

25th Annual National Institute on White Collar Crime

**March
2-4, 2011**

San Diego Marriott
Hotel and Marina
San Diego, CA



Presented by

**The American Bar Association
Criminal Justice Section
and the ABA Center for
Continuing Legal Education
in cooperation with the General
Practice, Solo & Small Firm
Division and the
Young Lawyers Division**

25th Annual National Institute on White Collar Crime

March 2-4, 2011 | San Diego Marriott Hotel and Marina | San Diego, CA

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Description of Proceedings

The 2011 White Collar Crime National Institute will take place March 2-4, 2011, for the twenty fifth consecutive year, with a return to San Diego. Last year, attendance exceeded 1,250 at this annual gathering of the national white collar bar. The Institute proudly continues to present outstanding panelists who deal with some of the most significant issues of our time.

Over the past two decades, this Institute has been attended by federal and state judges and prosecutors, other law enforcement officials, defense attorneys, corporate in-house counsel and members of the academic community. The faculty regularly includes some of the leading members of the white collar bar in the United States and abroad. Among the audience are nationally renowned lawyers as well as many who are beginning to concentrate in the white collar area. The Institute is known for the exceptional quality of its publication, the panelists' presentations, the valuable updates on new developments and strategies, as well as the rare opportunity to meet colleagues in this field, renew acquaintances and exchange ideas. This year, we will once again present a panel for newer practitioners on March 2 in the afternoon, with an emphasis on building a white collar criminal practice.

The 2011 keynote panels will focus on the most significant fraud trials of the past year, as well as a discussion of the ethical obligations of white collar lawyers. The Institute will have excellent representation from the corporate sector, including representatives from Prudential Financial Services, Pfizer, Morgan Stanley, International Paper Company and Schlumberger. The Institute will also include senior members of the Department of Justice, prosecutors and distinguished members of the federal judiciary.

Program Focus

- ◆ Recent Trials
- ◆ The Ethical Line Between Advocacy and Obstruction
- ◆ Sentencing in White Collar Cases
- ◆ The Honest Services Fraud Doctrine
- ◆ Proffers, Queen for a Day and the Fifth Amendment
- ◆ Global Internal Investigations
- ◆ Defending Ponzi Scheme Cases
- ◆ Data Mining on Social Networking Sites
- ◆ Motions Practice in Criminal Cases
- ◆ Legal Challenges Presented During Corporate Crises

Substantive Topics

- ◆ Foreign Corrupt Practices Act Enforcement
- ◆ Securities Fraud Enforcement
- ◆ Money Laundering and Asset Forfeiture
- ◆ Criminal Antitrust Enforcement
- ◆ Environmental Criminal Enforcement
- ◆ Criminal Tax Fraud
- ◆ Mortgage Fraud
- ◆ Health Care Fraud
- ◆ Public Corruption
- ◆ Sanctions and Export Controls

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Program Agenda

Wednesday ■ March 2, 2011

11:00 a.m. Registration

2:30 p.m. Fundamentals of White Collar Investigations

This panel will address some of the fundamental questions faced by white collar criminal practitioners, including the prosecutor's decision to indict, distinguishing between similarly situated defendants, the role of defense counsel in pre- and post-indictment negotiations, trial strategy and sentencing, and the limits of aggressive accounting, marketing, and tax planning.

Jodi L. Avergun, Moderator
Matthew W. Friedrich
David Gerger
Hon. Melinda Haag
David B. Pitofsky

4:30 p.m. Session Concludes

6:00 p.m. Young Lawyers Reception

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TransPerfect Legal Solutions

Thursday ■ March 3, 2011

8:00 a.m. Registration

9:00 a.m. Welcoming Remarks

Raymond Banoun, Chair of the Institute

9:15 a.m. Lessons Learned from Recent Trials

Panelists will analyze some of the key pre-indictment, jury selection, evidentiary and tactical decisions and issues that arose in recent cases, including Karatz (option backdating), WebMD (financial statement fraud) and *U.S. v. Petters* (Ponzi scheme).

