

Conversations with the Corner Office

By Ann Oglanian

An Interview with Tim McAfee,
CEO of J.P. Turner & Company, LLC

***Tim McAfee** is the CEO of J.P. Turner & Company, LLC. In 1993, McAfee and current J.P. Turner president, Bill Mello, partnered to open an independent office of J.W. Charles Securities. In April 1997, the two men took their next step by co-founding J.P. Turner & Company growing it from a start up to a full service investment bank, brokerage and advisory services firm. Headquartered in Atlanta, J.P. Turner now has more than 150 independently owned offices throughout the United States.*



Tim McAfee, CEO of J.P. Turner & Company, LLC

***Ann Oglanian** is the President and CEO of ReGroup, LLC, a specialized consulting firm combining deep industry expertise and innovative problem-solving to assist financial services companies in enhancing stakeholder value, improving operations, and addressing regulatory risk. ReGroup focuses on investment advisers, broker/dealers and hedge funds, and specializes in working with firms managing change.*



Ann Oglanian, CEO of ReGroup, LLC

Regulatory changes and recent enforcement cases have shifted the role of compliance programs and compliance professionals working in broker/dealers and investment advisers. With speeches by the SEC staff – as well as the rise of common sense – it is increasingly clear that senior executives play a critical role in setting the tone that is necessary in order to establish and manage an effective compliance program.

CEOs and board members set expectations, support the ongoing development of the Chief Compliance Officer role, control risk management expenditures, and may arbitrate critical differences of opinion related to the scope of the compliance program. Increasingly, CCOs are taking a place at the management table of their firms – but not all are yet viewed as business leaders.

In order to obtain a view on how one firm has managed regulatory change and set the tone, Ann Oglanian, CEO of ReGroup, LLC, interviewed Tim McAfee, CEO of J.P. Turner & Company, LLC.

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Ann: How have changes in the compliance rules changed the way you run your business?

Tim: It has changed quite a bit. Obviously all of us in the industry believe that the regulatory function is critical for protecting the integrity of the industry. However, over the past five or so years, regulatory interpretation has become considerably more aggressive and, in fact, has reinvented rules that have been on the books for many, many years.

Ann: So they're legislating by enforcement action.

Tim: Exactly. So, we've had to change with it in order to try to stay ahead of the rule binding enforcement phenomenon. To do that, we've taken a proactive approach in a number of areas, including trying to create a better level of communication with the local FINRA district office; instead of just responding to things from them, we're trying to go both ways with more frequent conversations.

Ann: What form does that take?

Tim: Well, primarily, it's our people in the compliance area. We're very fortunate because the gentleman who runs our compliance department was one of the key guys over at our District 7. He was in charge of our audits for two years before we hired him.

Ann: Well, that's handy.

Tim: Yes, and also made us look pretty good - the guy who was auditing us was willing to take a job with us. He was also, and still is, a very well thought of individual over there, so it's been just tremendous for us.

Ann: So, the personal reputation of your CCO really matters.

Tim: Absolutely.

Ann: And in this case, the CCO's reputation is an asset of your firm?

Tim: It is. Because he worked over there for several years, people over there know him, and know the kind of person he is; I think that is very helpful. In addition to staying in touch with the district more frequently, we have also contracted with certain vendors to provide services and functions above and beyond what we have internally or what we get from our clearing partner. We've developed a network of contacts for advice, including law firms and consultants from the industry. In fact, basically what's happened is, in order to avoid potential fines and sanctions, we've started pre-paying them to outside vendors

and law firm. I know that sounds funny, but the reality of our business is that that's kind of what we've done.

Ann: So, you've shifted your risks to a known budgetary item. You're going to spend more money on vendor fees up front.

Tim: Yes. We primarily use two Atlanta-based vendors - a lawyer and an independent consultant. Both were heads of our district at one point in time in their careers. We also use an outside vendor for email surveillance, but everybody does that. We've also developed proprietary systems through our IT department for surveillance. It's a real time compliance monitoring system, which basically scans all the transactions and kicks out exceptions based on parameters that the compliance department set up.

Ann: So you've automated a significant portion of the compliance work?

Tim: We really have.

Ann: Whether you use an outside vendor or develop it on a proprietary basis, it's an investment.

Tim: That's basically what it is. We're trying to pay up front so we don't have to pay on the back end.

