



EPSTEIN BECKER GREEN

Corporate Social Responsibility:
Can Business Do Good *and* Well by
“Going Green?”

Presenters:
Michael Levine
Beth Davis
William Ruskin



Agenda

- Decision '08
- CSR
- Sustainability
- Business Case
- Green Business and “Greenwashing”
- *Mandatory CSR?*

What's in a name?

- The power of brands – even a two year old knows
- Brand Building: money and time.
- Brand Damage in the age of the Internet
- Supply chain “CSR” enables companies to protect their reputations and brands

Companies

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SWEAT
A STORY OF SOLIDARITY
WITH INDONESIAN SWEATSHOP WORKERS

WHEN YOUR ONLY CHOICE IS TO WORK FOR A SLAVE WAGE,
YOU JUST DO IT.

As ordinary Americans travel around the globe to learn firsthand about the lives of Nike's Indonesian factory workers and meet up with the world's most powerful sweatshop organizers, the team works behind the scenes to investigate allegations and take on corporate giants to bring the truth to light. This show features the right mix of talk, conviction and dedication, without anyone ever changing the world.

WITH JIM KEADY & LESLIE KRETZ | WRITTEN BY MITCH RILEY & MIKE PIERANTOZZI | WITH KIM CONNELL | DIRECTED BY NICHOLEE KAT PATTERSON | EXECUTIVE PRODUCER JOEL POMEROY

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Countries



What is CSR?

- **CSR:**
 - Corporations are (or should be) responsible for the impact of their business operations on their stakeholders and the environment
- **Business judgment, or legal mandate?**
 - Legal Compliance
 - “Human Rights” issues
- **Corporate Survival Regimen** ©2007 Michael A. Levine

Key Financial Industry CSR Concept: Sustainable Development

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- **Growth that meets economic, social, and environmental needs without compromising the future of any one of them.**
 - **WORLD RESOURCES INSTITUTE**

How do you Measure Success? The Bottom Line

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- “[T]here is one and only one social responsibility of business- to use its resources and engage in activities designed to increase its profits so long as it stays within the rules of the game, which is to say, engages in open and free competition without deception or fraud.”
 - Milton Friedman, *The Social Responsibility of Business is to Increase its Profits*, The New York Times Magazine, September 13, 1970.

How do you Measure Success? The Triple Bottom Line: The three Ps

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- John Elkington, *Cannibals With Forks: The Triple Bottom Line of 21st Century Business* (1998):
 - Discussed holding corporations accountable to a "triple bottom-line" of economic prosperity, and environmental quality.
 - Practical application: triple bottom line accounting means expanding the traditional company reporting framework to take into account environmental and social in performance in addition to financial performance
- **People, Planet, Profit**

CSR's elements

- **Core elements of a CSR program**
 - Standards:
 - Codes
 - Assessments
 - Audits
 - Remediation
 - Capacity Building

Examples of Industries Addressing CSR Issues

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- **Types of industries/businesses**
 - Apparel and consumer goods designers/brands
 - Retailers: “Bricks and mortar” and virtual
 - Computer and electronics manufacturers
 - Trademark licensees involved in international product manufacturing and sourcing
 - Coffee sellers, manufacturers and suppliers
 - “Ethically Sourced”/“Fair Trade” certified products
 - Starbucks, Edun, Wal-Mart Sustainable Fish, Timberland “Nutritional” Packaging
 - Financial Services: SRI, screening, microcredit, shareholder resolutions.

CSR: “Walking the Walk”

- Accountability/Responsibility
 - Corporate buy-in
 - Role of top management
 - Make part of formal job responsibilities
 - Tie to performance review and compensation
 - Terminations: better document and consult labor and employment counsel because will likely face claims
 - “Whistleblower” suit against Wal-Mart
 - Build into sourcing decisions
 - Conduct Internal CSR training

CSR: Brand Protection Through Social Compliance Standards and Monitoring

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- Why do it?
 - To Protect Your Brand
 - To Protect Your People
 - To Manage Business and Litigation Risks
 - To Attract and Retain Customers
 - To Attract, Hire and Retain Better Employees
 - To Attract and Retain Investment
 - Good Systems
 - To Make Money



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DECISION '08 ML1

Slide 14

ML1

Beth: please add your slides about key diffs between M & O after this.

Michael Levine, 9/19/2008

Apple "iPod City"

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An astonishing glimpse inside the mammoth, high-security Chinese factory where 200,000 people

IPOD CITY

It has come to define a generation. In just five years, Apple's iPod has become one of the most popular and iconic gadgets around. More than two million people in Britain own one, and last year alone 22.5 million were bought worldwide: a phenomenal 61,644 a day.

The distinctive digital audio players – which can store thousands of songs, photos and even full-length films – have turned California-based Apple



From
**Claudia
Joseph**

IN LONGHUA, CHINA

into one of the world's most profitable companies, earning founder Steve Jobs a \$3 billion fortune.

Last year Apple achieved a record billion-dollar profit, boosted by the

launch of its latest Nano model, which is the width of a pencil and weighs just 1.5oz. A million Nanos were sold in just 17 days, including one to Pope Benedict XVI.

But have you ever wondered where your iPod is made, and what's in it?

The Mail on Sunday has traced the incredible journey an iPod makes from conception to completion and today, for the first time, we publish remarkable photographs from the factories where iPods are made.

