

Audible Originals presents:

Say You're Sorry

Hosted by Lux Alptraum

Episode 4: The Business Of Saying Sorry

[intro music; electronic, thoughtful crescendo with guitar notes]

Siona Peterous:

On April 20, 2010, a bubble of high-pressure methane gas rose up into an offshore oil rig called the *Deepwater Horizon*, caught fire, and exploded.

[clips from CBS]

"Now the latest on that oil rig disaster in the Gulf of Mexico. 11 workers are still missing and feared dead while the rig that exploded on Tuesday has now sunk, threatening a major oil spill off the Louisiana coast."

"And good evening, everyone. It's like an ominous monster slowly making its way to the Gulf Coast. A massive oil spill that will reach land tonight with devastating consequences for the environment and the economy."

"The news about that oil rig disaster keeps getting worse. Today, the Deepwater Horizon sank in the Gulf of Mexico after burning for 36 hours. Tonight, the search continues for the 11 workers missing since the explosion late Tuesday night."

The explosion triggered the largest marine oil spill in history, releasing about 4.9 million barrels of crude oil into the Gulf. The spill could be seen from space, killed tens of thousands of animals, and devastated the Gulf Coast fishery for months.

[news clips]

"As the massive oil slick drifts at sea now, exactly two weeks after the Deepwater Horizon rig explosion, the entire Gulf Coast watches and waits with no clear answers."

"Good evening. 25 days now after that drilling rig explosion, another new approach by BP, so far with the same old result."

It also killed 11 rig workers, and one of them was a man named Gordon Jones.

Keith Jones:

Michelle was about to give birth to their second child. I can't imagine a happier couple. Gordon was pretty easy to get along with anyway, you know. They were just perfect together. Perfect.

Lux Alptraum:

That's Gordon's father, Keith. Keith describes Gordon as the kind of guy that everybody just... likes. The kind of guy that everybody got along with and looked forward to seeing. He was 28 years old.

After the incident, Gordon's family hoped that someone from BP would personally say, "I'm sorry." But no one from BP showed up to Gordon's memorial or even sent flowers, which told Keith all he needed to know.

And then came the June memorial service for all the victims of the *Deepwater Horizon* explosion. Gordon's brother, Chris, and his widow, Michelle, who was eight months pregnant when her husband was killed, made the trek to Alabama for the memorial.

Siona Peterous:

After the service ended, they walked out to their car but found it blocked by SUVs.

Keith Jones:

And at that moment, Tony Hayward and other BP executives, who by that time people recognized from their having been interviewed on television so much, hurriedly came out of the building and jumped in the SUVs to drive away.

Siona Peterous:

At the time, Tony Hayward was the CEO of BP.

Keith Jones:

And so the first question is, why on Earth did they come to the service and not make their presence known? And it occurred to me right away, really, that the only reason they did it was so that they could say they did.

And sure enough, when Tony Hayward testified before Congress, one of the first things he did was talk about how moving that service was.

[CSPAN testimony] Tony Hayward: Three weeks ago, I attended a memorial service for those men and it was a shattering moment.

Siona Peterous:

And it wasn't just Keith who didn't get a good apology. Nobody did. Not for the deaths, not for the spill, not for any of it. In fact, BP's initial response to the explosion and oil spill was so bad that it's often used as an example of what a company *shouldn't* do in a crisis. Here's what Hayward said when he was asked what he wanted to tell local residents in the days after the spill.

Tony Hayward: We're sorry for the massive disruption it's caused to their lives. There's no one who wants this thing over more than I do. I'd like my life back.

Helio Garcia:

And frankly, that's not an apology. That's something else.

Siona Peterous:

That's Helio Garcia, an expert in corporate crisis management.

Helio Garcia:

I don't teach BP as an apology lesson. I teach BP as a lesson on what happens when you don't show that you care about the victims of the problem. The CEO's first communications seemed to be indifferent to the harm that was caused.

