



SOCIETY OF ACTUARIES

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Are You at Risk of Becoming an *Accidental* Criminal?

by Maureen Wild

The advent of Sarbanes-Oxley could put you at serious risk if your employees are uncertain of new reporting procedures or are unaware of the serious penalties that this legislation mandates. We've all read the headlines exposing the serious consequences of fiduciary recklessness, but there are many people who don't understand that even the smallest ethical breaches can have far reaching reverberations. Sarbanes-Oxley (SOX) was developed in response to accounting scandals that rocked the corporate world. SOX is aimed at improving the transparency and accuracy of financial accounting and record keeping of U.S. publicly traded companies. With deadlines for compliance fast approaching, organizations clearly need to take action now. Surprisingly however, a recent poll by the Business Process Management Institute indicated that only 27 percent of those organizations polled are taking steps to comply with SOX.

Many white collar executives are facing federal scrutiny and penalties as a consequence of SOX violations. Even if non-compliance happens mistakenly, one may face a \$1 million fine and 10 years in jail. If one knowingly certifies false information, that person can expect fines of up to \$5 million and 20 years in a federal prison.

Sadly, there are still folks out in the workforce who do not perceive the seriousness of their sloppy habits. So often we suffer from some classic fallacies about workplace ethics. Somehow we have convinced ourselves that our behaviors are NOT unethical *IF*:

1. We rationalize that what we are doing is for a good cause.
2. We believe we are entitled to a particular perk or benefit.
3. Everyone else does it.
4. It's technically legal.
5. Other people we work with are far more unscrupulous.
6. We won't get caught.
7. Our actions will benefit our families.
8. We're just following orders.
9. Our jobs may be on the line.
10. We're just "fighting fire with fire."

Nonsense!! Ask yourself this question instead—*"If I am prosecuted for SOX violations, where will any of those dopey excuses get me?"* If you have a great attorney, you may get reduced jail time and a whopping financial penalty instead of long-term jail time and an extraordinarily whopping financial penalty, but none of those rationalizations will hold up in a court of law.

Those who manage others need to be crystal clear about ethical procedures, record keeping and reporting. The misstep of one of your direct reports could put you at serious risk. It cannot be emphasized enough how vital it is that everyone who works for you be drilled and drilled again about the seriousness of SOX violations.

Michael Josephson, founder of The Josephson Institute of Ethics, recommends that, when faced with a challenging situation at work, ask yourself the following questions:



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1. Is anyone being taken advantage of?
 2. Am I using appropriate criteria to make this decision?
 3. Does the conduct I am considering demonstrate my caring for the well-being of other people?
 4. Am I breaking any laws or company rules or policies?
 5. Am I causing any unnecessary harm to anyone?
 6. Am I being disloyal to anyone?
 7. Am I respecting the autonomy, dignity and privacy of others?
 8. Have I made any promises that I may have to break?
 9. Am I considering all the stakeholders in my decision?
- Access your current technology to determine if it meets your requirements and where gaps may exist.
 - Research the additional technology needed and procure and implement it as required.

The decisions you make minute to minute have lasting consequences—just ask the kids whose parents have wound up in jail for months, (or years), at a time who supposedly were tempted to cheat or engage in misconduct out of love and devotion to their families. ☐

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Computhink, of Lombard, Illinois, recommends the following steps to protect your company from SOX violations:

- Know the Sarbanes-Oxley regulations, particularly those specific to your industry.
- Develop a strategy to plan for compliance and plan for processes and content.
- Be scrupulous about documenting your retention policies, procedures and schedules.
- Determine your specific requirements for a technology solution to enable you to implement your enterprise compliance plan and support your retention policies and your processes.