

White Collar Crime
Professor David Kwok
Fall 2014
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Overview

White collar offenses are typically non-violent, economically motivated conduct occurring in the course of business. This course will emphasize federal law and incorporate offenses such as fraud, regulatory offenses, and corruption. We will analyze general issues raised by white collar crime, such as the criminal liability of corporations, managerial liability, and prosecutorial discretion. Our focus will be substantive rather than procedural in nature, given the distinctive pre-indictment role of white collar attorneys.

Class will meet on Tuesdays and Thursdays from 1:00pm to 2:20pm.

Textbook

Michael Seigel, *White Collar Crime: Law, Procedure, Theory, and Practice* (2011)

Please note that while I have not assigned a statutory supplement for purchase, you are still responsible for the statutes referenced in Seigel. I may provide additional materials in class. I also use the UH email system for class communications; please be sure your UH account is active. A reading schedule through September is listed at the end of this document. I may make adjustments as the semester progresses, and in September I will provide an additional reading schedule reflecting our progress through the materials.

Attendance Policy

You should attend class sessions and arrive on time. If you arrive late, out of respect for the other students and the class environment, please try to minimize the disturbance. The Law Center attendance policy requires attendance of 80% of all scheduled (or makeup) classes or a student risks being dropped from the class.

I will take attendance by distributing a roll sheet at the beginning of each class. Each student should personally initial by his or her name for that class session. It is your responsibility to ensure that you have initialed the roll sheet before you leave the classroom each day. Students who do not sign the role

sheet are deemed to have been absent. You may not sign the role sheet if you miss more than 15 minutes of class.

Please note that you are responsible for managing your absences from class and ensuring that your total number of absences does not exceed the threshold for the class. Even if you have notified me that you will be absent, that absence still uses one of your available absences. An absence is an absence, regardless of the reason, except for absences covered by the University and Law Center religious holiday policy.

Students who exceed six (6) absences will be reported to the Associate Dean. In addition, if a student exceeds the threshold by one absence, the student will take a grade reduction of 1/3 of a letter grade. Each additional absence will result in an additional report to the Associate Dean and an additional 1/3 of a letter grade drop.

Participation

I will call on students both to discuss cases and to comment on the issues we are discussing. Participation in the class discussion helps all of us in the learning process. Professional conduct is expected during class. Such professionalism includes respect for your fellow students in timeliness, preparation, and addressing different points of view. As we are all in the process of learning, the classroom discussion involves some risk-taking in considering new ideas and different arguments. Such possibilities can be combined with respect for the rest of the class.

If you are not prepared for a particular class, be sure to indicate so on the Pass Sheet at the podium by the start of class. You may pass twice without any negative effect to your final grade. If you are on call but are not prepared, you will be marked absent for the class day.

Students with poor class participation will have their final grade dropped by 1/3 of a letter grade. The decision to drop a grade for participation is at my discretion and is non-negotiable. A drop for class participation can result from a combination of unpreparedness, not paying attention in class, and absences (even if you are within the six-absence limit).

In exceptional circumstances, a student may go up a 1/3 of a letter grade for making a substantial contribution to the class. Note that volunteering every class does not constitute a substantial contribution—quality, not quantity matters.

Grading

Besides the aforementioned attendance and participation policies, your final grade will be determined by your performance on a final examination scheduled for December 11, 2014 from 1pm-4pm.

Office Hours: Tuesdays, 2:30pm-4pm, or you may contact me via email to schedule an appointment.

Recordings

Please do not make audio or visual recordings of the class without my prior express approval.

Initial Assignment Schedule

Part I: Overview and General Principles

Aug 26

Definitions & Causes of White Collar Crime

Read: pp. 1-25

Aug 28

Corporate Liability and Public Policy

Read: pp. 27-38

Sept 2

Corporate Criminal Liability

Read: pp. 38-58

Sept 4

Personal Liability

Read: pp. 58-85

Sept 9

Conspiracy

Read: pp. 87-114

Part II: Substantive Offenses

Sept 11

Mail and Wire Fraud

Read: pp. 115-140

Sept 16

Honest Services

Read: pp. 140-157

Sept 18

Bank Fraud

Read: pp. 159-182

Sept 23

Securities Fraud: Introduction & Mens Rea

Read: pp. 183-201

Sept 25

Securities Fraud: Misrepresentation & Concealment

Read: pp. 201-221

Sept 30

Securities Fraud: Insider Trading

Read: pp.222-242

A second assignment schedule will be distributed in September. We will cover False Statements and False Claims, Perjury & False Declarations, Obstruction of Justice, Public Corruption, and other topics as time permits.