

WHITE COLLAR CRIME

Samuel A. Perroni, Adjunct Professor
Fall 2009

CLASSES: Tuesday, Thursday and Friday 9:50 -10:45am

OFFICE HOURS: Upon Request/Appointment
sperroni@perronilaw.com
H - 868-6483; O- 372-2070

- Required Texts: O'SULLIVAN, FEDERAL WHITE COLLAR CRIME, FOURTH EDITION;
O'SULLIVAN, STATUTORY SUPPLEMENT
("Statutory Supplement" can be found at www.federalwhitecollarcrime.org);
- Optional Text: FEDERAL SENTENCING GUIDELINES MANUAL
("U.S.S.G.")
[This text is optional because you can use the manual that is available online at www.ussc.gov.]

WHITE COLLAR CRIME COURSE OUTLINE

1. **Friday, August 21**
 - A. Class Organization
 - B. Definition and Characteristics of White Collar Crime Practice

Readings:
Casebook:
Chapter, Introduction, Pp. 1-7; 32-52.

2. **Tuesday, August 25**
 - A. Definition and Characteristics of White Collar Crime Practice (cont'd)

Readings:
Casebook:
Chapter 2, Mens Rea, Pp. 53-75.

TWEN Course Materials:
Read for discussion:
United States v. Jain, 93 F.3d 436, 440 (8th Cir. 1996)

3. **Thursday, August 27**

A. Definition and Characteristics of White Collar Crime Practice (cont'd)

Readings:

Casebook:

Chapter 2, Mens Rea, Pp. 76-86; 94-104.

TWEN Course Materials:

Read for discussion:

United States v. Fitts Indictment

Flores-Figueroa v. United States, 2009 WL 1174852, 556 U.S.

____ (2009)

(The "Act") *United States v. Brown*, 763 F.2d 984 (8th Cir. 1985)

4. **Friday, August 28**

A. The Indictment and Information

1. Pleading Practice

2. Duplicity

Readings:

Casebook

Chapter 5, Pp. 321-322

Statutory Supplement

Federal R. Crim. Pro. 7

TWEN Course Materials:

Read for discussion:

***Russell v. United States*, 369 U.S. 749-754 and 762-766 (1962).

***United States v. Duncan*, 850 F.2d 1104-1115 (6th Cir. 1988).

***Hambling v. United States*, 418 U.S. 87, 117 (1974).

***United States v. Trammell*, 133F.3d 1343, 1354-1356 (10th Cir. 1998)

United States v. Seddens Second Superceding Indictment (Count One Only)

** Read facts and pages noted only.

5. **Tuesday, September 1**

A. The Indictment and Information (cont'd)

Readings:

Casebook:

Chapter 14, Bill of Particulars, p. 816 n.4.

Statutory Supplement:

Fed. R. Crim. Pro. 7(f)

TWEN Course Materials:

Read for Discussion:

United States v. Bortnovsky, 820 F.2d 572 (2nd Cir. 1987)

United States v. Yielding Second Superseding Indictment

6. **Thursday, September 3**

A. The Indictment and Information (cont'd)

1. Duplicity (cont'd)
2. Jury Instructions
3. Theory of Defense

Readings:

TWEN Course Materials:

Read for discussion:

United States v. Braulio Pereyra-Gabino,
563 F.3d 322 (8th Cir. 2009)

United States v. Apel, 247 F. 2d 277 (8th Cir. 1957)

Defense Theory Jury Instruction

☞ Prepare Theory of Defense Instruction¹

7. **Friday, September 4**

A. Entity Liability

Readings:

Casebook:

Chapter 4, Entity Liability, Pp. 149-181

8. **Tuesday, September 8**

A. Entity Liability (cont'd)

¹ 5 Points; Professor to provide case summary in class.

