Welcome to the Summer/Fall 2015 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 2016 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 programs related to white collar crime:

- **Southeastern White Collar Crime Institute**: Sept. 10-11, Braselton, GA (near Atlanta)


- **White Collar Crime Town Hall – The New Frontier-Surveillance Technology and the Law**: Oct. 27, Washington, DC (During CJS Fall Meeting)

- **Inaugural Global White Collar Crime Institute**: Nov. 19-20, Shanghai, China

**FEATURED ARTICLES**

The U.S. Sentencing Commission Votes for Fundamental Fixes to the Sentencing Guidelines

By Alan Ellis and Mark H. Allenbaugh

On April 9, 2015, the U.S. Sentencing Commission voted to fundamentally fix some portions of the U.S. Sentencing Guidelines that have long been in need of repair. These fixes will become final on November 1, 2015, if Congress does not act to the contrary. Of the nearly 800 amendments to the guidelines, Congress has only vetoed Commission action four times, and those had to do with crack cocaine amendments. While the Department of Justice initially opposed some of the current changes, it voiced no opposition at the April 9
vote. It is highly doubtful that Congress will reject any of these amendments, as they are relatively non-controversial.

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**Worthless or Merely Worth Less: The Current State of the Worthless Services and Quality of Care Theories of False Claims Act Liability**

*By Matthew T. Newcomer and Barbara Rowland*

Late last year, Extendicare Health Services agreed to pay $38 million to resolve allegations that it violated the federal and state False Claims Acts (FCA) by seeking government reimbursement for “materially substandard and/or worthless skilled nursing services” that were provided at Extendicare’s numerous skilled nursing facilities. The Department of Justice hailed the resolution as the “largest failure of care settlement with a chain-wide skilled nursing facility” in its history. The thrust of the government's theory was not that Extendicare billed the government for services that were not performed or that were medically unnecessary; rather, it alleged that Extendicare submitted claims for services that failed to meet the purported “federal standards of care” because, for example, it did not adequately staff its facilities, failed to follow certain medical protocols and failed to appropriately administer medication to some of its residents.

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**An Economical Good In Disguise; The True Impact of Counterfeit Goods**

*By Kelsey Powderly, Salma S. Safiedine, Darcy Sharp*

Counterfeit goods are a domestic and international problem that affects businesses, consumers, and workers alike. Businesses are harmed through loss profits, but counterfeiting is even more damaging to the business brand - an attractive target to counterfeiters. When counterfeit luxury goods are made more available and sold at worse quality, the business loses brand prestige and exclusivity and thereby suffers harm to their good will. In 2006, it was estimated that between $15 billion and $50 billion in profits offset sales of genuine items due to their counterfeit-counterpart.

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**Overcoming “Crony Communism”: Is EU Membership the Key?**

*By Sulaksh Shah, Mihnea Rotariu, Thomas Firestone*

While the relationship between perceived corruption and ease of doing business in a country is fairly easy to grasp, a more interesting, and provocative, question is this: To what extent can a country formerly known for a relatively high level of perceived corruption change — once it joins an economically developed supranational entity such as the European Union? The question is vital for companies doing business — or contemplating doing so — in the countries of the former Soviet Bloc (defined for purposes of this article as the former Soviet republics, plus the former socialist countries of the “Eastern Bloc”) and former Yugoslavia who have joined or plan on joining the EU.
A New Compliance Challenge for Companies Doing Any Business In UK

By T. Markus Funk, Paul O. Hirose, and Elizabeth R. Breakstone

Multi-national companies with business interests in the UK take note: the UK just ramped up its role in the global fight against human trafficking. On the heels of the UK Bribery Act of 2010 (a close copy of the US Foreign Corrupt Practices Act), the UK Government has now taken cues from another novel US enactment - this time the California Transparency in Supply Chains Act (the “California Act”) - and delivered its own disclosure regime on the doorsteps of the international business world. READ MORE (Originally published in Law360, reprinted with permission.)

CJS Upcoming Events

Southeastern White Collar Crime Institute:
Sept. 10-11, Braselton, GA (near Atlanta)

Qui Tam Litigation: A Practitioner’s Symposium:
Sept. 25, Charlotte, NC

Fourth Annual International White Collar Crime Institute:
Oct. 12-13, London, UK

CJS 8th Annual Fall Institute, Awards Luncheon, CJS Council & Committee Meetings:
Oct. 22-25, Washington, DC

Inaugural Global White Collar Crime Institute:
Nov. 19-20, Shanghai, China

Visit The Criminal Justice Section’s Complete Calendar at http://www.americanbar.org/groups/criminal_justice/events_cle.htm
NEW PUBLICATIONS

The State of Criminal Justice 2015
Edited by Mark E. Wojcik

This publication examines and reports on the major issues, trends and significant changes in the criminal justice system. The 2015 volume contains 19 chapters focusing on specific aspects of the criminal justice field, with summaries of all of the adopted official ABA policies passed in 2014-2015 that address criminal justice issues.

Money Laundering
By Miriam Weismann

This book provides an updated and comprehensive review of the subject of anti-money laundering activity. The book is designed to organize and simplify (to the extent possible) the explanation of the laws, regulations, and salient cases.

Trying Cases to Win: In One Volume
By Herbert J Stern and Stephen A Saltzburg

This book is an indispensable resource for everyone who tries cases—whether civil or criminal - and for anyone who wants to learn the art of the trial lawyer. It sets forth a strategic method for any trial, and provides the techniques to deliver that strategy throughout every phase of the trial: openings, directs and cross, experts, and summations.

See more books at http://www.americanbar.org/groups/criminal_justice/publications.html

VISIT THE WHITE COLLAR CRIME COMMITTEE WEBSITE FOR UPDATES AND RECENT NEWS

WCCC CO-CHAIRS: PHILIP H. HILDER, DAVID M. ZINN

White Collar Crime Committee Newsletter
Editor: Salma S. Safiedine
Managing Editor: Kyo Suh

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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