

Tuesday, May 1 9:30 am - 10:45 am

How Do I Convince My CEO That We Need a Robust and Effective Compliance Program?

Erika Ahern

General Counsel
CNA National Warranty

Keith Henderson

Compliance Officer & VP Ethics & Compliance Capital Access Network, Inc.

Timothy Kuhman

General Counsel
The Kingdom Trust

Faculty Biographies

Erika Ahern

Erika Ahern is general counsel of CNA National Warranty Corporation. Ms. Ahern joined CNA as the company's first general counsel. Her objective was to design and establish a team responsible for implementing a comprehensive compliance program, encompassing all regulatory and legislative activities.

Ms. Ahern began her career as a litigator and later joined a national insurance company as in-house corporate attorney.

Keith L. Henderson

Keith Henderson is compliance officer and vice president, ethics and compliance for Capital Access Network, Inc. Mr. Henderson manages the day-to-day operations of the compliance program. He conducts and overseas investigations into violations of company policy such as fraud, theft, conflicts of interest, privacy, and misappropriation of company property or assets. He also manages the corporate-wide training and education on compliance and business ethics matters. Mr. Henderson's practice covers a board spectrum of compliance related law involving Sarbanes Oxley, FCPA and various domestic and international privacy laws.

Prior to joining Capital Access Network, Mr. Henderson managed the compliance program for Turner Broadcasting System, Inc., including its CNN, TBS, TNT, TruTV and Cartoon Network business divisions. He also practiced as senior counsel at Hewlett Packard in Atlanta, Washington, D.C. and Colorado. At HP, Mr. Henderson handled the sale, licensing, and procurement of information technology products and services and represented the consulting, customer support, and managed services business units.

Mr. Henderson is the author of "The Tax Treatment of Corporate Sponsorship Payments and the Aftermath of the Cotton Bowl Ruling" (Exempt Organization Tax Review, May 1996). He serves on the board of directors of the ACC Georgia Chapter; ACC Compliance and Ethics Committee, secretary; and a board of director of the Atlanta Compliance and Ethics Roundtable.

Mr. Henderson holds a BA from Howard University, a JD from Texas Southern University School of Law, and a Masters of Laws in Taxation from Georgetown University Law Center.

Timothy M. Kuhman

Timothy M. Kuhman serves as vice president of compliance and general counsel of The Kingdom Trust Company, a South Dakota chartered trust company that provides

custodial services to the financial services industry. While the company custodies traditional assets, it specializes in the acquisition and divestiture of non-traditional ones. Its client base consists of RIAs, broker-dealers, private equity firms, hedge funds and family offices as well as individuals who own self-directed retirement accounts in which they wish to hold assets traditional custodians will not hold. Mr. Kuhman is responsible for all legal and compliance matters of the company.

Prior to joining The Kingdom Trust Company, Mr. Kuhman was the general counsel for Equity Trust Company and Mid Ohio Securities, Inc. He was responsible for legal matters facing both companies, oversaw the work of outside counsel and all regulatory matters. He assisted in the building and refinement of the company's compliance function including BSA/AML (KYC/CIP/OFAC) and the company's red flag system and suspicious activities reporting. He also served as the subject matter expert on self-directed retirement accounts for the executive team, customer service and sales conducting required trainings and answering day-to-day questions for the groups.

Mr. Kuhman completed his undergraduate degree at Southwest Missouri State University and attended the University of Toledo, College of Law.



