

Compliance & Ethics Professional

June
2015



A PUBLICATION OF THE SOCIETY OF CORPORATE COMPLIANCE AND ETHICS

www.corporatecompliance.org



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The Rise of Compliance 2.0!

2015 and 2016 will be very good years for the Compliance and Ethics profession. As I said here,¹ Compliance 1.0—Compliance as a captive arm of Legal—is on its way out, and the way has been cleared for the rise of Compliance 2.0, informed by the failures of its predecessor.



Boehme

Let's recap. In the early days, the unfortunate mantra was: "If it involves legal risks, it must be part of Legal." Thus, Compliance became the captive arm of Legal. This meant that the role of chief compliance officer went to the general counsel himself, or to whichever member of the Law department happened to call in sick that day. #IHateWhenThatHappens. But, as Roy Snell, CEO of the Society of Corporate Compliance and Ethics, has noted, a compliance officer who is not independent and empowered is not a true compliance officer.² And the headlines bear out these sad tidings. Both Wal-Mart and GM owe their headlines to a poorly structured Compliance 1.0 function that was designed to fail.³

Due to the prevalence of this flawed model,⁴ almost any company beset with a compliance scandal is a potential poster child for the failure of Compliance 1.0. Remember Hewlett Packard's terrible pretexting spying scandal—in which a "chief ethics officer" and his general counsel boss engineered an ill-fated pretexting plan to spy on board members, journalists, and their respective family members, all to find the source of a corporate leak? This led to a \$14.5 million fine,⁵ implosion of the HP Board, resignation of its chairwoman and general counsel, and

the alarming specter of a Fortune 100 general counsel and chief ethics officer invoking their Fifth Amendment rights before a House committee.⁶

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We are now at the brink of a new dawn in the field, where policymakers, regulators, prosecutors, and other gatekeepers are finally, at long last, beginning to get the memo⁷ on the death of Compliance 1.0 and the rise of Compliance 2.0 in its place.⁸ And it's about time! Let the march of Compliance 2.0 begin! *

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