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# **Corporate and White Collar Crime**

## **Cases and Materials**

**Fourth Edition**

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# Preface

Despite its familiar ring, the term “white collar crime” is dauntingly difficult to define. Edwin Sutherland, who first coined the term in 1939, developed a construct that relied on the social status of the offender and the circumstances surrounding the crime as the relevant points of reference. As the concept evolved over the years, the focus shifted away from the offender to the nature of the offense, the locus of the wrong, or the means used to commit it. Nevertheless, decades of academic debate have neither resolved the threshold definitional issue nor provided a coherent organizing principle.

Notwithstanding the vagaries of defining the subject, white collar crime has become a growth industry in the wake of Enron and is fast becoming an established part of the law school curriculum.

This book endeavors to provide a theoretical and policy framework for considering the respective roles of institutional and individual responsibility and for systematically examining the principal federal statutes prosecutors rely on to prosecute corporate and white collar crime. In addition to relying on reported cases as vehicles for discussion, the book uses problems, case studies, and other similar materials to illustrate the context within which the issues are framed. The fourth edition nonetheless maintains a strong focus on substantive criminal law. And because statutes are the organizing principle of the course, the book is designed to be used with the companion statutory supplement.

While the similarities between this edition and its predecessors are greater than the differences, recent developments have dictated some changes in emphasis and coverage. Most notably, the Supreme Court’s decision in *United States v. Booker*, which invalidated the Federal Sentencing Guidelines’ reliance on mandatory sentencing ranges, necessitated some major restructuring of the materials in Chapter 14, Sanctions. In addition to other major case updates, highlights of additions to the fourth edition include case studies and related materials derived from the recent prosecutions of Arthur Andersen, Martha Stewart, Enron CEO Ken Lay, and WorldCom CEO Bernie Ebbers, among others.

As was true of the earlier editions, for the sake of brevity and clarity I have omitted some footnotes and citations and eliminated most parallel citations without indication.

Footnotes that were retained are renumbered consecutively throughout each chapter. Explanatory footnotes that I added to cases and other quoted material are identified by the legend “— ED.” And unless otherwise specified, citations to the United States Code that I have supplied are citations to the current Code.

*Kathleen F. Brickey*

February 2006

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United States Attorney's Office, Southern District of New York, Insider Trading Prosecutions in the Southern District of New York.

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# Summary of Contents

<i>Contents</i>	<i>xi</i>
<i>Preface</i>	<i>xxvii</i>
<i>Acknowledgments</i>	<i>xxix</i>
<b>1. Corporate Criminal Liability</b>	<b>1</b>
<b>2. Personal Liability in an Organizational Setting</b>	<b>41</b>
<b>3. Conspiracy</b>	<b>59</b>
<b>4. Mail Fraud</b>	<b>91</b>
<b>5. Securities Fraud</b>	<b>155</b>
<b>6. False Statements</b>	<b>213</b>
<b>7. Perjury and False Declarations</b>	<b>257</b>
<b>8. Obstruction of Justice</b>	<b>307</b>
<b>9. Bribery of Public Officials</b>	<b>375</b>
<b>10. RICO</b>	<b>425</b>
<b>11. Tax Fraud</b>	<b>507</b>
<b>12. Currency Reporting Crimes and Money Laundering</b>	<b>547</b>
<b>13. Environmental Crimes</b>	<b>603</b>
<b>14. Sanctions</b>	<b>661</b>
<i>Table of Cases</i>	<i>743</i>
<i>Table of Statutes</i>	<i>749</i>
<i>Index</i>	<i>751</i>

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# Contents

<i>Preface</i>	xxvii
<i>Acknowledgments</i>	xxix

## 1

---

<b>Corporate Criminal Liability</b>	<b>1</b>
I. Introduction	1
<i>New York Central &amp; Hudson River     Railroad v. United States</i>	1
Notes and Questions	3
Francis T. Cullen, William J. Maakestad, and Gary Cavender, Corporate Crime Under Attack	3
Notes and Questions	5
U.S. Department of Justice Guidance, Federal Prosecution of Corporations	5
Notes and Questions	8
Kathleen F. Brickey, Enron's Legacy	8
Notes and Questions	11
<i>United States v. C. R. Bard, Inc.</i>	12
Notes and Questions	17
II. The Respondeat Superior Rule	18
A. Criminal Acts	18
<i>Commonwealth v. Beneficial Finance Co.</i>	18
Notes and Questions	21



