CULTURE CASE STUDIES

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GOVERNMENT EXPECTATIONS
GOVERNMENT EXPECTATIONS

• “...superficial efforts or programs that are hastily constructed and implemented without a long term commitment to a culture of compliance likely will be ineffective and may expose the nursing facility to greater liability than if it had no program at all.”
  — OIG Compliance Program Guidance for Nursing Facilities, 2000

• “It is important for a nursing facility to have an organizational culture that promotes compliance.”

§8B2.1. Effective Compliance and Ethics Program

(a) To have an effective compliance and ethics program... an organization shall—

(1) exercise due diligence to prevent and detect criminal conduct; and

(2) otherwise promote an organizational culture that encourages ethical conduct and a commitment to compliance with the law.

- Federal Sentencing Guidelines
COMPLIANCE IS NOT EFFECTIVE WITHOUT CULTURE

WHY DO WE NEED CULTURE?

Employee integrity survey:

• 74% had “personally seen” or had “first-hand knowledge” of misconduct within the past year
• 57% believed the misconduct would cause a “significant loss of public trust” if discovered
• 53% of people would call the compliance hotline if they witnessed misconduct
• 23% would look the other way or do nothing

Source: KPMG Integrity Survey 2013
WHY DO WE NEED CULTURE?

“Character, like a photograph, develops in darkness” – Yousuf Karsh

Culture is what keeps your compliance program afloat when nobody is watching.
TWO CASE STUDIES

WELLS FARGO

Improper sales practices spanning 5 years:

• Opened accounts without customer knowledge
• Funded these accounts with transfers that caused customers to incur overdrawn fees
• Gave customers fictional email addresses in order to sign them up for online banking
**UBER**

- Feb 19, 2017 – Susan Fowler, a former Uber engineer, published a blog post alleging multiple incidents including harassment, discrimination and retaliation and ineffective company policies and procedures.
- HR gave the manager a warning because it was his “first offense”
- Fowler requested a transfer; it was denied due to “undocumented performance problems”
- Fowler was told she would be fired if she reported her manager again.

Source: [https://www.susanfowler.com/blog/2017/2/19/reflecting-on-one-very-strange-year-at-uber](https://www.susanfowler.com/blog/2017/2/19/reflecting-on-one-very-strange-year-at-uber)

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**LESSONS FROM UBER**

- Uber hired Eric Holder and Tammy Albarran of Covington and Burlington to investigate discrimination, harassment and retaliation at Uber
- Uber’s board adopted ALL of the Covington Recommendations
- June 13, 2017: Covington Recommendations published on Uber’s website
- June 20, 2017: CEO Travis Kalanik resigned

Source: [https://www.uber.com/newsroom/covington-recommendations/](https://www.uber.com/newsroom/covington-recommendations/)
Wells Fargo

“[WF] fights like cats and dogs for those numbers!”
- John Stumpf

“Eight is great!”
- John Stumpf

“The Impression that emerges is that the company might have been whispering about ethical standards and treating the customer right, but they were shouting ‘this is the way you make money, sell more of these.’”
- Sen. Jack Reed (RI)
IS COMPLIANCE PART OF THE CONVERSATION?

• Board
• Managers & Supervisors
• Line staff

Does compliance have a seat at the table?

WHAT YOU CAN DO: BOARD LEVEL

• Issue annual compliance resolutions
• Approve compliance program and code of conduct
• Approve compliance officer job description
• Approve compliance officer hiring
• Require quarterly live reports by compliance officer – use dashboard reporting
• Give the compliance officer direct access to the board
WHAT YOU CAN DO: BOARD LEVEL

• Require annual and ongoing compliance education
• Require regular reporting of compliance metrics to the board that show the effectiveness of the compliance program
• Require an annual compliance program evaluation
• Require an annual compliance program plan for the coming year
• Evaluate the compliance budget
• Promote compliance reporting and questions
• Protect anonymity and non-retaliation

CULTURE FUNDAMENTALS: INCENTIVES
WHAT DO YOUR INCENTIVES TELL YOUR STAFF?

Wells Fargo:

• Some branch managers tracked staff sales hourly
• Branch sales were reported up the chain multiple times a day
• Employee bonuses for reaching monthly sales goals ($2,000 per quarter; up to $20,000 per year for district managers)

LESSONS FROM UBER

The Covington Recommendations:

• Use performance reviews & compensation to hold senior leaders accountable.
• Reviews should be based on metrics, such as responsiveness to employee complaints.
• Use the Code of Conduct as a basis for executive compensation.
• Expand performance reviews to include “participation in efforts to improve workplace culture.”