Ronald J. Nessim, Moderator
Joseph T. Dixon, III
John W. Kecker
John F. Lauro
Paul Stern

10:45 a.m. Coffee Break

11:00 a.m. Breakout Session I

A. Developments and Trends in Securities Fraud Enforcement

The panel will explore current topics and trends, including the increasingly active role of federal judges in reviewing SEC settlements, the increased focus on charging individuals, the impact of the Dodd-Frank whistleblower provisions and the debate over the value of credit for cooperation.

Pamela Chepiga, Moderator
Miguel A. Estrada
Christopher L. Garcia
Robert S. Khuzami
Noah B. Perlman

B. Big Cases: What to Do at the Beginning

Panelists will consider practical issues that arise, and options available, during investigations that are significant to a corporation, including responding to the execution of search warrants, the service of grand jury subpoenas requiring extensive searches, and catastrophic events and negative publicity that follow disclosures of such government actions.

Michael A. Collora, Moderator
Leslie R. Caldwell
Kevin M. Downing
Douglas M. Lankler
Laurence A. Urgenson

ETHICS

C. The Ethical and Legal Line Between Zealous Advocacy and Obstruction of Justice

This panel will explore the line between a legitimate defense to a criminal investigation and unethical or illegal conduct, and address such ethical issues as a client inquiry regarding document retention and disposal in the midst of a criminal investigation, and the discovery of stolen, falsified, or discoverable evidence.

Prof. Bruce Green, Moderator
Paul E. Coggins
Beong-Soo Kim
Prof. Ellen S. Podgor
Earl J. Silbert

D. The Foreign Corrupt Practices Act – Recent Developments

The panel will discuss recent prosecution and enforcement actions, future priorities, U.S. cooperation with foreign law enforcement authorities, the parameters for use of monitors, and the effectiveness of programs.

Peter B. Clark, Moderator
Charles E. Duross
Mark F. Mendelsohn
Monty Raphael
Cheryl J. Scarboro
Robert W. Tarun

E. Mortgage Fraud

Mortgage fraud and abuses of the foreclosure process continue to be top priorities of federal and state prosecutors. This panel will discuss recent enforcement strategies and trends, and successful defenses of individuals and institutions, as well as compliance steps to avoid significant harm.

John C. Hueston, Moderator
Dorothy C. Kim
Charles G. La Bella
Gary S. Lincenberg
Steven A. Tyrrell

12:30 p.m. White Collar Crime Committee Luncheon

Keynote Speaker: To be announced.

2:00 p.m. Breakout Session II

A. Public Corruption

This panel will explore the government's corruption priorities and the best methods for defending such cases. It also will analyze whether conflicts of interests are still prosecutable, and the Department's approach in light of the difficulty in convicting public officials at trial.

Joshua R. Hochberg, Moderator
Robert M. Cary
Patrick M. Collins
Laura A. Miller
Jack Smith

B. The Sentencing Guidelines – How Are They?

Panelists will discuss the weight courts give the new Sentencing Guidelines and other factors considered in determining sentences, and will offer advice on such critical issues as loss calculations.

Jane W. Moscovitz, Moderator
Amy Baron-Evans
William B. Carr, Jr.
James E. Felman
Nicholas C. Harbist

C. Global Internal Investigations

Both criminal conduct and criminal investigations and prosecutions regularly transcend international borders. The panelists will consider the opportunities and obstacles faced by prosecutors, in-house counsel and defense lawyers as they gather evidence and build prosecutions and defenses, including the use of foreign laws and procedures to one's advantage.

Alice S. Fisher, Moderator
Mitchell S. Ettinger
Shelly L. Goldklang
Andreas D. Länzlinger
Dianne Ralston

D. Ponzi Schemes – When There Is Nothing There

Panelists will consider issues presented during these challenging cases, including how to deal with the statutes that are commonly employed, pre-indictment obstacles raised by parallel proceedings, bankruptcy, forfeiture and receiverships, setting of bail, jury selection, and crafting viable defenses.