[calm electronic notes play in background]

Siona Peterous:

A few months later, BP launched a multi-million-dollar apology ad campaign touting its cleanup efforts, saying that "We've helped organize the largest environmental response in the country's history. 30 planes and over 1,300 boats are working to protect the shoreline."

They ran TV commercials and took out full-page ads in newspapers across the country, including *The New York Times*, *The Wall Street Journal*, *USA Today*, and *The Washington Post*.

But those messages didn't go over well either. They made people feel that BP's reputation was far more important to them than the lives lost. Here's what one Gulf Coast resident had to say in response to BP's atonement efforts:

[clip from CBS] Mike Paul: If you care, stop the oil from coming into our estuaries. I don't think you do care. I think you care about your image. You don't care about us.

Siona Peterous:

And pretty quickly, Keith Jones, whose son Gordon was killed on the rig, reached the same conclusion.

Keith Jones:

This is a corporation with ice water in their veins. They couldn't care less about us.

Siona Peterous:

Here's Gordon's brother, Chris, testifying before congress.

Chris Jones: I show you possibly the last picture taken of Gordon before his death.

Siona Peterous:

In the picture, Gordon is smiling and leaning over his two-year-old son, showing him how to swing a golf club.

Chris Jones: You can see the joy in their faces. I'm saddened that neither will experience the same joy again. I want to take this opportunity to address recent remarks made by Tony Hayward, CEO of BP. In particular, he publicly stated he wants his life back. Mr. Hayward, I want my brother's life back. And I know the families of the other ten men want their lives back. We will never get Gordon's life back. And his wife will live a life without a husband; and her two children, a life without a father."

Siona Peterous:

There are a lot of different reasons why people apologize. We might want to repair a relationship, or avoid embarrassment, or just abide by some personal moral code. But corporations are not people. And corporations tend to apologize for one reason and one reason only: when it's good for business.

Lux Alptraum:

But that doesn't stop people who've been hurt from wanting apologies from corporations. In fact, some people want them badly enough to fight for them. And in the rarest of cases, sometimes those people win.

[theme music plays]

Lux Alptraum:

I'm Lux Alptraum.

Siona Peterous:

And I'm Siona Peterous.

Lux Alptraum:

And this is *Say You're Sorry*, a show about public apologies. And in this episode, we're going to meet two families who lost children in horrific accidents and found themselves looking at corporate apologies in a whole new light.

Siona Peterous:

For decades, companies have tried to figure out how to use apologies to their advantage. And one of the earliest companies to do this was the Toro lawnmower company. Though you may not realize this, lawnmowers are incredibly dangerous.

Dr. Nick Smith:

You can imagine, if you're in the lawnmower business, there's going to be a lot of injuries, right?

Siona Peterous:

This is Dr. Nick Smith, an attorney, philosophy professor, and *Say You're Sorry's* resident apology expert.

Nick Smith:

And Toro was kind of experimenting with, how do they bring the cost of litigation down? And they were one of the main innovators in trying out this strategy of saying sympathetic words.

Siona Peterous:

Along with the sympathetic words, the Toro representatives would offer what they considered a fair price to settle the case. The strategy was a success, and the result was that the company saved money and time that would normally be spent on fighting lawsuits. But it's worth pointing out that saying, "I'm sorry for your injuries" isn't the same as admitting you caused them.

Nick Smith:

That's a very deliberate litigation tactic; offering compassion, and sympathy, and money without offering change or accepting blame. And that's a tactic that has been used now for 30 or 40 years to prevent these kinds of things from going to trial and it's kind of considered the cost of doing business.

Siona Peterous:

The problem, says Nick, is that these settlements are usually confidential, and so the apologies are too. The companies never publicly admit wrongdoing and are never forced to address underlying problems, which are some of the most fundamental parts of a genuine apology.

And if it's cheaper for companies to privately settle cases than address whatever caused injuries in the first place, it raises the question: What incentive do they have to change?

Nick Smith:

And if what you care about is some kind of policy change, so more people don't die or get horrifically injured by the product, like, you might not get that from a settlement agreement even though you might get a pretty big check. Which is a very difficult situation for families to be put in, even if they're completely eyes wide open. It's still a difficult choice to take the money or publicly exposing and requiring transformation. But a lot of victims' families, frankly, don't know this.

