



Reserve Your Space at  
**The 27th Annual National  
Institute on White Collar Crime**

March 6-8, 2013  
The Cosmopolitan of Las Vegas  
Las Vegas, NV



# The 27th Annual National Institute on White Collar Crime

## Program Description

The 2013 White Collar Crime National Institute will take place from March 6 to 8, 2013 in its twenty-seventh consecutive year with a return to Las Vegas. Last year, attendance exceeded 1,100 at this annual gathering of the national white collar bar. The Institute proudly continues to present outstanding panelists who deal with some of the most significant issues of our time. This year we are delighted to have United States District Judge Jed S. Rakoff as keynote speaker.

Over the past twenty-six years, the Institute has been attended by leading federal and state judges and prosecutors, law enforcement officials, defense attorneys, corporate in-house counsel and members of the academic community. The faculty regularly includes some of the top members of the white collar bar in the United States and abroad. Among the audience are nationally-renowned lawyers, as well as many who are beginning to concentrate in the white collar area. Attendees have consistently given the Institute high ratings for the exceptional quality of its publication, the panelists' presentations, the valuable updates on new developments and strategies, as well as the rare opportunity to meet colleagues in this field, renew acquaintances and exchange ideas. This year, we will present two successive panels for newer and experienced practitioners on the afternoon of March 6, with an emphasis on e-discovery and motions practice.

The 2013 keynote panels will focus on the most significant white collar criminal trials of the past year, and on the ethical obligations of white collar lawyers. The Institute will have excellent representation from the corporate sector, including members of the legal and compliance groups of General Electric, General Dynamics, Goldman Sachs, International Game Technology, Pfizer, Raytheon, Qualcomm, and UBS. The Institute will also include senior members of the Department of Justice, prosecutors and distinguished members of the federal judiciary.

## Program Focus

- An in-depth analysis of recent high visibility trials by the lawyers involved in the cases
- Ethical pitfalls and blunders in white collar practice
- Conducting global investigations, including issues of competing laws, data privacy, and blocking statutes
- Trial tactics in white collar cases
- *Brady* obligations
- International issues in white collar practice, including obtaining evidence abroad
- Handling of, and dealing with, issues related to electronically stored materials
- Sentencing guidelines and arguing for a departure
- Updates and trends in securities and FCPA enforcement

## Substantive Topics

- Sentencing in white collar cases
- The investigation and prosecution of international corruption - current and future trends
- Enforcement of securities fraud
- Criminal antitrust enforcement
- Environmental criminal enforcement
- Criminal tax fraud
- Cybercrime
- Healthcare fraud and abuse
- Economic sanctions and export control

## Chair of the Institute

### Raymond Banoun

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Solo, Small Firm and General Practice Division Members	\$1,025	\$1,100	\$1,180
Young Lawyers Division Members	\$1,025	\$1,100	\$1,180
Government Lawyers / Employees	\$500	\$550	\$575

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Assistant U.S. Attorney  
*Southern District of Florida*  
Miami, FL

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*Latham & Watkins LLP*  
Washington, DC

