

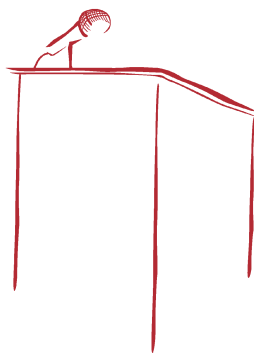
The American Bar Association
Criminal Justice Section
and the
ABA Center for Continuing Legal Education
Present

21st Annual National Institute on

White Collar Crime

March 1-2, 2007

San Diego Marriott
Hotel & Marina
San Diego, CA



9.0 hours of MCLE credit, including 1.75 hour of Ethics credit in 60-minute states and 10.8 hours of MCLE credit, including 2.10 hours of Ethics credit in 50-minute states have been requested.

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Program Description

DESCRIPTION OF PROCEEDINGS

The 2007 White Collar Crime National Institute will be meeting on March 1st and 2nd for the 21st consecutive year and for the first time in San Diego. Over 1,000 practitioners attended last year's annual gathering of the national white collar bar. As in the past, we continue to have outstanding panelists who will deal with the most timely issues.

Each year the Institute brings together judges, federal, state and local prosecutors, other law enforcement officials, defense attorneys, corporate in-house counsel and members of the academic community. Among the audience members are experienced litigators as well as attorneys who are beginning to concentrate in the white collar area. Attendees have consistently given the Institute high ratings for the exceptional quality of the Institute's publication, its valuable updates on new developments and strategies, as well as the rare opportunity to meet colleagues in this field, renew acquaintances and exchange ideas.

The faculty includes some of the leading white collar lawyers in the United States. This year's keynote panels will continue to focus on the role of ethics and corporate compliance in today's business environment. Once again, we are pleased that we will have excellent representation from the corporate sector.

We will feature panels on the ethical obligations of counsel when representing corporations, their directors, officers and employees as well as on the importance of effective compliance programs.

PROGRAM FOCUS

- Lessons learned from recent major fraud prosecutions
- Hardball tactics and the ethical obligation of lawyers
- The return of advocacy in the sentencing of individual defendants
- Dealing with investigations for obstruction, perjury and making false statements
- Successful strategies for managing complex criminal fraud investigations
- The use of technology in and out of the courtroom
- Advice for navigating through the digital documents maze
- Defending international fraud cases

SUBSTANTIVE TOPICS

- Foreign Corrupt Practices Act
- False Claims Act and *qui tam* litigation
- Health care fraud and abuse
- Recent developments in securities fraud investigations
- Environmental criminal enforcement
- Criminal antitrust enforcement
- Criminal tax enforcement
- Money laundering and asset forfeiture
- Immigration and customs enforcement
- Export control and International Traffic in Arms Regulations (ITAR) enforcement

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NAVIGANT
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Program Agenda

Wednesday ■ February 28, 2007

4:00-6:00 pm **Registration**

6:00 pm **Young Lawyers Reception**

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Day One ■ Thursday ■ March 1, 2007

8:00 am **Registration**

9:00 am **Welcoming Remarks**

Raymond Banoun

9:15 am **Lessons Learned from Recent Major Fraud Prosecutions**

Ronald J. Nessim, Moderator

Sean M. Berkowitz

Patrick M. Collins

Hon. Paul L. Friedman

Mark C. Holscher

Carol C. Lam

David J. Schindler

Dan K. Webb

Panelists, including a lead prosecutor and defense attorney from each of the *Enron* (Houston), *Governor Ryan* (Chicago) and *Tenet Healthcare* (San Diego) criminal trials of 2006, will discuss the key pre-indictment, evidentiary, trial and additional issues that arose in those cases.

10:45 am **Break**

11:00 am **Breakout Sessions I**

A. Corruption in the International Marketplace

Peter B. Clark, Moderator

Paul R. Berger

Jan Nielsen Little

Mark F. Mendelsohn

Brian A. Sun

Representing clients in FCPA investigations has become far more complex. The panel will discuss cooperation with DOJ, the SEC and foreign law enforcement authorities and the benefits one can expect to receive from such cooperation. Also, they will cover the standards for due diligence in mergers and acquisitions and the lessons learned from recent investigations and prosecutions.