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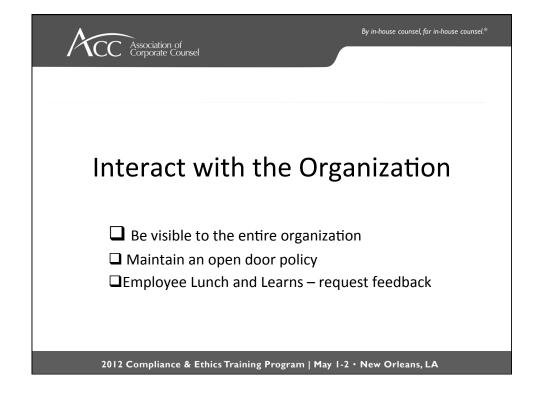
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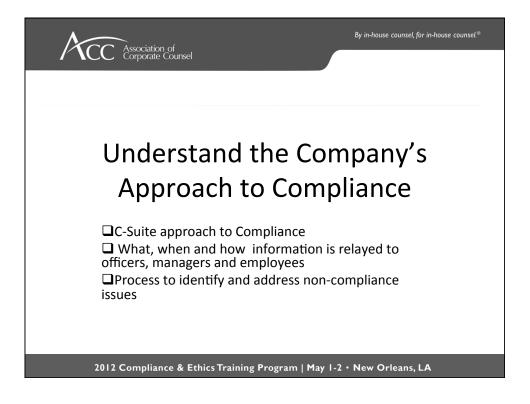


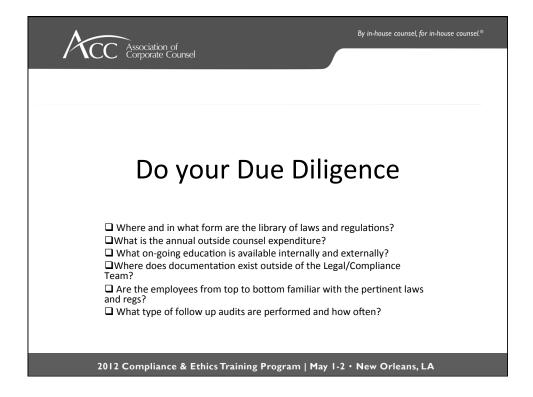
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Establish Whether Your Compliance Program is Working

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Know Your Organi	zation
☐ Understand the business ☐ Learn each department's objectives ☐ Ask about roadblocks ☐ Find out where the historic information exist ☐ Identify compliance SMEs outside of your dep ☐ Accept additional accountabilities ☐ Network within the organization	partment
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Conduct Compliance Surveys and Risk Assessments

□Identify key areas of potential risks

 $\hfill \Box \hfill \hfil$

Determine the likelihood of misconduct based on the nature of your business and industry □Identify all risks to operations, not just legal risks. Provide stats on key risk areas that have

corporate-wide impact □Understand the company's history of prior conduct and corporate culture

□Conduct RAs with Internal Audit and IT auditing functions when possible

 $\hfill \square \mbox{Survey}$ and analyze relevant current and regulatory initiatives

□Cost Benefit – Highlight value of early detection of compliance and ethics threats and allowing the company to correct problems before they are discovered by regulators, investors, potential acquirers/buyers, the media or potential plaintiffs.

□Who conducts RA's – Over 70% of entities polled conduct periodic risk assessments.

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Establish the Strength of the **Program**

 \Box Is the Program a set of written documents that all employees have in their desk drawer or something that all employees know and refer to?

■What is the revision date?

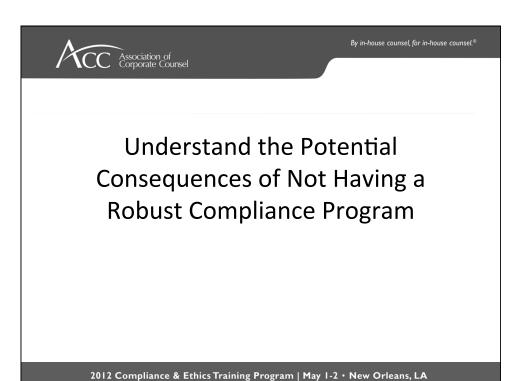
☐ Is the Program relevant to your organization? How current is it?

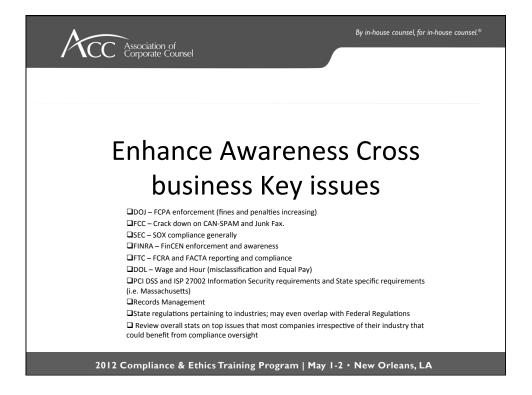
☐What process is in place to remain current as to new legislation and regulations?