Ann: It's also a form of risk management. You have a number you can budget instead of the unknown cost of a penalty or a loss of reputation.

Tim: Exactly.

Ann: Regulators generally have shifted their expectations from "tell us what you do" to "show us what you do."

Tim: Right.

Ann: How do you demonstrate that compliance is being done and that it's a priority in your firm?

Tim: Well, in a lot of different ways. A big part of it is staffing our compliance department with experienced people that have the ability to not just put in place all the policies that you need as a firm in today's environment, but also to effectively communicate those policies to our registered reps. For us, how we explain a particular decision to a broker ends up being just as important as the actual decision itself. We also incorporate compliance into our firm wide communications. As an example, we have a quarterly newsletter that includes a compliance piece and it goes out to the home address of every rep in the firm. Additionally, we have a bi-weekly national conference call and our first speaker on the agenda is our Chief Compliance Officer.

Ann: That helps reinforce the message.

Tim: Yes. In addition, during our recruiting process, our Chief Compliance Officer meets with all the offices that we bring on board to let him share his background as well as the way he runs his department and everything else. We want to make sure everybody is on the same page before people even come to work here.

Ann: Does that help get the right people in the door the first time and help reduce turnover?

Tim: That's right. It's important to us that the people meet with compliance up front and understand all the tools that we arm our compliance/supervisory people with to watch the business and see what's going on. People don't walk in our door without knowing that we're going to know everything about the business.

Ann: Regulators are interested in how firms establish the "Tone at the Top." How do you personally demonstrate the tone for the organization with regard to compliance and ethics?

Tim: I include my CCO in our senior management meetings. We have a monthly meeting where we have all of the department heads together, including the compliance department. At the tail end of that meeting, we break off and have a strategic planning meeting and that meeting includes the Chief Compliance Officer.

Ann: So, you have given your compliance officer what I call a "seat at the table."

Tim: Yes, absolutely.

Ann: You're going to have a lot of compliance people knocking on your door wanting to work with you after they read this interview. The goal for many compliance professionals is to have that "seat at the table."

Tim: I think you're right. It's our desire to be successful and in order to be successful we think that we have to include compliance as a part of the leadership of the firm. If you don't you're going to end up with too many problems to be successful.

Ann: You've talked a bit about the attributes you look for in a compliance professional. It appears that you look for compliance professionals who have technical skills as well as "soft skills," such as excellent communication skills. How do those soft skills return value?

Tim: Well, I'm in a very enviable position in that I have a rock star as a Chief Compliance Officer.

Ann: That *is* enviable.

Tim: So, I feel very fortunate that I have someone who obviously knows the rules, understands the rules and understands the many different ways they can be applied. He also understands the importance of not just enforcing the rule, but making sure the brokers that he's dealing with understand the reason that a rule is being enforced.

Ann: The communication is more than, "Do it because the SEC said so."

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Tim: Right. It's making sure that they understand the repercussions of not going along a certain line and the fact that it may cost you a couple of dollars today, but in the long run you're ahead. Another facet to a person in that position is being able to manage people. As our firm has grown the responsibility of Chief Compliance Officer has changed from just someone who has the knowledge and the people skills to explain the situations. The CCO must also have the people skills and management expertise to run a department.

Ann: Compliance is becoming more of a business unit.

Tim: It is. When we were a young firm, there was a point at which we had one compliance person, the CCO. Then slowly, another person, and another person, and another were added to the department. It got to the point where we really had to have a person at the top who not only had all the other attributes but also could manage a business unit.

Ann: You already include your CCO in your high-level meetings and he's not just invited but is relied upon to provide insight to support decision making.

Tim: Well, you know, you hit your head against the wall enough times you want to stop doing it.

Ann: Einstein said that insanity is doing the same thing over and over again, and expecting a different result.

Tim: Exactly! So, if you want to save yourself some of the headaches down the road, obviously the best course of action is to take the guys with the most knowledge of how not to do those things and incorporate them into the decision making process.

Ann: And actually listen to him.

Tim: Yes, and actually listen to him.

Ann: How many people do you have in your compliance department?

Tim: Our compliance department has eight or nine people.

Ann: Do you ever wonder how much is enough? How do you satisfy that question for yourself?

Tim: We rely pretty heavily on our Chief Compliance Officer to answer that question for us based on his industry experience and his knowledge. I think he can answer that question a whole lot better than I could.