Vincent J. Marella, Moderator
Bruce A. Baird
Marc P. Berger
Janet I. Levine
Gary P. Naftalis

E. Antitrust Enforcement

Panelists will review recent developments and current enforcement priorities, and explore the issues that arise in connection with leniency applications, plea agreements, parallel prosecutions where multiple jurisdictions are involved, simultaneous criminal and civil proceedings and companion FCPA charges, as well as the impact on defense strategy of border watches, Interpol Red Notices, extradition requests, and lengthy limitations on travel as conditions of pre-trial release.

Gary R. Spratling, Moderator
Kathleen M. Beasley
Stephen B. Donovan
Scott D. Hammond
Ray V. Hartwell, III

3:15 p.m. Coffee Break

3:45 p.m.

Breakout Session III

A. Honest Services Fraud

This panel will analyze the future of the “honest services” theory following the Supreme Court’s decision in *Skilling*, including the way the government has responded to the Court’s narrowing of the scope of the statute, and the various proposed congressional “fixes.”

Prof. Julie R. O’Sullivan, Moderator
Raymond Banoun
Martha A. Boersch
Denis J. McInerney
Frank C. Razzano

B. Criminal Tax Fraud

This panel will highlight the government’s increased enforcement efforts targeting offshore accounts and financial institutions, the future of the voluntary disclosure program and the ethical issues involved in defending a criminal tax case.

Charles M. Meadows, Jr., Moderator
Kevin M. Downing
Robert S. Fink
Paula M. Junghans
Alka Sagar

C. Motions Practice in Criminal Cases

The group will discuss such topics as determining the appropriate pre-trial motion to file, considering alternative discovery avenues and parallel proceedings, FOIA options, and shaping the defense and trial by considering motions *in limine*, changes of venue, and bringing misconduct to the attention of the court where appropriate.

Morris Weinberg, Jr., Moderator
Sandra R. Brown
Michael B. Galvin
Kurt Stitcher
David M. Zinn

D. Data Mining Social Networking Sites: Investigative and Evidentiary Issues

In our high tech society, social networking sites are playing an ever-increasing role. These sites provide a means of connecting with others and sharing information, but also often contain detailed personal journals, photographs, and biographical information. In connection with a criminal case, such information may prove to be a gold mine for purposes of cross examination. Panelists will discuss ways to “data mine” social networking site information and the associated issues these may raise.

Sherri L. Schornstein, Moderator
Sergio D. Kopelev
Prof. Laurie L. Levenson
Hemanshu Nigam
Jonathan N. Rosen

E. Money Laundering and Asset Forfeiture

This panel will discuss the latest developments in money-laundering jurisprudence and the government’s use of these laws to supplement its prosecutions. Topics will include the filing of civil money laundering charges against financial institutions and the use of deferred prosecution agreements.

Gordon A. Greenberg, Moderator
Noreen M. Fierro
Keith Hennessey
Saverio Lembo
Jennifer Shasky Calvery

F. When Is It Worth the Risk? Proffers, Queen for a Day and Asserting the Fifth in Pre-Indictment Negotiations

Panelists will consider strategies associated with, and practical concerns when, giving proffers or declining to be interviewed by the government, including the types of assurances that defense counsel should seek and expect to receive, the value of Queen for a Day agreements, the extent of what a client should reveal at proffer sessions, and the perils and benefits of asserting the Fifth Amendment privilege.

Ann M. Mason, Moderator
Todd P. Graves
Hon. A. Howard Matz
Deirdre M. McEvoy
Alexandra Walsh

5:00 p.m. **Adjourn**

5:00 p.m. **White Collar Crime Committee Meeting**

6:30 p.m.- **Cocktail Reception**

8:30 p.m. **Sponsored by:**

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Friday ■ March 4, 2011

9:15 a.m.

ETHICS

**Witness Discovery and
Witness Preparation in
White Collar Criminal
Cases – At What Cost
Winning?**

This panel will examine the ethical and legal considerations that confront both the prosecution and defense in the drive to win federal criminal cases, including such issues as the impact of high profile cases on arriving at a fair prosecution determination, acceptable and not acceptable actions during the charging process, responding to Brady and discovery requests, the reciprocal defense discovery obligation, challenges in witness preparation, deciding whether to call the defendant as witness, and other guerilla trial tactics.