**Michael Attanasio**

*Cooley LLP*  
San Diego, CA

**Jodi L. Avergun**

*Cadwalader, Wickersham & Taft LLP*  
Washington, DC

**Christopher D. Barbee**

*PricewaterhouseCoopers LLP*  
Philadelphia, PA

**Marc Berger**

Assistant U.S. Attorney  
*Southern District of New York*  
New York, NY

**Barry H. Berke**

*Kramer Levin Naftalis & Frankel LLP*  
New York, NY

**Hon. Andre Birotte, Jr.**

U.S. Attorney  
*Central District of California*  
Los Angeles, CA

**Martha A. Boersch**

Attorney At Law  
San Francisco, CA

**Hon. Paul D. Borman**

U.S. District Judge  
*Eastern District of Michigan*  
Detroit, MI

**Jay I. Bratt**

Assistant U.S. Attorney  
*District of Columbia*  
Washington, DC

**Reed M. Brodsky**

Assistant U.S. Attorney  
*Southern District of New York*  
New York, NY

**Ellen C. Brotman**

*Montgomery McCracken*  
Philadelphia, PA

**Robert M. Cary**

*Williams & Connolly LLP*  
Washington, DC

**Michelle A. Chatigny**

Vice President, Compliance  
*International Game Technology*  
Las Vegas, NV

**\*Pamela R. Chopiga**

*Allen & Overy LLP*  
New York, NY

**Jeanette L. Chu**

*PricewaterhouseCoopers LLP*  
McLean, VA

**Michael Chu**

Assistant U.S. Attorney  
*District of Nevada*  
Las Vegas, NV

**Peter B. Clark**

*Cadwalader, Wickersham & Taft LLP*  
Washington, DC

**Alan M. Cohen**

Executive Vice President and  
Global Head of Compliance  
*Goldman, Sachs & Co.*  
New York, NY

**\*Michael A. Collora**

*Collora LLP*  
Boston, MA

**Erin Nealy Cox**

Executive Managing Director  
*Stroz Friedberg LLC*  
Dallas, TX

**Arlo Devlin-Brown**

Assistant U.S. Attorney  
*Southern District of New York*  
New York, NY

**Megan Dixon**

*Hogan Lovells US LLP*  
San Francisco, CA

**Kimberly A. Dunne**

*Sidley Austin LLP*  
Los Angeles, CA

**Charles E. Duross**

Deputy Chief, Fraud Section  
Criminal Division  
*U.S. Department of Justice*  
Washington, DC

**Michael M. Eidelman**

*Vedder Price*  
Chicago, IL

**\*Brian C. Elmer**

*Crowell & Moring LLP*  
Washington, DC

**Roberto Finzi**

*Paul, Weiss, Rifkind, Wharton & Garrison LLP*  
New York, NY

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Washington, DC

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New York, NY

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*District of Columbia*  
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*Gerger & Clarke*  
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*Baker Hostetler*  
Cleveland, OH

**Aaron Goldstein**

*The Goldstein Firm, P.C.*  
Chicago, IL

**Thomas C. Goldstein**

*Goldstein & Russell, P.C.*  
Washington, DC

**Prof. Bruce A. Green**

*Fordham University School of Law*  
New York, NY

**Gordon A. Greenberg**

*McDermott Will & Emery*  
Los Angeles, CA

**Richard W. Grime**

*O'Melveny & Myers LLP*  
Washington, DC

**Gary G. Grindler**

Former Chief of Staff to the  
Attorney General  
*U.S. Department of Justice*  
Washington, DC

**Scott D. Hammond**

Deputy Assistant Attorney  
General, Criminal Enforcement  
Section, Antitrust Division  
*U.S. Department of Justice*  
Washington, DC

**Thomas A. Hanusik**

*Crowell & Moring LLP*  
Washington, DC

**Joseph H. Heckendorn**

Senior Counsel for International  
Trade Compliance  
*Dana Holding Corporation*  
Maumee, OH

**\*Brian Hennigan**

*Irell & Manella LLP*  
Los Angeles, CA

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*Iffrah Law*  
Washington, DC

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*Cadwalader, Wickersham & Taft, LLP*  
Washington, DC

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Washington, DC

**Mei Lin Kwan-Gett**

*Willkie Farr & Gallagher LLP*  
New York, NY

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*Qualcomm Inc.*  
San Diego, CA

**Douglas Lankler**

Executive Vice President, Chief  
Compliance and Risk Officer  
*Pfizer Inc.*  
New York, NY

**Dr. Andreas D. Länzlinger**

*Bär & Karrer AG*  
Zurich, Switzerland

**Saverio Lembo**

*Bär & Karrer AG*  
Geneva, Switzerland

**\*Janet I. Levine**

*Crowell & Moring LLP*  
Los Angeles, CA

**\*Erin F. Lewis**

*Cadwalader, Wickersham & Taft LLP*  
Washington, DC

**\*Gary S. Lincenberg**

*Bird, Marella, Boxer, Wolpert,  
Nessim, Dooks & Lincenberg PC*  
Los Angeles, CA

