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Message from the Committee Chair

David M. Rosenfield

We are pleased to present the second issue of the White Collar Crime Committee Newsletter! I hope you enjoyed the first issue. This issue describes in detail many of the new and interesting events taking place in the white collar crime arena. The editors have also included an interesting article entitled A New Limit on Restitution in White Collar Cases that I believe you will find very informative.

Sincerely,

David M. Rosenfield
Chairperson, White Collar Crime Committee

Message from the Editors

Welcome to the Spring edition of the White Collar Crime Committee Newsletter! Exciting Committee events have taken place over the past few months: from the ABA Business Law Section’s Spring Meeting in Las Vegas in late March, to the ABA’s 4th Annual National Institute on Corporate Internal Investigations and Forum for In-House Counsel that took place in San Francisco in mid-May, our members continue to be involved in a wide-range of programs, panels and networking events all around the country. We are excited to share with you the news about these activities, as well as to bring you case law, policy developments, and trends in white collar crime. We welcome you to e-mail any of the editors if you are interested in submitting an article concerning an area in which you have an interest or expertise.

Sincerely,

Nikita Mehta, Chantelle Aris, Philip Raimondi & Jessica Natbony
Editors, White Collar Crime Committee Newsletter
HEALTHCARE FRAUD

DOJ MEDICARE FRAUD STRIKE FORCE CHARGES 107 INDIVIDUALS IN FALSE BILLING SCHEME

On May 2, 2012, the Department of Justice announced a nationwide takedown by the Medicare Fraud Strike Force, a multi-agency team comprised of federal, state, and local investigators jointly run by the DOJ and the Health and Human Services Office of the Inspector General. The takedown involved operations in seven cities, resulting in charges against 107 individuals, including doctors, nurses, and other licensed medical professionals, for their alleged participation in Medicare fraud schemes involving approximately $452 million in false billings. According to court documents, the defendants allegedly participated in schemes to submit claims to Medicare for treatments that were either medically unnecessary or never provided. In many cases, patient recruiters, Medicare beneficiaries and other co-conspirators were allegedly paid cash kickbacks in return for supplying beneficiary information to providers, so that the providers could submit fraudulent billings to Medicare for services that were medically unnecessary or never provided. The DOJ press announcement can be found at: http://www.justice.gov/opa/pr/2012/May/12-ag-568.html.

TENET HEALTHCARE PAYS MORE THAN $42 MILLION TO SETTLE ALLEGATIONS

On April 10, 2012, the DOJ announced that a Dallas-based company, Tenet Healthcare Corporation, had agreed to pay the federal government $42.75 million to settle allegations that it violated the False Claims Act by overbilling the federal Medicare program. The settlement involves allegations pertaining to various inpatient rehabilitation facilities (IRFs) that Tenet owned and operated throughout the country. IRFs are designed for patients who need an intense rehabilitation program that includes a multidisciplinary, coordinated team. Because the patients treated at IRFs require more intensive rehabilitation therapy and closer medical supervision than is provided in other settings, Medicare generally pays IRFs at a higher rate than it pays for care in other settings. The Justice Department alleged that between May 15, 2005 and December 31, 2007, Tenet improperly billed Medicare for the treatment of patients at its IRFs when, in fact, these patients did not meet the standards necessary to qualify for an IRF admission. The Tenet settlement is the federal government’s single largest recovery pertaining to inappropriate admissions to IRFs. The DOJ press release can be found at: http://www.justice.gov/usao/gan/press/2012/04-10-12b.html.