☐ Are employees aware of how to identify a non-compliance and what to do if they identify one?

☐ Is the response process established and followed?

☐What is the monitoring process to ensure on-going compliance once a solution is implemented?







Cross-Boarder Transactions and International Compliance Requirements

□Entities with global operations will benefit from compliance management

□Understand Corruption Perception Index and its impact of business operations, costs of goods/services, risks of loss, litigation, fines, and likelihood of positive outcomes in the event of a dispute

□Analyze legal, business and regulatory issues of Cross-Boarder transactions that impact your business and condense them down to high level areas of concern for the CEO such as Antitrust, Anticorruption, Taxation, Securities regulations, Data Protection, Trade requirements and restrictions, Intellectual Property, Labor and Employment and Information Technology

☐ Analyze cultural resistance to whistleblowing, not reporting misconduct or even the perception that an activity is inappropriate (Giving of gifts in connection with business dealing in some cultures may be a way of life where the refusal may be considered and insult)

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Federal Sentencing Guidelines

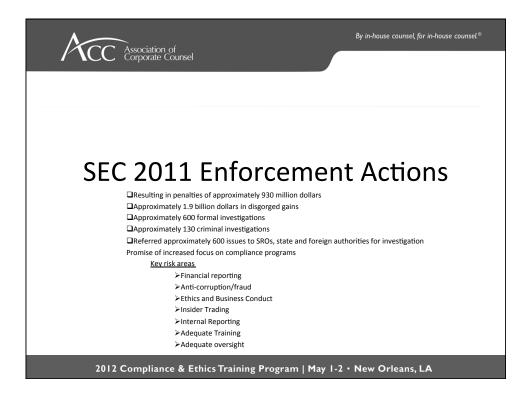
 $\label{thm:continuous} \ensuremath{\square} \ensuremath{\mathsf{Shorter}} \ \mbox{or eliminated criminal sentences for effective compliance programs}$

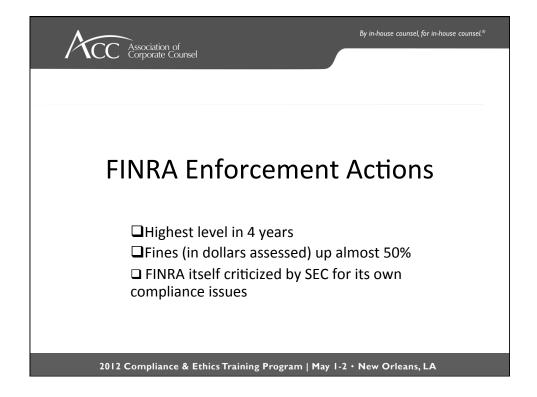
 $\square \mathsf{Seven}$ "pillars" of an effective compliance program

- ➤ Standards and Procedures
- **≻**Oversight
- ➤ Education and Training
- ➤ Auditing and Monitoring
- ≻Reporting
- ➤Enforcement and Discipline
- ➤ Response and prevention

☐ In today's enforcement environment, the fact that the Sentencing Guidelines contemplate giving points for an effective compliance program should give you pause.

- >Effective program can lessen the penalty
- > Ineffective or non-existent program can add to the penalty







AML/BSA Fines and Penalties for failure to comply

☐August 2011 – 10.9 million civil penalty violations of BSA

☐March 2011 – 7 million civil penalty SAR and BSA violations

☐February 2011 – 8 million civil penalty failure to monitor, inadequate processes, failure to comply with policies and procedures

 \square May 2010 – 500 Million civil BSA violations, criminal information filing dismissed based on remedial actions taken

 \square March 2010 – 110 million failure to implement adequate policies, procedures or monitoring controls