**For more information about this National Institute, the ABA,
the ABA Criminal Justice Section and ABA-CLE:**



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B. Technology In and Out of the Courtroom:

Document Gathering, Review & How to Prepare for Trial

David F. Axelrod, Moderator
Thomas Y. Allman
Bernard S. Bailor
Jerrob Duffy
Laurie A. Weiss

The panel will consider legal and technical issues regarding the retention, production and use of electronic records. Topics include: “litigation hold” strategies, problems arising from production of records in native format, the significance of metadata, the management of the costs of e-discovery, forensic procedures to maintain data integrity, evidentiary challenges to the admissibility of electronic records and the provision and use of e-discovery.

C. False Claims Act and *Qui Tam* Litigation

John T. Boese, Moderator
Brian C. Elmer
Janet L. Goldstein
Michael F. Hertz

Most defense and healthcare criminal white collar fraud matters begin as *qui tam* cases. *Qui tam* enforcement has become so popular that many states, and even a few cities, have enacted their own versions. As enforcement has expanded, both recoveries and conflicts have increased. This panel of experienced defense, government and relators’ counsel will discuss recent decisions and developments in the litigation of these cases.

D. Securities Fraud Enforcement

Charles M. Carberry, Moderator
Jeffrey Eglash
Jan Lawrence Handzlik
Nancy Kestenbaum
Gary P. Naftalis
David P. Nelson

Panelists will analyze recent developments in the securities area, including financial statement fraud, insider trading and mutual fund investigations; recent changes in SEC enforcement, particularly with respect to settlements and defense strategies in recent cases.

E. Finding the Digital Smoking Gun

Paul G. Lewis, Moderator
Marla S. K. Bergman
Bernard A. Boit
Amor Esteban

Speakers will discuss issues such as how to start an investigation when digital data is involved, collecting and analyzing such data, determining the strength of a case using that data and making the data “reasonably accessible” as required by the Federal Rules of Civil Procedure.

12:30 pm White Collar Crime Committee Luncheon (ticketed event \$40)

Keynote Speaker: Attorney General Alberto R. Gonzalez (*Invited*)

2:00 pm Breakout Sessions II

A. Corruption: Lines Between Lobbying and Corruption

Robert J. Sussman, Moderator
Michael A. Collora
Vincent J. Marella
Brenda K. Morris
Eric W. Sitarchuk

Panelists will analyze recent cases, new prosecution theories, the effect of the Abramoff investigation, balance of powers issues and other hot topics in this area.

Program Agenda (Continued)

B. Money Laundering & Asset Forfeiture

Ellen Zimiles, Moderator
Carolyn Bell
Keith D. Krakaur
Monty Raphael
Samuel W. Seymour

The panel will examine recent developments in this area, including reporting requirements and their effectiveness, compliance regimes, due diligence and the European experience with gatekeepers initiatives.

C. Sentencing for Individuals: Advocacy is Back

Hon Michael E. Horowitz, Moderator
B. Todd Jones
Jane W. Moscowitz
Hon Patti B. Saris
Hon Debra Wong Yang

After the *Booker* decision, advocacy is again a part of every federal sentencing proceeding. Panelists will discuss the importance of advocacy by defense lawyers and prosecutors at sentencing, the arguments that sentencing judges have found to be most effective and the development of case law in the two years since *Booker*.

D. Successful Strategies in Managing a White Collar Investigation

Meredith S. Auten, Moderator
A. Michael Warnecke, Moderator
Jennifer L. Coon
Brian M. Heberlig
Hon David M. Lawson
Marc S. Raspanti
Arnold A. Spencer

This panel will cover strategies for obtaining evidence through both discovery and investigatory techniques, proactive ways to seek discovery from the government, including the use of FOIA and Rule 17 subpoenas and best practices for conducting investigations.