OWNER OF HOUSTON HEALTH CARE COMPANY FACES JAIL TIME FOR MEDICARE FRAUD SCHEME

On March 9, 2012, the DOJ, FBI and Department of Health and Human Services (HHS) announced that Akinsunbo Akinbile, the owner and operator of Hallco Medical Supply, a durable medical equipment (DME) company, was sentenced by a Houston federal court to 30 months in prison for his role in a Medicare fraud scheme. Akinbile pled guilty on November 29, 2011, to eight counts of health care fraud. According to court documents, Hallco submitted claims to Medicare for DME, including orthotic devices that were medically unnecessary and/or never provided. Many of the orthotic devices were components of an “arthritis kit,” to be used for the treatment of arthritis-related conditions. The arthritis kits generally contained a number of orthotic devices, including braces for both sides of the body and related accessories such as heating pads. From June 2007 through May 2009, Akinbile submitted claims to Medicare for DME, including orthotic devices that were medically unnecessary and/or never provided. The case is U.S. v. Akinbile, No. 11-cr-0111 (S.D. Tex.).
FOREIGN CORRUPT PRACTICES ACT

EX MORGAN STANLEY DIRECTOR PLEADS GUILTY FOR ROLE IN EVADING INTERNAL CONTROLS

On April 25, 2012, the Department of Justice announced that Garth Peterson, the former managing director of Morgan Stanley’s real estate business in China, had pled guilty in connection with his role in a conspiracy to evade the company’s internal accounting controls, required under the FCPA. Morgan Stanley maintained a system of internal controls meant to ensure accountability for its assets and to prevent employees from offering, promising or paying anything of value to foreign government officials. Although Morgan Stanley allegedly trained Peterson, 42, on the FCPA seven times and advised him to comply with the FCPA at least 35 times between 2002 and 2008, Peterson conspired with others to circumvent Morgan Stanley’s internal controls in order to transfer a multi-million dollar ownership interest in a Shanghai building to himself and a Chinese public official with whom he had a personal friendship. At sentencing, scheduled for July 17, 2012, Peterson will face a maximum penalty of five years in prison and a maximum fine of $250,000 or twice his gross gain from the offense. After considering all of the available facts and circumstances, including the fact that Morgan Stanley had prepared and maintained a system of internal controls which provided reasonable assurances that its employees were not bribing government officials, the Department of Justice declined to bring any action against Morgan Stanley related to Peterson’s conduct. The criminal case is U.S. v. Garth Peterson, No. 12-CR-224 (E.D.N.Y.).

SEC INVESTIGATING MAJOR U.S. MOVIE STUDIOS’ DEALINGS WITH CHINA

The SEC is investigating potential FCPA violations by five major movie studios, including News Corp’s 20th Century Fox, Disney, and DreamWorks Animation, based upon recent Chinese deals they have been involved in.

Following Chinese Vice President Xi’s visit to Los Angeles in February, and a subsequent agreement loosening China’s annual quota on foreign film imports, Hollywood struck a flurry of Chinese deals, including: DreamWorks Animation’s plan to build a production studio in Shanghai; Disney’s co-production of the next “Iron Man” in China under a joint agreement between it, Marvel Studios and China’s DMG Entertainment; and Disney’s announcement that it would work with China’s Ministry of Culture and Tencent Holdings to promote the animation industry in China. Recent inquiry letters ask for information about potential inappropriate payments and how the companies dealt with certain government officials in China. A full Reuters article on this matter, published on April 24, 2012, can be found at: http://www.reuters.com/article/2012/04/24/us-sec-movies-idUSBRE83N15V20120424.

BIZJET INTERNATIONAL PAYS $11.8 MILLION CRIMINAL PENALTY TO RESOLVE FCPA CHARGES

BizJet International Sales & Support, Inc., a provider of aircraft maintenance, repair and overhaul (MRO) services based in Tulsa, Oklahoma, agreed to pay an $11.8 million criminal penalty to resolve FCPA charges for bribing government officials in Latin America to secure contracts to perform aircraft MRO services for government agencies. According to court documents, BizJet paid bribes directly to foreign officials. In other instances, BizJet funneled the bribes through a shell company owned and operated by a BizJet sales manager. BizJet executives orchestrated, authorized and approved the unlawful payments. Under the terms of the DOJ’s agreement with BizJet, the DOJ agreed to defer prosecution of BizJet for three years. The case is U.S. v. BizJet Int’l Sales and Support, Inc., No. 12-cr-0061 (S.D. Okla.).

