
***Hiring to Firing Podcast* — Navigating the Storm: Crisis Management in the Workplace**

Hosts: Tracey Diamond and Evan Gibbs

Guest: Carol Cookerly

Evan Gibbs:

Hey everybody, and welcome to *Hiring to Firing*, the Podcast. I'm Evan Gibbs, and with me as always is my very talented co-host, Tracey Diamond. We're both labor and employment partners at Troutman Pepper. Together we've dealt with just about every employment issue that there is, everything from hiring to firing, and everything in between.

Tracey Diamond:

We're happy to welcome today's guest, Carol Cookerly, the founder of Cookerly PR, a premier national marketing, PR, and crisis management firm headquartered in Atlanta. Thanks so much for joining us, Carol.

Carol Cookerly:

My pleasure.

Tracey Diamond:

So why don't we start out with you telling us a bit about your background, your firm, and what you do.

Carol Cookerly:

Thank you. Well, I'm in the business of putting out fires all the time. In my firm, I lead the crisis and issue management practice. And as you know, it's all about people all the time, what they do, why they do it, and their behavior. That's why I'm particularly interested in the topic today about if the spouse only knew. Because so much of what I see could be mitigated if at home, the spouse, be it a man or a woman or a partner, actually knew what their partner was up to, it would be probably different workplace behavior, a different outcome. Bad behavior leads to oftentimes bad decisions, and bad decisions often lead to issues that have to be managed. And issues often turn into crisis situations. So if the spouse only knew, I might be out of work. Because if you follow that progression, that's when all the work comes my way.

Evan Gibbs:

Yeah, that's right.

Tracey Diamond:

Well, be careful what you wish for.

Evan Gibbs:

You and us both, Carol.

Tracey Diamond:

This is a particularly great timing. Because we just recently did an episode on the Real Housewives of Salt Lake City, and we were talking with our partner Abby Hazlett about the importance of companies working with crisis management firms when there's a government agent calling, and potentially it gets out into the media that either the company's being accused, or an employee of the company's being accused. So really nice to meet you.

Carol Cookerly:

Thank you very much.

Evan Gibbs:

Today, as always, we're using some clips from a show. And today we picked the hit show *Ozark*, which is now concluded. The show's over, but it was a really great show. And we're using that show to highlight the concept of, if the spouse only knew. So we're using that as a jumping off point here.

The first clip that we're going to listen to today, it comes from the very first episode of the first season of the show. And in this one we learned that Marty Byrde, who's the show's main character, he's a workaholic and he's a high-end financial advisor in Chicago who's really, we learn as the show progresses, he's devoted a lot of his life to working really hard to provide a really comfortable life for his family. And in this first clip, he's talking to a guy who's a private investigator. And we learned that he hired this guy to track his wife, Wendy Byrde. We hear Marty talking with the investigator who tells Marty that she's been having an affair, and she's a political and government relations consultant. And clearly, Marty did not know what was going on with her in her work life. Let's go ahead and take a listen to this clip.

Bob Lily:

His name's Gary Silverberg. He's a partner with McNeil-Roberts downtown. Know him?

Marty Byrde:

Uh-uh.

Bob Lily:

On the board of half a dozen nonprofits, Academy of the Arts, Goodman Theater, Joffrey. He sees your wife at least twice a week, sometimes more. Either his place or somewhere closer to yours, an HI Express, Fairfield Inn. The DoubleTree in Alsip's where I tagged him.

Marty Byrde:

This Sugarwood right there, what is that?

Bob Lily:

You jumped the gun asking to meet today. Normally I transfer everything from a working file to a folio binder, table of contents, intro, summary suitable for presentation, arbitration.

Marty Byrde:

Tell me what it means.

Bob Lily:

Sugarwood's her pet name for him as in give me some of that sugar.

Marty Byrde:

I got it. Thank you.

Tracey Diamond:

Evan and Carol, have you ever encountered or dealt with situations in which one spouse finds out something unpleasant about their partner? Isn't that what married life is all about?

Carol Cookerly:

Well, you make an excellent point. I think what the clip is setting up is he's going down his path and he's making bad choices, but it's really not about the affair. It's behavior that he created. That behavior is obviously going to blow up in the workplace and then that's what you all deal with and that's what I deal with. If she knew, would that behavior have continued? No. Would she have divorced him? Probably. And that's what I find so fascinating is how so much could be circumvented if a spouse really knew what was happening.

