

# White Collar Crime



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## Cases, Materials, and Problems

FOURTH EDITION

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*J.K.S.*

*To Eleanor and Sam*

*J.P.A*

*To Jaime, Peyton, Brendan, and Cosette*

*M.E.D.*

*To Bill L. and John H. Thank you for your early support,  
continued mentorship, and growing friendship.*

*S.D.J.*

*To Nedra, B.J., Jordan, and Janelle, and in loving memory of  
Byron and Catherine*



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# Preface

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## *Our background and goals*

With this book, we hope to put to good use our experience practicing in the area of white collar crime and teaching and writing about the subject. Professor Strader practiced white collar criminal defense with the New York City law firm of Morvillo, Abramowitz, Grand, Iason, and Anello, P.C. He writes principally in the area of criminal law, including topics on white collar criminalization. Professor Anderson practiced in the areas of white collar criminal defense and securities enforcement in Washington, D.C., at Wilmer Hale LLP and Eversheds Sutherland LLP. Currently, he teaches White Collar Crime and related courses at Mississippi College School of Law. He has written a number of articles on financial crimes and a book on insider trading. Professor Diamantis started his legal career practicing white collar defense in New York at Debevoise & Plimpton LLP. As a faculty member at the University of Iowa College of Law, he now writes broadly about corporate crime. Professor Jordan served for nearly 10 years as an Assistant United States Attorney for the Western District of Pennsylvania, eventually heading the White Collar Crimes Unit of the United States Attorney's Office. Professor Jordan began her academic career at the University of Pittsburgh School of Law, where she was Professor of Law and served as Associate Dean. She is currently Adjunct Professor of Law at North Carolina Central University School of Law.

Based upon our academic and practice experiences, we have endeavored to write a problem-based casebook that provides a topical, informative, and thought-provoking perspective on this rapidly evolving area of the law. We also believe that the study of white collar criminal law and practice raises unique issues of criminal law and justice policy, and serves as an excellent vehicle for deepening our understanding of criminal justice issues in general. For the fourth edition, we have continued to focus on practice problems while also deepening the policy and theoretical discussion. We have substantially increased the number of practice problems, and hope that they prove both fun and useful for students and teachers alike.

We are very grateful to our contributor, Katrice Bridges Copeland, Professor of Law, Penn State Law, for authoring Chapter Six, Health Care Fraud and Abuse. Professor Copeland practiced law at Sidley Austin LLP in Washington, D.C., focusing on white collar criminal defense and constitutional litigation. As part of her white collar crime practice, she represented pharmaceutical companies in health care fraud and abuse prosecutions.

### *Coverage*

This casebook focuses on the substance and procedure of federal white collar and corporate crime. The book is intended for use in two-, three-, or four-unit courses in White Collar Crime, Federal Criminal Law, Corporate Crime, and related subjects. The book is organized as follows:

- Chapters 1 and 2 (Introduction and Corporate and Individual Liability) introduce themes and concepts discussed throughout the text.
- Chapters 3–14 cover the substantive law of white collar and corporate crime. Chapters 3 and 4 address at length the crimes of conspiracy, mail and wire fraud, and related crimes, the building blocks of many white collar crime prosecutions. Chapters 5–14 address specific types of fraud (securities fraud, health care fraud, and tax fraud), political corruption (bribery, gratuities, and extortion), the cover-up crimes (false statements, perjury, and obstruction of justice), financial crimes (tax crimes and money laundering), and the RICO statute.
- Chapters 15–17 (Internal Investigations, Compliance Programs, and Deferred and Non-Prosecution Agreements; Grand Juries; and Self-Incrimination), cover the principal practical and procedural issues that arise in white collar investigations and prosecutions.
- Chapters 18–20 address the consequences of white collar offenses: civil fines, criminal penalties, and forfeitures.

### *Selection of materials*

Throughout the text, our goal has been to provide leading and illustrative cases in each area, focusing where possible on United States Supreme Court opinions. This goal is challenging, given the lightning speed at which this area of the law evolves. The rapid evolution of federal sentencing law is only the most recent example of how quickly the law in this area changes. We have done our best to provide both foundational cases and the most recent significant cases.

In the introductory materials to each of the substantive crime chapters, we have included an overview of the law and the statutory elements. Because our goal is to teach principally through the study of the cases, we have tried to edit them judiciously.\* We include a number of concurring and dissenting opinions, both because these opinions help elucidate the issues and because in close cases today's dissent may be tomorrow's majority. Following the cases, we also include notes on important issues those cases raise on matters of law, policy, and theory. We have tried to keep the notes concise, where possible, and hope that they will serve as starting points for rich class discussions.

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\* We indicate lengthy omissions with centered asterisks, and short omissions with ellipses. We generally have not indicated the omission of citations and footnotes. With respect to footnotes, we have retained the cases' original note numbers. The footnotes that we have written are indicated by letters rather than numbers.

Finally, we intersperse practice problems throughout the casebook. The problems focus on substantive law, procedural issues, and ethical dilemmas that arise in white collar practice. The text is designed to be used flexibly and thus lends itself both to comprehensive study of the black letter law and to a problem-based approach.

*A special request*

Any book of this length will contain errors. If you find any errors, or have any comments or suggestions, kindly let us know. Please contact Kelly Strader, [kstrader@swlaw.edu](mailto:kstrader@swlaw.edu), John P. Anderson, [jpanders@mc.edu](mailto:jpanders@mc.edu), or Mihailis E. Diamantis, [mihailis-diamantis@uiowa.edu](mailto:mihailis-diamantis@uiowa.edu).



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This project is the end result of many months of effort, thought and revision. Several of my colleagues generously offered their suggestions, support and vast legal experience as they read through some of the earlier drafts of the chapters. Thanks to my current and former colleagues who had a role in this publication. Robert B. Harper, Browne C. Lewis, and Robert J. Bondi spent time reviewing drafts, making suggestions or offering valuable insight into the substance of our topics. Thanks also to Nate O'Neil, Sonya Murphy, Andrea Patterson, LaTonia Bills, and Shernika Smith who offered their research assistance on this project.