# Faculty (Cont'd.)

**Abbe David Lowell**

*Chadbourne & Parke LLP*  
Washington, DC

**Neil H. MacBride**

U.S. Attorney  
*Eastern District of Virginia*  
Alexandria, VA

**Michael J. Madigan**

*Orrick, Herrington & Sutcliffe LLP*  
Washington, DC

**Michael Maloney**

Managing Director  
*Navigant*  
Washington, DC

**\*Vincent J. Marella**

*Bird, Marella, Boxer, Wolpert, Nessim, Drooms & Lincenberg PC*  
Los Angeles, CA

**Richard Marmaro**

*Skadden, Arps, Slate, Meagher & Flom LLP*  
Los Angeles, CA

**Denis J. McInerney**

Chief, Fraud Section  
Criminal Division  
*U.S. Department of Justice*  
Washington, DC

**\*Stephanie J. Meltzer**

Vice President,  
Assistant General Counsel  
*Pfizer Inc.*  
New York, NY

**Mark F. Mendelsohn**

*Paul, Weiss, Rifkind, Wharton & Garrison LLP*  
Washington, DC

**Eric S. Merrifield**

Executive Counsel,  
Environmental Litigation  
*General Electric*  
Albany, NY

**Marshall L. Miller**

Chief, Criminal Division  
Assistant U.S. Attorney  
*Eastern District of New York*  
Brooklyn, NY

**Stacey H. Mitchell**

Chief, Environmental Crimes  
Section, Environment and Natural  
Resources Division  
*U.S. Department of Justice*  
Washington, DC

**Hon. Lisa Monaco**

Assistant Attorney General for  
National Security  
*U.S. Department of Justice*  
Washington, DC

**\*Jane W. Moscowitz**

*Moscowitz & Moscowitz, PA*  
Miami, FL

**Justin P. Murphy**

*Crowell & Moring LLP*  
Washington, DC

**Gary P. Naftalis**

*Kramer Levin Naftalis & Frankel LLP*  
New York, NY

**Ronald J. Nessim**

*Bird, Marella, Boxer, Wolpert, Nessim, Drooms & Lincenberg PC*  
Los Angeles, CA

**J. Scott Newton**

*Baker Donelson, Bearman, Caldwell & Berkowitz, PC*  
Jackson, MS

**Michael S. Pasano**

*Carlton Fields LLP*  
Miami, FL

**Karen A. Popp**

*Sidley Austin LLP*  
Washington, DC

**Lisa A. Prager**

*Morvillo, Abramowitz, Grand, Iason, Anello and Bohrer, P.C.*  
New York, NY

**Hon. Jed S. Rakoff**

U.S. District Judge  
*Southern District of New York*  
New York, NY

**Jaikumar Ramaswamy**

Acting Chief, Asset Forfeiture and  
Money Laundering Section  
Criminal Division  
*U.S. Department of Justice*  
Washington, DC

**\*K. Keely Rankin**

*Dechert, LLP*  
New York, NY

**Monty Raphael QC**

*Peters & Peters*  
London, England

**Catherine L. Razzano**

Assistant General Counsel &  
Director, International Law  
*General Dynamics Corporation*  
Falls Church, VA

**John C. Richter**

*King and Spalding*  
Washington, DC

**Michele A. Roberts**

*Skadden, Arps, Slate, Meagher & Flom LLP*  
Washington, DC

**John R. Roth**

Director, Office of Criminal  
Investigations  
*Food and Drug Administration*  
Rockville, MD

**Jonathan S. Sack**

*Morvillo, Abramowitz, Grand, Iason, Anello & Bohrer, P.C.*  
New York, NY

**Anjan Sahni**

Securities Fraud Section  
Deputy Chief  
*Southern District of New York*  
New York, NY

**James L. Sanders**

*Reed Smith*  
Los Angeles, CA

**Ronald A. Sarachan**

*Drinker Biddle & Reath LLP*  
Philadelphia, PA

**Joseph F. Savage, Jr.**

*Goodwin Procter*  
Boston, MA

**Randall E. Sayre**

Las Vegas, NV

**Reid J. Schar**

*Jenner & Block LLP*  
Chicago, IL

**Hon. Craig B. Shaffer**

U.S. Magistrate Judge  
*District of Colorado*  
Denver, CO

**Mark S. Shelton**

Americas General Counsel and  
Global Head of Investigations  
*UBS AG*  
New York, NY