Evan Gibbs:

Absolutely. This clip highlights the example that everybody's probably thinking about first of all, which is like an affair in the workplace. But there are lots of other instances where I've seen this rear its head. For example, someone could be having some performance issues at work and they keep their spouse in the dark about it. It could be because they're ashamed of it or it could be for whatever reason they don't want to get in a fight with their spouse about it. There could be money problems, et cetera. One spouse doesn't know that things aren't going swimmingly at the office for the spouse and then things come to a head of work and maybe the person gets fired or they're forced to resign or something like that and then the spouse suddenly is like, "Oh, I can't believe you. Where did this come from? It's kind of out of left field," and we've dealt with this.

I think one situation that I dealt with, and again it comes back to not an affair, but we had a situation where there was an executive who propositioned somebody... of all people, somebody in an HR department at a pretty big company propositioned this individual and we ended up terminating the executive and it became really clear in our dealings with the executive there was an employment agreement that we had to deal with. It was an unfortunately complicated situation that should have been very straightforward, but unfortunately because of the contracts involved, it was very protracted and very complicated.

But ultimately it became really clear that the executive spouse was being told a different story as to why this individual was let go. He had created this narrative of, "Oh, they just don't like me. They really don't trust me. They just want to get me out to get new leadership in." And it became clear at several points in this process that his wife did not know that he'd been accused of sexual harassment of propositioning this other employee. And sometimes you wonder how differently would this dynamic play out if for example, there was like a spousal disclosure obligation for corporate companies where it's like, "Okay, if something happens at work, we the company have the right mail notice to the husband or wife." I do wonder how the dynamic would change in a lot of situations.

Tracey Diamond:

I've seen situations a couple of times now for clients unfortunately, where an employee's having an affair outside of work and the spouse wants to get the employee in trouble and so they start contacting the workplace, trying to let the workplace know about the affair and how bad their spouse is and how they should be somehow punished or disciplined. Sometimes this comes up when the affair is happening at work, but I've seen it come up even when the affair is outside of the workplace where the spouse is just so angry and is lashing out and the company doesn't know what to do and how to manage that situation. How do you advise in a situation like that Carol?

Carol Cookerly:

I love that this has gotten so juicy. It's right up my alley now.

Evan Gibbs:

That's right. That's right.

Carol Cookerly:

Very interesting now.

Evan Gibbs:

We're not afraid of salacious.

Tracey Diamond:

We love salacious.

Carol Cookerly:

There's two kinds really of issue management that I find myself in. It's whatever's just internal is going to stay internal and one is mitigating the public perception of that usually when it hits the media. The situation that you mentioned, I'm familiar with those also. It's good old-fashioned vendetta and a lot of times those kinds of personnel issues don't leak out beyond the boundaries, but typically a legal letter has to go back to tell the spouse what they're doing is defamation. The company has no place in it. You all know how to do all that. And those are more few and far between from us. When it does spill over, I've had a situation like that Tracey, where a person making an allegation about their spouse having an affair and starting this whole thing was so angry, felt that the company sort of aided and abetted because there were trips and there was this and there was that, wanted to cast appall over the whole workplace environment.

It really dragged the company through it because the anger and the bitterness was just palpable. So on that one, that one did spill over into the media and cause other problems and really through social media. So that became its own thing. But again, what really righted it not only was just one-on-one with reporters like truly nothing to see here, but a very sad domestic dispute that was not fair and you can make those proof points, but there were threatening legal letters that I felt were very fair and just in order to tamp that down. So that's how that was handled. Earlier point that you made, I am though staring at a list of just in the Wall Street Journal in the last two years, 14 headlines. I'm not saying that there are others, 14 different situations, different companies where either a CEO or CFO of top corporations step down over inappropriate relationships, alleged groping, but it's all these inappropriate personal conduct, personal relationships.

We can talk about what is the effect of those on stock prices and all those things spill over into what you might be holding in your portfolio. But very interestingly, if the spouse knew, and to your point earlier about if there was some way that the home team knew what was going on, we got a report card when we were little kids and it said exactly what you were doing at school and what your behavior was, et cetera, et cetera. But people go into the workplace and then there's this curtain, what you say is happening is what everybody then takes word for word. They take it absolutely that's what's happening behind that curtain and the fact of the matter, it could be very different like the gentleman you just referenced, Tracey.