Source: https://drive.google.com/file/d/0B1s08BdVqCgrUVM4UHBpTGROLXM/view
ALIGN INCENTIVES WITH COMPLIANCE

• 62% of organizations have an incentive plan for management personnel.
• 58% of organizations have an incentive plan for at least some personnel.
• Of organizations with an incentive plan, about 25% have the compliance team review the plan before it is implemented.

- HCCA Incentive Programs & Compliance Survey, April 2017

WHAT YOU CAN DO: SENIOR MANAGEMENT AND MANAGER LEVEL

• Include compliance in manager performance metrics
  – Does the manager get staff to compliance training?
  – Does the manager field employee compliance questions and effectively handle complaint reporting?
• Use employee surveys to hold managers accountable
  – Does the manager promote a culture of compliance, non-retaliation, open communication?
CULTURE FUNDAMENTALS: COMPLAINT PROCESSES

LESSONS FROM UBER

The Covington Recommendations:

• “enhance communication to employees concerning how and to whom they can raise complaints....”
• “develop and communicate multiple avenues for lodging a complaint....”
• “ensure appropriate processing and tracking of complaints....”

Source: https://drive.google.com/file/d/0B1s08BdVqCgrUVM4UHBpTGROLXM/view
LESSONS FOR UBER

The Covington Recommendations:

- Zero tolerance policy for substantiated complaints of discrimination and harassment, without regard to whether an employee is a “high performer” or a long-term employee
- Establish protocols for escalating complaints

Source:
https://drive.google.com/file/d/0B1s08BdVqCgrUVM4UHBpTGROLXM/view

BE GRATEFUL FOR COMPLAINTS

- Provide multiple ways to report.
- Protect the process: Confidentiality, Anonymity, NO Retaliation
- Document and investigate – every time.
- Apply discipline and corrective action consistently.
- Follow up
- SAY THANK YOU
USE YOUR COMPLAINTS

• Regularly review complaints for trends – what stories do you find?
• Summarize complaint trends for board reporting
  – Topic
  – Method of reporting
  – Anonymous/Non
  – Corrective action/policy changes
  – Department
• When possible, communicate issues, findings and corrective measures (non-personnel) to managers and staff

CULTURE FUNDAMENTALS: MEASURE & EVALUATE
HOW DO WE MEASURE CULTURE?
SURVEY QUESTION EXAMPLES

• I know why we have a compliance program.
• I know who the Compliance Officer is.
• I know how to call the compliance hotline.
• Compliance is important to my company.
• My supervisor cares about compliance.
• My supervisor encourages ethical behavior.
• I feel comfortable reporting possible compliance problems.

EMPLOYEE SURVEY DATA

I feel comfortable reporting non-compliance to the Compliance Officer.

<table>
<thead>
<tr>
<th>Year</th>
<th>% Who Responded Yes</th>
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<tbody>
<tr>
<td>2018</td>
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</tr>
<tr>
<td>2017</td>
<td>92.4</td>
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<tr>
<td>2016</td>
<td>80.5</td>
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COMPLIANCE REPORTING DATA

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<th></th>
<th>2016</th>
<th>2017</th>
<th>2018</th>
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</thead>
<tbody>
<tr>
<td>In person or by phone/email: Administrator</td>
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<tr>
<td>In person or by phone/email: Supervisor</td>
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<td>In-person or by phone/email: Compliance Officer</td>
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CULTURE FUNDAMENTALS: SHAPING YOUR MESSAGE
**CITI: ETHICS & CULTURE VIDEO SERIES**

Citi created a 12-part video series.
Each video featured an ethical challenge that a Citi leader experienced.

“I found the Ethics series to be very powerful and inspiring, especially hearing form our senior leaders about some of the decisions that they have made with respect to ethics... It’s not just about making the right decisions based on whether or not something is legal or illegal. It’s about making the right decisions even when nobody is looking.”

- Sarah Krawll, Global Consumer Bank, Global Digital Team, Miami


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**CHRISTIAN HORIZONS: PET POSTERS!**

**COMPLIANCE:**
We are our choices...

**COMPLIANCE:**
Being able to look in the mirror and say...

“I did the right thing!”

**COMPLIANCE:**
Looking out for us all...
COMPLIANCE WEEK

- Brand your compliance program – and promote your brand
- Increase CO and CC visibility
- Educate, help and inspire employees
- Promote reporting (and reporting policies)
- Show your commitment to compliance

*Reward participation, rather than correct answers*

QUESTIONS?
Thank You.

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