Although it is one of America's most prestigious brands, nearly all Apple computers and iPods are made abroad, predominantly in China. As you might expect, the workers who assemble them see little of the profit.

The first factory we visited was in Longhua, just 20 miles from Hong Kong. Run by Taiwanese company Foxconn, it is the original and largest plant to be built in mainland China. It's a sprawling place where 200,000 people work and sleep – meaning this iPod City has a population bigger than Newcastle's.

Arriving at the gates, the visitor is initially struck by the giant billboards inviting anyone over 16, the legal working age here, to apply for jobs.

Workers live in dormitories on the site, 100 to a room, arriving with a few possessions and a bucket to wash their clothes. The accommodation may be free, but it comes at a cost – no one outside the plant is allowed to visit the workers.

Security is high everywhere, but especially in the five-storey E3 factory which makes the Nanos. Police – not security guards – are stationed on all gates, studiously

month, as well as the popular iPod Shuffle.

The site, as large as eight football pitches, is surrounded by barbed wire. It employs 50,000 workers and its six gates are manned 24 hours a day, seven days a week, with particular attention paid to gate five which leads to factory eight – the home of the iPod Shuffle.

Here the dormitories are outside the plant, and we spoke to some of the workers at the end of their working day. Although the proximity to Shanghai means they are better paid than their Foxconn counterparts, earning up to £54 a month, they have to pay for dormitories and food, which takes up half their salaries.

Working up to 12 hours a day, their only freedom is the half-hour walk to and from work.

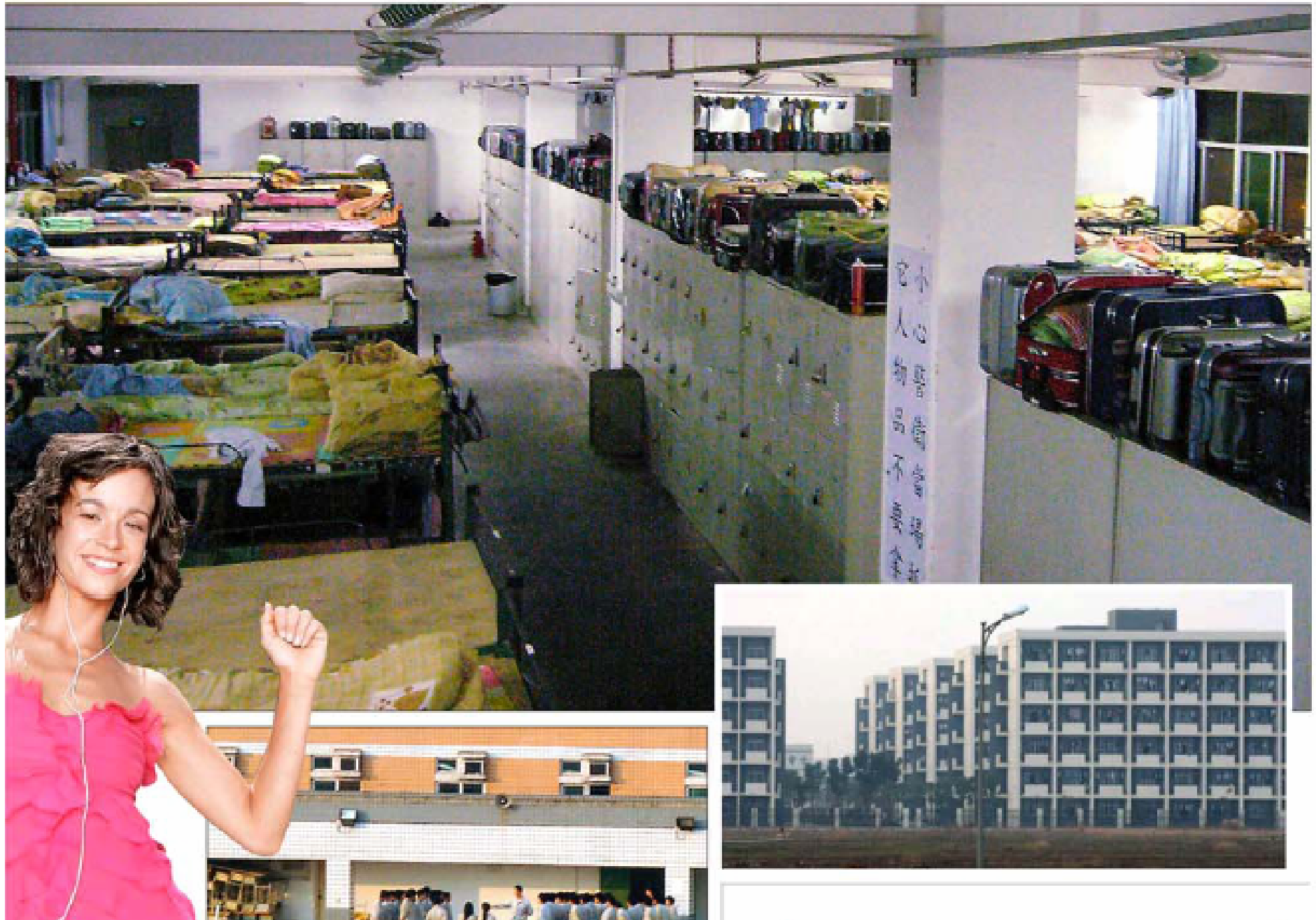
One 26-year-old security guard, who would not reveal his name, earns £80 a month. 'Factory eight is mostly made up of women as they are more honest than men,' he tells us. 'The iPod Shuffle is very easy to