My interest has always been if people knew better, then how can you write something that is going very wrong that's impacting a company to the negative? And we do find ourselves in that situation when companies say, "Hey, we have some personnel issues. We need them to get out. Our lawyers are looking at them, but it's going to cause a lot of damage if these people are allowed to do what they do." Question for you two, how many times have you ever worked a situation where a whistleblower was actually telling the truth? I'll give you my situation, but you tell me yours. A corporate whistleblower actually telling 100% the truth.

Evan Gibbs:

100% truth? I don't think I've ever encountered that. Look, the reality for pretty much every claim that I've dealt with, not 100% true, but most whistleblower claims and whistleblower type claims like retaliation claims for example, a lot of times there may be a shade of truth. To me it's always on a scale, right?

Carol Cookerly:

I agree.

Evan Gibbs:

It's never completely false or completely true. It seems like there's always, you could view the facts this way if you're sitting on this side, but then go on the other side of the fence and it's like, "Well, it does look a little different. The view's a little different over here." So yeah, I can't recall one where it was 100% sort of smoking gun accurate reporting and then somebody was terminated because of that.

Carol Cookerly:

Well, out of many, I've had two that ended up with unimpeachable testimony. Some went to court, but some were just through the legal process, et cetera that were unimpeachable. So what I look at when I'm called in and a company's having personnel issues, et cetera, each one of these people, they're kind of like their own whistleblower. They're at home, they're saying whatever they want to say. They've got their band of direct reports in their division and they're part of the company, their subsidiary, wherever, and they're saying whatever they want to say and they're making this allegation, that allegation, et cetera, et cetera. They're all their own little whistleblowers.

And it creates a lot of issues. So it's not only as it morphs and our topic morphs, it's not only just if the spouse only knew, it's what if correct information got to all those people as well, and we've gotten pulled in because of workplace cultures that are just rife with rumors and rife with issues, and it's how do you stop all those fiefdoms, which were really, to me, fiefdoms of so-called whistleblowing that are not built on facts, they're built on the world is this person wants to see it or their ego is driving them or whatever their agenda is. So I find that all very interesting and I think that it overlays with you all exactly because you're coming in usually at the breaking point.

Evan Gibbs:

Yeah, that's absolutely right.

Tracey Diamond:

I think it has to start with a reminder of who your client is, particularly when the accusations are surrounding someone who's in C-suite. A reminder that our obligation is to the company, not to the individuals necessarily who are running the company or the individuals who are upper management of the company. We want to make sure that the company is being protected and when a spouse comes in and it's even less of a relationship and we don't know any real obligation to a spouse of any of our employees. Evan, I'm curious, what do you think the legal issues are that come up in the context of a workplace affair?

Evan Gibbs:

If it's truly a workplace affair between coworkers, whether it's a subordinate manager or just peers, I mean, there are a lot of issues that come up. We see these of course in the sort of love

gone bad scenario where there's what starts out as a consensual affair, maybe it's disclosed, maybe it's not, but then the relationship sours, and then you have hurt feelings on one side or the other and you may have allegations of harassment. And then of course it gets really thorny in the context of a subordinate having an affair with a manager that can create direct liability for the company if there were favors granted or withheld. Of course, that's just kind of a nightmare when you get into those situations. The legal issues are legion. There's just so much to wade through in those situations.

Tracey Diamond:

Yeah, I think in addition to harassment, to Carol's point earlier, there's that issue of defamation that we're seeing more and more in those type of cases. After the Amber Heard, Johnny Depp trial, I think that's really being used as a tool. I think that's a really good point Carol made earlier about when a spouse finds out and comes calling what accusations they're slinging around about the employee, whether that could give rise to a defamation lawsuit is another layer that needs to be considered.

Evan Gibbs:

Yeah, absolutely.

Carol Cookerly:

There are so many personnel issues within companies, especially at this time where in my opinion, people are looking for ways to be offended so that then they can take action of some type or another. I'm dealing with a lot of that stuff right now.

Evan Gibbs:

It feels that way sometimes.

Tracey Diamond:

Sure, it does.

