

## Companies 'Named and Shamed' For Bad Behavior

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Heard on Weekend Edition Sunday

March 7, 2010 - LIANE HANSEN, host:

From Toyota to Tiger Woods, newspapers are full of apologies these days. And in the Boston area, papers are also running a growing number of court-ordered mea culpas. For example, companies that plead guilty to polluting are being required to publish an apology as part of their punishment.

NPR's Tovia Smith has more.

TOVIA SMITH: It's not on the front page like Tiger or Toyota, but if you flipped just a little deeper into several Boston-area papers recently, you'd find an equally stark, I'm sorry, laid out in large font on a full page.

Ms. CINDY CISCO: Our company has discharged human waste directly into coastal Massachusetts waters. That's pretty - that's bad. That's terrible.

SMITH: At this coffee shop in Marblehead, 56-year-old Cindy Cisco reads the confession from the Rockmore Company, operator of a local ferry boat and restaurant. The ad says the company has paid a quote, steep fine, but folks here seem more moved by the price the company is paying in reputation.

Ms. DANIELLE YOCUM: I think it's great, 'cause they're going to learn their lesson. They're probably not going to put human waste in the ocean again.

SMITH: That's 27-year-old hairdresser Danielle Yocum.

Ms. YOCUM: I mean, that's disgusting. Do they have children that swim in the ocean? I mean, that's embarrassing, but people like this? Of course, put their name in there, give them a little bit of, you know, public humiliation. I don't feel bad.

(Soundbite of laughter)

Mr. MICHAEL SULLIVAN (Former Federal Prosecutor): When something like this happens, other companies get the message.

SMITH: That's former federal prosecutor Michael Sullivan, who's helped increase the use of these kinds of sanctions in Massachusetts, especially with companies who run afoul of environmental laws.

Justice Department officials say the goal is deterrence. Sullivan says the high-profile mea culpas also tend to be more satisfying to a public increasingly frustrated with corporate wrongdoing.

Mr. SULLIVAN: I think that's what might frustrate the public, when it doesn't appear that the company's been punished sufficiently enough by simply writing a check. It's simply the cost of doing business when you're caught.

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SMITH: Shaming sanctions have long been used against individuals, from shoplifters or drunk drivers confessing their crimes on sandwich boards, to days way back in Puritan times.

(Soundbite of movie clip)

Unidentified Man: Mistress, you must wear upon your bodice this symbol of your simple fornication. And from this day forward you will be a pariah, cut off...

Mr. STELLIO SINNIS (Federal Public Defender): You would like to think that sentencing is evolving to move away from these types of public shamings. We got out of doing that for a reason.

SMITH: Stellio Sinnis is a federal public defender. He represented a Massachusetts fisherman who purposely sunk an old boat, and had to run an ad saying that cutting corners was quote, not worth it. The fisherman offered to go on a kind of speaking tour to make that point directly to other fishermen, but prosecutors insisted on the newspaper ad, leaving Sinnis to question whether the goal was really more about a scarlet letter kind of retribution than deterrence.

Mr. SINNIS: When you propose a sentence that, you know, embarrasses the family members and creates hardship - you know, public humiliation and public ridicule, and kind of ostracizes someone from the community - I think it's gratuitous, and that's just counterproductive to what you want to achieve.

SMITH: Some offenders have appealed their sentences as cruel or unusual, but the courts have ruled that humiliation is within the bounds of fair punishment.

Still, shaming sanctions continue to raise age-old questions about an eye-for-an-eye kind of justice.

Professor DOUG BERMAN (Law, Ohio State University): Whether we call it vengeance, whether we call it psychic satisfaction, whether we call it restitution, we are getting to the core of what we as victims can rightfully claim to be entitled to.

SMITH: Ohio State University law professor Doug Berman says judges must be careful when shaming individuals. But they don't have to worry the same way, he says, about scarring a company.

Prof. BERMAN: Right? Corporations don't feel. There are times when we do want to put the hurt on corporations, especially if it's a corporation who hurt the community.

SMITH: When it comes to shaming corporations, Berman says, the real question is: Does it work? And judges, he says, ought to be encouraged to try to find out.

Tovia Smith, NPR News.