

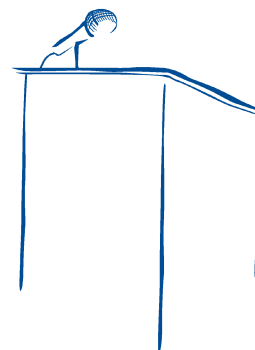
The American Bar Association  
Criminal Justice Section  
and the  
ABA Center for Continuing Legal Education  
Present

March 5-7, 2008

The 22nd Annual National Institute on

# White Collar Crime

Miami Marriott  
Biscayne Bay  
Miami, FL



9.0 hours of MCLE credit, including 1.75 hour of Ethics credit in 60-minute states and 10.8 hours of MCLE credit, including 2.10 hours of Ethics credit in 50-minute states have been requested.

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## Program Description

### DESCRIPTION OF PROCEEDINGS

The 2008 National Institute on White Collar Crime will be meeting from March 5th to 7th for the 22nd consecutive year. This year we are returning to sunny Miami. Over 1,300 practitioners attended last year's annual gathering of the national white collar bar in San Diego. As in the past, we continue to have outstanding panelists who will deal with some of the most timely issues. For the first time, this Institute will have a two-hour afternoon session on March 5 for recent white collar crime practitioners – "White Collar Basics: The Fundamentals."

The Institute is regularly attended by judges, federal, state and local prosecutors, law enforcement officials, defense attorneys, corporate in-house counsel, and members of the academic community. The faculty includes some of the leading white collar lawyers in the United States. Experienced litigators as well as attorneys who are beginning to concentrate in the white collar area have consistently given the Institute high ratings for the exceptional quality of the Institute's publication, its valuable updates on new developments and strategies, as well as the rare opportunity to meet colleagues, renew acquaintances and exchange ideas.

This year's keynote panels will continue to focus on the major issues currently confronting our bar. We will feature panels on the ethical obligations of counsel when representing corporations, their directors, officers and employees as well as on the importance of effective compliance programs.

### Program Focus

- Exploring the KPMG criminal case and the various decisions of US District Judge Lewis Kaplan, some of which may have been reviewed by the Second Circuit when the Institute takes place.
- Investigations and prosecutions under the Foreign Corrupt Practices Act, 30 years after its enactment.
- A judicial view of the US Sentencing Guidelines.
- Corporate plea bargaining – deferred prosecution vs. guilty pleas.
- An exploration of the role of audit committees during a criminal investigation of the company.
- A consideration of ethical issues that regularly confront white collar practitioners.
- Representing witnesses in Congressional investigations.
- Defending a public corruption case.
- The role of electronic discovery in today's criminal fraud cases.
- Conducting internal investigations.

### Substantive Topics

- Mortgage fraud
- False claims act and *qui tam* litigation
- Health care fraud and abuse
- Recent developments in securities enforcement
- Environmental criminal enforcement
- Criminal antitrust enforcement
- Criminal tax enforcement
- Money laundering and asset forfeiture
- Enforcement of export control laws
- Enforcement of rights to intellectual property

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## Program Agenda

### Wednesday, March 5, 2008

- 3:00 pm**      **Registration**
- 4:00 pm**      **White Collar Basics: The Fundamentals**  
For those practitioners just starting to specialize in the business fraud area, as well as those looking to expand their practice, this panel returns to the basics to provide practice tips for the white collar lawyer. Hear from experienced members of the bar as they discuss how to navigate the waters of parallel proceedings, internal investigations, voluntary disclosures, and the handling of subpoenas and search warrants.  
Moderator: Mark C. Holscher  
Carolyn Bell  
James W. Cooper  
Matthew I. Menchel  
Lee H. Rubin  
Ronald G. Woods
- 6:00 pm**      **Young Lawyers Reception**  
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- 6:00 pm**      **WCC Solo and Small Firm Committee Reception**