Continued on page 4.
In addition to the monetary penalty, BizJet agreed to cooperate with the DOJ in ongoing investigations, to report periodically to the DOJ concerning BizJet’s compliance efforts, and to continue to implement an enhanced compliance program and internal controls designed to prevent and detect FCPA violations. If BizJet abides by the terms of the deferred prosecution agreement, the DOJ will dismiss the criminal information when the agreement’s term expires. The DOJ press release, published on March 14, 2012, can be found at: http://www.justice.gov/opa/pr/2012/March/12-crm-321.html.

**SECURITIES FRAUD**

**TEXAS FINANCIER ALLEN STANFORD CONVICTED IN S7 BILLION PONZI SCHEME**

On March 6, 2012, three years after the indictment, and following six weeks of testimony, a federal jury convicted R. Allen Stanford, a Texas financier, on 13 of 14 counts of fraud in connection with a global Ponzi scheme that apparently lasted more than two decades and involved more than $7 billion in investments. Stanford was accused of defrauding nearly 30,000 investors in 113 countries in a Ponzi scheme that included fraudulent high-interest certificates of deposit at the Stanford International Bank, which was based on the Caribbean island of Antigua. The prosecution largely relied on the testimony of James M. Davis, Stanford’s chief financial officer, who testified that the business was a fraud, complete with bribes for Antiguan regulators and schemes to hide operations from federal investigators. The jury found Stanford guilty of 13 counts, including conspiracy to commit mail fraud, launder money and obstruct justice. The criminal case is *U.S. v. Stanford*, No. 09-er-0342 (S.D. Tex.), and the civil case is *SEC v. Stanford Int’l Bank Ltd.*, No. 09-cv-0298 (N.D. Tex.).

**SEC CHARGES THORNBURG MORTGAGE EXECUTIVES WITH FRAUD**

On March 13, 2012, the SEC filed a complaint in federal court in New Mexico against the most senior executives of former mortgage giant Thornburg Mortgage, alleging that former CEO Larry Goldstone, former CFO Clarence Simmons, and former Chief Accounting Officer Jane Starett schemed to fraudulently overstate Thornburg’s income by more than $400 million in its 2007 annual report. Now known as TMST, Inc., Santa Fe based Thornburg, once the country’s second largest mortgage company after Countrywide, specialized in making “jumbo” home loans larger than $417,000 to borrowers with good credit. The company collapsed after it was unable to make on-time payments for margin calls it received from lenders, and as the underlying value of the mortgages it held plunged, eventually forcing the company to file for Chapter 11 protection on May 1, 2009. According to the SEC, the fraudulent conduct occurred as Thornburg was facing a liquidity crisis and substantial margin calls from its lenders in the weeks before it filed its 2007 annual report on February 28, 2008. The SEC lawsuit calls for the former executives to give up improper profits, pay civil fines, and be barred from serving as officers or directors of public companies. The SEC case is *SEC v. Goldstone, et. al.*, No. 12-00257 (D.N.M). The bankruptcy case is *In re: TMST Inc.*, U.S. Bankruptcy Court, No. 09-17787 (District of Maryland).

