

ethikos Volume 32, Number 2. February 01, 2018 What does it take to build an ethical culture of 'doing the right thing when no one is watching'?

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With the growing web of the regulatory environment, attorneys face a lot of problems interpreting regulations, let alone the compliance officers. The buzzwords in today's economy are “compliance programs,” because this pretends to act as a euphemism for “survival” in the fight against regulatory compliance. There is an over-reliance placed on the words “compliance programs” rather than the substance of them.

The pressure on the Compliance department

With ever-growing regulatory, legal, and other internal rules, policies, and procedures, it is difficult to manage or adhere to compliance associated with these laws and rules. Furthermore, with the effects of the recession still prevailing over various economies, there are many people who are simply looking for an entry into a profession to commence their daily earnings. Only a limited handful of professions have grown in requirement, and if one removes the opportunities associated with information technology, then people are left with hardly any options.

Compliance is a field in demand, and it is in its nascent stage to be a hardcore, technology-focused field. The impact of people not having adequate background, engaging communication skills, training capabilities, a keen eye for details, awareness of the company policies and local laws, and/or the ability to appropriately interpret regulations could be catastrophic for the organization that hires ill-equipped or inexperienced senior compliance officers.

This can further lead to a false sense of security amongst the management and the board when:

- A program is developed but is not tailored according to the local culture of the company and the land, or a generic program is taken off the shelf;
 - Policies and risk assessments are carried out, but employees are not adequately trained or made aware of their responsibilities;
 - An induction/orientation program is held for new joiners without any substance to convey the organization's values and conduct;
 - An investigation is carried out, but without any concrete evidence;
 - People are disciplined based on their hierarchal value in their chain;
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- Management reports are made on the number of investigations closed, only to later find out that half of them were closed because they were reported by anonymous whistleblowers;
- The “weight” of the department is thrown around, only to discover that one senior compliance officer bullied the whistleblowers to reveal names; or
- Monitoring/spot checks are carried out, but without any actual effect of compliance; and
- the list goes on and on.

In 2014, SEC Enforcement Director Andrew Ceresney, mentioned the importance of compliance officers and, in the same speech, made mention that the SEC has brought and will continue to bring actions against persons who affirmatively participated in a misconduct, attempted to mislead regulators, or when they had clear responsibility to implement compliance programs or policies and wholly failed to carry out that responsibility.^[1]

This goes to show the importance of compliance officers. One mistake with the hiring of a wrong person for the compliance officer position will take the organization down like a house of cards.

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