Michael S. Pasano, Moderator
Hon. Andre Birotte, Jr.
Hon. Paul D. Borman
Mark Filip
Hon. Paul J. Fishman
Nina Marino

11:00 a.m. **Coffee Break**

11:15 a.m. **Breakout Session IV**

**A. Economic Sanctions and Export
Controls**

The panel will discuss developments in the criminal investigation and prosecution of export controls and economic sanctions cases, and focus on the intersection of state and federal enforcement, jurisdictional and other defenses, and the need for internal compliance programs.

Nicolas Bourtin, Moderator
Adam Kaufmann
Ronald I. Meltzer
Jaikumar Ramaswamy
Sara L. Satten
Joe D. Whitley

**B. Rising Trends in Health Care
Fraud and Enforcement**

Panelists will explore the government's recent focus on various industry practices, the new self-disclosure rules, the sentencing enhancements under the Patient Protection and Affordable Care Act, and the marked increase in foreign corruption cases involving the pharma and medical device sectors.

Karen A. Popp, Moderator
Benjamin N. Gluck
Keith D. Krakaur
Philip Urofsky
Hank B. Walther

**C. Environmental Crime: A New
Priority**

The panel will consider the Justice Department's criminal investigation of the April 2010 BP Deepwater Horizon oil spill in the Gulf, which highlights questions about the boundaries of Clean Water Act negligence charges, the scope of the Responsible Corporate Officer doctrine, the applicability of the Alternative Fines Act, and suspension and debarment.

Joseph G. Block, Moderator
Marc R. Greenberg
Mark D. Hopson
Stacey H. Mitchell
Ronald A. Sarachan

1:00 p.m. **Conference Concludes**

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Early Bird Rates (Valid Through February 2, 2011)

- \$1,285 General Public
- \$1,185 ABA Member
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- \$500 Government Attorneys

Standard Rates (After February 2, 2011)

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In-Person Registration

If you plan to register in person, please call the ABA at least 24 hours in advance to confirm that the program is being held as scheduled and that space is available. Cash payments will not be accepted.

Sponsorship Opportunities

For information on sponsorship opportunities, please contact **Courtney Anderson at 312.988.6210.**

Cancellations

Cancellations received 5 business days or more before the program will receive a 100% refund, less a \$50 cancellation fee. No refunds will be provided for cancellations after that date; however, substitute registrants are welcome at any time. To cancel your registration or substitute another individual, please call the ABA Service Center at 800.285.2221 or fax your request to 312.988.5850. Registrants who do not cancel within the allotted time period and who do not attend the program will receive a copy of the program course materials after the program.

Program Confirmation

Written confirmation of your registration will be sent to you upon receipt. Please take it with you to the National Institute as proof of registration. If you do not receive the confirmation notice prior to the presentation, please call the ABA at least 24 hours in advance to confirm that your registration was received and the program is being held as scheduled.

Hotel Information

San Diego Marriott Hotel and Marina

333 West Harbor Drive
San Diego, CA 92101
Reservations: 800.266.9432
Fax: 619.234.8678
Room Rate: \$259

All room rates are subject to city occupancy and sales tax.

Mention the ABA's 25th Annual National Institute on White Collar Crime to receive the special discounted rate.

Airline Information

Discounted airfares are available from ABA Orbitz for Business including ABA negotiated discounts on American and United. To book online, go to www.abanet.org/travel, and click under the Orbitz for Business logo at the top of the page; then click on the appropriate link in the Self Paid Travel box. For assistance with online or offline reservations, call toll free 1.877.222.4185.

Discounts can also be obtained directly from the carrier. American Airlines: Call 800-433-1790, code A1911SS; United Airlines: Call 800-521-4041, code 578IG.

Standing Committee On Continuing Legal Education

Under the guidance of the Standing Committee on Continuing Legal Education, the Center for Continuing Legal Education administers and produces National Institutes, teleconferences, webinars, other technology-based offerings, and written course materials to assist lawyers with their continuing legal education efforts.