**\*William N. Shepherd**

*Holland & Knight LLP*  
West Palm Beach, FL

**Earl J. Silbert**

*DLA Piper*  
Washington, DC

**Steven P. Solow**

*Katten Muchin Rosenman LLP*  
Washington, DC

**Judson W. Starr**

*Venable LLP*  
Washington, DC

**Charles M. Steele**

Associate Director for Enforcement  
Office of Foreign Assets Control  
*U.S. Department of the Treasury*  
Washington, DC

**Lee Stein**

*Perkins Coie LLP*  
Phoenix, AZ

**Kurt Stitcher**

*Faegre Baker Daniels*  
Chicago, IL

**Brian A. Sun**

*Jones Day*  
Los Angeles, CA

**Robert W. Tarun**

*Baker & McKenzie LLP*  
San Francisco, CA

**Hon. Benjamin B. Wagner**

U.S. Attorney  
*Eastern District of California*  
Sacramento, CA

**Kenneth L. Wainstein**

*Cadwalader, Wickersham & Taft LLP*  
Washington, DC

**Jim Walden**

*Gibson Dunn & Crutcher LLP*  
New York, NY

**Amy L. Walsh**

*Kostelanetz & Fink, LLP*  
New York, NY

**Robert C. Webb**

*Frost Brown Todd LLC*  
Louisville, KY

**Richard Weber**

Chief  
Criminal Investigations Division  
*Internal Revenue Service*  
Bethesda, MD

**Morris Weinberg, Jr.**

*Zuckerman Spaeder LLP*  
Tampa, FL

**Sarah Q. Wirskye**

*Meadows, Collier, Reed, Cousins, Crouch & Ungerman, L.L.P.*  
Dallas, TX

**Debra Wong Yang**

*Gibson, Dunn & Crutcher LLP*  
Los Angeles, CA

**David M. Zinn**

*Williams & Connolly LLP*  
Washington, DC

# Agenda

## Wednesday, March 6, 2013

**11:00 a.m. Registration**

**2:30 p.m. eDiscovery in Government Investigations and Criminal Litigation**

Roy Altman, Erin Nealy Cox, Justin Murphy, Hon. Craig B. Shaffer

**Moderator:** Lisa Ghannoum

This panel will explore challenges related to the production of electronically stored information, including how to anticipate, and best deal with, it; and discuss recent developments in the law of search and seizure of such information, and the use of electronic surveillance in white collar investigations.

**3:45 p.m. Beyond Boilerplate: Making Motions Work**

Michael Attanasio, Michele A. Roberts, Jonathan S. Sack, Kurt Stitcher

**Moderator:** David Gerger

Breathe life into *Brady v. Maryland*. Win a pretrial motion to dismiss the indictment. Use motions *in limine* like a Roger Clemens fast ball. Government use of such motions to limit the defense? This panel will explore these and other issues encountered during the pretrial motions stage, and provide recent examples of successful motions that made a difference.

**5:00 p.m. Session Concludes**

**6:00 p.m. Young Lawyers Reception**

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**6:00 p.m. Women in White Collar Subcommittee Reception**

## Thursday, March 7, 2013

**8:00 a.m. Registration**

**9:00 a.m. Welcoming Remarks**

Raymond Banoun, Chair of the Institute

William N. Shepherd, Chair, ABA Criminal Justice Section

**9:15 a.m. Recent Trials**

Reed M. Brodsky, Aaron Goldstein, Abbe David Lowell, Gary P. Naftalis, Reid J. Schar

**Moderator:** Ronald J. Nessim

Panelists will analyze some of the critical issues and strategies confronted during the investigation, post-indictment, and trial phases of three of the higher visibility cases of the recent past year—the Gupta insider trading, Edwards' campaign finance, and Blagojevich trials.