Siona Peterous:

Keith Jones, on the other hand, knows this all too well. Long before his son died in the *Deepwater Horizon* explosion, Keith was a practicing personal injury attorney.

Keith Jones:

In every settlement agreement, there is a paragraph that says the defendant does not, by this settlement, admit fault or accept liability for this accident. And I've seen my clients blow their tops.

Siona Peterous:

In his work as a lawyer, Keith did his best to prepare his clients for the reality that this was part of the deal if they wanted a settlement. But after losing his son, his feelings changed.

Keith Jones:

Now I understand that a little better than I did when I was just the lawyer representing those people because I'm the one whose son was killed now. And I know that they know full well the things they did wrong and how they were at fault, and that they won't admit it now is infuriating. You feel as though they are, sort of, gaming the system. I understand that that's the way it works. But just the same, it doesn't make it hurt any less.

Siona Peterous:

Keith no longer holds out hope that anyone from BP will ever show real remorse over Gordon's death. But that doesn't mean he ever stopped wanting an apology.

Keith Jones:

Oh, it would have made us feel much better if they'd have said, "We made decisions to try to finish this well as fastly and as cheaply as we could, and those decisions wound up causing 11 men to lose their lives and 11 families to lose the man they love. And we're sorry. Every person who works at BP is sorry, every person who made a decision on the rig, and every person who made a decision in Houston or anywhere else that led to this, we're sorry. And we will look inside and resolve never to make these decisions again and never to put dollars ahead of human lives. That was our mistake. And we're sorry." If they had said that? It would have meant something.

Siona Peterous:

It would have meant something, in part because it's incredibly rare to get that kind of detailed, self-critical apology from a corporation.

Keith Jones:

Does any corporation or company ever really own up to what they did and

sincerely apologize for it? I don't know. I guess that's part of what your podcast is about.

Siona Peterous:

And yeah, Keith's right. Looking for a real, sincere corporate apology for something like this is like trying to find a needle in a haystack. But he's also right that that's what our podcast is about, and so we found one.

[rapid electronic notes]

Siona Peterous:

On January 8, 2003, Air Midwest Flight 5481 crashed near Charlotte, North Carolina, killing everyone on board. In the aftermath of the crash, it became clear that the accident was caused by an improperly rigged elevator control system. And the National Transportation Safety Board described "serious deficiencies" in the airline's maintenance practices.

Airline crashes aren't that common, but when they happen, the fallout often follows the same pattern: the airline offers victims or their families some undisclosed amount of money. Most victims opt to settle their case out of court rather than slog through years of litigation and legal fees. But the Shepherds aren't like most victims. And right from the beginning, they knew they wanted something more than money.

Tereasa Shepherd:

They need to say they're sorry. They need to apologize and take responsibility for this.

Siona Peterous:

That's Tereasa Shepherd, the mother of Christiana Shepherd, an 18-year-old who died in the crash.

Tereasa and her husband Doug wanted some very specific things out of an apology, and a lot of them were the same things Keith wanted from BP after his son was killed.

They needed Air Midwest to recognize the lives that were lost and say they were sorry. They also wanted the company to admit what it had done wrong and map out how they would change to make sure it wouldn't happen again. *And* they wanted this apology to be publicly issued to all the victims' families; not privately extended to the Shepherds in a confidential agreement.

The first attorney they met with told them the same thing Keith used to tell his clients: You can get a settlement, but an apology isn't going to be a part of it. But

the Shepherds were not going to accept that answer. Instead, they went looking for a lawyer who would help them get their apology.

Doug Shepherd:

We didn't want to be bought off by money. "Here's some money and we'll just forget this ever happened."

Siona Peterous:

That's Doug Shepherd. And for the Shepherds, this wasn't just about getting sympathy from Air Midwest. It was about something deeper.

