



AMERICAN BAR ASSOCIATION

Criminal Justice Section

WHITE COLLAR CRIME COMMITTEE NEWSLETTER

SUMMER/FALL 2019

ABA CRIMINAL JUSTICE SECTION WCC Committee

MESSAGE FROM THE EDITOR

Welcome to the Summer/Fall 2019 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 ABA [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 2020 issue. If you would like to submit an article for our next edition (submission deadline: Jan. 15, 2020) 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:

8th London White Collar Crime Institute: Oct. 14-15, London, UK

12th Annual CJS Fall Institute & Meetings: Nov. 7-10, Washington, DC

- International White Collar Crime Committee Meeting: Nov. 7, 8 AM
- White Collar Crime Town Hall: Nov. 7, 3:30 PM

34th National Institute on White Collar Crime: March 11-13, 2020, San Diego, CA

See the complete CJS Calendar of Events at www.ambar.org/cjsevents

FEATURED ARTICLES

[**U.S. and Bar Challenged to Keep Pace with International Transparency and Related Gatekeeper Standards**](#)

By Bruce Zagaris

In 2018, the United States government and bar associations had difficulty keeping pace with international transparency and related gatekeeper standards. The international standards, as set by the Financial Action Task Force (FATF), the Organization of Economic Cooperation and

Development (OECD), and as endorsed by the G20 and other groups, continued to strengthen. Until recently, the U.S. government has been a leader on tax transparency, anti-money laundering, and anti-corruption. In addition, the U.S. still pays the largest share for the OECD and FATF. As a result, the U.S. has not appeared on any black lists because of its failure to meet parts of the international standards. [READ MORE](#)

[An earlier version of this article appeared in The State of Criminal Justice 2019, published by the ABA Criminal Justice Section.]

Caremark, Compliance and Caution!

By Jonathan T. Marks

A significant June 2019 decision by the *Delaware Supreme Court* interpreting the *Caremark* doctrine that limits director liability for an oversight failure to “utter failure to attempt to assure a reasonable information and reporting system exists” prompts this update. [READ MORE](#)

SEC Invokes “120-day” Rule to Enhance Award to Internally Reporting Whistleblower Despite *Digital Realty*

By Christopher F. Regan, Thomas A. Sporkin, Timothy J. Coley, Jessica M. Shannon

The Securities and Exchange Commission recently approved a \$4.5 million whistleblower award, the first issued under its rule governing internal whistleblowing and its first since the Supreme Court’s decision last year in *Digital Realty Trust, Inc. v. Somers*. [READ MORE](#)

Market Manipulation in Milliseconds: Spoofing in Commodity Futures Exchanges

By Luke Cass

Enforcement of the “Anti-Spoofing” provision of the Commodity Exchange Act, 7 U.S.C. § 1 *et seq.*, on the commodity futures exchanges is at a unique juncture where law and technology have seemingly intersected at the right place and at the right time. This article examines this seldom known, but increasingly used, criminal statute in its first prosecution and spoofing’s potential to wreak havoc in commodity futures markets in a matter of seconds. [READ MORE](#)

[This article also appears in the Criminal Justice Section Newsletter, Fall 2019 edition.]

RESOURCES

Featured CJS Books:

The State of Criminal Justice 2019

This publication examines and reports on the major issues, trends and significant changes in the criminal justice system. The 2019 volume contains chapters focusing on specific aspects of the criminal justice field, with summaries of all of the adopted official ABA policies passed in 2018-2019 that address criminal justice issues.

[Trial Tactics, Fourth Edition](#)

By Stephen Saltzburg

Trial Tactics, Fourth Edition, is a road map for the discovery and avoidance of the many pitfalls and obstacles that must be avoided to achieve ultimate success at trial.

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

VISIT THE [WHITE COLLAR CRIME COMMITTEE WEBSITE](#) FOR COMMITTEE UPDATES AND RECENT NEWS

WCCC CO-CHAIRS: ROBB ADKINS, RITA GLAVIN

The White Collar Crime Committee Newsletter

Editor: Salma S. Safiedine
Deputy Editor: Hannah Gokaslan
Managing Editor: Kyo Suh

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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.
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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
