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Why law firms need dedicated compliance officers

an interview with Jennifer Quillen and Jerry Myers

Compliance Officer at Smith Debnam
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Managing Attorney at Smith Debnam
Narron Drake Saintsing & Myers, LLP

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by Donna Boehme

I can't believe I'm writing (yet another) column on: Compliance vs. Ethics

More than 10 years ago, I sat on a panel at one of the early compliance and ethics conferences in London and listened to my two fellow panelists debate “rules vs. values” and “compliance vs. ethics.” At the time, I shared my view that

this was a false choice and that any effective approach must integrate both elements because (1) compliance without ethics would become a technical check-the-box “policeman” without the necessary behavioral drivers, and (2) ethics without rules-based compliance would become the irrelevant “coach” without any

enforcement muscle. It's not rocket science, but at the time, you would think it was!

Is there anyone who thinks that companies should have one without the other? Not a one would admit it, but there are definitely many firms out there that focus mostly on one and give lip service to the other. Take a look at the big banks, which after a perfect storm of mortgage fraud, LIBOR rigging, money laundering and other legal woes, have recently “discovered” incentives and clawbacks. That should give a hint of the historical priorities in that industry. Culture matters, and you don't get there with compliance or ethics alone. As the saying goes: “You can't get there from here” (add your own Northern Maine accent) which according to the Urban Dictionary means “The place is remote and the route is hard to describe.”

And what about the company that just gets by with an “ethics officer” who is divorced from or secondary to the firm's compliance activities? Way to send a message to the troops—just not a good one. (See “The CCO as Ethical Culture Leader” in *Ethikos* Jan/Feb 2014 at bit.ly/1aI91vV)

Someone new to the profession just asked me about the difference between a CCO (chief compliance officer) and a CECO (chief ethics and compliance officer). I'd like to have answered “none” because the absence of the word “ethics” in the title of the officer should not be an indication of the lack of ethical substance deeply embedded into the program. But in reality, sometimes it is – and that's a big mistake. I tend to use the two terms interchangeably on the assumption that we have settled the perennial “compliance vs. ethics” debate. But I guess we are not quite “there” yet.

Here's my tired face (- __ -).

Bottom line: If a company works diligently to integrate compliance and ethics under the leadership of an empowered, independent and knowledgeable CECO/CCO, ethical culture won't be so remote, the route becomes easier to describe, and it is much more likely that you can get there from here. *

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