'It's mainly the



live and work, earning as little as £27 a month to bring Apple's iconic music player to your home





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REEN

Sustainability: May Generate Business

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- Sustainability issues are a core component of banking risk management, and are increasingly being recognised as **potential business generators**.
 - Herman Mulder, Senior Executive Vice President, Group Risk Management, ABN Amro

Sustainability: Risk Management/Due Diligence

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- Project finance lending requires comprehensive due diligence, involves long maturities and seeks a community of interest among stakeholders. At Calyon, environmental aspects are managed as crucial factors of risk.
 - Michel Anastassiades, Global Head of Project Finance, Calyon

CSR in the Financial Services Industry

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- Lender Screening Issues
- Socially Responsible Investment
- Shareholder Resolutions

SRI: Finance & Investment: Macro considerations

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- Investors are using Environmental, Social and Governmental Criteria in making investment and acquisition decisions.
 - Socially Responsible Investment
 - United Nations' Principles for Responsible Investment
 - Equator Principles

SRI: Finance & Investment: Micro considerations

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- Equity firms may consider factors in acquisitions
- Banks and “factors” may consider factors in lending decision and/or include related requirements in financing agreements.

CSR in the Financial Services Industry

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- “Stakeholders”
 - expect lending institutions to incorporate CSR principles into their business operations and lending criteria.
 - Will act when CSR/ESG factors are not incorporated.

CSR in the Financial Services Industry

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- Kyoto Protocol
 - Adopted December 11, 1997
 - Commits Annex I Parties to individual, legally-binding targets to limit or reduce their greenhouse gas emissions
 - Part of UN Framework on climate change
- How does this affect the financial services industry?
 - Financing the development of projects in poorer nations that will enable them to cut their greenhouse gas emissions without diverting funds from elsewhere
 - Private banks are seeking ways to participate

CSR in the Financial Services Industry

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- Equator Principles
 - Voluntary set of environmental and social guidelines for determining, assessing and managing environmental & social risk in project financing
 - Result of October 2002 meeting of banks in London convened by The International Finance Corporation (IFC)
 - Apply to projects in all industry sectors with a total capital cost of \$50 million or more

Socially Responsible Investment

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- Definition of SRI
 - An investment process that considers the social and environmental consequences of investments, both positive and negative, within the context of rigorous financial analysis.
 - Managers use one or more of the following:
 - Screening
 - Shareholder advocacy
 - Community investing

Socially Responsible Investment

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- Mutual Funds
 - Investment Boycott, divestment: “socially responsible” mutual funds like Calvert, Pax, etc., may not invest in “sin stocks” of companies that produce tobacco, alcohol.
- Practice what you preach: SRI fund fined by SEC for not following its own investment criteria.

Socially Responsible Investment

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- Faith Based Investment
- Unions/Pension Funds
 - The New York City Employees' Retirement System (NYCERS): Trustee, New York City Comptroller. Submits shareholder resolutions.
 - NY State Common Retirement Fund: Trustee, New York State Controller; CalPERS- both submit shareholder resolutions
- Venture capital firms are now seeking socially responsible initiatives.

Socially Responsible Investment

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- Mainstream Firms Adopt SRI Strategies
 - In 2005, Smith Barney, Goldman Sachs, UBS and Merrill Lynch issued research reports using SRI analytical lenses

Socially Responsible Investment

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- Volume of Investment
 - Total socially responsible investment assets were \$2.29 trillion in 2005 – an increase of 258% from 1995 when assets were 639 billion
 - Assets under professional management increased by 249% over the same period

Socially Responsible Investment

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- Shareholder Resolutions
 - Key way in which activists seek to change company's management; they become owners of it, and submit a resolution to its board of directors
- Screening methods of SRI funds coming under increased criticism
- “Just avoiding bad companies doesn't cut it anymore.”
 - Managers of activist funds say sticking with problem companies allows investors to start a dialogue, bring resolutions before shareholders at annual meetings, and press management for improvements

Sing, or sing someone else's tune

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- Cisco Systems, Inc., August 31, 2005: SEC refused to allow Cisco to exclude a proposed shareholder resolution from its proxy materials which demanded a status report on Cisco's progress in developing and implementing a human rights policy

Socially Responsible Investment: The Shareholder Resolution Process

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- Must own at least \$2,000.00 of stock or 1% of the company's total stock, 1 year before filing
- 500 words or less
- Successfully challenged; withdrawn, or on the proxy
- Annual meeting and vote
- Company's arguments for exclusion:
 - resolutions include "false or misleading statements"
 - relate to the company's "ordinary business"
- SEC agrees with Company
 - "No Action" letter granted
 - No resolution in annual proxy statement;
- SEC agrees with filer:
 - Company must print entire proposal in proxy statement that is mailed to every investor of that company.