	<i>People v. Lessoff &amp; Berger</i>	22
	Notes and Questions	24
	<i>United States v. Hilton Hotels Corp.</i>	24
	Notes and Questions	26
B.	Criminal Intent	27
	<i>United States v. Bank of New England, N.A.</i>	27
	Notes and Questions	31
III.	The Model Penal Code Rule	32
	Section 2.07 Liability of Corporations, Unincorporated Associations and Persons Acting, or Under a Duty to Act, in Their Behalf	32
	<i>State v. Chapman Dodge Center, Inc.</i>	34
	Notes and Questions	36
	<i>State v. Christy Pontiac-GMC, Inc.</i>	37
	Notes and Questions	39
	Note on Corporate Structure	39
	Kathleen F. Brickey, Rethinking Corporate Liability Under the Model Penal Code	39

## 2

---

### Personal Liability in an Organizational Setting 41

I.	Introduction	41
II.	Direct Participants	41
	<i>United States v. Wise</i>	41
	Notes and Questions	43
	Sanford H. Kadish, Some Observations on the Use of Criminal Sanctions in Enforcing Economic Regulations	43
	Notes and Questions	44
	Note on Accomplice Liability	44
	Problem 2-1	44
III.	Responsible Corporate Officers	45
	<i>United States v. Park</i>	46
	Notes and Questions	52
	Problem 2-2	53
	Problem 2-3	53
	Problem 2-4	53
	<i>United States v. Jorgensen</i>	54
	Notes and Questions	57
	Note on Fines and Indemnification	57
	Notes and Questions	58

---

**3**

	<b>Conspiracy</b>	<b>59</b>
I. Introduction		59
II. The Plurality Requirement		60
<i>United States v. Stevens</i>		61
Notes and Questions		63
<i>United States v. Hughes Aircraft Co.</i>		64
Notes and Questions		66
III. Knowing Participation		66
<i>United States v. Furkin</i>		67
Notes and Questions		70
<i>United States v. Misle Bus &amp; Equipment Co.</i>		70
Notes and Questions		71
Note on Scope of Conspiracy		71
IV. The Object Offense		72
<i>United States v. Arch Trading Co.</i>		73
Notes and Questions		75
<i>United States v. Licciardi</i>		76
Notes and Questions		83
V. Withdrawal and Termination		83
<i>United States v. Steele</i>		83
Notes and Questions		87
Problem 3-1		87
<i>United States v. Jimenez Recio</i>		88
Notes and Questions		90

---

**4**

	<b>Mail Fraud</b>	<b>91</b>
I. Introduction		91
II. Schemes to Defraud		92
A. Intent to Defraud		92
<i>United States v. Hawkey</i>		92
Notes and Questions		94
Note on Fraud and False Pretenses		94
Problem 4-1		95
Note on Materiality		95
<i>Lustiger v. United States</i>		96
Notes and Questions		98
Problem 4-2		98
B. Protected Interests		99
<i>United States v. George</i>		99
Notes and Questions		103

	<i>Carpenter v. United States</i>	103
	Notes and Questions	106
	<i>Cleveland v. United States</i>	106
	Notes and Questions	112
	<i>Pasquantino v. United States</i>	112
	Notes and Questions	117
	<i>United States v. Czubinski</i>	118
	Notes and Questions	124
	<i>United States v. DeVegter</i>	125
	Notes and Questions	129
III.	Use of the Mails	129
	<i>Schmuck v. United States</i>	130
	Notes and Questions	134
	<i>United States v. Sampson</i>	134
	Notes and Questions	136
	Note on Proof of Mailing	136
IV.	Mail and Wire Fraud Affecting a Financial Institution	137
	<i>United States v. Bouyea</i>	137
	Notes and Questions	139
V.	Statutes Prohibiting Specific Frauds	139
A.	Bank Fraud	139
	<i>United States v. Doke</i>	140
	Notes and Questions	143
	<i>United States v. Reaume</i>	143
	Notes and Questions	145
B.	Computer Fraud	146
	<i>United States v. Middleton</i>	146
	Notes and Questions	152
	<i>United States v. Czubinski</i>	152
	Notes and Questions	154

## 5

---

	<b>Securities Fraud</b>	<b>155</b>
I.	Introduction	155
II.	Willfulness	156
	<i>United States v. Weiner</i>	157
	Notes and Questions	162
III.	The “No Knowledge” Proviso	163
	<i>United States v. Lilley</i>	164
	Notes and Questions	167
IV.	Insider Trading	168
A.	The Evolving Doctrinal Rules	169
1.	Classical Theory	169
	<i>Chiarella v. United States</i>	169
	Notes and Questions	174