Readings:

Casebook:

Chapter 4, Entity Liability, Pp 181-195

9. **Thursday, September 10**

A. Entity Liability (cont'd)

Readings:

Casebook:

Chapter 4, Entity Liability, Pp 246-266

10. **Friday, September 11**

A. Federal Mail and Wire Fraud

1. Elements of Mail and Wire Fraud

(a) Mailing in Furtherance Element

(b) Scheme to Defraud Element: Intent

(i) Materiality

(ii) Intent to Injure

Readings:

Casebook:

Chapter 7, Mail & Wire Fraud, Pp. 401-425

11. **Tuesday, September 15**

A. Mail and Wire Fraud (cont'd)

1. Scheme to Defraud Element

(a) Scheme to Defraud Element: Permissible Object[s] of the Scheme

(b) Relevance of Victim's Potential Reliance or Identity

(c) Varieties of Fraud

2. Scheme to Defraud Element: Permissible Object[s] of the Scheme

(a) Intangible Property Rights

Readings:

Casebook:

Chapter 7, Mail & Wire Fraud, Pp. 425-446

TWEN Course Materials:

Read for discussion:

United States v. Madoff Indictment.(Counts Three & Four Only)

12. **Thursday, September 17**

- A. Elements of Mail and Wire Fraud (cont'd)
- B. Scheme to Defraud Element: Permissible Object(s) of the Scheme
 - 1. Section 1346 and "Honest Services" Prosecutions

Readings:

Casebook:

Chapter 7, Mail & Wire Fraud, Pp. 429-464

13. **Friday, September 18**

- A. Elements of Mail and Wire Fraud (cont'd)
- B. Scheme to Defraud Element: Permissible Object(s) of the Scheme
 - 1. Right to "Honest Services" Prosecutions (cont'd.)
- C. Mail Fraud Review

Readings:

Casebook Supplement:

Chapter 7, Mail & Wire Fraud, Pp. 466-489 (Do Not Do Guideline Exercise)

TWEN Course Materials:

Read for discussion:

United States v. Kent Roberts, et al. Indictment

14. **Tuesday, September 22**

- A. Conspiracy

Readings:

Casebook:

Chapter 10, Conspiracy, Pp. 639-662

Statutory Supplement

Fed. R. Crim. Pro. 8 and 14; and

Fed. R. Evid. 801(d)(2)(E)

18 U.S.C. §371

15. **Thursday, September 24**

A. Conspiracy (cont'd)

Readings:

Casebook:

Chapter 10, Conspiracy, Pp. 662-675 (Do Not Do Guideline Exercise)

TWEN Course Materials:

Read for discussion:

United States v. Jones, et al. Indictment (Count One Only)

United States v. Bornman (3rd Cir. 2008)

16. **Friday, September 25**

A. RICO and RICO Conspiracy

1. The Racketeer Influenced and Corrupt Organizations Act ("RICO")

(a) Elements: Enterprise

Readings:

Casebook:

Chapter 11, RICO, Pp 677-701

Statutory Supplement:

18 U.S.C. §§ 1961-1968

17. **Tuesday, September 29**

A. RICO and RICO Conspiracy (cont'd)

1. Elements: Pattern of Racketeering Activity

Readings:

Casebook:

Chapter 11, RICO, Pp. 701-720

Statutory Supplement:

18 U.S.C. §§ 1961-1968

18. **Thursday, October 1**

A. Money Laundering

Readings:

Casebook:

Chapter 12, Money Laundering, Pp 727-746

Statutory Supplement:

18 U.S.C. §1956

18 U.S.C. §1957

18 U.S.C. §1960

TWEN Course Materials:

Read for discussion:

United States v. Madoff (Counts Five, Six & Seven Only)

19. **Friday, October 2**

A. Money Laundering (cont'd)

Readings:

Casebook:

Chapter 12, Money Laundering, Pp 746-768

TWEN Course Materials:

Read for discussion:

United States v. Jewell Indictment (Counts Two, Three & Four Only)

20. **Tuesday, October 6**

A. Perjury, False Statements, and False Claims

Readings:

Casebook:

Chapter 5, Perjury, etc., Pp 267-297

Statutory Supplement:

18 U.S.C. §§ 1621 & 1623

TWEN Course Materials:

Read for discussion:

United States v. Madoff Indictment (Count Nine Only)

United States v. Swink, 21 F.3d 852 (8th Cir. 1994)

21. **Thursday, October 8**

- A. Perjury, False Statements, and False Claims (cont'd.)

