

The Five-Dollar Solution

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THIS NOTE OFFERS a partial solution to two problems faced by many law schools: how to contain rising costs, and how to achieve advantage in the race for *U.S. News and World Report* rankings. The dean at my law school is either too risk-averse or too wise to use the solution, so I offer it to any other law school adventurous enough to adopt it.

As a result of a variety of factors, increases in law school expenses have far outpaced inflation over the last decade. Many factors are driving the increase in costs, but one cause is the expense associated with the desire to advance in the *U.S. News* rankings and similar ratings of law schools, for reasons that include institutional advancement, competition for students and faculty, and self-aggrandizement. Having already ceded their admissions policies to *U.S. News*, law schools have increasingly turned to professionally designed and slickly produced promotional materials in the effort to advance their reputational ranking.

As a modest empirical study of this phenomenon, I saved all the promotional material I received from schools during September

2003 – twenty-six pieces in all. The lot included three alumni magazines, three programs of speaker series, nine more announcements of individual speakers or conferences, two brochures of specialty programs, and nine flyers on new faculty, distinguished faculty, or faculty accomplishments. The material ranged from simple postcards to a 168-page, full color magazine with production values that rival those of *House Beautiful*. In addition, I received numerous reprints of law review articles, including several from people I do not know, writing in fields in which I have no identified interest.

And so to my solution for the law school dean who wishes an alternative to investing in an expensive puff piece. Summarize in a one-page letter, to be sent to other law deans, the three or four most important points that he or she wishes to make. Then add a concluding paragraph:

It would cost five dollars to design, print, and mail this information in the kind of fancy brochure which you receive from other law schools. Our law school concentrates on

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substance, not style. Therefore, stapled to this letter is a five dollar bill. Use it to buy a drink – a Starbucks vente cappuccino or a fine imported beer – and consider the information in this letter, thinking fondly of our school.

(And, of course, make good on the statement by enclosing the five dollar bill.)

Consider what might happen after the letter is distributed. Recipients would certainly focus on the letter more than they do on any other mailing of its kind. Without a doubt, the story of the letter would be picked up by the *New York Times* and other major news outlets, magnifying the effect of the letter. An investment of less than \$1,000 (180 law schools times \$5.00 plus the cost of mailing) would return hundreds of thousands of dollars of media coverage.

There is, of course, the danger of negative publicity. The law school could be accused of attempting to buy votes in the reputational survey, and the coverage could focus on the absurdity of the letter rather than the substance of the school's message. To ameliorate the risk, the dean should immediately follow up with a second letter (which could be released to the media as needed). The second letter would make three points:

(1) While everyone has their price, the price of even the lowest-paid or most corruptible law dean is almost certainly higher than five

dollars. (2) The purpose of the exercise is not only to tout the law school's achievements but to demonstrate the absurdity of the rankings arms race. (3) Put us to our proof: Find out more about our law school, and follow up in the future.

While there are no guarantees, the second letter would increase the probability that the school would receive positive publicity, and that reporters would follow up with the dean and the law school over time.

A responsible law school dean should consider the broader implications of such a step. I can think of at least two possibilities. First, it could shift the arms race from publicity pieces to cash; good regional schools, say, would send out ten dollar bills, aspiring national schools, twenties, and the well-endowed but still aspiring elite schools, fifties. Second, and more likely, it would expose the absurdity of reputational rankings, forcing *U.S. News* to devalue that portion of its formula and Brian Leiter to find another hobby. The first possibility is unlikely because it would be seen as an unseemly attempt at vote-buying lacking the cleverness of the original action and would be counter-productive. The second possibility would be a net benefit to law schools and consumers of legal education.

One final note: This is not satire. I am serious. *JFB*