### Thursday, March 6, 2008

- 8:00 am**      **Registration**
- 9:00 am**      **Welcoming Remarks**  
Raymond Banoun
- 9:15 am**      **Exploring the KPMG Criminal Case**  
The panel will explore various aspects of the KPMG criminal case and related proceedings that have been a virtual laboratory for hot button white collar criminal issues, including the company payment of employees' legal fees, compelling an employee to cooperate with prosecutors, waiver of the attorney-client privilege, deferred prosecution agreements and other prosecution tactics.  
Moderator: Ronald J. Nessim  
Prof John C. Coffee, Jr.  
Robert S. Fink  
Michael J. Madigan  
Hon A. Howard Matz  
Cono R. Namorato  
Monty Raphael
- 10:45 am**      **Break**
- 11:00 am**      **Breakout Sessions I**
- A. U.S. Sentencing Guidelines: A View From the Bench**  
Three years have elapsed since the Guidelines became advisory and over five years since penalties for white collar offenses were substantially increased. How have judges responded to the post-*Booker* sentencing system? When are judges likely to impose a non-guidelines sentence for a white collar defendant? What do judges expect from defendants? How should you approach sentencing while preserving your appeal?  
Moderator: Hon Michael E. Horowitz  
Hon Paul D. Borman  
Hon Dabney Friedrich  
Hon Adalberto Jordan  
Jane W. Moscovitz  
Hon Richard W. Roberts

## Program Agenda (Continued)

### **B. Corporate Plea Bargaining: Are Deferred Prosecution Agreements for Corporations Better Than Pleading Guilty?**

In recent corporate resolutions of criminal investigations, prosecutors have imposed onerous deferred and non-prosecution agreements, often in conjunction with criminal pleas. The almost routine imposition of monitors has also created unanticipated problems for corporations. Panelists will discuss current Department of Justice policies and the benefits and disadvantages of different corporate resolutions.

Moderator: Joshua R. Hochberg

Lawrence D. Finder

William B. Mateja

Steven A. Tyrrell

Debra Wong Yang

### **C. Export Crimes**

In the past year, the Department of Justice has appointed a national export control coordinator, made headlines with its prosecution of ITT and substantially elevated export cases among its priorities. This panel will consider these significant developments, explore collateral administrative issues, expose areas of contention, and discuss the issues likely to dominate criminal export enforcement cases during the upcoming years.

Moderator: Gary S. Lincenberg

Mary Carter Andruess

Steven W. Pelak

Dale Chakarian Turza

Howard C. Vick, Jr.

## ETHICS

### **D. Criminal Intellectual Property Rights Enforcement**

This panel will consider the various issues that arise in connection with the criminal enforcement of intellectual property rights, including trademarks, copyrights, and trade secrets. It will focus on legal strategies for defending IP cases, international criminal enforcement, and ethical concerns that arise in IP criminal cases.

Moderator: Richard J. Nelson

Walter F. Brown, Jr.

Michael DuBose

Prof. Geraldine Szott Moohr

Neal Rubin

Sherri L. Schornstein

### **E. Public Corruption: The FBI is Cracking Down and What White Collar Practitioners Should Know**

The FBI recently told Congress that public corruption is one of its top priorities. This panel will explore various issues that arise in public corruption investigations and trials.

Moderator: Whitney C. Ellerman

Nathan J. Andrisani

David F. DuMouchel

Dan K. Webb

William M. Welch II

**12:30 pm White Collar Crime Committee Luncheon (ticketed lunch \$40)**

Keynote Speaker: TBD

**2:00 pm Breakout Sessions II**

### **A. Audit Committees to the Rescue: What Works and What Does Not**

Panelists will analyze the role of audit committees following discovery of a potential criminal violation, their role during internal investigations, how they oversee, and when they take over such inquiries, how they interact with company management and its counsel, and whether such committees reduce or increase potential criminal liability.

Moderator: Michael S. Pasano

Hon Alice S. Fisher

Douglas M. Lankler

Nina Marino

Michael B. Schwartz

David M. Zinn

## Program Agenda (Continued)

### B. Mortgage Fraud: The Current Crisis

This panel will consider recent mortgage fraud investigations and analyze strategies for the defense of such cases.

Co-Moderator: Michael A. Collora  
Co-Moderator: Robert J. Sussman  
Richard L. Beizer  
Nancy J. Jardini  
Barbara E. Nelan  
Paul Perez

### C. Antitrust Enforcement

The group will review the Antitrust Division's top priorities, active investigations and recent prosecutions, and will consider the effectiveness of international anti-cartel enforcement cooperation.

Moderator: Robert W. Tarun  
Scott D. Hammond  
Steven M. Kowal  
Denyse V. MacKenzie  
Gary R. Spratling

### D. Securities Enforcement: Trends, Frenzies and Crimes du Jour

The panel will address recent developments and trends in criminal securities enforcement, including "fads" such as stock options backdating investigations and assess the Department's policies regarding securities.