**Contents****xv**

2. Misappropriation Theory	174
<i>United States v. O'Hagan</i>	174
Notes and Questions	179
3. Tipper/Tippee Theory	179
<i>Dirks v. Securities and Exchange Commission</i>	179
Notes and Questions	183
Problem 5-1	184
<i>United States v. Chestman</i>	184
Notes and Questions	189
Note on Rule 10b5-2	190
Notes and Questions	190
4. Knowing Possession	191
<i>United States v. Teicher</i>	191
Notes and Questions	194
Note on Rule 10b5-1	194
Notes and Questions	196
Problem 5-2	196
5. Materiality	196
Problem 5-3	197
B. The Human Dimension of the Wall Street Insider Trading Scandal	198
1. Wall Street's Army of Insiders	198
2. Insider Trading Prosecutions in the Southern District of New York	198
V. Misrepresentation and Concealment	209
Case Study: <i>United States v. Stewart</i>	209
Notes and Questions	210
VI. Securities Fraud Prosecutions Under the Sarbanes-Oxley Act	211
Notes and Questions	212

**6**


---

	<b>False Statements</b>	<b>213</b>
I. Introduction		213
II. Jurisdiction		214
	<i>United States v. Rodgers</i>	214
	<i>United States v. Wright</i>	217
	Notes and Questions	219
	<i>United States v. Steiner Plastics Manufacturing Co.</i>	219
	Notes and Questions	220
III. Department or Agency		221
	<i>United States v. McNeil</i>	221
	Notes and Questions	224
	<i>United States v. Pickett</i>	224
	Notes and Questions	226

IV. False Statements	227
A. False Promises	227
<i>United States v. Shah</i>	227
Notes and Questions	231
B. “Exculpatory No’s”	231
<i>Brogan v. United States</i>	231
Notes and Questions	236
C. Materiality	236
Problem 6-1	236
V. Culpable Mental State	237
<i>United States v. Yermian</i>	237
<i>United States v. Green</i>	241
Notes and Questions	243
VI. Multiple Punishment	243
<i>United States v. Ramos</i>	243
Notes and Questions	245
VII. Related Theories of Liability	245
A. Procurement Fraud	245
<i>United States v. Brooks</i>	245
Notes and Questions	249
<i>United States v. Sain</i>	249
Notes and Questions	250
B. False Claims	251
<i>United States v. Maher</i>	251
Notes and Questions	254
C. Certification of Corporate Financial Reports	254
Notes and Questions	255

## 7

---

	<b>Perjury and False Declarations</b>	<b>257</b>
I. Introduction		257
II. Making Material False Statements		257
<i>Bronston v. United States</i>		257
Notes and Questions		261
Problem 7-1		261
<i>United States v. Walser</i>		262
Notes and Questions		266
III. The Two-Witness Rule		266
<i>United States v. Davis</i>		267
Notes and Questions		270
Note on Inconsistent Declarations		270
Problem 7-2		270
IV. The Recantation Defense		271
<i>United States v. Sherman</i>		271
Notes and Questions		278

	Note on Competent Tribunals and Ancillary Proceedings	280
V.	Immunized Testimony	281
	<i>United States v. Apfelbaum</i>	281
	Notes and Questions	285
VI.	Perjury by Government Witnesses	286
	Case Study: <i>United States v. Stewart</i>	286
	<i>United States v. Stewart</i> (Opinion of the Court)	286
	<i>United States v. Stewart</i> (Indictment)	287
	<i>United States v. Stewart</i> (Opinion of the Court)	295
	Notes and Questions	298
	Verdict Form: <i>United States v. Stewart</i>	299
	TABLE 7-1: Jury Findings Against Martha Stewart	302
	TABLE 7-2: Jury Findings Against Peter Bacanovic	304

## 8

---

	<b>Obstruction of Justice</b>	<b>307</b>
I.	Introduction	307
II.	Pending Judicial Proceedings	307
	<i>United States v. Simmons</i>	309
	Notes and Questions	312
	<i>United States v. Lundwall</i>	313
	Notes and Questions	317
III.	Endeavoring to Influence or Impede	318
	<i>United States v. Collis</i>	318
	Notes and Questions	321
	<i>United States v. Griffin</i>	321
	Notes and Questions	325
	Problem 8-1	325
	<i>United States v. Aguilar</i>	326
	Notes and Questions	330
	<i>United States v. Cintolo</i>	330
	Notes and Questions	334
	Problem 8-2	335
	Note on Lawyer Liability	336
	Notes and Questions	337
IV.	The Victim and Witness Protection Act	337
A.	Noncoercive Witness Tampering	338
	1. Section 1503: The Omnibus Clause	338
	<i>United States v. Lester</i>	338
	Notes and Questions	342
	2. Section 1512: Corrupt Persuasion	342
	<i>Arthur Andersen LLP v. United States</i>	342
	Notes and Questions	347

