



Society of Corporate Compliance & Ethics

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Meet Marti Arvin

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Letter from the CEO

ROY SNELL

I recently received a copy of a compliance article that had been published in *The Chronicle of Higher Education*. This article was an overwhelming condemnation of compliance professionals and compliance programs. It was entitled “The Compliance Racket,” and was written by a lawyer from a major university. I have seen a few anti-compliance rants before, but this one was off the charts. I am going to leave out the author’s and the university’s names, as I am not interested in smearing his institution any more than he already has.

I have seen a few anti-compliance rants before, but this one was off the charts.

I am very familiar with this institution. One of their compliance professionals has been a member of one of our associations for almost nine years. They are committed to compliance and have contributed to the development of the compliance profession. They don’t deserve the damage this author has caused to their reputation, and they are very upset. The author is from their legal department but was probably speaking from his position as a philosophy professor, a fact he did not make clear. This whole discussion should probably have been kept in the classroom as an academic exercise.

The following is an excerpt from my response to the article, which I believe will be printed in the next issue of *The Chronicle*. “In his article, the author misrepresents the value of the U.S. Sentencing Guidelines, implies that people in the enforcement community are barbarians, and says that investing in compliance programs is akin to paying off the Mob.” I went on to explain why I thought that was wrong.

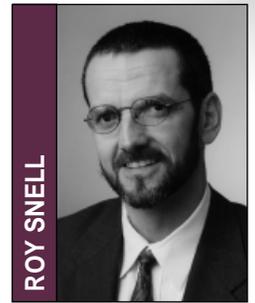
Included in his article was the greatest collection of misinformation on compliance I have ever seen. I have observed a few people, with no apparent knowledge on the subject, write anti-compliance articles, but this one takes the cake. What is the most damaging is that the average reader may think that the author is some sort of expert because he has a law degree and works in a legal department. He neglected to tell the reader that he is a tax attorney, a subject he probably should have stuck to.

Here is a quote from his article. In fact, he summarized the article with the following statement: “Compliance programs ultimately serve a self-defense purpose. They are good for an institution in the way that paying protection money is good for a business that is being squeezed by the mob. If have them we must, let us at least recognize that the value of such programs lies less in instilling law-abiding behavior than in keeping the barbarians from the door.”

After Enron, WorldCom, Tyco, and with more corporate scandal on the news daily, this sort of philosophical banter is of limited value. It’s especially not funny to compliance officers who are concerned that their staff will be running down the halls saying, “I told you; you are wasting my time! Because the author is a lawyer from the legal department in a major university, he must be right. I am no longer compelled to spend time on compliance.” When I was a compliance officer at the University of Wisconsin, I got this type of response several times. Someone would grab some printed rant by some ill-informed individual and say that they were done cooperating.

Responding to his statements was like “shooting ducks in a pond.” His article was ill-conceived, inaccurate, and badly timed. I also forwarded the article to several people whom I thought might want to respond. The compliance community was on fire.

The outcry and response to his article reminds me of watching a building implode. The world has come crashing down on the author’s head. Several people have written a response to the article for publication in the next issue of *The Chronicle*, including a professor from Xavier, a University of Minnesota compliance officer, a compliance attorney, and someone



ROY SNELL

from the Department of Justice. I have been assured by *The Chronicle* that they will print as many responses as space allows. The next issue will be an interesting read. Some individuals have been so bothered by the article that they have contacted the University directly. This lawyer is probably now on a first-name basis with his Chancellor.

It is possible no one from his organization saw the article prior to publication. Can you imagine what the leadership thought when they opened up their copy of higher education's most respected publication? Imagine an article, written by one of your employees, which discredited compliance professionals, compliance programs, and the enforcement community; and misrepresented the value of the U.S. Sentencing Guidelines. Oh the humanity!

This is a bad time to discourage compliance efforts in academia.

This guy clearly should have shared his thoughts with someone in a leadership position prior to sending in the article. They have discussed it with him now. I can hear him explaining to his superiors about free speech and other academic defenses. The problem is that free speech comes with some responsibility. The classroom is a great place for debate; but when someone puts themselves out there as an expert in the field and presents their opinion in this way, they can cause problems for a lot of people.

Academic debate and free speech are important to all of us. However, flippant, theoretical ranting on such a sensitive topic from ill-informed people, who end up hurting the tireless efforts of others, bothers me. How can we help stop the endless investigations, fines, penalties, and bad PR with this sort of misinformation? It may be entertaining to him, but his entertainment should not come at the expense of others. Free speech is alive and well, but you can't yell fire in a crowded theater, and you probably shouldn't write articles like this. Many people are upset and believe he has set back their compliance efforts; all at a time when academia has so many ongoing investigations. It's unbelievable!

The academic community is rife with compliance issues. Several universities have gotten into trouble on issues rang-

ing from the death of a research patient to professors getting caught for going through a 90-page online ethics training course in less than two minutes. I have also heard that a leading research journal is publishing several articles on academic research fraud. This is a bad time to discourage compliance efforts in academia.

I can't imagine what was going through his mind. It's like a four-year-old child finding a stick of dynamite and wondering what would happen if he lit the little stringy thing at the end of the tube. I can just see him marveling at the fiery sparkles as the fuse burns down, waving it in the air with a smile on his face. Then...BOOM. If this was a joke, he didn't say so. If it was a joke, it was really bad timing. If it was some kind of ill-conceived academic exercise and an extension of his philosophy classroom, he did not say so. He presented it as an expert opinion coming from a legal counsel, in a legal department, in a major academic institution. He mentioned that he was a philosophy lecturer, but at the front of his title, he listed University Counsel. It was bad form.

I really get tired of complaints about our legal system. Of course it is complicated, expensive, and requires effort. It's easy to ridicule lawyers, the enforcement community, and compliance professionals. What I don't understand is what these people would suggest as an alternative. You don't have to look far to find a country that has limited rule of law, no enforcement, and no compliance; where their economy is in shambles and their people and their culture suffering.

The Society of Corporate Compliance and Ethics helped make sure that the next issue of *The Chronicle of Higher Education* will be replete with feedback. That's what an effective professional association does. It helps represent the profession. It can do so because it has dedicated resources and a large network.

Perhaps this author has actually helped the compliance community. If the outcry to this article is as strong as it appears to be, the message to all academic employees will be that compliance is important. Anyone who reads the responses will think twice before following this guy's lead. Maybe we should ask him to join a panel of experts debating the virtues of compliance programs at our next meeting. I am thinking he may have some trouble getting permission. ■