Readings:

Casebook:

Chapter 5, Perjury, etc. Pp. 298-308

Statutory Supplement:

18 U.S.C. §§1621 &1623

18 U.S.C. §1001

TWEN Course Materials:

Read for discussion:

United States v. Pirani Indictment

22. **Friday, October 9**

- A. Perjury, False Statements and False Claims (cont'd.)

Readings:

Casebook:

Chapter 5, Perjury, etc. Pp. 308-311; 332-343

Statutory Supplement:

18 U.S.C. §§1621 &1623

18 U.S.C. §1001

TWEN Course Materials:

Read for discussion:

United States v. Pirani Indictment

United States v. Madoff Indictment (Count Eight Only)

23. **Tuesday, October 13**

- A. Obstruction of Justice

Readings:

Casebook:

Chapter 6, Obstruction, Pp. 345-372

Statutory Supplement:

18 U.S.C. §§ 1510, 1515

24. **Thursday, October 15**

A. Sentencing Guidelines Exercise

Readings:

Casebook:

Chapter 3, Sentencing Guidelines, Pp. 105-114

☞ Calculate sentence in *United States v. Blagojevich*²

25. **Friday, October 16**

A. Obstruction of Justice (cont'd.)

1. "Anticipatory Obstruction" - Scope of §1519

Readings:

Casebook:

Chapter 6, Obstruction, Pp. 372-399

Statutory Supplement:

18 U.S.C. §§1505,1512,1519

TWEN Course Materials:

Read for discussion:

United States v. Yielding Second Superceding Indictment
(Obstruction Count)

Yielding's Motion for Judgement of Acquittal as to Count Two

26. **Tuesday, October 20**

A. Securities Fraud: Insider Trading

Readings:

Casebook:

Chapter 9, Securities Fraud, Pp. 577-597

Statutory Supplement:

18 U.S.C. §§ 1348 - 1349

17 C.F.R. §240.10b-5

² 10 Points; Use Sentencing Forms and Indictment in TWEN Course Materials; Professor to provide additional fact summary to supplement indictment.

TWEN Course Materials:

Read for discussion:

United States v. Madoff, et al Indictment (Count One Only)

27. **Thursday, October 22**

A. Securities Fraud: Insider Trading (cont'd.)

Readings:

Casebook:

Chapter 9, Securities Fraud, Pp. 597-613; 628-638

TWEN Course Materials:

Read for discussion:

United States v. Madoff, et al Indictment (Count One Only)

28. **Friday, October 23**

A. Health Care Fraud

1. Fraud: Execution of the Offense

Readings:

TWEN Course Materials:

Read for discussion:

18 U.S.C. § 1347

United States v. Hickman, 331 F.3d 439 (5th Cir. 2003)

United States v. Davis, 471 F.3d 783 (7th Cir. 2006)

United States v. Seddens Second Superseding Indictment

29. **Tuesday, October 27**

A. Health Care Fraud (cont'd)

1. False Statements

(a) Bill of Particulars

Readings:

TWEN Course Materials:

Read for discussion:

42 U.S.C. §1320(b)(2)(B)

United States v. Bay State Ambulance and Hospital Rental Service Inc., 874 F.2d 20 (5th Cir. 1989)

☞ Hand in Guidelines exercise.