Tereasa Shepherd:

Yes, I wanted them to say they were sorry to me and to my family, but I wanted a change. It had to change. And if this apology did not bring about change, it was worth the paper it was written on only.

Siona Peterous:

And just to highlight how unusual this is, even the judge didn't actually believe that the Shepherds were serious. Here's how their lawyer, Ron Goldman, remembers the judge's initial reaction.

Ron Goldman:

It was very difficult. The magistrate judge was upset that we were even asking for it. I think he was quite angry with me because he thought this was a ploy that I was using to increase the settlement amount, that we would give it up when they raised the amount of money. And we had to say, "No, that's not the case."

Siona Peterous:

And the judge still wasn't convinced. He insisted on meeting with the Shepherds themselves before moving forward with the proceedings.

Ron Goldman:

And Tereasa stood up and said, "I know why you're here. You think that the lawyers put us up to the public apology. That's wrong. We only hired them because they agreed that they would fight for the public apology. And I want to tell you that we are not going to settle the case. We're not going to even talk about money until they agree."

Siona Peterous:

But even after they'd convinced the judge and the opposing attorneys that this was really their idea, the Shepherds still had to battle another assumption.

Tereasa Shepherd:

Honestly, in very much of it, I felt like there was an underlying prejudice that we

were missionaries, therefore, “They’re those Christian-type people, you know? They just love everybody and they don’t really know too much.”

[music]

Siona Peterous:

All told, the Shepherds spent seven months in negotiations with Air Midwest. Sometimes, they were tempted to call it quits.

Tereasa Shepherd:

There was a day when the two of us were sitting in Doug’s study talking about just cashing it in and saying, ‘just forget it’. And our 16-year-old came by and said, “Wait. What were you guys just saying?” And I told her and she said, “No, no. We’re not doing that, because if you do that, the rest of your life, we’re going to hear about, ‘oh, we shouldn’t have done that, we shouldn’t have done that.’ No, you are not quitting now. You have good attorneys. You’re not quitting, so just stop.”

Siona Peterous:

And not only did the Shepherds have the resources, legal support, and time to pursue this case, they also had something that many victims of corporate mistakes don’t: a really strong case. Remember, the investigation into the crash found that Air Midwest was at fault here. That was clear.

If Air Midwest did decide to go to court instead of offering the apology the Shepherds wanted, they faced a very real possibility of having to pay even more than what the family was willing to settle for. Not to mention, the bad PR they’d have to deal with.

So after months of negotiations, the company finally agreed to an apology. But it wasn’t exactly smooth sailing from there on out. The next step was to agree on what it would say.

Nick Smith says that many victims want two specific things from corporate apologies; for the company to be held accountable and for it to take steps to prevent the same mistake being made again in the future. And that’s what the Shepherds wanted too.

The lawyers and family went through multiple drafts. Ron says the first attempts that Air Midwest made were classic non-apology apologies.

Ron Goldman:

It’s like trying to get Donald Trump to say, “I’m sorry.” It’s not in their DNA. It’s foreign to their nature. It’s something that scares them to do. They think it’s going to be damning to them personally, to their reputation, or the corporation.

Siona Peterous:

And after several weeks going back and forth on drafts, after parsing every word, they agreed to the final language.

Tereasa Shepherd:

The feeling was relief, but it had gone on so long and so much was said in the whole process that it was not like, “Oh, I’m so happy, I feel so much better.” It was like, “Gosh darn, it’s about time.”

Siona Peterous:

On May 6th, Greg Stevens, the president of Air Midwest, issued an apology to the families in a public ceremony at the site of the crash in Charlotte, North Carolina.

[clip of Air Midwest Apology] “My name is Greg Stevens and I’m here to offer a statement...”

Siona Peterous:

Stevens stood at a podium under a white tent. Behind him, there was a dark marble plaque that looked like a big headstone, memorializing the names of the 21 people who were killed as a result of the crash. Someone had put a bouquet of flowers on it.

Greg Stevens: We are here today to remember the victims of Flight 5481 and to offer our apologies, our condolences, and sincere sympathy to the surviving family members of the passengers and crew who perished.