Socially Responsible Investment

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- Other Developments
 - Global Compact Plus
 - New investment screening tool to be used by IDEAM, the SRI arm of Credit Agricole Asset Management Group
 - Used to assess companies based on the principles of the UN Global Compact
 - Dow Jones Sustainability Index (“DJSI”)
 - Launched two new indexes of European “blue-chip” stocks, weighted according to their sustainability score rather than market capitalization
 - Dow Jones STOXX Sustainability 40 Index
 - Dow Jones EURO STOXX Sustainability 40 Index

Core Elements of a Global Corporate Compliance Program: Code & Monitoring

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- Codes cover topics such as
 - Forced Labor
 - Child Labor
 - Harassment and Abuse
 - Nondiscrimination
 - Safety and Health
 - Freedom of Association/Collective Bargaining
 - Wages and Benefits
 - Work Hours
 - Overtime Compensation
 - Environmental compliance
 - Customs Compliance
 - “Living Wage”

Child Labor: Harvest Rich (NLC Report) October 2006

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WAL★MART

Harvest Rich

JCPenney



**Child Labor is Back:
Children Are Again Sewing Clothing for
Major U.S. Companies**

“An estimated 200 to 300 children, some 11 years old or even younger...

“...Children...slapped and beaten, sometimes falling down from exhaustion, forced to work...[up to] 19 or 20-hour shifts...seven days a week, for...6½ cents an hour...”

Daffy

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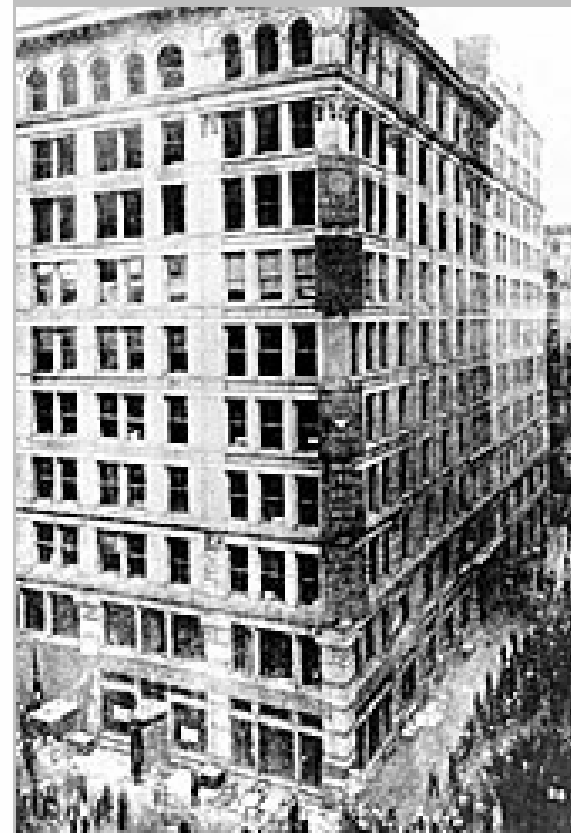
Hair Products (Forced Labor)

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- Business & Human Rights Resource Centre
 - Alleged Chinese firm, Henan Rebecca Hair Products, employs forced labor of prisoners
 - Demanded responses from six banks, which were among its top ten investors

Health and Safety

- Triangle Shirt-Waist
 - New York, March 25, 1911, a fire broke out in the eighth floor of the Asch Building (Washington Square, Triangle Waist Company, New York, NY).
 - Within half an hour, 146 of the 500 employees died.



Health and Safety

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- **Bangladesh: February 2006- Garment Factory Fire**
- Over 50 people killed & over 100 injured
- Most of the victims were women, who were trapped by the flames or suffocated from smoke inhalation.



Health and Safety

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- **Dhaka, Bangladesh:**
April 11, 2005
- Factory collapsed, killing 73 garment workers
- Clean Clothes Campaign (“CCC”) activist campaign



WHAT IS A CORPORATE CAMPAIGN?



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“Organizing employees by disorganizing companies”

Jarol B. Manheim, Ph.D., author

- **Why Corporate Campaigns?**

- **Unions:** Way to avoid NLRB elections - pressure employers to agree to card checks and neutrality

- Latest organizing strategy: Non-NLRB secret ballot election. Example: Yale New Haven Health

- **Social Movement Groups:** Pressure target company to act in accordance with group’s ideology and goals

CORPORATE CAMPAIGNS



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- **Short History of Corporate Campaigns**
 - Evolved from 1960's anti-war movement
 - First prominent union corporate campaign – J.P. Stevens in 1970's
- **Effectiveness of Corporate Campaigns**
 - 70% to 80% of new workers organized every year unionized through means other than traditional elections
 - Big shift from 5% about 20 years ago
- Corporate campaigns now standard operating procedure for many unions

THE BUSINESS OF CORPORATE CAMPAIGNS

Corporate
Campaign,
Inc.

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From Corporate Campaign, Inc.'s website:

“In its 25-year history, Corporate Campaign, Inc. (CCI) has an unparalleled record of turning local labor struggles into highly visible statewide and national campaigns while generating widespread organizational and financial support for its union clients.

CCI brings to its campaigns a variety of skills to help unions win the most difficult battles. We are a team of experts in all facets of research and strategy development, political and community organization, media and public relations, and fundraising. We are also campaign technicians.”

CORPORATE CAMPAIGN STRATEGIES AND TACTICS

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- Identify company's vulnerabilities
- Target specific business/corporate practices
- Ridicule executives and specific products
- File lawsuits and work with government agencies, e.g. EPA



Greedy pig balloons were intended to "look just like a mean employer," a union official says.