Moderator: Leslie R. Caldwell  
Charles M. Carberry  
Philip H. Hilder  
Randall R. Lee  
Gary P. Naftalis

## ETHICS

### E. Ethical Issues in White Collar Cases

Panelists will discuss a wide range of ethical issues that often arise in white collar investigations including limitations on the types of evidence that can be obtained and methods of obtaining evidence, the use of investigators, contact with represented parties and other matters that arise during the course of an internal investigation.

Moderator: Vincent J. Marella  
Cristina C. Arguedas  
Alejandro Mayorkas  
Hon Thomas P. O'Brien  
Bart M. Schwartz  
Earl J. Silbert

3:15 pm **Break**

3:45 pm **Breakout Sessions III**

### A. Criminal Tax Fraud

This panel will review recent developments and current enforcement priorities, and will consider creative strategies and tactics for defending an individual or entity under criminal tax investigation.

Moderator: Gerald A. Feffer  
Robert S. Fink  
John A. Marrella  
Charles M. Meadows, Jr.  
Justin A. Thornton

### B. Money Laundering and Asset Forfeiture

Money laundering remains a government favorite for inclusion in many white collar crime indictments. Panelists will review recent developments and consider some of the more effective strategies for use in such cases.

Moderator: Gordon A. Greenberg  
Stefan Casella  
Alan M. Cohen  
Louise Delahunty  
Theodore S. Greenberg  
Richard A. Small

## Program Agenda (Continued)

### C. Congressional Investigations: An Inside Look at a Unique Forum

Learn from current legislative committee counsel and outside counsel experienced in this arena about how to react when your client receives a subpoena from a Congressional Committee and has to testify on national television, how to deal with parallel congressional and criminal investigations, civil enforcement inquiries and class action litigation.

Moderator: Robert S. Litt

James M. Cole  
Michael J. Madigan  
Robert L. Roach  
Alan Slobodin

### D. Internal Investigations in an Age of Uncertainty: Where Do We Go From Here?

Doing justice and acting ethically can be difficult in an era where internal investigations are driven by fear. The panel will discuss the complexities of handling internal investigations from the perspective of in-house and outside company counsel, as well as attorneys for employees and prosecutors.

Moderator: Stephen J. Bronis

Martha A. Boersch  
Gary H. Collins  
Edward J. M. Little  
Paul E. Pelletier  
Barry M. Sabin

### E. Electronic Discovery: Subpoenas vs. Search Warrants

The receipt of a government subpoena or warrant seeking massive amounts of electronic data is often the start of an expensive and confusing journey. What may at first blush seem to be a straightforward request could require extensive investigation, the collection of enormous amounts of irrelevant data or prohibitively expensive restoration of unsupported or corrupted data. This panel will consider strategies to limit the scope of electronic discovery requests, the technological advances and practical steps that can significantly reduce the cost of production, and review recent cases regarding the limits to the government's ability to demand the production of such data.

Moderator: Margaret A. Daley

Thomas C. Gean  
Beryl A. Howell  
Martha A. Mazzone  
Patricia Lee Refo  
Kurt Stitcher

5:00 pm **Adjourn**

5:00 pm **White Collar Crime Committee Meeting**

6:30 pm– **Cocktail Reception**

8:30 pm

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Stroz Friedberg LLC  
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## Program Agenda (Continued)

Friday, March 7, 2008

**9:15 am The Foreign Corrupt Practices Act at 30 Years**

At no time since 1977 has FCPA enforcement been as active as it is today. Why is there such an increased focus on trans-national bribery by the DOJ and the SEC? What are the advantages and disadvantages of voluntary disclosures? Have such disclosures led to the targeting of certain business sectors and countries? Are the DOJ and the SEC coping with the increased scope and complexity of these large FCPA investigations? Do some countries present insoluble FCPA challenges to US business? What messages can be drawn from recent prosecutions?

Moderator: Peter B. Clark

Rachel A. Gonzalez

Richard W. Grime

Mark F. Mendelsohn

Homer E. Moyer

Mary Jo White

**11:00 am Break**

**11:15 am Breakout Sessions IV**

**A. The Next Wave: Multi-Jurisdictional and State *Qui Tam* Practice — How a Little-Noticed Law Could Change the Face of White Collar Practice**

Fraud recoveries under the federal False Claims Act have exceeded \$20 billion in the past 20 years. Twenty states have enacted their own FCAs. The panel will explore this growing multi-jurisdictional landscape, with an emphasis on the challenges now facing government, defense and relator's counsel in *qui tam* practice.