Tereasa Shepherd:

The man who read the apology... body language says a lot. There was nothing arrogant about him.

Siona Peterous:

The CEO acknowledged that the National Transportation Board had identified mistakes that led to the crash. And then came the part the Shepherds had fought for. The language was careful. But, as Tereasa put it, “it served the purpose we needed served.”

Greg Stevens: Air Midwest and its maintenance provider, Vertex, acknowledge deficiencies, which together with the wording of the aircraft maintenance manuals, contributed to this accident.

This tragedy has caused us to investigate rigorously our policies and guidelines regarding aircraft maintenance, operation, and safety in general. We have taken substantial measures to prevent similar accidents and incidents in the future so that your losses will not have been suffered in vain.

Doug Shepherd:

It was personal accountability. It wasn't somebody else. It was that "We did this. It was wrong."

Greg Stevens: We have also implemented or are implementing the applicable NTSB safety recommendations following this accident. We are truly sorry and regret and apologize to everyone affected by this tragic event.

Doug Shepherd:

We wanted the word 'sorry' in the apology. And that was very sticky. They didn't want to use the word 'sorry'. So, we got what we wanted.

Tereasa Shepherd:

Hearing it said was a victory.

[soft piano music]

Siona Peterous:

Christiana wasn't the only one who died in the crash. And not every family was happy with the apology. One victim's mother said, "It's a half-hearted apology that should have come immediately after the crash." For her, it was too little, too late. And Tereasa gets where she was coming from. A negotiated apology, something debated and picked apart before final delivery, isn't going to fix the immense pain a parent feels when their child dies. No apology can do that, really. Keith said the same thing.

Keith Jones:

"It's not like our grief and our being able to process our grief was ever dependent on somebody from BP saying that they were sorry Gordon died on their rig. But what it did to me personally is it made more certain that these guys were wearing the black hat from the start. That they made decisions only on the basis of dollars. It told us that Gordon's death to them was a cost of doing business.

Siona Peterous:

What they both wanted was something to change. To make a difference. And Theresa got that. And the proof lies in something that happened later.

[soft piano music continues]

Tereasa Shepherd:

A friend's son decided to be an airplane mechanic; went to mechanic school for a particular airline that I won't mention. And while he was doing the safety part, this airline brought up our story. He said, "Wait, I know those people," and their point was: Every decision you make, every bolt you don't turn, every job you don't finish,

affects people like this. “This is what happens if you don’t do your job right.” That felt really, really good.

[music fades down]

Siona Peterous:

When I think of corporations, I think about powerful, distant dudes in suits who will say whatever they have to to keep making money. And I don’t want to speak for everyone, but I think it’s safe to assume that when many of us think of apologies, we don’t think of something being hammered out with lawyers and negotiated down to the word. And yet, even though it wasn’t some spontaneous gesture, it mattered a lot to the Shepherds. It was what they wanted.

Tereasa Shepherd:

This particular apology in this particular situation makes us feel like we made our loss count for something. Christiana’s life counted for a lot. We wanted to make sure her death counted too.

[outro music; uptempo electronic percussion with guitar]

Lux Alptraum:

We often think about apologies as ways of easing someone’s pain or making someone feel better. But they can’t always deliver on that promise. Keith and Tereasa know better than anyone that sometimes, even the world’s best “I’m sorry” can’t heal the hole in your heart. But they also know that apologies can have other functions too. They can be leverage; they can provide information. And sometimes, they can even create change.

[music continues]

Say You’re Sorry was created by me, Lux Alptraum. This episode was written and hosted by Lux Alptraum and Siona Peterous, and produced by Siona Peterous and Julia Llinas-Goodman, who is sorry to the Venus flytrap they accidentally left at their last apartment. Hope you’re eating lots of flies, Oscar!

Reporting by Lisa Pollak and editing by Julia Furlan. Sound design and mixing by Ariana Martinez. Our theme music is by Michael Aquino. Episode art by Augusto Zambonato.

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