**WALL STREET TRADER AND ATTORNEY SETTLE SEC CHARGES IN $32 MILLION INSIDER TRADING CASE**

On April 25, 2012, the SEC announced a settlement in a $32 million insider trading case filed by the agency last year against a corporate attorney and a Wall Street trader. The SEC alleged that the insider trading occurred in advance of at least 11 merger and acquisition announcements involving clients of the law firm where the attorney – Matthew H. Kluger – worked. He and the trader – Garrett D. Bauer – were linked through a mutual friend now identified as Kenneth T. Robinson, who acted as a middleman to facilitate the illegal tips and trades.
Kluger and Bauer used public telephones and prepaid disposable mobile phones to communicate with Robinson in an effort to avoid detection. Robinson, now also charged, cooperated in the SEC’s investigation. Bauer, Kluger, and Robinson each agreed to give up their ill-gotten gains plus interest to settle the SEC’s charges. Those amounts, as described in their consent agreements, are approximately $31.6 million for Bauer, $516,000 for Kluger, and $845,000 for Robinson. Acknowledging the facts to which they had admitted as part of earlier guilty pleas in their criminal cases, Bauer, Robinson, and Kluger consented to final judgments in the SEC’s civil actions that are subject to court approval. The cases are: SEC v. Matthew H. Kluger and Garrett D. Bauer, Case No. 11-cv-1936 (D.N.J., April 6, 2011); and SEC v. Kenneth T. Robinson, Case No. 12-cv-2438 (D.N.J., April 25, 2011).

**FINANCIAL INSTITUTIONS**

**SECOND CIRCUIT OVERTURNS PROGRAMMER’S CONVICTION**

On April 11, 2012, the Second Circuit issued a 28-page decision justifying the release from prison of former Goldman Sachs & Co. proprietary high-frequency trading programmer Sergey Aleynikov. In a rare move, the Second Circuit overturned Sergey’s conviction earlier this year during oral arguments, by immediately ruling from the bench with a formal opinion to follow. From May 2007 through June 2009, Sergey was employed by Goldman Sachs to develop “source code” for the investment banking firm’s secretive and proprietary high-frequency trading platform. Source codes are complicated lines of computer code which direct trading platforms that self-execute trades in the securities and derivatives markets based upon predetermined parameters. On July 9, 2009, Sergey was arrested after revealing parts of the Goldman Sachs source code he had developed to a competing high-frequency trading firm. Sergey was ultimately charged under the National Stolen Property Act (“NSPA”) and the Economic Espionage Act of 1996 (“EEA”), and was convicted on both counts following a jury trial.

In overturning the conviction, the Second Circuit found that the stolen source code did not constitute a “stolen good” under the NSPA, and was not “related to or included in a product placed in interstate or foreign commerce” under the EEA. The opinion is *U.S. v. Sergey Aleynikov*, No. 11-1126, 2012 U.S. App. LEXIS 7439 (2d Cir. 2012).

**GOLDMAN SACHS AGREES TO SIGNIFICANT CFTC FINE**

On March 13, 2012, the CFTC announced that the futures brokerage arm of investment bank Goldman Sachs & Co. had agreed to pay $7 million to settle failure to supervise charges. Specifically, the CFTC alleged that Goldman Sachs Executions & Clearing, L.P. (“GSEC”) failed to diligently supervise sub-accounts originated by an unaffiliated broker-dealer. GSEC and the broker-dealer were parties to an agreement whereby GSEC provided certain back-office services to the broker-dealer in exchange for fees and commissions. As part of the ongoing agreement between the firms, the broker-dealer represented to GSEC that it would not trade commodities for customer accounts. Ultimately, the CFTC alleged that GSEC became aware of several signs of questionable conduct by the broker-dealer, but failed to further investigate after accepting certain assurances provided by the broker-dealer. GSEC agreed to pay $1.5 million in restitution, based on commissions and fees made from the arrangement, and an additional $5.5 million civil monetary penalty. The settlement order is *In the Matter of Goldman Sachs Execution & Clearing, L.P.*, CFTC Docket No. 12-16 (March 13, 2012).

*Continued on page 6.*
SEC Files Subpoena Enforcement Action against Wells Fargo

On March 23, 2012, the SEC announced that it had filed a subpoena enforcement action against Wells Fargo. According to the filing, the Commission is investigating possible fraud in connection with the company’s sale of nearly $60 billion in residential mortgage-backed securities to investors, and, more specifically, whether Wells Fargo made material misrepresentations or omitted material facts in a series of offerings between September 2006 and early 2008. In response to SEC administrative subpoenas dating back to September 2011, Wells Fargo was obligated to produce (and agreed to produce) documents to the Commission, but failed to do so. The Commission’s application seeks an order from the federal district court compelling Wells Fargo to comply with the Commission’s administrative subpoenas and to produce all responsive materials to the staff. The case is S.E.C. v. Wells Fargo & Company, No. CV-1280087 (N.D. Cal.).