 $\hfill \square$ Many smaller fines and penalties

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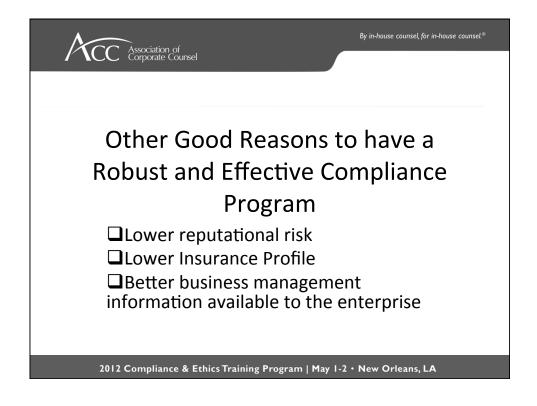
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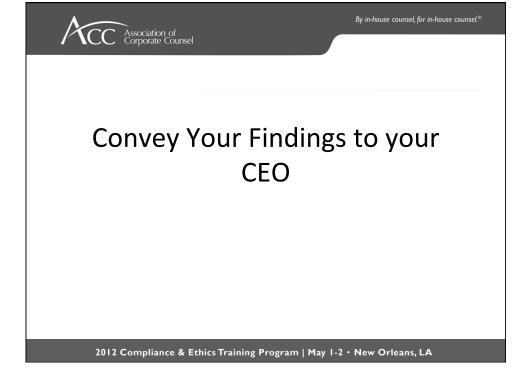
Review the FSG Seven Pillars of an effective Compliance Program

□ Does every pillar have corresponding established, written guidelines or processes?

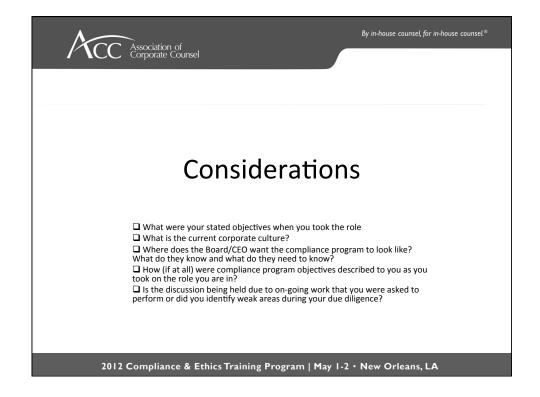
☐ How are the guidelines established within the organization and culture?

☐ If not, where are you weak? Are there compensating factors in place?