**10:45 a.m. Coffee Break**

**11:00 a.m. Breakout Sessions I**

**A. The Foreign Corrupt Practices Act – Recent Developments and New Trends**

Peter B. Clark, Charles E. Duross, Richard W. Grime, Stephanie J. Meltzer

**Moderator:** Robert W. Tarun

The panel will discuss recent bribery enforcement actions, trends and priorities, as well as the FCPA Guide released by the Department of Justice and the Securities and Exchange Commission.

**B. Trial Tactics in White Collar Cases: The Jury**

Barry H. Berke, Martha A. Boersch, Michael Chu, Dominic P. Gentile, Brian A. Sun

**Moderator:** Michael S. Pasano

Panelists will consider issues relating to jury selection in white collar cases, including the use of jury consultants, mock trials and focus groups, jury sampling, voir dire, strikes (theories of selection and de-selection) and how trial issues (such as whether or not a defendant will testify) affect jury selection.

**C. Securities Fraud: What's Happening Post-Indictment?**

Thomas A. Hanusik, Michael Maloney, Richard Marmaro, Anjan Sahn

**Moderator:** Gary S. Lincenberg

Panelists will discuss motions filed, witness examination tactics, the use of expert testimony, and various post-trial issues that arose in recent criminal and SEC securities fraud cases involving revenue recognition, options backdating, insider trading, false SOX certifications, and investment fraud.

**D. Money Laundering and Asset Forfeiture**

Hon. Andre Birotte, Jr., Hon. Richard Holwell, Saverio Lembo, Jaikumar Ramaswamy

**Moderator:** Gordon A. Greenberg

The panel will focus on recent cases in which money laundering and forfeiture allegations significantly impacted white collar prosecutions for securities fraud and corruption. The panel will discuss the reasons money laundering and forfeiture allegations can turn into the tail wagging the defendant in a white collar case and possible defense strategies to limit the effect of these charges.

# Agenda (Cont'd.)

## E. Criminal Tax Enforcement

J. Scott Newton, Amy L. Walsh, Robert C. Webb, Richard Weber

**Moderator:** Sarah Q. Wirsky

Panelists will discuss IRS initiatives, the Service's voluntary disclosure and special enforcement programs, some of the enforcement areas being emphasized, such as employment and foreign tax matters, and consider the ethical issues that often arise when defending a criminal tax case.

## 12:30 p.m. Luncheon (*ticketed event*)

### E. Lawrence Barcella, Jr. Memorial Address

**Keynote Speaker:** Honorable Jed S. Rakoff, U.S. District Judge, Southern District of New York



## 2:00 p.m. Breakout Sessions II

### A. Litigating FCPA Cases: Prosecution and Defense Strategies

Kimberly A. Dunne, Charles E. Duross, Janet I. Levine, Michael J. Madigan, Mark F. Mendelsohn

**Moderator:** Brian Hennigan

This panel will discuss litigation issues unique to the prosecution and defense of alleged FCPA violations, including some that arise during pre-trial discovery, motions, trial preparation, and jury selection and instructions.

### B. Ethics in White Collar Cases

Hon. Paul D. Borman, Ellen C. Brotman, Prof. Bruce A. Green, Earl J. Silbert

**Moderator:** Jane W. Moscovitz

May defense lawyers encourage their clients to waive ineffective assistance of counsel claims? May they disobey courts' discovery orders that they believe to be unlawful? May they accept purloined e-mails or "friend" witnesses on Internet sites to obtain evidence? As the prosecution and defense of white-collar cases evolve, lawyers face new ethical problems and new twists on old problems. This panel will address these and other challenging ethical issues facing white-collar lawyers, including those that arise from developments in information technology, social media, government plea bargaining policy, and discovery opportunities afforded by expansive rulings on prosecutors' ethical disclosure obligations.



### C. Dos and Don'ts of an Internal Corporate Inquiry

Michael M. Eidelman, Roberto Finzi, Douglas Lankler, Marshall L. Miller, Debra Wong Yang

**Moderator:** Michael A. Collora

Many corporations seek to avoid indictment, debarment and large fines by conducting internal inquiries of wrongdoing, then revealing the results to the government. Along the way many mistakes can be made. This panel will discuss the difficulties and pitfalls encountered during these inquiries and consider ways to resolve them.

