



Compliance - TODAY

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Meet Leon Rodriguez

Director of the Office for Civil Rights, of the
U.S. Department of Health and Human Services

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by Roy Snell, CHC, CCEP-F

The Morgan Stanley Case

Contact **Roy Snell** at roy.snell@hcca-info.org.

One of the most significant events in the history of the compliance profession?

Kudos to the Department of Justice. For 20 years there has been the notion that those who implement a compliance program should be treated differently than those who don't. The Federal Sentencing Guidelines suggest that if an organization has a problem, as Morgan Stanley did, and the organization made an effort to prevent the problem, as Morgan Stanley did, they should be treated differently than an organization that made little-to-no effort. The USSC suggested in Chapter 8 of the FSG that the implementation of a compliance program would be considered making an effort. This has long posed a challenge for the DOJ.

The DOJ has been in a tough spot, because a compliance program is a somewhat new concept. For some time, it was deemed difficult to know how much effort was enough effort. As time went on, the DOJ gained more experience with compliance programs. My guess is, the DOJ has concluded that

determining how much effort a company is making is easier than one might think. There are many companies who have done little to nothing, or their compliance officer is under the thumb of some other department and was a compliance officer in name only. The real question has always been: how much effort is enough effort? The DOJ seems to be saying that they can now better tell the difference between little to nothing and something materially better than nothing.

This has been a long time coming. Ironically, several very talented compliance professionals and I were in DC about a month before this announcement, visiting with Lanny Breuer from the DOJ, Robert Khuzami from the SEC, and about a dozen other government staffers. We talked about many things. One of the issues that came up was the notion of companies getting a break because they implemented a compliance program. It is unlikely that our visit had anything to do with the Morgan Stanley announcement; however, many people have worked hard and for a long time to get to where we are now. And where we are now is much better than where we were before the Morgan Stanley case. And many of us are thrilled. ☺



Snell

Thank you!

Has someone done something great for you, for the compliance profession, or for HCCA? If you would like to give recognition by submitting a public "Thank You," please send it to margaret.dragon@hcca-info.org. Entries should be 50 words or fewer.

