997). The Glass Ceiling and Sexual Stereotyping: Historical and Legal Perspectives of Women in the Workplace, *Virginia Journal of Social Policy & the Law*, 4(3): 581- 643.
- <sup>13</sup> *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973).
- <sup>14</sup> *Albemarle Paper Co. v. Moody*, 422 U.S. 405 (1975); *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971).
- <sup>15</sup> *Harvard Law Review*, [http://cdn.harvardlawreview.org/wp-content/uploads/pdfs/vol126\\_macy\\_v\\_holder.pdf](http://cdn.harvardlawreview.org/wp-content/uploads/pdfs/vol126_macy_v_holder.pdf)
- <sup>16</sup> Ibid
- <sup>17</sup> Section 703(e) of Title VII.
- <sup>18</sup> 29 C.F.R. § 1604.1.
- <sup>19</sup> *Auto Workers v. Johnson Controls, Inc.*, 499 U.S. 187 (1991).

- <sup>20</sup> *Wilson v. Southwest Airlines Co.*, 571 F. Supp. 292 (N.D. Texas (1981)); *Diaz v. Pan American World Airlines*, 442 F. 2d 385 (5<sup>th</sup> Cir.), *cert. denied*, 404 U.S. 950 (1971).
- <sup>21</sup> The author thanks a JCRI reviewer for this additional comment on the *Diaz v. Pan Am* case.
- <sup>22</sup> *Guardian Capital Corp. v. New York State Division of Human Rights*, 8 EDP par 9809 at 6388, 360 N.Y.S. 2nd 939-40 (N.Y. App. Div. 1974).
- <sup>23</sup> *St. Cross v. Playboy Club*, Appeal No. 773, Case No. CFS 22618-70 (N.Y. Human Rights App. Bd. 1971); *Weber v. Playboy Club*, Appeal No. 774, Case No. CFS 22619-70 (N.Y. Human Rights App. Bd. 1971).
- <sup>24</sup> *Ibid*
- <sup>25</sup> *Ibid* at 305.
- <sup>26</sup> Business necessity was first defined in *Robinson v. Lorillard Corp.*, 444 F.2d 791 at 798 (4<sup>th</sup> Cir. 1971), *cert. denied*, 404 U.S. 950.
- <sup>27</sup> *Levin v. Delta Airlines*, 730 F.2d 994 (5<sup>th</sup> Cir. 1984); *Burwell v. Eastern Airlines*, 633 F. 2d 361 (4<sup>th</sup> Cir. 1980), *cert. denied*, 450 U.S. 965 (1981).
- <sup>28</sup> Sovereign, Kenneth L. (1999). *Personnel Law, 4th Ed.* Englewood Cliffs, NJ: Prentice Hall. Sovereign cites to *Hayes v. Shelby Memorial Hospital*, 726 F.2d 1543 (11<sup>th</sup> Cir. 1984).
- <sup>29</sup> *Fernandez v. Wynn Oil Co.*, 653 F.2d 1273 (9<sup>th</sup> Cir. 1981).
- <sup>30</sup> *Harris v. Forklift Systems, Inc.*, 114 S. Ct. 367 (1993).
- <sup>31</sup> *Ibid*
- <sup>32</sup> *Williams v. Saxbe*, 413 F. Supp. 654 (D.D.C. 1976).
- <sup>33</sup> *Meritor Savings Bank v. Vinson*, 477 U.S. 57 (1986).
- <sup>34</sup> *Meritor Savings Bank, id.* and EEOC Guidelines at 29 C.F.R. § 1604.11.
- <sup>35</sup> 29 C.F.R. § ; EEOC Policy Statement
- <sup>36</sup> *Downes v. FAA*, 775 F. 2d 288, 293 (D.C. Cir. 1985).
- <sup>37</sup> *Barrett v. Omaha Nat'l Bank*, 584 F. Supp. 22(D. Neb., 1983), *aff'd* 726 F. 2d 424 (8<sup>th</sup> Cir., 1984).
- <sup>38</sup> Time.com (2016, July 7). What Constitutes Sexual Harassment in the Workplace?, <http://time.com/money/4395090/what-constitutes-sexual-harassment-in-the-workplace/>
- <sup>39</sup> People.com (2016, Nov. 4). Megyn Kelly Details Alleged Sexual Harassment by Roger Ailes: Report, <http://people.com/tv/megyn-kelly-roger-ailes-sexual-harassment-allegations/>