Carol Cookerly:

It really does. But if the partner or if the spouse knew or whomever, I get, it's human nature to want to build yourself up to want to be more important maybe than you are. I'm sure that we're all guilty of that. Let's just put that there, at some level. But at some point, it does become damaging. And even, for example, in my own company, I know from when we have parties or get-togethers and the spouses — male or female — show up, I can tell who's distant, I can tell who is a little bit of something, something, it just doesn't feel quite right.

Evan Gibbs:

They're finally meeting the villain.

Carol Cookerly:

That's it. That's it. And so I had a situation where an employee for a long time, crazy about the young gentleman, and with those little kids, I would always say, "Hey, why are you still here? Why are you still here? Why are you still here? Why are you still here in the evening?" And I would just be like, "Why are you still here?" Wanted to be a coach. He would say, "Well, I don't need to leave until five o'clock," and I was, "Well, why don't you leave at 3:00? Then you'll get ahead of traffic." This went on forever. I just didn't understand why he was there so late in the evening. Anyway, after many years, he resigned and it got back to me. His wife was thrilled that he would have more flexibility, and I couldn't stand it. I called him on it. I said, after all these years of me saying, why are you still here?

He was embarrassed. He tried to talk his way out of it, but I had this aha moment. It's another situation. That's why she never sought me out at a party and asked me one question or tried to make conversation. You know what you know. The signs in anybody's workplace are pretty obvious by the way that they interact with other people, whether they record things that happen in the workplace and to themselves and also what their impact is on that company. It's always obvious whether they're reading it correctly or whether they're building up an internal narrative of greatness. And so that's problematic.

Evan Gibbs:

Yeah.

Carol Cookerly:

But that gets into that whole psychological aspect of managing people that's very interesting.

Evan Gibbs:

No, that's right.

Tracey Diamond:

So what do you do when you're a supervisor and you find out that an employee's hiding something from their spouse, whether it's financial issues or an affair or something like that? Do you think that the supervisor has any obligation to the spouse or to the company to disclose it to anybody?

Evan Gibbs:

I think the company doesn't have a legal obligation; I think to disclose anything to a spouse. I think that there may be some individuals that feel morally or philosophically inclined to do so, and I think that happens from time to time. I could very well see situations like that occurring, but I think they're very limited situations where the company either is permitted or certainly required to communicate anything to a spouse.

Tracey Diamond:

I think that's treading on some dangerous territory if a company's going to get in the middle of a spousal relationship.

Evan Gibbs:

Yeah.

Carol Cookerly:

We're very careful in crisis situations to not cross those lines. I can give you a number of really high-profile situations where we actually knew what had actually happened in different cases, but for peace and harmony in the respect of minors and others, couldn't let that get out, wouldn't even leak it no matter what. My impact on this has always been when teaching issues in crisis management is just to say people just need... if there's one breadwinner in a family and one person's doing their part and the other person's out, then you're putting a lot of faith and trust that that person's reading everything correctly and they're recording everything to you at home correctly so that you can make good decisions. I just tell people that you might want to ask questions and try to be objective on everything you hear. It's hard when you let somebody, but is a company ever going to breach that relationship? No. But I think individuals can pay better attention.

Tracey Diamond:

Yeah. But I think that if we were to, let's say, have a law that required a company to disclose, that's really treading into some thickets there. I wouldn't want a company's obligation to reach inside a personal relationship. I see that creating all sorts of problems.

Carol Cookerly:

Yeah.

Tracey Diamond:

Hey, Evan, I think this is probably a good time for our next clip.

Evan Gibbs:

Yeah, no, I totally agree. The next one, this also comes from the first episode, first season of *Ozark*, and at this point in the show, we've learned that Marty's been leading a double life at work, which plays into exactly what we've been talking about. If you haven't seen the show, Marty, the financial advisor, he's also got a side hustle of laundering money for a Mexican drug cartel, and he does it through his financial advising firm and with his partner there. At this point in the show, which we're about to hear, Marty's planned to move his family to the lake of the Ozarks to keep his end of a bargain with the cartel to keep laundering money for them. So when she hears the news, Marty's wife, Wendy, who again, she knew nothing about the money laundering sort of this double life we've been talking about, she tells Marty that she wants a

divorce. And so in this clip, we hear Marty talking to himself as he's approaching the apartment of Wendy's boyfriend to confront the two of them.

Marty Byrde:

22 years, never cheated. Not once, and I had the chance more than a few times, and I never ever took it. Instead, I worked, came home, went to bed, got up, did it all over again. Not good enough, huh? And now you want to try to take our money? You want a divorce? I will show you the meaning of ugly. You will lose. I will lawyer up. I will dig in.