3:15 pm Break

3:45 pm Breakout Sessions III

A. Criminal Tax Fraud

Gerald A. Feffer, Moderator
Dana J. Boente
Ian M. Comisky
Nancy J. Jardini
Paula M. Junghans

This panel will review recent developments, current enforcement priorities, and strategies and tactics for defending individuals and entities under criminal tax investigations.

B. Healthcare Fraud and Abuse

Robert S. Litt, Moderator
Stephen J. Bronis
William H. Kettlewell
Lewis Morris
Susan Winkler

Healthcare fraud continues to be one of the government's top prosecutorial priorities. This panel will analyze the current trends in such prosecutions and where likely future actions may occur.

C. Obstruction, False Statements and Perjury: Real Crimes or Overreaching?

Joshua R. Hochberg, Moderator
Earl J. Silbert
Jonathan S. Sack
Howard M. Shapiro
Steven A. Tyrrell

The use of obstruction, false statement and perjury charges following lengthy corporate and corruption investigations pose difficult issues for defense attorneys. This panel will examine the increased use of these charges, recent case law and help to advise clients in order to avoid being charged with such violations. These include: obstructing internal investigations, bringing charges for routine destruction of documents and emails and avoiding making false statements about historical events during multiple interviews.

D. Immigration and Customs Enforcement in the Era of DHS

Joe D. Whitley, Moderator
Robert A. Divine
Janet Hale
Peggy DeBeliso

The INS was abolished by the passage of the Homeland Security Act and recreated as three separate agencies. Customs enforcement was also split between two agencies. This panel of experts will consider the impact of these two greatly transformed areas of enforcement on white collar clients, including the historic missions of the Department of Justice and Treasury and the new directions of Immigration Customs Enforcement (ICE), Customs of Border Control (CBP) and Citizenship Immigration Services (CIS).

E. Defending International Fraud Cases

Gordon A. Greenberg, Moderator
Douglas M. Lankler
Paul E. Pelletier
David M. Zinn

In today's "flat world", international evidence gathering is becoming customary. The panel will discuss some common issues that occur when evidence is sought abroad and how the defense can be proactive in this arena.

5:00 pm Adjourn

5:00 pm White Collar Crime Committee Meeting

6:30 pm– Cocktail Reception

8:30 pm

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Dwyer & Collora, LLP
Hinton, Sussman, Bailey & Davidson, LLP
Jones Day
KPMG
Latham & Watkins
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Protiviti
Zuckerman Spaeder LLP

Program Agenda (Continued)

Day Two ■ Friday ■ March 2, 2007

9:15 am **Hardball Tactics & Ethical Obligations of Lawyers**

Michael S. Pasano, Moderator
Raymond Banoun
Leslie R. Caldwell
Hon Alice S. Fisher
Hon Algenon L. Marbley
George A. Stamboulidis
Allen Waxman

This panel will consider the limitations that ethical rules place on both prosecutors and defense attorneys, especially in high profile and controversial cases where “hardball tactics” are often used. They will also cover contacts with represented parties, attorney-client privilege waivers, cooperation with the government, proffer agreements, parallel proceedings, corporate plea bargaining, sentencing guidelines and manipulation of the facts to reach a specified result. The panel will discuss the obstacles of dealing with and using the media and other situations where aggressive advocacy can reach the point where the term “ethical attorney” can seem like an oxymoron.

11:00 am **Break**

11:15 am **Breakout Sessions IV**

A. Environmental Criminal Enforcement

Gary S. Lincenberg, Moderator
Angelo Calfo
Dorothy C. Kim
David S. Krakoff
Judson W. Starr

Privilege waivers as a condition of cooperation and the implementation of far-reaching compliance programs have long been the focal points of environmental criminal enforcement. This panel will discuss *Booker*, environmental crimes as corporate fraud, the imperative and dilemma of corporate cooperation and related issues.