Futures Brokerage Firm Settles Supervision Violations for $2.5 Million

On April 12, 2012 commodities broker Rosenthal Collins Group, LLC (“RCG”) agreed to pay $2.5 million to settle charges that the firm had failed to diligently supervise employees who had handled a trading account used to carry out a Ponzi scheme. Specifically, the settlement order found that RCG had failed to investigate and identify suspicious activity dating back years and related to the trading account. Moreover, RCG’s supervisory controls were insufficient because those reviewing the account were unaware of key information in the financials and account opening documents provided to RCG by the firm involved in the Ponzi scheme. The CFTC also noted that RCG had failed to respond adequately and completely to CFTC Enforcement Division subpoena requests related to the investigation. RCG agreed to pay $921,260.90 in restitution to the Ponzi scheme’s victims, and an additional $1.6 million civil monetary penalty. The settlement order may be found at In the Matter of Rosenthal Collins Group, LLC, CFTC Docket No. 12-18 (April 12, 2012).

Cyberfraud

Another Defendant Sentenced in Eastern European Cyberfraud Scheme

On March 23, 2012, Preet Bharara, the United States Attorney for the Southern District of New York, announced that Nikolay Garifulin, 23-years-old, of Volgograd, Russia, was sentenced in Manhattan federal court to two years in prison for his involvement in a global bank fraud scheme that used hundreds of phony bank accounts to steal over $3 million from dozens of U.S. accounts that were compromised by computer virus attacks. On September 23, 2011, Garifulin pled guilty to one count of conspiracy to commit bank fraud and one count of conspiracy to possess false identification documents. As part of the bank fraud scheme, hackers in Eastern Europe used cyber attacks to steal money from the bank accounts of small and mid-sized businesses throughout the United States. The cyber attacks included the use of malware known as Zeus Trojan, which embedded itself in victims’ computers and recorded their keystrokes as they logged onto their online bank accounts. The hackers responsible for the malware then used the account information to access the victims’ bank accounts and make unauthorized transfers of thousands of dollars at a time to accounts controlled by various co-conspirators, including Garifulin. In addition to his prison term, Garifulin was sentenced to three years of supervised release. He was also ordered to forfeit $100,000 and to pay $192,123.122 in restitution. The case is U.S. v. Garifulin, No. 10-cr-0928 (S.D.N.Y.).
ARTICLES

A NEW LIMIT ON RESTITUTION IN WHITE COLLAR CRIMINAL CASES
By Philip W. Raimondi

The federal government’s ability to seek restitution from convicted white collar criminals is a powerful tool. Recently, however, the Second Circuit Court of Appeals limited the scope of this prosecutorial remedy in a significant way. The calculation of restitution as a remedy for white collar criminal convictions was traditionally based on the victim’s losses. When a victim’s losses were too complex to determine, or simply nonexistent, prosecutors would often calculate restitution based upon the defendant’s ill-gotten gains from the crime. However, on April 18, 2012, the Second Circuit ruled that the use of ill-gotten gains, as applied to the Mandatory Victims Restitution Act (“MVRA”), is not a valid method to calculate restitution.

Restitution in Criminal Cases

Restitution is a common remedy sought by the Department of Justice (“DOJ”) and other prosecutors to recoup a victim’s funds that were stolen. Specifically, this remedy is defined as: “[c]ompensation for loss; esp., full or partial compensation paid by a criminal to a victim … ordered as part of a criminal sentence or as a condition of probation.” BLACK’S LAW DICTIONARY, 1428 (9th ed. 2009). Typically, civil prosecutors such as the Securities and Exchange Commission (“SEC”) act as the primary entity seeking restitution. However, in many circumstances the DOJ also seeks restitution.