TACTICS (cont'd):

FORM EXTERNAL ALLIANCES

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- With other unions, social activist groups, community and religious organizations, politicians, celebrities



TREND: GLOBAL UNION MOVEMENT



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- Global “Super-Union” – Amicus (UK), Transportation & General Workers Union (T&GWU) (UK) and United Steelworkers (USA)
 - Also: IG-Metall (Ger)



- Example:
 - “***Global actions target Starbucks union-busters***”




“Actions in some 50 cities around the world, including Australia, Canada, Germany, Great Britain, New Zealand and...[numerous] American cities...protested Starbucks’ anti-union practices and the wrongful firing of five union activists over the Thanksgiving weekend Nov. 24, 2006.”



Toys Toxic?

Is it in Us?

If toxic pollution is in products we use every day, is it also in us? Find out at <http://www.IsItInUs.com> » 

Tell Us Your Story

To the buyout industry KKR's buyout of Toy's "R" Us is a story of high finance, massive profits and fees for corporate execs and KKR. **But to the workers at Toys "R" Us, and the communities that depend on them, the story is far more bleak.** Instead of tales of millions in profits, the KKR buyout story is one of lost jobs and closed stores.

KKR has their story, we want to hear yours.»

Following Massive Recalls, Safety Lapses

Massive Day of Action Targets Kohlberg Kravis Roberts ("KKR") and 88 Toys "R" Us Stores as Activists Turn to Consumers to Join Campaign against Toxic Toys at Toys "R" Us

Times Square Event: Coalition will Offer Free Same Day Lead Testing using

This web site is hosted by the [Service Employees International Union](#), wholly independent of Kohlberg Kravis Roberts & Co., Toys 'R' Us, Dollar General, Evenflo, and any other company discussed on this site.

[Home](#)

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[Background on KKR](#)

[Code of Conduct](#)

[Coalition Partners](#)

[Download the Report \(PDF\)](#)

PROTECT OUR CHILDREN!

[An Important Note About Lead Test Kits](#)

[National Chemical Policy Reform](#)

[New Recalls: Halloween Toys](#)

[Report Unsafe Toys](#)

[Parents' Forum](#)

[Get Updates](#)

Adopt a commonsense approach to protect children, workers, and the environment from harmful chemicals in toys and children's products.

- Know what's in your portfolio companies' products.
- Target highly hazardous chemicals for elimination
- Targeted chemicals should include any carcinogens, mutagens, reproductive toxicants (CMRs), or persistent bioaccumulative and toxic (PBT) chemicals
- Ensure workers are protected throughout the supply chain.
- Be responsible down the supply stream.
- Be socially responsible.
- Publicly support government reform measures



The coalition calls for KKR to sign onto the following code of conduct, and address all the issues raised in the report.

Code of Conduct

Our coalition has developed a code of conduct to protect children, workers, and the environment from harmful chemicals in toys and children's products.

In order to ensure only the safest chemicals and materials are used in toys and other children's products, KKR should require its portfolio companies to follow the following:

- Know what's in your portfolio companies' products. Require that your portfolio companies' suppliers disclose information about all chemicals and materials contained in their products and provide verifiable comprehensive safety data for all chemicals used in their products.



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Home
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Background (1/11)

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Sustainability/ Environment

We may not Be, if we are not “Green.”

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- “It’s not easy being green.”
- “There is no business to be done on a dead planet.”



Environment

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- Alleged pollution of river in Puebla, Mexico by chemicals from a denim factory

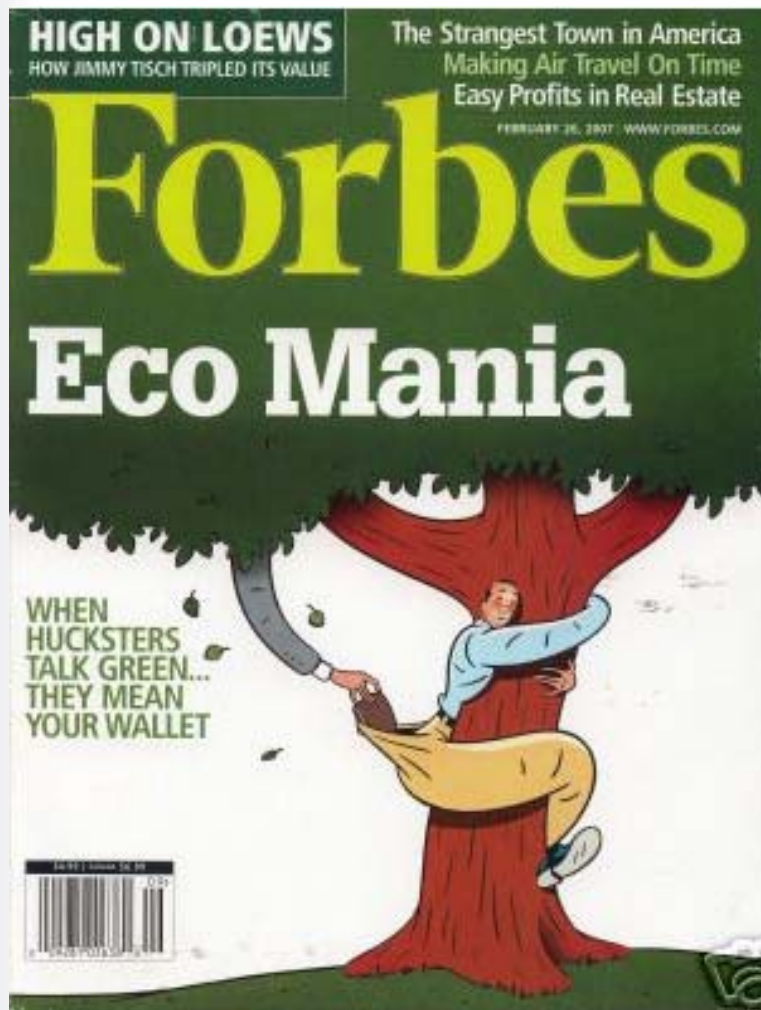


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More green by being green

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Greenwashing

Greenwash: the act of misleading consumers regarding the environmental practices of a company or the environmental benefits of a product or service.



