

Compliance & Ethics Professional

January
2015



A PUBLICATION OF THE SOCIETY OF CORPORATE COMPLIANCE AND ETHICS

www.corporatecompliance.org



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by Steven Priest

“Both and,” not “either or”

Steve Priest: Roy, thanks for doing this first column exploring our field from the sometimes competing and the often complementary lenses of ethics and compliance. I’ll start with a confession: When I started working in this area that we both



Priest

love way, way back in 1990, I was all about ethics. Compliance was an afterthought. What about you?

Roy Snell: I began in 1996 as a compliance officer. I had not quite developed my outspoken perspective I now have, but I was primarily focused on compliance. Ethics was an afterthought. I appreciate ethics more now, but I am very concerned about those who make statements like, “Go beyond compliance to ethics.”

Steve: It seemed so simple 24 years ago. If people and organizations act ethically, then compliance will automatically follow. But the rapidly-changing and highly-complicated regulatory landscape makes this premise obsolete. Doing the right thing (my basic definition of ethics) will get you most of the way. Acting in accordance with laws and regulations (my basic definition of compliance) no longer automatically follows.

Roy: The real problem with those who imply that building an ethical culture is the solution to all our regulatory problems is they ignore two groups of people. It ignores those who will break the law no matter how great your ethical culture is. It also doesn’t do anything for the tremendously ethical people who are breaking the law every day because they don’t know all the laws. Compliance programs prevent, find, and fix

ethical and regulatory missteps. We need to build an ethical culture, but those who imply compliance is bad and all you have to do is build an ethical culture are doing a disservice to their organization and society.

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Steve: True, Roy. But so is the opposite: Those who think all you need is compliance, and that ethics is for wimps or idealists, are also doing a disservice. It is a “both and,” not an “either or.” For a while, I thought a compliance emphasis was only necessary in a few fields where regulations are complex, like healthcare (explain the intuition in safe harbor provisions) or defense (Aristotle would not have written the Federal Acquisition Regulations. He probably wouldn’t even understand them.). Now I believe that there’s a need for an emphasis on compliance AND ethics in every industry.

Roy: I could not agree more. Even the least regulated industries, have laws that affect all industries such anti-trust, anti-bribery, accounting laws, etc. People are either going to voluntarily move beyond ethics to ethics and compliance programs voluntarily or they will be fined into doing more by the enforcement community. *

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