Federal prosecutors rely on statutory authority to seek restitution because the courts do not have the inherent authority to order restitution. See United States v. Reifler, 446 F.3d 65, 127, 137 (2d Cir. 2006). Therefore, criminal prosecutors typically rely on the MVRA to seek restitution. See generally 18 U.S.C. § 3663, et seq.

The MVRA provides criminal authorities with the power to seek restitution, in addition to other remedies, when sentencing those convicted of felonies and certain misdemeanors. See 18 U.S.C. § 3663(a)(1)(A).

The Zangari Prosecution

Salvatore Zangari was a securities broker who specialized in stock-loan transactions. He worked at Morgan Stanley & Co. and Bank of America Securities, LLC for over eight years. During his time at these two firms, the SEC and DOJ alleged that Zangari was engaged in a practice in which he and a co-worker engaged in stock-loan transactions primarily with two entities. The government further alleged that these two entities knowingly paid finder’s fees for the transactions to a sham third-party firm owned by a Zangari accomplice. Zangari’s accomplice then allegedly provided kickback payments to Zangari and his co-worker for their part in the scheme. On April 15, 2010, Zangari pled guilty to one count of conspiracy for his role in the scheme. See U.S. v. Zangari, No. 10-cr-255 (E.D.N.Y., Apr. 15, 2010). In connection with Zangari’s sentencing, the U.S. Probation Office prepared a report that did not calculate the victims’ losses, but rather, referenced Zangari’s ill-gotten gains. On October 29, 2010, Zangari was sentenced to a year and a day in prison and ordered to pay restitution of $65,600. Zangari immediately appealed the restitution award, claiming that the sentencing court had improperly determined the amount based on his purported gains rather than on the actual losses of his victims -- the two banks that employed him.

Ill-Gotten Gains Cannot Replace Victim’s Losses

While civil agencies such as the SEC remain free to reference a defendant’s ill-gotten gains in calculating losses, in Zangari’s case the Second Circuit held that criminal authorities seeking restitution under the MVRA may not engage in this practice.

Continued on page 8.
See U.S. v. Zangari, No. 10-4546-cr (2d Cir., Apr. 18, 2012) (hereinafter “Zangari”). Zangari set forth two important rationales for prohibiting the practice of calculating restitution awards based on ill-gotten gains in criminal cases, holding that: (a) the plain language of the MVRA limits restitution calculations to a victim’s losses; and (b) no direct correlation existed between the victim’s losses and the defendant’s ill-gotten gains in this case.

On the first point, Zangari cited the MVRA directly in holding that “there is no provision in the … MVRA itself that allows the defendant’s gain to be substituted for the victim’s loss for purposes of calculating restitution.” Zangari, Slip Op. at 9. Specifically, Zangari noted that the MVRA strictly limits restitution to “the full amount of each victim’s loss.” Zangari, Slip Op. at 8; see also 18 U.S.C. § 3664(f)(1)(A). Because this matter was an issue of first impression in the Second Circuit, the Court also noted several other circuit court decisions that supported the Court’s rationale. See Zangari, Slip Op. at 10, note 8; see also U.S. v. Harvey, 532 F.3d 326, 340 (4th Cir. 2008); U.S. v. Chalupnick, 514 F.3d 748, 754 (8th Cir. 2004); U.S. v. George, 403 F.3d 470, 474 (7th Cir. 2005); U.S. v. Galloway, 509 F.3d 1246, 1253 (10th Cir. 2007).

Second, the Second Circuit held that there was no “direct correlation” between the gains from the kickback scheme and the losses suffered by the two bank employers. Zangari, Slip Op. at 11. Zangari did confirm that certain circumstances may exist where the gains of a defendant can still be used as a measure of the victim’s losses under the MVRA. For example, an individual misappropriating funds from customer accounts has gained the exact amount lost by the victims of the theft. However, in the Zangari case itself, there was never a true calculation of the banks’ losses, and the amount actually used for restitution was a substitute for that calculation.