Moderator: Kathleen McDermott

John T. Boese

James G. Sheehan

Lesley Ann Skillen

Consuelo S. Woodhead

**B. Welcome to the Field of Healthcare Fraud Defense, Where Nothing Is Static and "Victory" Is Hard to Define**

The government continues to vigorously investigate the pharmaceutical industry and medical devices industries, national chains of wholesale direct distributors and other healthcare providers. This panel will review the status of pricing, off-label, kickback, and other theories that have formed the basis of such cases.

Moderator: Thomas E. Dwyer

Kenneth J. Barker

Ty Cobb

Katherine A. Lauer

Nicholas C. Theodorou

Susan G. Winkler

**C. Environmental Crime**

Criminal enforcement of environmental laws continues to be a high priority for the Department of Justice. This group will review current major prosecutions, the growth of work-place safety investigations and vessel pollution cases, the effect of the Supreme Court decision in *Rapanos* on Clean Water Act cases, and the increase in Clean Air Act cases.

Moderator: Janet I. Levine

Joseph G. Block

Thomas A. Hagemann

Thomas E. Holliday

Dorothy C. Kim

Stacey Mitchell

**1:00 pm Conference Concludes**

**For more information about this National Institute, the ABA,  
the ABA Criminal Justice Section and ABA-CLE:**



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Chief, Health Care Fraud Unit  
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*Gibson, Dunn & Crutcher LLP*  
Los Angeles, CA

**David M. Zinn**

*Williams & Connolly LLP*  
Washington, DC

## Program Information

### REGISTRATION FEES

To register, or for additional information, call 800.285.2221 or 312.988.5522.

- \$950 General Public
- \$825 ABA Member (\$125 Savings)
- \$775 Sponsoring Section Member (\$175 Savings)
- \$350 Government

Every registrant will receive a copy of the informative course materials book and CD-ROM, which can be used as a comprehensive resource long after the program is held.

### GROUP AND OTHER DISCOUNTS

Register three or more people at the same time to receive an additional \$50 reduction on each program tuition. Larger group discounts and special rates for full-time law students, academics and government employees are also available. For more information, contact Renee Williams at 312.988.6216.

### MCLE

Mandatory Continuing Legal Education (MCLE) accreditation has been requested from all states which require continuing legal education. 9.0 hours of CLE credit, including 1.75 hour of Ethics credit in 60-minute states and 10.8 hours of CLE credit, including 2.10 hours of Ethics credit in 50-minute states have been requested.

**For NY-Licensed Attorneys:** This transitional CLE program has been approved for all NY-licensed attorneys in accordance with the requirements of the New York State CLE Board for New York MCLE (10.0 total NY MCLE credits including 2.0 hour of Ethics credit).

**NASBA:** The ABA is registered with the National Association of State Boards of Accountancy (NASBA) as a sponsor of continuing professional education on the National Registry of CPE sponsors. State boards of accountancy have final authority on the acceptance of individual courses for CPE credit. Complaints regarding registered sponsors may be addressed to the National Registry of CPE Sponsors, 150 Fourth Avenue North, Nashville, TN 37219-2417 - www.nasba.org.

### SCHOLARSHIPS

Scholarships to defray tuition expense for National Institutes are available upon application. Preference will be given to public interest lawyers, government lawyers, law professors and solo or small firm practitioners. For more information, contact Renee Williams at 312.988.6216.

### SERVICES FOR PERSONS WITH DISABILITIES

If special arrangements are required, please contact Earnestine Murphy at 312.988.6204. Reasonable advance notice is requested.

### IN-PERSON REGISTRATION

If you plan to register in person, please call the ABA at least 24 hours in advance to confirm that the program is being held as scheduled and that space is available. Cash payments will **not** be accepted.

### CANCELLATIONS

Refund requests for National Institute presentations will be honored on the following basis:

Day of Cancellation*	Amount of Refund
8 business days or more.....	100% Refund
4 to 7 business days.....	100% Refund minus \$50 administrative fee
**3 business days or less.....	No Refund

\*\*“Day of Cancellation” is the day the cancellation is received, by telephone or in writing, by the ABA. It is calculated based on ABA business days remaining before the National Institute.

\*\* No refund will be made for cancellations received after this time; written confirmation of refund requests must be received within 14 days following the National Institute presentation. Substitute registrants are welcome.

