

Compliance & Ethics

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Meet Angela Styles
Coordinator, Defense Industry Initiative on
Business Ethics and Conduct

The SEC helps prove a point

By Roy Snell

Ethics is sold as a solution. People say, “Go beyond compliance to ethics.” I think it promises or implies that ethics does more than it does. Ethics is preventative in nature; it doesn’t find and fix problems. Apparently the SEC doesn’t follow up on known problems either. The SEC just announced that they found their staff using the Internet to look at pornography. Apparently, it occurred in 2008 and they are still trying to determine what the discipline should be. This is Compliance 101. Anyone worth his salt as a compliance officer would have insisted on follow up.

The SEC has had an ethics officer for some time. If asked, I would imagine that he/she would say, “Discipline was not my job” or “No one would listen to me.” Either way, that is what is frustrating about pushing Ethics over Compliance. We need auditing, monitoring, authority, education, discipline, etc., as described by the Federal Sentencing Guidelines. The SEC now has a compliance officer who is reporting to their ethics officer. The SEC is focused on insider trading problems, as opposed to all risk areas. Some industry insiders are complaining about the lack of access to the governing authority by the compliance officer and the limited scope of her job. Someone needs to explain to the SEC what the role and

function of the compliance officer and the compliance program are.

Ethics is very important, but we cannot rely on ethics alone. Ethical behavior is an outcome. Telling people to be ethical is a desire to achieve an outcome, not a process to achieve an outcome. Ethics (or principles or values) is a set of rules, not a way to enforce the rules. Ethicists complain about rule-based systems. They are referring to regulations and enforcement. They believe that if you teach ethics, you won’t need rules. What hasn’t occurred to them is that ethics is a set of rules. Dictionary.com describes ethics as: “the rules of conduct recognized in respect to a particular class of human actions or a particular group, culture, etc.: medical ethics; Christian ethics.”

Ethics is not a process to ensure compliance. Principles are a set of rules. Values are a set of rules. We don’t need more rules; we need someone to ensure that the rules are being followed. The whining about “a rules-based system” is bizarre. In its place, they are advocating a rules-based system—a massively vague set of rules. On top of that, they have no enforcement of their rules-based system.

Employees who hear all the talk about ethics—but do not see the enforcement of the rules—become bitter. I am not against ethics, but it needs to be put into perspective.

We must understand what setting up yet another set of rules (ethics) does



and doesn’t do. We have been actively teaching and preaching values, principles, and ethics for 2,000 years and it hasn’t worked to our satisfaction in the business community. People spend endless hours arguing what is or isn’t ethical. They argue endlessly about how to talk about ethics in a way that will somehow now work after 2,000 years of failed attempts. All the while, bad behavior and fraud go undetected or unpunished.

Enforcement is ugly. Enforcement is costly. Enforcement is painful. It is easier to just keep talking about how we should behave or how things should be. Ethicists are right—in an ideal world, their way would be better. After 2,000 years of values, principles, and ethics, it is clear we don’t live in an ideal world. We don’t need ideals; we need results. Without enforcement, a rules-based system doesn’t work. Compliance programs ensure compliance with the rules. Keep talking about ethics, values, and principles. It helps. It’s OK. But, what we need is for the ethicists to stop implying that it is enough or that it is better or that it is a replacement for a compliance program. Ethics is a set of rules that need to be monitored and enforced. The SEC is learning this the hard way. ✦