- Why is Greenwashing a problem?
 - well intentioned consumers may be misled into purchases that do not deliver their environmental promise and the potential environmental benefit of the product is squandered
 - competitive pressure from illegitimate environmental claims takes market share away from products that offer more legitimate benefits
 - greenwashing may create cynicism and doubt about all environmental claims reducing the incentive for green production innovation

- In the “Six Sins of Greenwashing,” TerraChoice made a study of misleading environmental claims of what it calls “Greenwashing”
- Sins of Greenwashing may potentially give rise to deceptive trade practice or false advertising class action claims
- Sin of the Hidden Trade-Off
 - Household tissue and paper towel promote recycled content or sustainable harvesting without attention to manufacturing impacts such as air emissions, water emissions and global warming impacts

- Sin of No Proof
 - household lamps and lights that promote energy efficiency without evidence of certification
 - Personal care products (shampoos, conditioners)
- Sin of Vagueness
 - poorly defined or overly broad so that real meaning is misunderstood
 - “chemical free”
 - “non-toxic”
 - “all natural”
 - “green”; “environmentally friendly”
- Sin of Irrelevance
 - environmental claim is truthful but unimportant or unhelpful and is therefore distracting to consumers
 - Chlorofluorocarbons (CFCs) a principal contributor to ozone depletion

- Sin of Irrelevance *continued*
 - Chlorofluorocarbons (CFCs) a principal contributor to ozone depletion
 - CFC – free lubricants
 - CFC – free window cleaners
 - CFC – free oven cleaners
 - CFC – free insecticides
 - A unique advantage? CFCs have been legally banned for almost 30 years and no products are manufactured with them
- Sin of Lesser of Two Evils
 - organic cigarettes
 - “green” insecticides and herbicides

- Sin of Fibbing
 - shampoos “certified organic”
 - caulking product determined to be “Energy Star” registered
 - dishwasher detergent purports to be packaged in “100% recycled paper”
 - container is plastic
- Eco-labels
 - ISO 14024
 - “Eco Logan”
 - “Green Seal”

The “Green Revolution” Goes to Court

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- Greenwashing – deceptive trade practice and false advertising
- You promised me a “green building”
 - reduced energy costs/tax incentives
 - healthier building environment
 - contractor/architect liability
- You promised me “organic” products
 - food additives, preservatives, pesticides
 - food spoliation, natural disease
 - dislocation of food chain

The “Green Revolution” Goes to Court

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- You destroyed my forest
 - suits by attorneys general of Northeastern States against coal producers in Midwest
- Take Back my PC
 - e-recycling – burden on industry

Transparency and Disclosure

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- “The time is coming when all business will have to be done with glass pockets.”
 - J. Pierpont Morgan (1913)
- Trend: Corporations are increasingly making disclosures about non-financial issues, such as the consequences of what they make on environment, resources, people who make the products and the people who use them.

Transparency and Disclosure

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- Benefit: engaging stakeholders by publishing CSR Reports
 - Nike:
 - 114 page 2004 Social Responsibility Report
 - Timberland’s “nutritional label”
- Cost: potential exposure to litigation

Disclosure: does it equal increased exposure?

- **Kasky v. Nike, Inc. (April 1998)**
 - Kasky claimed: “in order to maintain and/or increase its sales, Nike made a number of false statements and/or material omissions of fact concerning the working conditions under which Nike products are manufactured.”
 - Corporations may be liable for inaccurate, false, deceptive commercial speech.
- Internet takes you into many jurisdictions: false advertising, unfair competition claims may differ by jurisdiction:
- Beware of Blogs and YouTube!

Sustainability

- Mainstream Companies Embrace CSR Strategies
 - Goldman Sachs first investment bank and fourth U.S. financial institution to adopt a comprehensive environmental policy
 - GE launched “Ecomagination” – environmental responsibility initiative
 - Wal-Mart announced commitment to 100% renewable energy, zero waste and reducing greenhouse gas emissions by 20% by 2012. Sustainable Fish, too!

The Certified Humane Raised & Handled Label

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- Egg, dairy, meat or poultry product has been produced with the welfare of the farm animal in mind
- Food products that carry the label are certified to have come from facilities that meet precise, objective standards for farm animal treatment.



*Meets the Humane Farm Animal Care Program standards, which include nutritious diet without antibiotics, or hormones, animals raised with shelter, resting areas, sufficient space and the ability to engage in natural behaviors.

Edun Live

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• **edun LIVE** is an ethical t-shirt company created by Ali Hewson and Bono. Our mission is to drive **sustainable employment** in sub-Saharan Africa through sales of our 100% cotton blank t-shirts.”

