

White Collar Crime
Professor David Kwok
Fall 2021
Email: dkwok@uh.edu
Office: 118 TU II
Assistant: Amanda Parker

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.

Class will meet on Tuesdays and Thursdays from 2:30-4:00pm.

Textbook

Jerold H. Israel, Ellen S. Podgor, Paul D. Borman, Peter J. Henning. White Collar Crime: Law and Practice, 4th ed. (2015).

Please note that while I have not assigned a statutory supplement for purchase, you are still responsible for the statutes referenced in Israel, et. al. I will 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 through an electronic attendance sheet. You may not sign the roll 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. Participation also includes group exercises that will run over the course of the semester.

If you are not prepared for a particular class, be sure to email me at least 10 minutes before class, and I will refrain from calling on you. 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.

We are committed to ensuring inclusive online and classroom learning spaces, where you'll be treated with respect and dignity, and where everyone is provided the equitable opportunity to participate, to contribute, and to succeed. In this course, all students are welcome regardless of socio-economic status, age, race, ethnicity, disability, religion, national origin, veteran's status, sex, sexual orientation, gender identity, gender expression, political affiliation, marital status and other diverse identities that we each bring to class. Our class is richer for this diversity.

If you feel like your class performance is impacted in any way by your experiences inside or outside of class, please feel free to reach out to me. If you feel more comfortable speaking with someone besides me, Student Services is an excellent resource: 713-743-2182. I also encourage you to bring any issues negatively impacting UHLC's openness to diversity and inclusion to the Law Center's Diversity and Inclusion committee. You can contact the committee directly at UHLCD&I@uh.edu.

Learning Outcomes

Upon successful completion of this course, the student will be able to:

1. Understand key terminology used in white collar criminal matters including terms arising during the prosecution and defense of corporate and individual crimes;
2. Understand the core ethical and professionalism issues involved in white collar criminal law and prosecutorial decision-making;

3. Gain an understanding of key issues of statutory interpretation arising in white collar criminal matters;
4. Be familiar with key statutes used in the prosecution of white collar crime cases;
5. Be familiar with basic procedural aspects of a white collar criminal case including internal investigations;
6. Understand the dynamics involved in defending a white collar criminal matter;
7. Gain an awareness of the interplay of agency and criminal law in a white collar investigation;
8. Gain an awareness of sentencing in white collar cases and collateral consequences to entities and individuals.

Assessments

Besides the aforementioned attendance and participation policies, your final grade will be primarily determined by your performance on a final examination. The course also offers formative assessment throughout the semester, including feedback on problems and group work. These formative assessments directly impact your final grade through the participation mechanism.

Preferred Name / Pronoun / Prefix

I will work to honor your request to address you by a particular name, pronoun or prefix (i.e., “Dr.”, “Ms.”). Please advise me of this preference early in the semester so that I may make appropriate notes in my records.

Counseling and Psychological Services

Counseling and Psychological Services (CAPS) can help students who are having difficulties managing stress, adjusting to the demands of a professional program, or feeling sad and hopeless. You can reach CAPS (www.uh.edu/caps) by calling 713-743-5454 during and after business hours for routine appointments or if you or someone you know is in crisis. No appointment is necessary for the “Let’s Talk” program, a drop-in consultation service at convenient locations and hours around campus. http://www.uh.edu/caps/outreach/lets_talk.html.

The Texas Lawyers’ Assistance Program (“TLAP”) also supports law students who are dealing with stress, anxiety, depression, substance abuse, and other mental health problems. You can reach TLAP at any time at 1-800-343-8527. TLAP’s website includes a page with links to sources about mental health that are of interest to law students: <https://www.tlaphelps.org/law-students>.

Accessibility & Accommodations

UHLIC is committed to ensuring that all students enjoy equal access and full participation. If you anticipate or experience barriers based on a disability (including any chronic or temporary medical or mental health condition), please feel free to reach out so that we may discuss options. If you require any support services, you may contact Ms. Samantha Ary, Academic Records Coordinator. Ms. Ary is in room 44A TU-II in the Office of Student Services suite, and she can be reached at sary@central.uh.edu

or 713-743-7466. Requests for accommodation that involve graded assignments must be directed to Ms. Ary and should be made as soon as possible to allow adequate time to document and to process the request.

If you observe religious or cultural holidays that will coincide with class sessions, please let me know as soon as possible so that we may make arrangements.

Anti-Discrimination and Sexual Misconduct

UHLC and the University of Houston are committed to maintaining and strengthening an educational, working, and living environment where students, faculty, staff, and visitors are free from discrimination and sexual misconduct. If you have experienced an incident of discrimination or sexual misconduct, a confidential reporting process is available to you. For more information, please refer to the University System's Anti-Discrimination Policy SAM 01.D.07 and Sexual Misconduct Policy SAM 01.D.08. Please be aware that under the sexual misconduct policy, SAM 01.D.08, faculty and other University employees are required to report to the University any information received regarding sexual misconduct as defined in the policy. Due to this reporting requirement, faculty members and other employees are not a confidential resource. The reporting obligations under the sexual misconduct policy extends to alleged conduct by University employees and students.

Recording of Class

Students may not record all or part of class, livestream all or part of class, or make/distribute screen captures, without advanced written consent of the instructor. If you have or think you may have a disability such that you need to record class-related activities, please refer to the Accessibility & Accommodations section above. If you have an accommodation to record class-related activities, those recordings may not be shared with any other student, whether in this course or not, nor with any other person or on any other platform. Classes may be recorded by the instructor. Students may use the instructor's recordings for their own studying and notetaking. Instructor's recordings are not authorized to be shared with anyone without the prior written approval of the instructor. Failure to comply with requirements regarding recordings will result in a disciplinary referral to the Dean of Students Office and may result in disciplinary action.

Syllabus Changes

Due to the changing nature of the COVID-19 pandemic, please note that the instructor may need to make modifications to the course syllabus and may do so at any time. Such modifications may include changes to the mode(s) of assessment for the course. Notice of such changes will be announced as quickly as possible through email.

Office Hours: Mondays 1-2:30pm, or you may contact me via email to schedule an appointment.

Initial Assignment Schedule

Part I: Overview and General Principles

Aug 24

Introduction & the Federal Role

Read: pp. 1-28

Aug 26

Corruption

Read: pp. 29-50, 119-144; also Corruption supplement

Aug 31

Corruption, cont'd

No additional reading

Sept 2

Corporate & Individual Liability

Read: pp. 51-73

Sept 7

Corporate & Individual Liability, cont'd

Read: pp. 73-90; also Conspiracy supplement

Sept 9

Statutory Interpretation

Read: pp. 91-119

Part II: Substantive Offenses

Sept 14

Mail & Wire Fraud

Read: pp. 145-156; also US v. Kelly 140 S. Ct. 1565 (2020)

Sept 16

Mail & Wire Fraud, property interests

Read: pp. 156-198

Sept 21

Bank Fraud & Money Laundering

Read: pp. 198-215; also Bank Fraud supplement

Sept 23

Computer Fraud & Abuse

Read: Computer Fraud supplement

Sept 28

Securities Fraud

Read: Securities Fraud supplement

Sept 30

Insider Trading

Read: Insider Trading supplement

A second assignment schedule will be distributed in September. We will cover procedural issues such as grand jury investigations, document production, searches, and other topics as time permits.