Note on Evidence Tampering and Document Destruction	348
Destruction or Alteration of Records in Federal Investigation	349
Notes and Questions	350
Destruction of Corporate Audit Records	350
Notes and Questions	351
3. Section 1512: Misleading Conduct	351
<i>United States v. Gabriel</i>	351
Notes and Questions	356
4. Section 1512: Harassment	356
<i>United States v. Wilson</i>	356
Notes and Questions	358
5. Tampering with Records or Otherwise Impeding an Official Proceeding	358
Notes and Questions	359
B. Coercive Witness Tampering	359
<i>United States v. Willard</i>	359
Notes and Questions	360
Note on Retaliation Against Witnesses and Informants	360
Notes and Questions	361
V. The Fifth Amendment Privilege	361
A. The Act of Production Doctrine	361
Notes and Questions	364
B. The Enron Investigation	364
Case Study: <i>SEC v. Lay</i>	364
Memorandum of the Securities and Exchange Commission in Support of Its Application for Orders to Show Cause, for an <i>In Camera</i> Review, and Requiring Obedience to Subpoena	365
Reply of the Securities and Exchange Commission in Support of Its Application for Order Requiring Obedience to Subpoena	370
Stipulation and Order Requiring Production of Records	373

## 9

---

<b>Bribery of Public Officials</b>	<b>375</b>
I. Introduction	375
II. Bribery of Public Officials	376
A. Official Acts	376
<i>United States v. Parker</i>	376

	Notes and Questions	378
	<i>United States v. Arroyo</i>	378
	Notes and Questions	381
B.	Motive and Intent	381
	<i>United States v. Sun-Diamond Growers of California</i>	381
	Notes and Questions	385
	<i>United States v. Anderson</i>	386
	Notes and Questions	388
C.	Thing of Value	389
	<i>United States v. Williams</i>	389
	Problem 9-1	390
D.	Public Officials	390
1.	Appointed Officials	391
	<i>Dixson v. United States</i>	391
	Notes and Questions	395
2.	Elected Officials	395
	<i>United States v. Brewster</i>	395
	Notes and Questions	401
E.	Cooperating Witnesses	401
	<i>United States v. Ware</i>	401
	Notes and Questions	405
III.	Federal Program Bribery	406
	<i>Salinas v. United States</i>	406
	Notes and Questions	409
	<i>United States v. DeLaurentis</i>	409
	Notes and Questions	411
	<i>Sabri v. United States</i>	412
	Notes and Questions	415
	<i>United States v. Copeland</i>	416
	Notes and Questions	419
IV.	Extortion Under Color of Official Right	419
	<i>Evans v. United States</i>	419
	Notes and Questions	424

## 10

	<b>RICO</b>	<b>425</b>
I.	Introduction	425
II.	The Enterprise	425
	<i>United States v. Turkette</i>	426
	Notes and Questions	429
	Problem 10-1	429
	<i>National Organization for Women v. Scheidler</i>	430



	Notes and Questions	433
	Note on Interstate Commerce Requirement	433
III.	Pattern of Racketeering Activity	435
A.	The Pattern Requirement	435
	<i>H.J., Inc. v. Northwestern Bell Telephone</i>	436
	Notes and Questions	442
B.	State Predicate Crimes	443
	<i>United States v. Garner</i>	443
	Notes and Questions	447
	Problem 10-2	447
	Note on the Dual Sovereignty Doctrine	447
IV.	Relationship Between Person and Enterprise	448
	<i>Reves v. Ernst &amp; Young</i>	448
	Notes and Questions	452
	Problem 10-3	452
	<i>McCullough v. Suter</i>	453
	Note on Relational Elements	454
V.	RICO Conspiracies	455
	<i>Salinas v. United States</i>	455
	Notes and Questions	457
VI.	Asset Forfeiture	458
A.	Forfeitable Interests	458
	<i>United States v. Simmons</i>	458
	Notes and Questions	462
	<i>United States v. Rubin</i>	463
	Notes and Questions	466
B.	Third-Party Interests	466
	<i>United States v. BCCI Holdings</i>	467
	Notes and Questions	471
C.	Attorneys' Fees	472
	<i>Caplin &amp; Drysdale v. United States</i>	473
	Notes and Questions	476
	<i>United States v. Moffitt, Zwerling &amp; Kemler, P.C.</i>	476
	Notes and Questions	480
D.	Constitutional Limits	482
1.	Alexander	482
	<i>Alexander v. United States</i>	482
2.	Alexander II	484
3.	Alexander III	484
	<i>United States v. Alexander (Alexander III)</i>	485
	Notes and Questions	486
VII.	Civil Liability	486
A.	Injury to Business or Property	487
	<i>Sedima, S.P.R.L. v. Imrex Co.</i>	487
	Notes and Questions	491
	<i>Libertad v. Welch</i>	491
	Notes and Questions	494