

footnoted*

Read the footnotes!*

Michelle Leder

mleder@footnoted.com

@footnoted

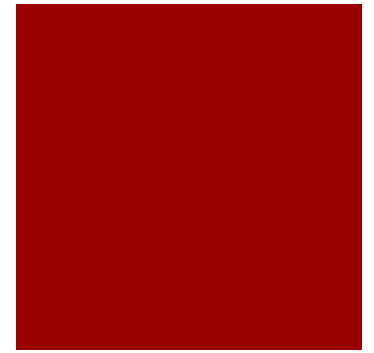
*(or else)

Most people think this when
they think about SEC filings*



* if they think about them at all

Or perhaps this



SEC filings don't have to be that way

- Part of this requires an attitude adjustment. Most people procrastinate when it comes to things they don't like to do.
- Part of that has to do with the way these filings are written.
- Fear of missing something important in a company you think you know (or have a position in) should be your primary motivation!



The Plain English project

- In 1998 the SEC, under then-Chairman Arthur Levitt, adopted “Plain English” initiative and wrote [this 83-page handbook!](#)
- Unfortunately, not much has improved over the past 17 years.
- The SEC continues to focus on this goal and even issued [an update](#) in April 2015.

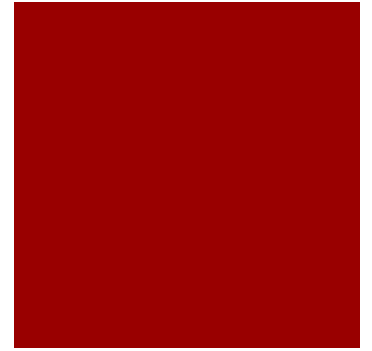


Warren Buffett's words*

"For more than forty years, I've studied the documents that public companies file. Too often, I've been unable to decipher just what is being said or, worse yet, had to conclude that nothing was being said.

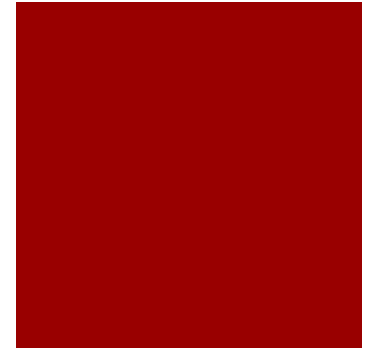
If corporate lawyers and their clients follow the advice in this handbook, my life is going to become much easier."

*From 1998



So many filings, so little time

- 650,000 filings made to the SEC each year.
- Some are 1,000 pages or longer.
- Most of the best stuff is buried deep in the filing, in footnotes, risk factors, forward looking statements, and exhibits (to name a few of our favorite hiding spots).
- Clues can be very subtle.
- Majority of these disclosures are negative.
- No way to read it all!



What makes for bad disclosure?



- Anything that isn't clear the first time you read it.
- Anything that requires you to read another filing (or filings) to figure out pertinent details.
- Too many footnotes.
- Burying significant information in forward-looking statements.
- Delayed disclosure.
- Weasel words or plain old lies.
- Non-specific "form-of" agreements.

What isn't there often more important than what is!



- Most companies usually do the bare minimum when it comes to disclosure.
- Critical to read between the lines and ask yourself questions about what information may be missing.
- Also important: why is the company telling me this particular thing now?
- We like to say that there are no accidents in SEC filings. Everything there (or not) for a reason.

Key places to focus on

- Forward-looking statements
- Risk factors
- Legal issues/commitments and contingencies
- Anything filed late on a Friday, before a market holiday, or during a few “dead weeks”.



A closer look: Twitter

- On Nov. 26, 2014 at 9:30 pm, co-founder Ev Williams filed [this Form 4](#).
- Filing was a follow-up to [an 8-K](#) that the company had filed six months earlier noting that its two co-founders had “no current plans” to sell any stock.
- Filing was perfectly legal. But how many people were reading SEC filings at 9:30 at night the day before Thanksgiving?



A closer look: Yahoo

- At the very end of its first-quarter earnings release, Yahoo listed a long list of forward-looking statements.
- One of those was this: *"The potential risks and uncertainties include, among others, possible delays or the failure in satisfying conditions to completion of our proposed spin-off of our remaining stake in Alibaba Group into a newly-formed registered investment company or other factors, including adverse regulatory developments or determinations or adverse changes in, or interpretations of, tax laws, rules or regulations, that could delay or prevent completion of the proposed spin-off or cause the terms of the proposed spin-off to be modified."*
- In the conference call, Yahoo executives were much more optimistic.

A closer look: GTAT

- GT Advanced Technologies included several new risk factors in [the 10-Q](#) that it filed on Aug. 7, 2014.
- In some of the starkest language we've seen, the company warned about its dependence on Apple. Stock closed at just under \$17 that day.
- Two months later – on Oct. 6 – the company filed for bankruptcy.



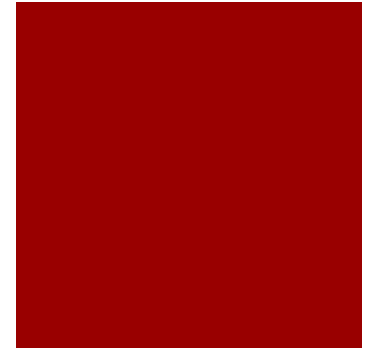
Looking ahead: TREE

- In the 10-Q that Lending Tree filed on Aug. 5, 2015, it added a new risk factor.
- As with GTAT, the language seemed particularly severe to us.
- The company has not filed anything since that date.
- Stock has fallen about 17 percent since filing.
- Company is due to report earnings on Nov. 4



Looking ahead: PII

- Two weeks ago, a lengthy exchange of comment letters between Polaris and the SEC were released.
- The letters, which date back to Nov. 2014, provide some important insight into the company. Tone of letters, extensive back and forth.
- Final exchange was signed by new CFO. Did lengthy back and forth prompt Malone's retirement? Will be interesting to see if new CFO sets a different tone.



Looking ahead: DV

- When we read [the 10-K](#) that they filed on Aug. 27, we noticed that there were a lot of references to the company's Brazilian operations.
- A simple word count proved it: Brazil was mentioned 732 times in the K, compared with 418 a year earlier.
- The company has been growing aggressively there to counter problems in for-profit ed here.
- But the regulatory environment is increasingly unfriendly, something DeVry doesn't seem to have accounted for completely.



The Friday Night Dump

- We've coined an expression at footnoted to describe the filings that come in once markets close on a Friday afternoon.
- Hard to chalk this up to coincidence.
- Analysts may not pay as close attention to these filings, but my team and I do.



Questions?