Evan Gibbs:

Okay. And that sound that we heard at the end of the clip is Wendy's boyfriend hitting the street after being thrown out of his high-rise apartment by one of the Mexican drug cartel members. So that's definitely a case where an undisclosed professional engagement had some real sort of bleed over into the personal lives of the family there because Wendy had no idea about the money laundering, and so that's obviously changed the dynamic of their relationship just a little bit.

Tracey Diamond:

It's also a great teaser for what the rest of the series was going to be like, right?

Evan Gibbs:

Yeah, that's right. It was a great show. I really enjoyed watching that one.

Carol Cookerly:

I found it a little tough early on. Somebody got dipped in acid. That didn't bother my spouse, but it bothered me. I was like, "Okay, I think this is a little too rough for me."

Evan Gibbs:

Yeah, it's an intense show.

Tracey Diamond:

It was pretty brutal. Luckily, I've never had a situation where a spousal dispute turned into someone being done away with in a bowl of acid, but sometimes spousal disputes definitely spill over into the workplace. Sometimes there's a spouse and a messy divorce and they call the spouse's employer and demand answers to questions or even show up at the workplace. I know of a situation where it turned actually into a violent situation. What should a company say to the spouse if the spouse walks up to the reception desk making all sorts of demands?

Evan Gibbs:

Yeah, I did actually deal with a situation like this one time. It was almost exactly this very situation. The client called and was frantic like, "Oh my gosh, there's a spouse here that's

demanding to see..." not the spouse, but one of the coworkers. And they were like, "What do we do?" And I was like, "Well, you've got to first of all, call security building security and just tell them that that's not company policy, that we don't permit non-business guests on the premises behind the reception desk and have security escort this person out of the building." So that's what ended up happening, and it was a lot of drama around it. I was not there in person, but it was reported to me. There was much wailing and gnashing of teeth that occurred. Those things absolutely happen.

Tracey Diamond:

I think it's a good reminder of the importance of no visitor policies if your organization is a type of organization where that makes sense. Obviously, you're not going to have a no visitor policy in a retail environment, for example, but if it's not a customer facing environment to have a no visitor policy, there's lots of reasons to have that, and this is one of them.

Evan Gibbs:

Yeah.

Carol Cookerly:

Tracey, one thing I've found interesting in the work that I do is it's a lot easier to handle an angry partner or spouse that comes in and it's sort of a direct hit, "I demand to see so-and-so," or that you can kind of work with. What is really difficult, especially if the company is in a regulated industry, is if the person makes himself or herself an opponent of whatever project their former spouse or partner was working on, and they create groups and then they start spreading misinformation.

Vendettas are tough things. In my world, it's always, what did you know? When did you know it? What did the company know? When did they know it? That's kind of always a theme within the crisis world. It also makes you wonder, what if the spouse knew and knew it in a timely manner? Would any of these other things happen? When we think about all the limitations of what companies can't share and why people that are in a domestic situation with someone who's in employment, what they can't know or what we can't share, is there anything innovative out there that would shed some light on what's going on behind the curtain so someone could gauge whether what they're being told is true or not true, or is that just a fantasy of mine that'll never come true?

Evan Gibbs:

I think it may be a fantasy.

Tracey Diamond:

Look, if there is a litigation, let's say there's a divorce, there may be the ability to subpoena employment records. So in that sense, the spouse may be able to get some information, but there has to be a legal reason, and you need to follow the rules in terms of how to issue that subpoena. And it's done in due course not because you walk up to the reception desk and start yelling and screaming.

Evan Gibbs:

Yeah.

Carol Cookerly:

I see. So basically, if the boss doesn't take any dinner invitations, you might not be getting the whole story.

Tracey Diamond:

And even if they do, you might not get the whole story.

Evan Gibbs:

That's right.

Tracey Diamond:

This sure has been a fun one.

Evan Gibbs:

Yeah, it really has been. Thanks so much for joining us today, Carol. We really appreciate your insights. It's been an interesting conversation. Listeners, thanks for joining us for this installment, and please be sure to subscribe to the podcast. We're available on all the major platforms, and leave us a review letting us know how much you enjoy the podcast and how much you love the sound of our voices.

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