Ultimately, the Second Circuit found that the losses claimed by the banks were simply not equivalent to the sham finder’s fees paid to Zangari and his co-worker. Zangari, Slip Op. at 12.

Future Criminal Restitution Actions

As a result of Zangari, the practice of using potentially higher ill-gotten gains as substitution for a victim’s actual losses to calculate restitution under the MVRA has reached an abrupt end -- at least in the Second Circuit, which now joins several other circuits that have reached a similar conclusion. Put simply, without “direct correlation” to a victim’s loss, criminal prosecutors may no longer use ill-gotten gains to calculate restitution.
WHO WE ARE

The White Collar Crime Committee is made up of over 300 attorneys and associates, and includes several former U.S. Attorneys, many current and former Assistant U.S. Attorneys, and some of the leading practitioners in the white collar field. Our members represent either the Government or the defendants in many of the most significant white collar cases, and also participate in a variety of seminars and events throughout the calendar year. The Committee focuses on those aspects of white collar criminal law that impact upon businesses and executives. Committee members collaborate on a wide range of white collar topics and provide input to the ABA’s Business Law Section on issues of concern in the field.

The Committee includes the following Subcommittees:

1. Corporate Internal Investigations
2. FCPA/Anti-Corruption
3. Securities Fraud
4. Prosecution/Cooperation/Sentencing
5. Financial Institutions
6. Healthcare Fraud
7. Cyberfraud

The Committee’s relatively small size provides any member who is interested with a significant opportunity to participate in Committee activities.

COMMITTEE ACTIVITIES

The Committee meets three times a year, in the Fall, Winter and Spring. Committee meetings usually include a presentation on a key topic and a social event affording members the opportunity to network with other Committee members.

The Committee also sponsors and co-sponsors programs at various ABA events concerning issues of significant interest to practitioners, including the latest developments in the white collar field.

The Committee is one of the primary sponsors of the ABA’s National Institute on Internal Corporate Investigations and Forum for In-House Counsel, an annual event designed to bring together leading practitioners to address the legal, ethical, strategic and managerial considerations involved in corporate internal investigations.

CALENDAR OF UPCOMING EVENTS

ABA’s Annual Meeting
August 3-5, 2012
Chicago, IL

COMMITTEE-SPONSORED DINNER

Join members of the ABA Business Law Section’s White Collar Crime, Corporate Compliance, and Corporate Counsel Committees for a Joint Dinner

Enjoy Chicago Deep Dish Pizza at Gino’s East Pizza
162 E. Superior Street, Chicago, IL
Saturday, August 4, 2012
6:30 p.m.

Event Ticket: $66.00 for food and open bar

COMMITTEE-SPONSORED PANELS AT THE ABA ANNUAL MEETING

“The Watercooler Effect: Managing the Rumor Mill During a White Collar Investigation and/or Prosecution”
Moderator: Committee member Ashish Joshi of Lorandos Joshi, Ann Arbor, MI
Friday, August 3, 2012
10:30 a.m. to 12:30 p.m.

“What Every M&A and Private Equity Transactional Lawyer Needs to Know about the Foreign Corrupt Practices Act”
Sponsored by our FCPA/Anti-Corruption Subcommittee (and Co-Sponsored by the Mergers and Acquisitions Committee of the Business Law Section)
Panelists: Committee members William Devaney, Venable LLP, New York; Emily Stern, Katten Muchin Rosenman LLP, New York; Sigal Mandelker, Proskauer Rose LLP, New York; and Wallace Weitz, Bass Berry & Sims PLC, Nashville, TN
Saturday, August 4, 2012
8:00 a.m. - 10:00 a.m.