David W. Hilgers, Chair
Brown McCarroll, L.L.P., Austin, TX

ABA Center for Continuing Legal Education

Jill Eckert McCall, Director
Earnestine Murphy, Associate Director

Registration and Order Form

The 25th Annual National Institute on White Collar Crime

March 2-4, 2011 | San Diego Marriott Hotel and Marina | San Diego, CA

Tuition

Early Bird Rates (Valid Through February 2, 2011)

- \$1,285 General Public
- \$1,185 ABA Member ABA # _____
- \$1,025 ABA Criminal Justice Section, General Practice, Solo & Small Firm Division and Young Lawyers Division Members
- \$500 Government Attorneys
- Course materials will be provided via flash drives unless otherwise requested. Check this box to receive course materials via printed book.

Standard Rates (After February 2, 2011)

- \$1,475 General Public
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- \$1,180 ABA Criminal Justice Section, General Practice, Solo & Small Firm Division and Young Lawyers Division Members
- \$575 Government Attorneys
- Course materials will be provided via flash drives unless otherwise requested. Check this box to receive course materials via printed book.
- \$50 White Collar Crime Committee Luncheon (All registrants welcome. Ticketed Event. Space is limited.)
- Young Lawyers Reception
March 2 at 6:00 P.M.
- White Collar Committee Meeting
March 3, at 5:00 P.M.

Please check one workshop for each day and time slot.

Breakout Session I ■ Thursday ■ 11:00 a.m.

- A. Developments and Trends in Securities Fraud Enforcement
- B. Big Cases: What to Do at the Beginning
- C. The Ethical and Legal Line Between Zealous Advocacy and Obstruction of Justice **ETHICS**
- D. The Foreign Corrupt Practices Act – Recent Developments
- E. Mortgage Fraud

Breakout Session II ■ Thursday ■ 2:00 p.m.

- A. Public Corruption
- B. The Sentencing Guidelines – How Advisory Are They?
- C. Global Internal Investigations
- D. Ponzi Schemes – When There Is Nothing There
- E. Antitrust Enforcement

Breakout Session III ■ Thursday ■ 3:45 p.m.

- A. Honest Services Fraud
- B. Criminal Tax Fraud
- C. Motions Practice in Criminal Cases
- D. Data Mining Social Networking Sites: Investigative and Evidentiary Issues
- E. Money Laundering and Asset Forfeiture
- F. When Is it Worth the Risk? Proffers, Queen for a Day and Asserting the Fifth in Pre-Indictment Negotiations

Breakout Session IV ■ Friday ■ 11:15 a.m.

- A. Economic Sanctions and Export Controls
- B. Rising Trends in Health Care Fraud and Enforcement
- C. Environmental Crime: A New Priority

ABA Membership

- Send me information and membership forms.

Section Membership (Must be an ABA Member)

- Enroll me in the Criminal Justice Section. Enclosed is a separate check for \$45.
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To Register and Order:



Online: Visit our secured Web site at www.abanet.org/cle/programs/wcc (credit card only)



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FAX: 312.988.5850 (credit card only) **must include**

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Order below or online at www.abacatalog.org

- Send me the audio CD-ROM (CD-ROMs and course materials—CEN11WCCDR) available three weeks following the presentation for \$1,475 for General Public, \$1,355 for ABA Members, \$1,180 for Criminal Justice Section, General Practice, Solo & Small Firm Division and Young Lawyers Division Members, plus \$18.95 for domestic shipping and handling.
- Send me the Course Materials (CEN11WCCOR) for \$250 for General Public, \$230 for ABA Members, \$205 for Criminal Justice Section, General Practice, Solo & Small Firm Division and Young Lawyers Division Members, plus \$12.95 for domestic shipping and handling.

Illinois residents, add 9.75% sales tax; District of Columbia residents, add 6.0% use tax. Price is subject to change after 3/4/11.



American Bar Association
Center for Continuing Legal Education
321 N. Clark Street, Suite 1900
Chicago, Illinois 60654-7598

Register for the 25th Annual National Institute on White Collar Crime

March 2-4, 2011

To register or for additional information,
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National Institute on the

Gaming Law Minefield

February 24-25, 2011

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www.abanet.org/cle/programs/glm

3rd Annual

National Institute on

Internal Corporate Investigations and Forum for In-House Counsel

May 4-6, 2011

New York, NY

www.abanet.org/cle/programs/ici

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