The CCO must also have the people skills and management expertise to run a department.

Ann: Sometimes compliance professionals at some point just have to say “no.” Under what circumstances is that a reasonable thing for a compliance person to do? And what have you seen be effective or not effective in delivering that message?

Tim: Well, there are times when our Compliance Officer just has to say, “no.” And honestly we expect that to happen. If there weren’t times when he was saying “no,” then we would probably have to look at what kind of job he’s doing, so we do expect that to occur. The reality is the answer should be “no,” if what they’re looking at exposes the firm to regulatory litigation or financial risk. We also expect the person to take the time to explain to others why he’s saying “no,” even though every other firm in the world may be doing it. The reasons need to be clearly explained so others can understand.

Ann: If people are educated about the reasons, they become smarter consumers of compliance; a smarter decision maker in so many other ways. What is the highest best use for the compliance function for your firm?

Tim: The highest best use is the CCO’s participation in our strategic planning meetings. When we have those monthly meetings and discuss big objectives such as when we first put in our registered investment adviser division. Having compliance involved in decisions at that level is probably the highest use we have for compliance.

Ann: What is it that he is delivering in those meetings that is so valuable to you?

Tim: He delivers the regulator’s insight, the regulator’s vantage point.

Ann: With regard to compliance, what would you find disappointing? When has the compliance function let you down?

Tim: I would say that areas of disappointment in the past have been moving too fast on a decision to ascertain an entire picture or not taking enough time to listen to all aspects of the matter. Those would be historical issues. Not issues that we have today with our new rock star of a CCO. There’s a tendency to have knee jerk reactions to certain things and that’s probably been historically the most disappointing part.

Ann: You’ve been talking a bit about the benefits of compliance, but what about the cost of compliance? It sounds like you, and your firm, have invested broadly including the use of technology, outside vendors, consultants, and counsel, as well as your internal cost. How do you think about cost/benefit?

Tim: Well, the reality of it is that it’s not a choice; it’s not something we can choose not to have. And in fact it’s something that we wouldn’t choose not to have even if we could because it’s very important for us to have people out there that know a lot more than I do about what they need to be looking for to make sure that people are doing business correctly.

Ann: You’re saying that good compliance can mean good business.

Tim: Absolutely.

Ann: There has been a bit of debate recently related to how compliance professionals should be compensated. The concern is that compensation structures avoid motivating compliance professionals to give you a “yes,” when a “no,” answer is what you need. Do you have any thoughts on Compensation?

Tim: I do. I do not think that compliance in anyway shape or form should be compensated on a basis of a firm’s financial performance. I think it would be very easy for a person to end up with issues, if that were the case. All of our compliance people are on straight salaries with bonuses that are basic bonuses that are shared with all the different department heads within the firm. Their performance is judged by how well compliance is doing by our annual audits.

Our compliance people suggested that we just go out and hire an auditor to come in and do an audit to test them, you know, see if there's anything they're missing. It's a proactive approach, it wasn't something that we had to do, but our compliance people said, "We want to get third party confirmation that we're handling everything correctly." We began having audits done. And then, based on the results, we began making adjustments or changes. It helps us to grade the job that our people are doing.

Ann: Have you found that it can help your firm to motivate people toward continued improvement?

Tim: Absolutely.

Ann: We've seen this approach help provide compliance with some credibility. However, compliance professionals occasionally have to state opinions that could negatively impact business prospects. They risk having their credibility questioned by someone who wants a different outcome. Often times, issues can be emotional at that level as well. What advice do you have for someone who finds himself feeling in that awkward position?

Tim: Well, first off, I'm going to knock on wood here because I don't want to jinx myself, but we've been fortunate enough to not be in that position, at least not to a point to where it's been a struggle for us. But my suggestion to anyone in that position would be to try to sit back and take a look at from both view points. Both from a compliance officer's view point and from business owner's view point. Try to make a decision based on full knowledge of all the facts on both sides of it; it's not an ego thing. Here are all the facts, and here's the upside, there's the risk. You have to make the right decision.

Ann: It sounds like you are very much able to use your compliance staff as counselors to those decisions as well.

Tim: Absolutely.

Ann: Sometimes compliance professionals find themselves being the standard bearer for ethics. Do they play that role in your firm?

Tim: We really, really want all of our people, not just department heads, but the people within the departments, to conduct business according to a high ethical standard. I don't think any of us in the company would look favorably on the responsibility of being ethical shifted on to one department.