- <sup>40</sup> HuffPost.com (2016, Aug. 12). Here Are The Women Publicly Accusing Roger Ailes Of Sexual Harassment, [http://www.huffingtonpost.com/entry/roger-ailes-accusers-list\\_us\\_57a9fa19e4b06e52746db865](http://www.huffingtonpost.com/entry/roger-ailes-accusers-list_us_57a9fa19e4b06e52746db865)
- <sup>41</sup> HollywoodReporter.com (2016, July 21). Roger Ailes Resigns as Fox News Chief After Sexual Harassment Accusations, <http://www.hollywoodreporter.com/news/roger-ailes-resigns-as-fox-913206>
- <sup>42</sup> Time.com (2016, July 7). What Constitutes Sexual Harassment in the Workplace?, <http://time.com/money/4395090/what-constitutes-sexual-harassment-in-the-workplace/>
- <sup>43</sup> Gutek, B. A., Cohen, A. G., & Konrad, A. M. (1990). Predicting social-sexual behavior at work: A contact hypothesis. *Academy of Management Journal*, 33, 560-577.
- <sup>44</sup> Dougherty, Debbie S. (1999). Dialogue through Standpoint: Understanding Women's and Men's Standpoints of Sexual Harassment, *Management Communication Quarterly*, 12 (3): 436-468.
- <sup>45</sup> Deutschman, A. (1991). Dealing with Sexual Harassment, *Fortune*, November, p. 145.
- <sup>46</sup> Riger, S. (1991). Gender dilemmas in sexual harassment policies and procedures. *American Psychologist*, 46(5), 497-505.
- <sup>47</sup> The Redbook survey is cited in Conte, Alba (1990). *Sexual Harassment in the Workplace: Law and Practice*. New York: Wiley Law Publications, John Wiley & Sons.
- <sup>48</sup> Cited in Feary (1994).
- <sup>49</sup> Ibid
- <sup>50</sup> Ibid
- <sup>51</sup> BNA (1994). *BNA's Employee Relations Weekly*, 12, April 4, p. 367.
- <sup>52</sup> Reingold, Jennifer & Nadav Enbav (1998). Men and Women at Harvard, *Business Week*, May 11, p.40.
- <sup>53</sup> Usnews.com (2011, Nov. 9). Survey: Nearly Half of Students Sexually Harassed in School, <http://www.usnews.com/education/blogs/high-school-notes/2011/11/09/survey-nearly-half-of-students-sexually-harassed-in-school>
- <sup>54</sup> Huffpost.com (2015, Feb. 19). In 3 Women Has Been Sexually Harassed At Work, According To Survey, [http://www.huffingtonpost.com/2015/02/19/1-in-3-women-sexually-harassed-work-cosmopolitan\\_n\\_6713814.html](http://www.huffingtonpost.com/2015/02/19/1-in-3-women-sexually-harassed-work-cosmopolitan_n_6713814.html)
- <sup>55</sup> Sandroff, Ronni (1992). Sexual Harassment: The Inside Story, *Working Women*, June.
- <sup>56</sup> Alger, Alexandria & William G. Flanagan (1996). Extra Pizza Dough, *Forbes*, November 15, 94-96.
- <sup>57</sup> PsychologyToday.com (2015, May 11 ). When Men Face Sexual Harassment, <https://www.psychologytoday.com/blog/media-spotlight/201505/when-men-face-sexual-harassment>
- <sup>58</sup> *EEOC v. Sage Realty Corp.*, 507 F. Supp. 599 (S.D. N.Y. 1981).

