



WHITE COLLAR CRIME COMMITTEE NEWSLETTER

SUMMER/FALL 2018

ABA CRIMINAL JUSTICE SECTION WCC Committee

MESSAGE FROM THE EDITOR

Welcome to the Summer/Fall 2018 Edition of the *White Collar Crime Committee Newsletter*.

The *White Collar Crime Committee Newsletter* showcases content and opinion of leading experts, scholars, and practitioners through articles written by our [Criminal Justice Section](#) members. The [White Collar Crime Committee](#) seeks your participation in its 20 regional committees and 20 substantive committees; and encourages your attendance at its national and international conferences, CLE, and workshops.

The White Collar Crime Committee encourages you to participate year round, and also looks forward to reading your submissions for our upcoming Winter/Spring 2019 issue. If you would like to submit an article for our next edition or have ideas on a subject for a topical Newsletter, please contact the WCCC Newsletter Subcommittee Chair, **Salma S. Safiedine** at S.Safiedine@SPartnersLaw.com.

Please note these upcoming CJS programs related to white collar crime:

7th London White Collar Institute: Oct. 8-9, London, UK

11th CJS Fall Institute and Meetings: Nov. 1-4, Washington, DC
With Academic Roundtable, White Collar Crime Town Hall, CJS Awards Luncheon

33rd National White Collar Crime Institute: March 6-8, New Orleans, LA

Third Global White Collar Crime Institute: June 28-29, Prague, Czech Republic

FEATURED ARTICLES

MAXIMIZE YOUR CYBER INSURANCE COVERAGE

By Kristofer Swanson

How will you leverage your various insurance policies to best mitigate the economic impact of a cyber incident? The second in a series of infographics, this Forensic Perspectives from CRA discusses potential coverage available through both cyber and non-cyber policies. [READ MORE.](#)

**WHAT IS A MISREPRESENTATION?:
THE SLIPPERY SLOPE OF FEDERAL WHITE COLLAR INVESTIGATIONS**

By Steve Jumes

A Texas man is facing up to 20 years in prison after pleading guilty to wire fraud for making various misrepresentations to investors in connection with two companies he owned. Ronald Morris, 69, owned Greystone Digital Technologies and Kiboga Systems, Inc. – companies that he claimed developed, built, and maintained software for large “cargo scanners” capable of detecting drugs, explosives and other contraband in vehicles, trucks and large containers. Morris represented to investors that he had completed the design of the cargo scanner, tested it to capacity and that he needed and used investor funds to finance the development of the software program for the cargo scanner.

In reality, according to government officials, Morris was using investor funds for personal expenses and to support his lavish lifestyle. [READ MORE.](#)

**CRISIS CAN'T BE PREDICTED — BUT YOU CAN HELP YOUR CLIENTS
PREPARE FOR THE RISE IN FRAUD RISK IT WILL GENERATE**

By Kristin Rivera

In the midst of last fall’s unprecedented spate of hurricanes, I logged onto my online banking service, and the speed of the crisis response was clear. My bank was offering to help victims by delaying mortgage payments, as well as offering other financial assistance. But it wasn’t just legitimate businesses that were quick to respond: the fraudsters were equally fast off the mark. As the floodwaters were still receding, the US Justice Department announced it had already received more than 400 fraud complaints involving relief aid in the wake of Harvey and Irma — and added that it expected a spike in complaints in subsequent months. [READ MORE.](#)

[This article appears in conjunction with PwC’s sponsorship of the CJS and neither the CJS nor the ABA recommends or endorses the product or services of PwC.]

INCREASINGLY INVASIVE TECHNOLOGICAL SEARCHES AT AIRPORTS

By Martin S. Bloor and Rachel Collins Clarke

Each day, hundreds of thousands of travelers enter the United States at one of our airports. These travelers, including United States citizens and others traveling from countries that are our closest allies, may be subjected to an invasive and warrantless search of their technology as a pre-condition for entrance. While travelers have grown accustomed to searches of luggage and of themselves, a search of a traveler’s smartphone, tablet or laptop by a Customs and Border Protection (CBP) or Immigration and Customs Enforcement (ICE) agent is potentially far more invasive. [READ MORE.](#)

**DIGITAL PRIVACY AT THE BORDER:
THE SUPREME COURT'S NEXT FOURTH AMENDMENT FRONTIER**

By Douglas E. Whitney

Each year, the Customs and Border Patrol (CBP) searches tens of thousands of cell phones and electronic devices at U.S. borders without a search warrant or probable cause. CBP conducts these warrantless searches pursuant to its “plenary authority” to conduct searches of “persons and merchandise crossing our nation’s borders.” But two recent Supreme Court opinions applying other Fourth Amendment doctrines to cell phones suggests that CBP’s indiscriminate searching of these devices is unconstitutional, and should soon come to an end. [READ MORE.](#)