B. The Dangerous World of U.S. Export Laws

Frederic M. Levy, Moderator
Donald L. Fischer
Susan M. Frank
Ronald R. Roos
Wendy L. Wysong

This panel will focus on the heightened scrutiny and vigorous enforcement of US export laws and regulations, including the International Traffic in Arms Regulations (ITAR) and Export Administration Regulations (EAR), in the post 9/11 environment. It will examine issues of particular concern to federal enforcement activities, methods used to detect and prosecute offenders and the systems and controls exporters require to avoid violations.

C. Criminal Antitrust Enforcement

Kathleen M. Beasley
Scott D. Hammond
Aimee Imundo
Gary R. Spratling
Robert W. Tarun

This group of experienced attorneys will consider the growing arsenal of weapons at the disposal of the DOJ in antitrust investigations, including the use of the obstruction statute, the new wiretap authority, coordinating investigations with foreign jurisdictions whose own enforcement tools and amnesty programs are broader than ours, coordinated searches and the application of the sentencing guidelines.

1:00 pm **Conference Concludes**

Program Faculty

* Raymond Banoun

Cadwalader, Wickersham & Taft LLP
Washington, DC
Chair of Institute

Thomas Y. Allman

*Mayer, Brown, Rowe
& Maw LLP*
Chicago, IL

Meredith S. Auten

*Ballard Spahr Andrews
& Ingersoll LLP*
Philadelphia, PA

David F. Axelrod

Director
Forensic and Dispute
Resolution
*Deloitte Financial Advisory
Services, LLP*
Columbus, OH

*Bernard S. Bailor

Caplin & Drysdale, Chartered
Washington, DC

Kathleen M. Beasley

Beasley Haynes & Boone, LLP
Dallas, TX

Carolyn Bell

Assistant US Attorney
Southern District of Florida
West Palm Beach, FL

Paul R. Berger

Debevoise & Plimpton LLP
Washington, DC

Marla S. K. Bergman

Jones Day
New York, NY

Sean M. Berkowitz

Fraud Section
Criminal Division
US Department of Justice
Washington, DC

Dana J. Boente

Deputy Assistant Attorney
General
Tax Division
US Department of Justice
Washington, DC

John T. Boese

*Fried, Frank, Harris, Shriver
& Jacobson, LLP*
Washington, DC

Bernard A. Boit

Managing Director
KPMG
Washington, DC

*Stephen J. Bronis

Zuckerman Spaeder LLP
Miami, FL

*Leslie R. Caldwell

Morgan, Lewis & Bockius LLP
New York, NY

Angelo Calfo

Yarmuth Wilsdon Calfo PLLC
Seattle, WA

*Charles M. Carberry

Jones Day
New York, NY

Peter B. Clark

*Cadwalader, Wickersham
& Taft LLP*
Washington, DC

Patrick M. Collins

Assistant US Attorney
Northern District of Illinois
Chicago, IL

*Michael A. Collora

Dwyer & Collora, LLP
Boston, MA

Ian M. Comisky

*Blank, Rome, Comisky
& McCauley*
Philadelphia, PA

Jennifer L. Coon

*Bird, Marella, Boxer,
Wolpert, Nessim, Drooks
& Lincenberg PC*
Los Angeles, CA

Peggy DeBeliso

Assistant Chief Counsel
Chula Vista, CA

Robert A. Divine

Chief Counsel
US Citizenship & Immigration
Services
*Department of Homeland
Security*
Washington, DC

Jerrob Duffy

Fraud Section
Criminal Division
US Department of Justice
Washington, DC

Jeffery Eglash

Senior Counsel Investigations/
Compliance
General Electric Company
Fairfield, CT

*Brian C. Elmer

Crowell & Moring LLP
Washington, DC

Armor Esteban

Drinker Biddle & Reath LLP
Los Angeles, CA

Gerald A. Feffer

Williams & Connolly LLP
Washington, DC

Donald L. Fischer

Global Head of Export
Control Services
Deloitte and Touche USA LLP
San Francisco, CA

*Hon Alice S. Fisher

Assistant Attorney General
Criminal Division
US Department of Justice
Washington, DC