- <sup>59</sup> *EEOC v. Newtown Inn Assocs.*, 647 F. Supp. 957 (E.D. Va. 1986).
- <sup>60</sup> *Faragher v. Boca Raton*, 524 U.S. 775 (1998).
- <sup>61</sup> *Broderick v. Ruder*, 685 F. Supp. 1269 (D.D.C. 1988).
- <sup>62</sup> 29 C.F.R. § 1604.11(a); EEOC Policy Guidelines on Sexual; Favoritism (Jan. 12, 1990), reprinted in FEP Man. (BNA) 405:6820.
- <sup>63</sup> *Oncala v. Sundowner Offshore Services, Inc.*, 523 U.S. 75(1998).
- <sup>64</sup> Gibbs, Nancy (1991). Office Crimes, *Time*, October 21, 1991, pp. 52-64.
- <sup>65</sup> Segal, Troy & Zachary Schiller (1991). Six Experts Suggest Ways to Negotiate the Minefield, *Business Week*, October 12, p. 33.
- <sup>66</sup> Enforcement Guidance: Compensatory and Punitive Damages Available Under § 102 of the Civil Rights Act of 1991 (July 14, 1992). See [www.eeoc.gov/docs/damages.html](http://www.eeoc.gov/docs/damages.html).
- <sup>67</sup> Crull, Peggy (1991). "The Stress Effects of Sexual Harassment on the Job," in Michele A. Paludi & Richard B. Barickman (Eds.) (1991), *Academic and Workplace Sexual Harassment: A Resources Manual*. New York: State University of New York Press. See also, Schneider, Kimberly, Swan, Suzanne & Fitzgerald, Louise (1997). Job-related and Psychological Effects of Sexual Harassment in the Workplace: Empirical Evidence from Two Organizations, *Journal of Applied Psychology*, 82(3): 401-415.
- <sup>68</sup> *Harris v. Forklift Systems, Inc.*, 114 S. Ct. 367 (1993).
- <sup>69</sup> Fitzgerald, L. (2003). A New Framework for Sexual Harassment Cases. 39 *Trial* 36-44 (March).
- <sup>70</sup> Lindemann, B. & P. Grossman (1996). *Employment Discrimination Law*, 3<sup>rd</sup> Ed. BNA, Washington, D.C. at 836.

## ***SYSTEM MAPPING APPROACH TO TEACHING INTERNATIONAL BUSINESS***

**ELLEN A. DROST**

California State University, Los Angeles

Concept mapping tools allow instructor and students to depict visually a system of relationships by creating a map that describes them (for example, cause-effect relationships, category and sub-category relationships, and so forth). Concept maps are a form of visual thinking. Most people are better able to remember a visual representation—such as a chart or graph—than a table full of numbers. The objective of this paper is to introduce a pedagogical tool, the Comparative Political Economy System (CPES) Matrix, which can be used to develop a students' understanding of the global business environment and how that environment affects a firm's business decisions. To gain such understanding, students can use a concept matrix to plot several countries' political economies into a single, compelling image. The resulting comparative system matrix often provides an "Aha" moment for students, because they have now a visual image and can begin to understand how the various components in the matrix interact together.

This paper begins with a discussion of system mapping, its benefits and evidence of efficacy, followed by a brief discussion of system matrices, an introduction to comparative system mapping in the context of an international business course, and concludes with the advantages of system mapping as a pedagogical tool.

---

This article was peer reviewed and accepted by the *Journal of Case Research and Inquiry*, Vol. 2, 2016, a publication of the Western Casewriters Association. The authors and the *Journal of Case Research and Inquiry* grant state and nonprofit institutions the right to access and reproduce this manuscript for educational purposes. For all other purposes, all rights are reserved to the author. Copyright © 2016 by Ellen A. Drost, California State University, Los Angeles, Los Angeles, CA 90032, tel. (323) 343 2965, [edrost@calstatela.edu](mailto:edrost@calstatela.edu)



## **System Mapping**

System mapping, also referred to as concept mapping, is the process of creating a visual tool that depicts a given system or relationships. A system is a group of interacting, interrelated, and interdependent components that form a complex and unified whole (Coffman, 2007). A system's purpose is achieved through the actions and interactions of its components.