30. **Thursday, October 29**

☆ Guest Speaker - United States Probation Officer

A. Review and Discuss Guidelines Exercise

31. **Friday, October 30**

A. Public Corruption

1. Bribery

Readings:

Casebook:

Chapter 8, Public Corruption, Pp. 493-511

Statutory Supplement:

18 U.S.C. § 201

TWEN Course Materials:

Read for discussion:

United States v. Wilkes Indictment (Bribery charge only)

32. **Tuesday, November 3**

A. Public Corruption (cont'd)

1. Extortion

Readings:

Casebook:

Chapter 8, Public Corruption, Pp 511-552

Statutory Supplement:

18 U.S.C. §§1951, 1952

18 U.S.C. §666

TWEN Course Materials:

United States v. Rosoli Indictment

33. **Thursday, November 5**

A. Tax Fraud

Readings:

TWEN Course Materials:

Read for discussion:

18 U.S.C. §7201

United States v. Jewell Indictment (Count 5 Only)

United States v. Boulware, 128 S.Ct. 1168 (2008)

***Sansone v. United States*, 380 U.S. 343, 351 (1965)

***United States v. Daniels*, 387 F. 3d 636, 640-641 and n.2 (7th Cir. 2004)

***Spies v. United States*, 317 U.S. 492, 497 (1943)

***Gregory v. Helvering*, 293 U.S. 465, 469 (1935)

**Read facts and pages noted only.

34. **Friday, November 6**

☆ Guest Speaker: To Be Announced

35. **Tuesday, November 10**

A. Grand Jury Practice

Readings:

Casebook:

Chapter 13, Grand Jury, Pp. 769-773; 776-785; 790-799; 816-813

Statutory Supplement:

Fed. Rule Crim. Pro. 6

36. **Thursday, November 12**

A. Fifth Amendment

1. Testimony and Immunity

2. Proffer Agreements

Readings:

Casebook:

Chapter 15, Fifth Amendment, Pp. 857-872; 874-882

Statutory Supplement:

18 U.S.C. §§ 6002-05

TWEN Course Materials:

Read for discussion:

Yielding Proffer Agreement

37. **Friday, November 13**

- A. Fifth Amendment
 - 1. Pocket Immunity
 - 2. Documents and Intangible Objects

Readings:

Casebook:

Chapter 15, Fifth Amendment, Pp 884-900

Chapter 16, Fifth Amendment: Documents and Intangible Objects, Pp 901-915

TWEN Course Materials:

Read for discussion:

Grand Jury Subpoena Duces Tecum

Document Search Warrant

38. **Tuesday, November 17**

- A. Fifth Amendment
 - 1. Testimonial Communication
 - 2. Act of Production

Readings:

Casebook:

Chapter 16, Fifth Amendment, Pp. 915-939

39. **Thursday, November 19**

- A. Discovery
- B. Discovery: Fed. R. Crim. P. 16; Jencks Act (18 U.S.C. §3500) and Fed. R. Crim. P. 17 (c) and 26.2

Readings:

Casebook:

Chapter 14, Discovery, Pp. 815-837

TWEN Course Materials:

Read for discussion:

Motions List

May 11, 2009

40. **Friday, November 20**

A. Discovery (cont'd.)

Readings

Casebook:

Chapter 14, Discovery, Pp. 842-853

Statutory Supplement:

Fed. R. Crim. Pro 16, 17(c) and 26.2

18 U.S.C. §3500

41. **Tuesday, November 24**

A. Discovery (cont'd.)

B. Revisit Immunity Agreements

42. **Thanksgiving Holiday, November 25-27**

43. **Tuesday, December 1 (Last Class)**

Review Period/Question and Answer

☺☺ Class Social 6:00 p.m. (Location To Be Announced)

READING PERIOD

December 2 to December 7

EXAMINATION

(85 Points)

Students with disabilities: It is the policy and practice of *the University of Arkansas at Little Rock* to create inclusive learning environments. If there are aspects of the instruction or design of this course that result in barriers to your inclusion or to accurate assessment of achievement--such as time-limited exams, inaccessible web content, or the use of non-captioned videos--please notify the instructor as soon as possible. Students are also welcome to contact the Disability Resource Center, telephone 501-569-3143 (v/tty). For more information, visit the DRC website at www.uarl.edu/disability.