Susan M. Frank

Deputy General Counsel
and Vice President
*Science Applications
International Corp.*
Alexandria, VA

Hon Paul L. Friedman

United States District Judge
District of Columbia
Washington, DC

Janet L. Goldstein

Martyn Liles PLLC
Washington, DC

Alberto R. Gonzalez

Attorney General
US Department of Justice
Washington, DC

Program Faculty (continued)

Gordon A. Greenberg

McDermott Will & Emery
Los Angeles, CA

Janet Hale

Director
Public Sector Business
Transformation
Deloitte & Touche
New York, NY

Scott D. Hammond

Deputy Assistant Attorney
General
Criminal Enforcement
Antitrust Division
*US Department of
Justice*
Washington, DC

Jan Lawrence Handzlik

*Howrey, Simon, Arnold
& White LLP*
Los Angeles, CA

Brian M. Heberlig

Steptoe & Johnson LLP
Washington, DC

Michael F. Hertz

Director
Commercial Litigation
Section
Civil Division
US Department of Justice
Washington, DC

Joshua R. Hochberg

McKenna Long & Aldridge LLP
Washington, DC

Mark C. Holscher

O'Melveny & Myers LLP
Los Angeles, CA

***Hon Michael E. Horowitz**

Commissioner
US Sentencing Commission
*Cadwalader, Wickersham
& Taft LLP*
Washington, DC

Aimee Imundo

Senior Counsel Competition
Law & Compliance
General Electric Company
Washington, DC

Nancy J. Jardini

Chief, Criminal Investigations
Internal Revenue Service
Washington, DC

B. Todd Jones

*Robbins Kaplan Miller &
Ciresi LLP*
Minneapolis, MN

Paula M. Junghans

Zuckerman Spaeder LLP
Washington, DC

Nancy Kestenbaum

Covington & Burling LLP
New York, NY

William H. Kettlewell

Dwyer & Collora LLP
Boston, MA

Dorothy C. Kim

Assistant United States
Attorney
Central District of California
Los Angeles, CA

Keith D. Krakaur

*Skadden, Arps, Slate,
Meagher & Flom, LLP*
New York, NY

David S. Krakoff

*Mayer, Brown, Rowe & Maw
LLP*
Washington, DC

Douglas M. Lankler

Assistant General Counsel
and Deputy Corporate
Compliance Officer
Pfizer Inc.
New York, NY

Carol C. Lam

Assistant US Attorney
*Southern District of
California*
San Diego, CA

Hon David M. Lawson

United States District Judge
Eastern District of Michigan
Detroit, MI

Frederic M. Levy

*McKenna Long & Aldridge
LLP*
Washington, DC

Paul G. Lewis

Director
Protiviti
New York, NY

Gary S. Lincenberg

*Bird, Marella, Boxer,
Wolpert, Nessim, Drooms
& Lincenberg PC*
Los Angeles, CA

***Robert S. Litt**

Arnold & Porter LLP
Washington, DC

Jan Nielsen Little

Keker & Van Nest LLP
San Francisco, CA

Hon Algenon L. Marbley

United States District Judge
District of Ohio
Columbus, OH

***Vincent J. Marella**

*Bird, Marella, Boxer,
Wolpert, Nessim, Drooms
& Lincenberg PC*
Los Angeles, CA

Mark F. Mendelsohn

Deputy Chief
Fraud Section
Criminal Division
US Department of Justice
Washington, DC

Brenda K. Morris

Public Integrity Section
Criminal Division
US Department of Justice
Washington, DC

Lewis Morris

Chief Counsel to the
Inspector General
*US Department of Health &
Human Services*
Washington, DC

Jane W. Moscovitz

*Moscovitz, Moscovitz &
Magolnick, PA*
Miami, FL

Gary P. Naftalis

*Kramer Levin Naftalis &
Frankel LLP*
New York, NY

***Ronald J. Nessim**

*Bird, Marella, Boxer,
Wolpert, Nessim, Drooms
& Lincenberg PC*
Los Angeles, CA

Program Faculty (continued)