DON'T GET "TIONed": risks posed by ineffective CSR programs

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- Litiga**TION**
- Investiga**TION**
- Prosecu**TION**
- Legisla**TION**

Legal Concerns: ATCA

- Alien Tort Claims Act (“ATCA”)
 - “Alien’s action for tort: The district courts shall have original jurisdiction of any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States.”
- **Companies can be sued in U.S. courts for actions/conduct that occurs outside the U.S.**
- *Khulumani v. Barclay National Bank, Ltd., Ntsebeza v. Daimler Chrysler Corp.*, Nos. 05-2141-cv, 05-2326-cv (2d Cir. Oct. 12, 2007): District Court improperly granted motion to dismiss for lack of jurisdiction of ATCA claims. Jurisdiction may lie for, and claims against about 50 companies for “aiding and abetting” apartheid in South Africa, may be actionable under, ATCA.

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More Yahoo! Services

Small Business

- Get a Web Site
- Domain Names
- Sell Online
- Search Ads

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Intense fashion battle

Tim Gunn says the 15 designers on season 4's "Project Runway" are the "strongest group ever." » [Meet them](#)

- See the new designers' fashions
- Klum and Gunn discuss new season



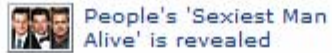
'Strongest group ever' for 4th 'Project Runway'



Perfection fantasies to avoid in a relationship



File sharing can open you up to identity theft



People's 'Sexiest Man Alive' is revealed

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In the News

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As of 5:20 p.m. EST

- Top anti-war Democrats say they now support Iraq funding bill
- Experts fault U.S. preparation for another anthrax attack
- Earthquake in Chile kills two, damages homes | [Shaking](#)
- 18 arrested in illegal Atlantic City sports gambling ring
- Delta and United discuss combining carriers, official says
- Diabetes drug Avandia gets 'black box' warning for heart risk
- 84-carat diamond sells for \$16.2 million at Geneva auction

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Markets: **Dow: -0.6%** **Nasdaq: -1.1%** Sponsored by: **Scottrade**

Stock Quotes:

Marketplace



Why online college is so cool:
1) Convenient 2) Some employers pay tuition 3) Higher salary with higher degree - 4) Top schools online.

Check your mail status: [Sign In](#) Free mail: [Sign Up](#)



Mail



Messenger



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CWV

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

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15

1 3. Plaintiffs' claims are actionable under the Alien Tort Statute (ATS), 28 U.S.C. §

2 1350, and the Torture Victim Protection Act (TVPA), 28 U.S.C. § 1350, because their injuries

3 resulted from violations of specific, universal, and obligatory standards of international law as

4 embodied in a number of treaty obligations binding on the United States and implemented

5 domestically here in the United States by a number of statutes including the TVPA.

22 LTD., a Foreign Subsidiary of Yahoo!,

23 ALIBABA.COM, INC., a Delaware

24 Corporation, AND OTHER PRESENTLY

25 UNNAMED AN

26 INDIVIDUAL I

27 CORPORATIO

JURY TRIAL DEMANDED

FIRST CLAIM FOR RELIEF

(Torture, a Violation of International Law

for Which the Alien Tort Statute and the

Torture Victim Protection Act Provide Relief)

Forced Labor: “debt bondage”

EPSTEINBECKERGREEN

- Saipan



- Contract Labor
- Multi-million dollar class action litigation.

“The Law, Slaves and Jack Abramoff”

EPSTEINBECKERGREEN

- Saipan (2001): 3 Class Action Lawsuits
 - California Federal Suit
 - CNMI Federal Suit
 - California State Suit
- Post-Saipan: recent blog by Al Meyerhoff notes use of child labor in:
 - Assembling computers
 - Mining gold
 - Harvesting food
 - Manning fishing boats
 - Producing silk
 - Weaving rugs

Good Litigation? Counterfeiting

EPSTEINBECKERGREEN

- Having a fuller/more accurate knowledge of supply chain better enables a company to protect its brand from the risk of counterfeiting
- Carrefour: sold allegedly fake Adidas footballs promoting 2006 World Cup
- Counterfeiting more likely to occur in sweatshops

Part of the Problem?

- Impact of design, lead time, and order

**No medal for the Olympics
on labour rights**



This just in...CSR is now legally required. Well, almost

EPSTEIN BECKER GREEN

- **S. 367: Decent Working Conditions and Fair Competition Act**
 - Sponsored by **Senator Byron Dorgan** (D-SD) and Senator Lindsey Graham (R-WV)
- Would allow private plaintiffs, including retailers' **competitors**, to sue corporations that have engaged in unfair competition and deceptive trade practices by having obtained merchandises from “sweatshops,”
 - companies that violate “core labor standards” (i.e., the laws of the countries in which companies that made the merchandise are located or international human and labor rights standards).

Decent Working Conditions and Fair Competition Act cont

EPSTEINBECKERGREEN

- Unintended consequences?
 - Participants in joint-CSR initiatives must consider whether the information shared could be used by a competitor to sue them
- Takeaway: corporations should ensure that their concerns about “compulsory” CSR are presented in the legislative process
- Do the work: Walk, before they make you run!

SRI: Mandatory: Fiduciary Duty

EPSTEIN BECKER GREEN

- A report commissioned by the U.N. Environment Programme Finance Initiative, stated that fiduciary duty not only allows environmental, social and governance considerations, it sometimes requires them.
- Pension Fund trustees may have a fiduciary duty to consider material environmental, social and other factors in assessing investment risk and making related decisions.