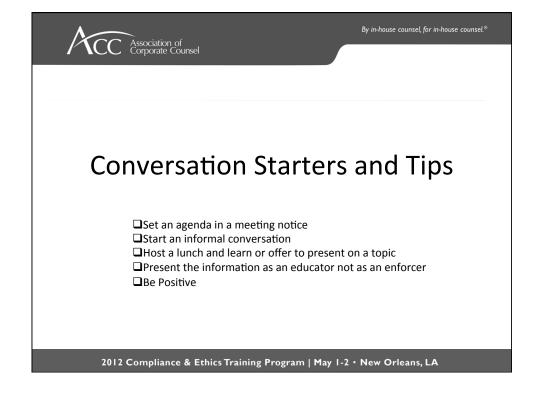


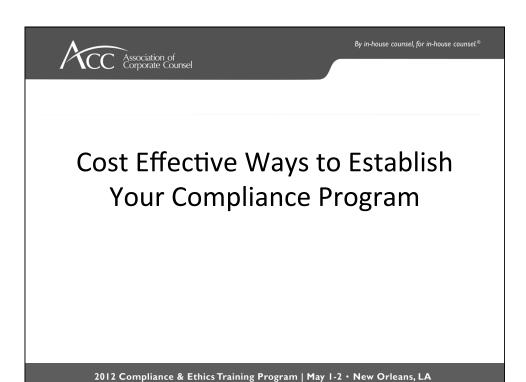


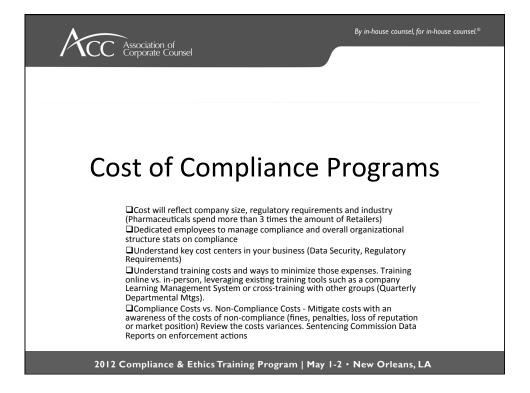
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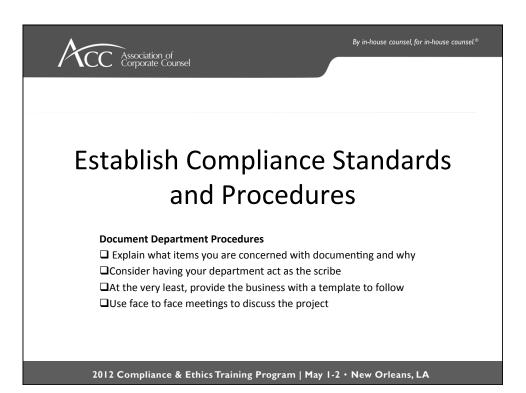


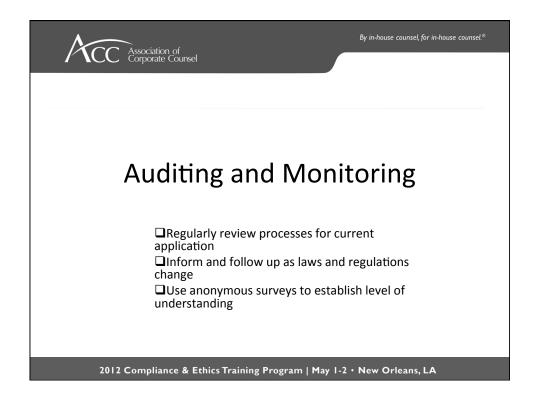
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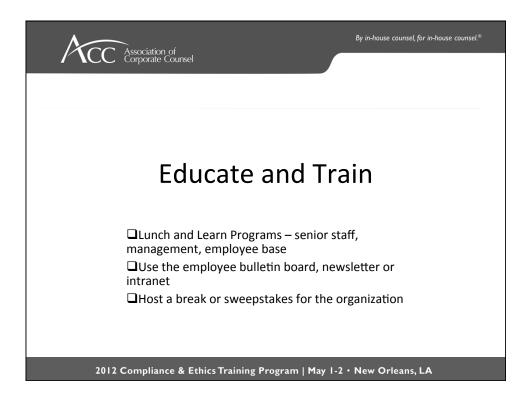


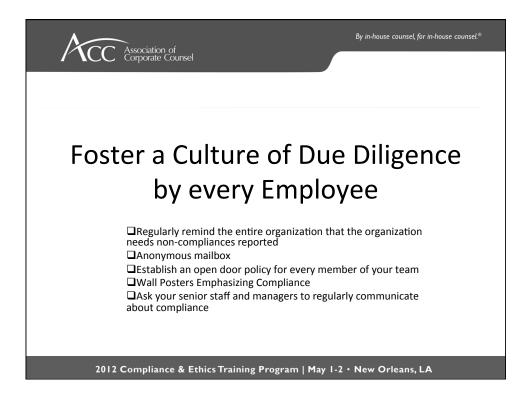


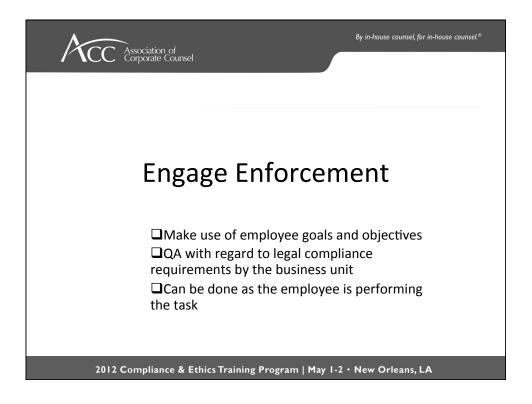














Be a part of the business process with solution based advice (not "this is what the law is" but, "this is what the law says, this is what it means for you and these are your options in light of that information.")