### PROGRAM CONFIRMATION

Written confirmation of your registration will be sent to you upon receipt. Please bring it with you to the National Institute as proof of registration. If you do not receive the confirmation notice prior to the presentation, please call the ABA at least 24 hours in advance to confirm that your registration was received and the program is being held as scheduled.

### HOTEL INFORMATION

**Miami Marriott Biscayne Bay**  
1633 North Bayshore Drive  
Miami, FL 33132  
P: 305.374.3900  
F: 305.536.6411  
Single/Double: \$259

All room rates are subject to city occupancy and sales tax. One night's deposit is required for reservation. Unclaimed rooms will be released 21 days before the program, after which the hotel will accept reservations on a space-available basis only. Mention this ABA meeting to receive the special discounted rate.

### AIRLINE INFORMATION

Airfare discounts are available through ABA Online Travel, Travelocity Business or directly from the airline. To access ABA Online Travel, go to [www.abanet.org/travel](http://www.abanet.org/travel). The 24/7 toll-free number for Travelocity Business is 1-866.321.8403.

### STANDING COMMITTEE ON CONTINUING LEGAL EDUCATION

Under the guidance of the Standing Committee on Continuing Legal Education, the Center for Continuing Legal Education administers and produces National Institutes, Videolaw Seminars, Teleconferences, other technology-based offerings and written course materials to assist lawyers continuing legal education efforts.

**Steve Weise**, Chair, Heller Ehrman LLP, Los Angeles, CA

### ABA CENTER FOR CONTINUING LEGAL EDUCATION

**Peter A. Glowacki**, Director  
**Earnestine Murphy**, Associate Director, CLE Courses

# Registration and Order Form

## 22nd Annual National Institute on White Collar Crime

March 6-7, 2008

- \$950 General Public
- \$825 ABA Member (\$125 Savings)
- ABA # \_\_\_\_\_
- \$775 Sponsoring Section Member (\$175 Savings)
- ABA # \_\_\_\_\_
- \$350 Government (\*join below)
- ABA # \_\_\_\_\_

- Young Lawyers Reception**
- WCC Solo and Small Firm Committee Reception**
- White Collar Crime Committee Luncheon \$40**  
*All registrants welcome. Space is limited.*

### PRODUCT ORDER FORM

- Send me the **Audio CD Package (CDs and printed course materials – CEN08WCC)** available three weeks following the presentation for **\$950 General, \$855 for ABA Members, \$810 for Sponsoring Section Members** plus \$29.95 for domestic shipping/handling
  - Send me the **Printed Course Materials (CEN08WCCB)** at the special pre-publication price of **\$225 for General Public, \$205 for ABA Members, \$160 for Sponsoring Section Members**, plus \$17.95 for domestic shipping and handling
- Illinois residents add 9% sales tax; District of Columbia residents add 5.75% use tax; before including shipping and handling charges. Price is subject to change after 3/1/08.

### Breakout Session I = Thursday = 11:00 am

- A. U.S. Sentencing Guidelines
- B. Corporate Plea Bargaining
- C. Export Crimes
- D. Criminal Intellectual Property Rights Enforcement
- E. Public Corruption

### Breakout Session II = Thursday = 2:00 pm

- A. Audit Committees to the Rescue
- B. Mortgage Fraud
- C. Antitrust Enforcement
- D. Securities Enforcement
- E. Ethical Issues in White Collar Cases

### Breakout Session III = Thursday = 3:45 pm

- A. Criminal Tax Fraud
- B. Money Laundering and Asset Forfeiture
- C. Congressional Investigations
- D. Internal Investigations
- E. Electronic Discovery

### Breakout Session IV = Friday = 11:15 am

- A. The Next Wave: Multi-Jurisdictional and State *Qui Tam* Practice
- B. Welcome to the Field of Health Care Fraud Defense
- C. Environmental Crimes

### TO REGISTER AND ORDER:

Phone 800.285.2221  
or 312.988.5522 (credit card only)

FAX 312.988.5850 (credit card only)

Online @ [www.abanet.org/cle/programs/n08wcc1.html](http://www.abanet.org/cle/programs/n08wcc1.html)

- must include**
- MasterCard  VISA  American Express

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(Cardholder Signature Required)

or Mail form and payment (with your check payable to the American Bar Association or with VISA, MasterCard or American Express) to:

American Bar Association  
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### \*SECTION MEMBERSHIP—MUST BE AN ABA MEMBER

- Enroll me in the Criminal Justice Section.  
Enclosed is a separate check for \$50.

Join the ABA and the Criminal Justice Section — Save \$175 on this National Institute

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