There are a number of different approaches to mapping a system in representing its elements and/or connections. For instance, player maps indicate which individuals and/or organizations are key actors in a system and how they are connected; mind maps highlight various trends in the external environment influencing the issue at hand; and issue maps lay out the political, social, or economic issues affecting a given geography or constituency (Cook, 2015).

### ***Benefits***

Concept mapping compels the student to identify connections, and capture them more deeply, than traditional approaches such as reading or writing about a concept can do. Moreover, concept mapping makes use of dual coding; that is, students learn the material both from the text label found on the concept map as well as the visual structure of the map. Concept mapping can improve students' cognitive capacity by allowing them to focus on essential relationships, rather than on decoding a written text. Concept maps are a form of visual thinking, which for many people is a better representation of relationships than a table or paragraph full of numbers and/or facts.

### ***Evidence of Effectiveness***

In a meta-analysis of learning with concept and knowledge maps, Nesbitt (2006) found that in comparison with activities such as reading text passages, attending lectures, and participating in class discussions, concept mapping activities were more effective in attainment and transfer of knowledge. Concept mapping was found to benefit learners across a broad range of educational levels, subject areas, and settings.

### **System Matrices**

System matrices, while similar to system or concept maps, use a grid structure (Schuldt, 2005). Weimar (2002:174) defined matrices as “a grid with defining characteristics across one axis and categories on the other.” This grid is a non-linear, multidimensional tool, which assists students in organizing concepts and understanding relationships. Hence, I developed The Comparative Political Economy System Matrix drawing on a four-quadrant grid model.

### **The Comparative Political and Economic System Matrix**









National differences in political, economic, legal and sociocultural systems influence the benefits, costs, and risks associated with developing and doing business in different countries. For businesses with international operations, a question of importance is how a country’s political economy affects its business investments and business practices. The Comparative Political Economy System Matrix addresses this question from two perspectives: First, how different are the political and economic systems among countries around the world? Second, how do these differences in political and economic systems influence doing business in those countries?

#### ***System Mapping***



The CPES Matrix is an issue or system map, which lays out the political and economic systems affecting a given number of countries or geography. The matrix is represented by four quadrants on two defining dimensions, the political system (democracy or totalitarian) across one axis and the economic system (open versus closed economy) on the other. Each dimension is defined by a plus or minus sign on the grid, which represents the degree to which a political or economic system is (more or less) enforced. The political economy of a country will be depicted by placing it strategically in one of the quadrants in the CPES matrix. An example of a CPES matrix is shown in Exhibit 1, which visualizes relationships among countries in relation to their political economy in a system map. The CPES mapping exercise is offered in Appendix.

**Exhibit 1**  
**Comparative Political and Economic System Matrix**

	+ more	Democratic	less -	- less	Totalitarian	more +
+ O p e n  M a r k e t  -						
						
- C l o s e d  M a r k e t  +						
						

© Ellen A Drost, 2016

### Advantages of System Mapping

The advantage of using system mapping as a tool for learning is that it creates instant visual images of similar and/or contrasting relationships—here, clusters of countries with similar and contrasting political economies. Students get an instant image of the complexities associated with doing business globally and an appreciation of the deep contrasts in how business is conducted around the globe. Moreover, creating a comparative system map in the classroom delivers almost instantly a lively discussion of where a country “belongs” on the political economic map. Such discussions create a dynamic classroom environment and stimulate critical thinking.

In today’s new media world, students respond well to visualization complimented with an interactive discussion. The comparative system map provides just that, a visual snapshot of important relationships.



