

Understanding White Collar Crime

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Understanding White Collar Crime

FIFTH EDITION

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JKS

For Hal, Eleanor, and Sam

TJH

For Cara, Lyla, and Mabel

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Preface

Overview of the Text

This book is primarily intended for law and business students in White Collar Crime, Federal Criminal Law, and Corporate Crime classes. The text should also prove useful to legal practitioners, judges, law clerks, and scholars, as well as business leaders in compliance and risk management, who are seeking an introduction to and an overview of the law in this area.

The bulk of this text provides a substantive overview of the principal federal white collar crimes. The book also covers the basic principles of criminal law and criminal procedure necessary to an understanding of white collar crime, and includes chapters on the process of white collar criminal investigations and prosecutions. Finally, the book covers remedies and penalties, including sentencing and forfeitures.

White collar crime is primarily based upon a complex set of statutes. This book provides the texts of the relevant statutes, along with analyses of the statutes' elements and requirements. Because many of these statutes are open to varying interpretations, the book also extensively discusses the main cases interpreting the statutes, including a large number of United States Supreme Court cases. Finally, the book discusses the significant policy issues that arise in white collar investigations and prosecutions, such as enforcement barriers and prosecutorial discretion.

Because of the complexity of the subject, a text such as this necessarily condenses a great deal of information. In addition, readers should note that this area of the law is changing rapidly. For a more extensive discussion of any particular subject, the reader may wish to refer to such sources as *White Collar Crime: Business and Regulatory Offenses* (Otto Obermaier et al., eds.) (updated annually), and the *Annual Survey of White Collar Crime*, published by the American Criminal Law Review.

A Special Request

Any book of this length is bound to contain errors. Those errors are entirely the authors' responsibility, and we would like to know about all of them. We welcome any comments you may have. Please do not hesitate to e-mail us at kstrader@swlaw.edu or taugh@indiana.edu.

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For this edition, I feel so fortunate to have Todd Haugh join me as co-author. Todd's perspective as an accomplished scholar in the white collar field, and as a person steeped in the business context that is critical to understanding this area of the law, have substantially enriched this text.

On a personal note, I would like to thank my husband, Hal, our children, Eleanor and Sam, and their moms, Helen and Marian, for their love and support.

From Todd Haugh: First and foremost, I would like to thank Kelly Strader for inviting me to co-author a text that I have long admired. It is a challenge to find materials that fit the needs of teaching white collar and corporate criminal law to undergraduate business students, MBAs, and corporate executives, all in one text. Most casebooks have too many cases and not enough blackletter law; most nutshells fail to provide enough detail for serious understanding. *Understanding White Collar Crime* has always hit that sweet spot, and I marvel at how well it is written. I am thrilled to be adding my expertise and viewpoint to a book I have enjoyed teaching from for years. Thanks again, Kelly.

The Kelley School of Business at Indiana University, and its Department of Business Law and Ethics, where I call home, is unparalleled in providing resources for its faculty, and I have benefited greatly from it. Thanks to all there. I would also like to highlight the Arthur M. Weimer Faculty Fellowship for its additional support. Many colleagues have contributed to this book, be it directly through the editing process or by simple discussion and idea sharpening. The list is long but starts with Matt Turk, Suneal Bedi, and Karen Woody. Herculean research assistance came from Wei-Chung (Lucas) Lin.

The people I need to thank the most, though, are my wife and kids — Cara, Lyla, and Mabel. Every good thing starts with you, always.