Ann: So ethics is a team sport?

Tim: Absolutely.

Ann: I can see the team jerseys now. That is a really strong leadership philosophy. Where does that come from?

Tim: It's really not anything we try to do; it's basically both my partner and me. We started the firm with the philosophy that we only really wanted to hire people that we can invite over to grill out in the backyard. And we've kind of continued that philosophy as the firm has grown with the people at the corporate office and it's just happened. It's nothing I can brag about and say, yeah, we did this, this and this. It's just the environment.

Ann: I think what you're saying is that it's not a conscious act, which is a great way of doing it. It's just so core to your beliefs that it doesn't need to be done consciously.

Tim: I think that's a fair statement.

Ann: Do you have any reading recommendations for compliance professionals who are trying to do their jobs better, or maybe trying to work on their careers?

Tim: There are lots of really good books out there and a couple that I have read that I would recommend to anybody, whether it's a Chief Compliance Officer, a cashiering clerk, or a new broker. There are two books that I read that were just absolutely phenomenal. One is *Grinding It Out: The Making of McDonald's* by Ray Kroc who built McDonald's. The other is *Made in America* by Sam Walton who built Wal-Mart. Those two books help you understand building the corporate culture of team and, at the same time, helping people understand the importance of the little things. Those are older books; they've been out there for a while. I read them a long time ago, but as I look back, those would be the two books that I would suggest to anybody.

Ann: One of my favorite reading recommendations for CCOs is the *Harvard Business Review*. It speaks directly to your thoughts on developing critical skill sets and strategic planning tools.

Historically you have been a broker/dealer and now you have expanded into the investment management side. How have you found that basic building blocks of the two regulatory regimes differ?

Tim: Well, actually it's really been kind of a slow progression for us. It really started with a

couple of brokers in our home office, in Atlanta, who made a decision that they wanted to completely change their business model to where they were doing seminars to educate people on different investment products. Your traditional broker, or at least the ones that I knew, really never tried to handle all of a person's assets. He handled their stocks, or maybe their stocks and bonds and what's happening with a lot of our reps right now and it started out with just a couple of them, is they're really transitioning over to being wealth management consultants. They are prospecting for people who are looking for someone who can help them with their real estate investments, help them with their insurance needs, help them with their overall investment portfolio. And I think in actuality, it's a lot of work. There is a large amount of education that they have to put themselves through to go through that transition. Because it's a very wide breadth of knowledge, compared to just knowing about stocks. What I'm seeing from the guys that I've watched make this transfer, is a whole lot more satisfaction about their role with their clients.

Ann: They become a different kind of service. I can understand how that can be more satisfying.

Tim: You see it in their faces. It's very, very interesting. In fact, my son graduates in 9 days from the University of Georgia and his senior paper for his business class was actually written about this evolution. And he did it in a general fashion, but he wrote the paper based on what happened with the guys in our home office here in Atlanta and the transition that they've made from being the more traditional stock broker to more of the financial consultant. In fact, he likes it so much that he's going to work for those guys after he graduates.

Ann: Has the investment management side become interesting to other people in your shop?

Tim: Yes, in fact we've hosted a few conferences in Atlanta. We've brought in people that have shown interest in some of the other products, whether its real estate investment trusts or mutual funds, annuities or different insurance products. We brought them in and had a number of vendors speak including my branch manager in Atlanta, to run one of his client seminars the night before the seminar. People walk out saying, "we have got to learn how to do this." There is a big gap in knowledge that has to be made up and which is actually one of the things my son is hoping to do. Over the next year, he's hoping to gain enough knowledge to where he can actually start traveling to some of my outside offices and start helping some of the outside offices start to develop that business. There's a lot more demand for it than we have the capability to service right now.

Ann: The regulation on the investment management side tends to be more philosophy-based instead of a straight rules-based regulatory structure. How does that impact the compliance service you're providing to them?

Tim: For the guys that are making that transition and going that direction, the regulatory side has really not been an issue for them. The challenge for them is having enough knowledge to feel comfortable to start the conversation with the client. It's been interesting to watch, because now, my Atlanta office has gone to that type of a business approach.

Ann: Over what period of time has this transitioned?

Tim: About two years.

Ann: Wow, that's fast.

Tim: You know, it's funny that you say that. I think that's a long time.

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