**Ellen A. Drost** is Associate Professor of Management at California State University, Los Angeles. She is the author of over 100 refereed journal articles, conference papers, case studies, and book chapters. Her work has appeared among others in the *Academy of Management Journal*, *Human Resource Management*, *Asia-Pacific Journal of Human Resource Management*, *Cross-Cultural Management*, *International Journal of Entrepreneurial Behavior and Research*, *International Entrepreneurship Review*, *Thunderbird International Business Review*, *The CASE Journal*, and numerous edited volumes in international business and management. Ellen received her Ph.D. in International Business and Management from Florida International University. She received her management experience in Amsterdam and Brussels as a business manager and controller for an international marketing organization.

## Appendix Developing a Comparative Political Economy Systems Map

National differences in political, economic, legal and socio-cultural systems influence the benefits, costs, and risks associated with the development of and doing business in different countries. For international businesses with international operations, a question of importance is how a country's political economy affects their business investments and practices. We will address this question from two perspectives: (1) how different are the political and economic systems among countries around the world, and (2) how do these political and economic systems shape doing business in those countries.

You will use your text, lecture notes, class discussions, films, and outside research, to describe and compare the political and economic systems of the following countries: U.S.A., Brazil, Russia, India, China, Hungary, Norway, Morocco, Jordan, Vietnam, and Ghana. We will use the United States as our base (or anchor) country.

The narrative part of your assignment (one paragraph per country, single-spaced) should cover the following:

1. Country's geographic location and population demographics
2. Country's political system (democracy or totalitarian) and political risk factors
3. Country's economic system and its macro-economic indicators (i.e. market/open versus closed economy, GDP and GDP per capita, economic growth rate, inflation and unemployment rates)
4. Type of business most suitable in the country.

Your paragraph will describe and explain how a country's political economy and the indicators you provided affect doing business in that country. Subsequently, you will place U.S.A. and the assigned countries strategically in one of the quadrants in the Comparative Political Economic Systems Map.

You must type the country's name or abbreviation thereof in the appropriate (strategic) place in one of the quadrants. You will not receive credit for a handwritten system map. Your assignment must be typed in 12 pitch font and not exceed 3 single-spaced pages. Please put your name in the top right-hand corner of your assignment. No cover page, please.

Comparative Political and Economic Systems Matrix

	+ more	Democratic	less -	- less	Totalitarian	more +
+ O p e n  M a r k e t  -						
- C l o s e d  M a r k e t  +						

## References

Coffman, J. (2007). *A Framework for Evaluating Systems Initiatives*. [mchb.hrsa.gov](http://mchb.hrsa.gov).

Concept Mapping Tools: Centre for Teaching Excellence, University of Waterloo. Retrieved Dec. 7, 2016, from <https://uwaterloo.ca/centre-for-teaching-excellence/teaching-resources/teaching-tips/educational-technologies/all/concept-mapping-tools>.

Gopal, S. and Clarke, T. Mapping: A guide to Developing Actor Maps. Retrieved Dec. 7, 2016, from <http://www.fsg.org/tools-and-resources/system-mapping>.

Nesbitt, J. and Adesope, O. (2006). Learning with Knowledge and Concept Maps: A Meta-Analysis. *Review of Educational Research* Fall 2006, Vol. 76, No. 3, pp. 413–448.

Schuldt, B. (2005). Concept Matrix Approach to Teaching Management Information Systems. *The Journal of Learning in Higher Education*, Volume 1, Issue 1, 11-15, retrieved from <http://jwpress.com/JLHE/Issues/JLHE-Fall2005-v1i1.pdf>

Weiner, M. (2002). *Learner-Centered Teaching: Five Key Changes to Practice*. San Francisco: Jossey-Bass, Wiley.





***Journal of Case Research and Inquiry***

Peer-Reviewed Cases, Notes and Articles

A publication of the Western Casewriters Association

Vol. 2  
December 2016

ISSN 2377-7389