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A History of SCCE with Debbie Troklus

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by Joe Murphy, CCEP, CCEP-I

Lessons from the past: "Policing up"

It was back in 2002: Frank Gruttadauria had spent 15 years as a broker stealing millions from clients by creating phony accounts. This star stockbroker was also the manager of the Cleveland office of Lehman Brothers, where he worked. And reporting to him was? You guessed it, the compliance officer for that office.

Murphy

As noted in a *Wall Street Journal* report quoting a Columbia University professor, "It's absurd to have an employee try to supervise the person that sets their salary, bonus and has the power to fire them." In the professor's words, it was "a system with a built-in vulnerability and it's not surprising that it failed." In other words, "policing up" is an unrealistic expectation.

In hindsight, all that seems fairly obvious. But have we remembered the lessons? Consider first the field compliance staff. Across the Compliance and Ethics field, smart companies know they need a field compliance presence. They may be called ethics ambassadors, compliance and ethics leaders, or compliance liaisons. They are managers in field offices, business units, and subsidiaries whose job responsibilities include promoting the compliance program in the operations where they work. In larger units they may be full time, but often this is just part of their job responsibilities.

The question then is one of independence and empowerment. Is the person close enough to what happens in the business to be effective; when the local boss makes decisions, is the field compliance person a participant? Is the person close to the local power sources? That is necessary for empowerment and effectiveness. But to whom does the person report? If the local boss has complete control over the compliance person, is this not exactly what went wrong in the 2002 case? Yet, if the compliance person only reports to headquarters, will they be isolated as spies? Here the learning is that the person needs both relationships. Yes, closeness to local management is key, but there must also be loyalty and ties to the chief ethics and compliance officer (CECO). Evaluations, for example, should always have input from the CECO, and the person's treatment and future must not be at the sole discretion of the local boss.

What lesson is there for headquarters? The same point applies. The CECO must be part of the executive team and present at all key meetings. This is essential for empowerment. But without independence we see the same pattern as witnessed in the Lehman case. The CECO must also be able to call to account any officer, including the general counsel and CEO. Thus the answer is similar to the field person. The board must have ultimate control over the CECO's removal and evaluation. Asking human beings to police their bosses is naïve; a strong connection to power above that boss is the enduring lesson of the Cleveland broker's case. *

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