

# The Importance of Compliance

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# Compliance Trends



- **Controllership/Securities Law:** Increased SEC staffing, AGs/DOJ focus on financial fraud
- **Tributaries of Terrorism:** Patriot Act, Anti-\$-Laundering, identity theft
- **Corruption:** U.S. criminal enforcement, new global laws.
- **Competition Law:** Focus on cartel activity/price fixing in U.S. and Europe
- **Fair Employment Laws:** FLSA class actions, global laws on overtime/work
- **Privacy:** Data transfer, employee issues
- **Document Issues:** Email (“21<sup>st</sup> century gift to prosecutors”), obstruction risk (Andersen), Spitzer cases
- **Acquisitions:** Rising number of cases from acquisitions
- **Trade Controls:** Self disclosures, increased government focus
- **Improper Payments:** Recurring issues in high risk environments

# Federal Sentencing Guidelines

The sentencing reform act was established in 1984 and are “used” by all federal courts to sentence defendants in the majority of federal cases.

The existence of an effective compliance program directly results in mitigation of an organization’s sentence by reducing the culpability score.

# What is an effective compliance program?

1. An established program that is reasonably capable of reducing the prospect of criminal conduct.
2. Assignment of “High-Level personnel of the Organization”.
3. Due care in delegating authority.
4. Training or publication.

# An effective compliance program (cont)

5. Monitoring and Auditing

6. Consistent Enforcement

7. Prompt reporting

# Quote

“I have never been in an accident of any sort worth speaking about. I never saw a wreck and have never been wrecked, nor was I ever in any predicament that threatened to end in disaster of any sort..... I cannot imagine any condition which would cause a ship to founder. Modern shipbuilding has gone beyond that.”

***EJ Smith – Captain of the Titanic***

# History Might Have Been Different with the Right Infrastructure .....

## Prevention

### Ignored Early Warnings

- **“Passing Icebergs...” Radio Message Ignored**
- **Crew Member concerns over the number of lifeboats ignored**

### CTQ's Not Up To Date

- **Lifeboat ratio based on vessel gross tonnage vs. new safety standard based on number of passengers**

### Policies & Procedures Not Followed

- **Company procedures required notices (like the Iceberg message) to be posted in the officer's chart room**

History Might Have Been Different with the Right Infrastructure .....

## Detection

### No Process in Place to Insure Specs Followed

- **Brittle steel used and likely cause of catastrophic failure**

### No Effective Radio Room Monitoring in Place

- **Too Busy to Detect Second Ice Message**
- **Customer Social Wires took precedence**

### Lack of Detection Tools

- **Lookout “smelled” ice but had no binoculars to confirm**

History Might Have Been Different with the Right Infrastructure .....

## Response

### Ineffective Crisis Management

- At least 1 hour of indecision before “abandon ship” order

### No Change Control

- Change in “SOS” protocol hadn’t been communicated to novice radio operator

# And finally....

- > Owner of Titanic savaged by press
- > Chairman retired from public life
- > No officer that served on the Titanic, *even those commended for bravery*, ever achieved his own command

Our reputation has to be spotless in a company that is connected to the world. And that requires systems of integrity. This company stands for compliance and integrity.

**Jeff Immelt, January 2003**

# Some of Our Guiding Principles

- Obey the applicable laws and regulations governing our business conduct worldwide.
- Be honest, fair, trustworthy in all your GE activities and relationships.
- Through leadership at all levels, sustain a culture where ethical conduct is recognized, valued and exemplified by all employees.

# The Foundation of Compliance