David P. Nelson

Regional Director
Southeast Regional Office
US Securities & Exchange Commission
Miami, FL

***Michael S. Pasano**

Former Chair, ABA Criminal Justice Section
Zuckerman Spaeder LLP
Miami, FL

Paul E. Pelletier

Deputy Chief
Fraud Section
Criminal Division
US Department of Justice
Washington, DC

Monty Raphael

Peters & Peters
London, England

Marc S. Raspanti

Miller, Alfano & Raspanti
Philadelphia, PA

Ronald R. Roos

Counter Espionage Section
National Security Division
Washington, DC

Jonathan S. Sack

Morvillo, Abramowitz, Grand, Iason & Silberberg, P.C.
New York, NY

Hon Patti B. Saris

United States District Judge
District of Massachusetts
Boston, MA

David J. Schindler

Latham & Watkins
Los Angeles, CA

Samuel W. Seymour

Sullivan & Cromwell LLP
New York, NY

Howard M. Shapiro

WilmerHale
Washington, DC

Eric W. Sitarchuk

Ballard Spahr Andrews & Ingersoll, LLP
Philadelphia, PA

Earl J. Silbert

DLA Piper Rudnick LLP
Washington, DC

Arnold A. Spencer

Chief, Criminal Division
Assistant US Attorney
Eastern District of Texas
Beaumont, TX

Gary R. Spratling

Gibson, Dunn & Crutcher LLP
San Francisco, CA

George A. Stamboulidis

Baker & Hostetler LLP
New York, NY

Judson W. Starr

Venable LLP
Washington, DC

Brian A. Sun

Jones Day
Los Angeles, CA

***Robert J. Sussman**

Hinton, Sussman, Bailey & Davidson LLP
Houston, TX

Robert W. Tarun

Latham & Watkins
Chicago, IL

Steven A. Tyrrell

Acting Chief
Fraud Section
Criminal Division
US Department of Justice
Washington, DC

A. Michael Warnecke

Haynes & Boone LLP
Dallas, TX

Allen Waxman

General Counsel
Pfizer Inc.
New York, NY

Dan K. Webb

Winston & Strawn LLP
Chicago, IL

Laurie A. Weiss

Fulbright & Jaworski LLP
San Antonio, TX

Joe D. Whitley

Alston & Bird LLP
Atlanta, GA

Susan Winkler

Chief, Health Care Fraud Unit
Assistant US Attorney
District of Massachusetts
Boston, MA

Wendy L. Wysong

Deputy Assistant Secretary
for Export Enforcement
US Department of Commerce
Washington, DC

Hon Debra Wong Yang

U.S. Attorney
Central District of California
Los Angeles, CA

Ellen Zimiles

Daylight Forensic & Advisory
New York, NY

David M. Zinn

Williams & Connolly LLP
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Steve Weise, Chair, Heller Ehrman LLP, Los Angeles, CA

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Earnestine Murphy, Associate Director, CLE Courses

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Breakout Session I ■ Thursday ■ 11:00 am

- A. Corruption in the International Marketplace
- B. Technology in and out of the Courtroom
- C. False Claims Act and Qui Tam Litigation
- D. Securities Fraud Enforcement
- E. Finding the Digital Smoking Gun

Breakout Session II ■ Thursday ■ 2:00 pm

- A. Corruption: Lines Between Lobbying and Corruption
- B. Money Laundering & Asset Forfeiture
- C. Sentencing for Individuals: Advocacy is Back
- D. Successful Strategies in Managing a White Collar Investigation

Breakout Session III ■ Thursday ■ 3:45 pm

- A. Criminal Tax Fraud
- B. Healthcare Fraud and Abuse
- C. Obstruction, False Statements and Perjury
- D. Immigration and Customs Enforcement in the Era of DHS
- E. Defending International Fraud Cases

Breakout Session IV ■ Friday ■ 11:15 am

- A. Environmental Criminal Enforcement
- B. The Dangerous World of U.S. Export Laws
- C. Criminal Antitrust Enforcement

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