CSR for Countries: Free Trade Agreements

EPSTEINBECKERGREEN

- Will not receive congressional approval unless they incorporate more stringent mechanisms to ensure compliance with labor rights standards.
 - Peru-passed
 - Colombia: still under negotiation: FOA Trade Unionists
 - Be as good as U.S. v. I.L.O. Convention compliance
 - Freedom of association/right to collective bargaining
 - Elimination of all forms of forced/compulsory labor
 - Abolition of child labor
 - Elimination of discrimination
- Countries have a strong incentive to proactively address CSR issues as a means of attracting and retaining business
- CAMBODIA; Good Factories Project

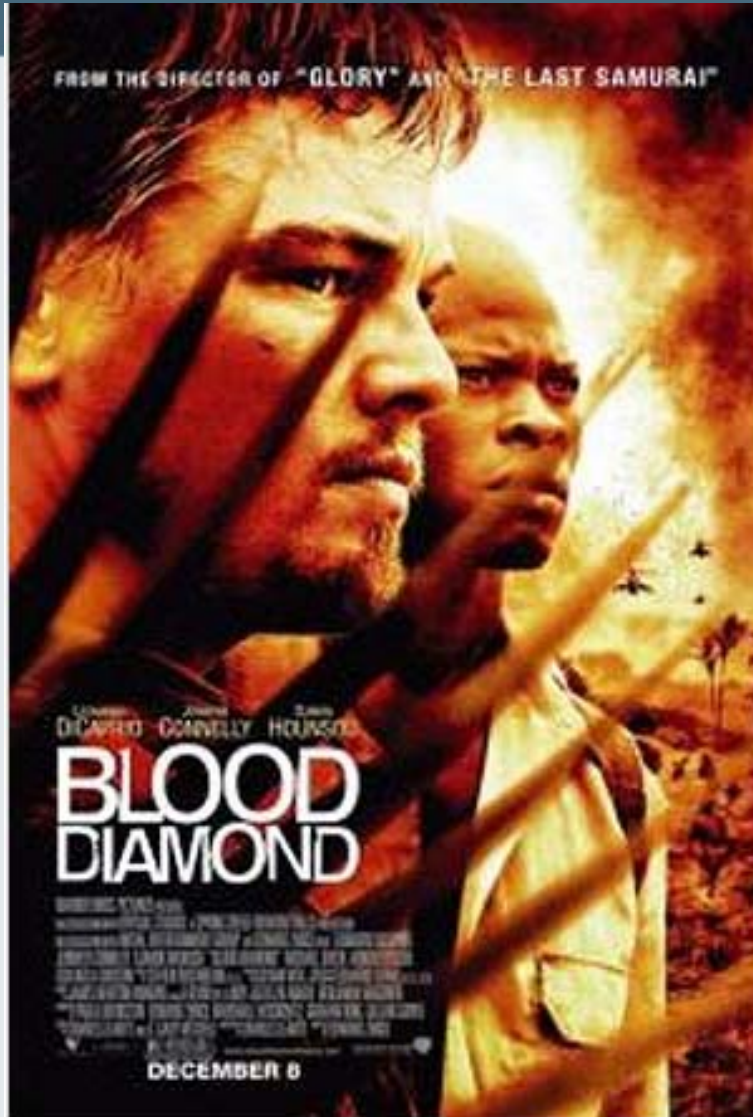
On the “silver” or flat screen: films about globalization & sweatshops

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- Developed over time
- Presented at independent film festivals and/or college campuses
- Generates buzz on the internet

Blood Diamond (2006)

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The “Goracle”: 2006

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Socially Responsible Investment: Does it Pay to be “Virtuous”?

EPSTEINBECKERGREEN

- Corporate Social and Financial Performance: A Meta-analysis
 - Findings were based on a meta-analysis of 52 studies:
 - Corporate social/environmental performance (CSP) is positively correlated with corporate financial performance (CFP)
- Corporate virtue in the form of social responsibility and to a lesser extent, environmental responsibility is likely to pay off
 - Unethical behavior by firms, which is discovered and publicized, has a negative impact on shareholders by lowering the value of their stock for an appreciable amount of time (Journal of Business Ethics)
- CONTRA: *The Market for Virtue*: Vogel, David

Does it Pay to be a “Good” Company?

EPSTEINBECKERGREEN

- Studies purportedly show that firms that comply with CSR Standards are more profitable
 - University of Chicago: companies which have a defined corporate commitment to ethical principles do better financially than companies that do not make ethics a key component
 - Vanderbilt University: 8 of 10 cases of low-polluting companies financially outperformed their dirtier competitors

Judgment Day

- Compliance
- 2004 Organizational Sentencing Guidelines/“Thompson Memo”: in sentencing corporation will consider:
 - overall extent to which respect for rule of law, ethical conduct and legal compliance is part of corporate culture.
 - extent to which role in compliance process is expressly made part of job responsibilities; evaluated and tied to performance review
 - Will not favor “paper programs.”

Conclusion

- Have standards
- Have an effective program
- Protect workers and protect brand
- Just might help bottom line: more customers/better performance
- Might attract investment/discourage shareholder activism
- May attract and retain better employees
- May cost you If you ignore it
- And, if part of an ethical corporate culture, just might help you when the chips are down