

Stressed! How to Stay Sane in the Modern CCO Job

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COMPLIANCE WEEK 2012

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Common Sources of Compliance Officer Stress:

1. Animosity from peers in other departments;
2. Increased visibility of ethics failures from Internet & new media (and “old” media);
3. Ethics failures used as a weapon by competitors.

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1. Animosity from peers in other departments

- *Recent poll of compliance officers indicates that 58% consider themselves to be in an adversarial situation or isolated from co-workers in other departments.*
- Compliance must be a management program.
- Leadership must be involved in all aspects of program.

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Examples of leadership involvement:

- Introduction to training sessions, videos, written compliance guidance;
- Columns in company newsletters or brochures;
- Emphasis in staff meetings.

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2. Increased visibility of ethics failures from Internet/New Media

- Get client buy-in to compliance goals & successes:
 - Emphasize the financial downside to ethics failures;
 - Stress consistency of compliance & company goals;
 - Get client input into compliance program;
 - Train, train, train – but vary contexts;
 - Use real examples when training.

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3. Ethics failures used as a weapon by competitors

- Get in front of the problem:
 - Assess where potential for failure is greatest;
 - Focus training on identified problem areas;
 - Get out of the office & walk the halls;
 - Coordinate with compliance colleagues;
 - Solicit best practices of successful programs.

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*Three More Common Sources of **Stress***

- More rigorous enforcement by governments
- Burden of compliance shifting to private enterprises
- Everyone is now a whistleblower

Enforcement

- Increased enforcement by U.S. agencies
 - Department of Justice
 - Individual liability
 - Securities and Exchange Commission
 - Department of Defense
 - Suspend and debar companies and individuals
- Greater international enforcement

Compliance Burden is Shifting

- From the U.S. Government:
 - Contractors to have ethics and compliance programs (FAR 52.203-13) 12/12/08
 - Contractors to prevent personal conflicts of interest of employees performing acquisition functions (FAR 52.303-16) 12/2/11
 - DoD contractors to ensure employees comply with their post-employment restrictions (DFARS 252-203-7005) 11/18/11
- UK Bribery Act
 - Companies to have adequate procedures to prevent bribery. (2011)

Enhanced Whistleblowing

- Dodd-Frank Act (2011)
 - Lucrative awards to whistleblowers
- False Claims Act (government contractors)
- Agency hotlines
- Internal reporting processes
 - Anti-retaliation policies and controls
- A good internal reporting system should reduce CCO stress

Stress Reducers

- Identify compliance risks (Gap analysis)
 - Establish controls to mitigate risks
 - Test controls
- Build an efficient internal reporting system
 - Provide feedback to whistleblowers and the company
- Accurately assess culture
- Stay current with changing compliance expectations

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Laura Merten

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Sources of Stress:

- Individual liability
- Increasing amount of issues
- Pace of change

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Recent History of Individual Criminal Liability

- Expanded prosecutorial authority in the Patient Protection and Affordable Care Act
- Enhanced exclusion of individuals
- Individuals can be charged with crimes even when actual knowledge of a violation does not exist

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Increasing Amount of Issues

- Better awareness on part of employees as to what constitutes a compliance issue
- Government expectations
- Media coverage

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Pace of Change

- Regulatory developments
- Organizational change
- Professional change

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Stress Reducers

- Internal relationships
- Continuing education (formal or informal)
- External relationships and networking