“Corporate Litigation Problems that Keep General Counsel Awake at Night and How to Solve Them”
Friday, August 3, 2012
2:30 p.m. - 4:30 p.m.
Sponsored by the Business Law Section’s Corporate Counsel Committee and Co-sponsored by our Committee.
NEWS FROM THE FIELD

COMMITTEE INFORMATION

CALENDAR OF UPCOMING EVENTS
CONT’D

FALL COMMITTEE MEETING
September 2012 - Herrick

Everyone is invited to attend the Fall Committee Meeting, which will include a discussion of Committee business and upcoming events, as well as a presentation by our Financial Institutions Subcommittee.

WINTER COMMITTEE MEETING

On February 2, 2012, the Committee held its winter meeting at Herrick’s New York City offices. The meeting included a discussion of Committee business and upcoming programs, as well as a presentation on current FCPA trends by various members of our FCPA/Anti-Corruption Subcommittee. The presentation was led by Subcommittee Co-Chairs Matt Queler of Proskauer Rose and Alan Brudner of Paul Hastings, and included speeches by Subcommittee members Omar Qureshi of CMS Cameron McKenna in London, William Devaney of Venable and Ruan Zhen.

BUSINESS LAW SECTION’S SPRING MEETING

A number of Committee members traveled to Las Vegas for the ABA Business Law Section’s Spring Meeting, which was held from March 22-24, 2012. Brian Sumner, Joe Dooley and David Rosenfield attended a dinner sponsored by the Committee and several other Business Law Section Committees. The Committee also sponsored two panels at the Spring Meeting: “New and Evolving Threats from the Responsible Corporate Officer Doctrine” and “Defending Public Corporations in High Stakes Criminal Trials: Lessons from U.S. v. Xcel Energy, Inc.”

PAST EVENTS

SPRING COMMITTEE MEETING

The Committee’s Spring meeting, which was held at Herrick on May 17, 2012, included a presentation on electronic discovery by Greg Cancilla, Director of Forensics at RVM, Inc., who is a Certified Computer Forensic Engineer, and a speech by Reed Albergetti, The Wall Street Journal’s white collar crime reporter. A networking reception followed the meeting.

4TH ANNUAL NATIONAL INSTITUTE ON CORPORATE INTERNAL INVESTIGATIONS AND FORUM FOR IN-HOUSE COUNSEL

Currently in its fourth year, this annual event, which took place from May 16-18, 2012 in San Francisco, CA, brought together leading practitioners to address the legal, ethical, strategic and managerial considerations involved in corporate internal investigations. We thank Institute Planning Committee members Michael Clark and A.J. Bosco, who are the Co-Chairs of our Corporate Internal Investigations Subcommittee, for their outstanding efforts in the organization of this event.

Enjoying the reception following the Committee’s May 17, 2012 Spring meeting are, from left to right: Judy Mines, Committee Member; Gary Cutler, Prosecution/Cooperation/Sentencing Subcommittee Co-Chair; Speaker Greg Cancilla of RVM, Inc.; and Dyana Lee.
SUBCOMMITTEE PROJECTS

The Committee’s Securities Fraud and Financial Institutions Subcommittees are planning a Fall event at which a senior SEC Enforcement Division official will speak.

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The Prosecution/Cooperation/Sentencing Subcommittee is planning a Fall seminar on sentencing trends.

WHITE COLLAR BLOG

Alain Leibman, Committee Vice-Chair, publishes a blog that provides timely and substantive analysis of developments in the areas of criminal law and trial practice. The blog is aimed at both defense counsel and in-house counsel, and provides original insights on legal developments. The blog can be found at http://whitecollarcrime.foxrothschild.com/.

FCPA ARTICLE

Committee member William Devaney of Venable published an in-depth article covering FCPA highlights of 2011. A copy of the article may be viewed by using the following link:
http://www.venable.com/files/Publication/4fbc1e2f-758c-46de-ADB2-b924F59f89e2/Preview/PublicationAttachment/b19ae02c-b72a-4f6a-52b-f896a3caf146/FCPA_Snapshot--March-2012.pdf

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We would like to highlight any case victories, awards or accolades received by Committee members in this section. Please contact Chantelle Aris at caris@herrick.com with any information.