UNITED STATES V. HONEYCUTT: A POSSIBLE SEA CHANGE IN ASSET FORFEITURE LAW

By Ian M. Comisky

If one defendant receives ten dollars and another ninety dollars as a result of violations of federal narcotics laws, could a district court at sentencing impose a forfeiture order holding both defendants joint and severally liable for one hundred dollars? Prior to 2017, circuit courts were not in agreement as to the answer to this question as to whether joint and several liability could be imposed. The Supreme Court resolved the circuit split as to joint and several liability in narcotics cases in *Honeycutt v. United States*. While the white collar practitioner might initially react with a decided lack of interest, the case is of singular importance not only as it relates to narcotics offenses but early indications are that the holding may apply to a broad array of other forfeiture statutes, including those arising under the money laundering laws. There is already an emerging circuit court conflict as to the applicability of *Honeycutt* to one civil money laundering forfeiture provision. [READ MORE.](#)

THE MADOFF CASE, FROM MY PERSPECTIVE (PART 3 OF 4)

By Roland Riopelle

The Income Tax Has Made More Liars Out of the American People Than Golf Has

At trial, my client was convicted with Mr. Madoff and others of conspiring to commit a fraud on Mr. Madoff’s investors. But the proof at trial and the documentary evidence I examined during the pre-trial period in the case showed that there was more than one conspiracy involving Mr. Madoff. And there was at least one very large and lengthy conspiracy between Mr. Madoff and some of his favored, long-term customers that never featured much in the government’s charges; namely, a giant conspiracy to commit tax evasion. [READ MORE.](#)

CJS UPCOMING EVENTS

- **7th London White Collar Institute**: Oct. 8-9, London, UK
- **11th CJS Fall Institute and Meetings**: Nov. 1-4, Washington, DC
- **ABA/ABA Financial Crimes Enforcement Conference**: Dec. 2-4, National Harbor, MD
- **35th National Institute on Criminal Tax Fraud**: Dec 12-13, Las Vegas, NV
- **ABA Midyear Meeting**: Jan 24-27, Las Vegas, NV
- **33rd National White Collar Crime Institute**: March 6-8, New Orleans, LA
- **CJS Spring CLE, Council & Committee Meetings**: April 4-7, Nashville, TN
- **10th Annual Prescriptions for Criminal Justice Conference**: May 29-31, New York, NY
- **Third Global White Collar Crime Institute**: June 28-29, Prague, Czech Republic
- **ABA Annual Meeting**: Aug. 8-13, San Francisco, CA

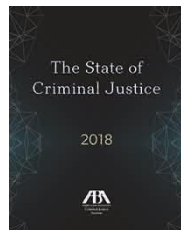
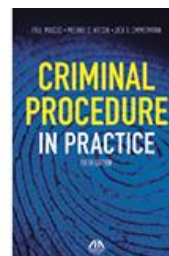
See the complete calendar at www.ambar.org/cjsevents

NEW CJS PUBLICATIONS

Criminal Procedure in Practice, Fifth Edition

By Melanie Wilson, Paul Marcus, Jack B Zimmermann

This book gives a broad overview of criminal procedure from investigation all the way through post-conviction reviews.



The State of Criminal Justice 2018

Edited by Mark E Wojcik

This annual publication examines and reports on the major issues, trends and significant changes in the criminal justice system.

See more CJS books at www.ambar.org/cjsbooks

VISIT THE [WHITE COLLAR CRIME COMMITTEE WEBSITE](http://www.ambar.org/white-collar-crime-committee) FOR COMMITTEE UPDATES AND RECENT NEWS

WCCC CO-CHAIRS: RITA GLAVIN, BENJAMIN GLUCK

The White Collar Crime Committee Newsletter

Editor: Salma S. Safiedine
Deputy Editor: K. Jeannie Chung
Managing Editor: Kyo Suh

The **WCCC Newsletter** is published two times a year. Articles reflect the views of the individuals that prepared them and do not necessarily represent the position of the American Bar Association, the Criminal Justice Section, any affiliated agencies, or the editors of the newsletter. Copyright 2018, The American Bar Association.

The American Bar Association Criminal Justice Section

1050 Connecticut Avenue, NW, Suite 400, Washington, DC 20036

Phone: (202) 662-1500, Fax: (202) 662-1501

Email: crimjustice@americanbar.org Web: www.americanbar.org/crimjust