### D. The Intersection of Export Controls and Economic Sanctions - What You Need to Know about OFAC, ITAR, and EAR

Jay I. Bratt, Jeanette L. Chu, Joseph H. Heckendorn, Catherine L. Razzano, Charles M. Steele

**Moderator:** Lisa A. Prager

Panelists will discuss the impact of, and challenges presented by, federal regulations that control the conditions under which certain information, technologies, and commodities can be transmitted overseas to anyone, including U.S. citizens, or to a foreign national on U.S. soil, the chilling effect of the intertwining of U.S. country or regime-based embargoes and sanctions with antiterrorism and nonproliferation efforts, as well as recent enforcement developments.

### E. What Are the Odds? The Future of U.S. Criminal Law Enforcement for Online Gaming and Online Piracy Against Offshore Companies and Individuals

Michelle A. Chatigny, Arlo Devlin-Brown, Thomas C. Goldstein, Randall E. Sayre

**Moderator:** A. Jeff Ifrah

This panel will consider issues related to federal gaming enforcement under IGBA and other statutes, those involving Internet-related activities, and the extraterritorial application of gaming laws.

## 3:15 p.m. Coffee Break

## 3:45 p.m. Breakout Sessions III

### A. Conducting Global Investigations

Christopher D. Barbee, Carol C. Lam, Dr. Andreas Länzlinger, Denis J. McInerney, Monty Raphael

**Moderator:** Raymond Banoun

The panel will discuss strategies for conducting global investigations, including how to best navigate parallel international investigations and deal with law enforcement authorities outside the United States, while avoiding the pitfalls presented by, among others, data privacy and blocking statutes.

### B. Sentencing Strategies: Advocacy in White Collar Cases

Hon. David Hittner, Mei Lin Kwan-Gett, Karen A. Popp, Hon. Benjamin B. Wagner

**Moderator:** Ketanji Jackson

Panelists will offer a variety of perspectives on some of the key sentencing issues in white collar cases, including the calculation of loss under the U.S. Sentencing Guidelines, the role of offender characteristics in requests for departures and variances, how sentencing impacts plea negotiations, and waivers of sentence-related appeals as well as the impact of the guidelines on the formulation of effective compliance and ethics programs.

## C. The New Landscape of Insider Trading Cases

Marc Berger, Alan M. Cohen, Robert S. Khuzami, James L. Sanders

**Moderator:** Pamela R. Chepiga

Panelists will discuss changes and developments in the handling of insider trading cases by both the SEC and the DOJ, and explore the challenges of parallel proceedings from the defense and regulatory sides, the coordination of insider trading investigations, the application of *Brady* principles in such coordinated inquiries, trial strategy and evidentiary challenges that can be raised in light of the government's enhanced use of wiretaps and other "street crime" techniques, as well as the U.K. FSA's novel action in Greenlight Capital.

## D. Antitrust Enforcement in 2012-2013: Planes, Banks, and Automobiles

Megan Dixon, Scott D. Hammond, Mark S. Shelton, Jim Walden

**Moderator:** David M. Zinn

From remote corners of the world to the trading floors of Wall Street banks, the Department of Justice continues to investigate wide-ranging cartel activity. This panel will review recent developments and discuss key strategic considerations that arise in such investigations, including those related to foreign nationals as witnesses or targets, the interplay between the U.S. and foreign law enforcement authorities, the evolution in sentencing guideline calculations, and parallel state enforcement actions and private class action litigation.

## E. Cybercrime

Jennifer C. Archie, Eric M. Friedberg, Neil H. MacBride, Hon. Lisa Monaco

**Moderator:** Kenneth L. Wainstein

Panelists will consider the challenges and possible solutions to various corporate computer crime issues that arise during an investigation, including hacking/breach/intrusion incidents (both domestic and international), digital forensics and analysis, and will explore innovative techniques for preparing strong criminal referrals in these complex matters.

**5:00 p.m. Adjourn**

**5:00 p.m. White Collar Crime Committee Meeting**

**6:30 p.m. - 8:30 p.m. Cocktail Reception**

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## Friday, March 8, 2013

**9:15 a.m. Complying with *Brady* and Strategies for Defense Counsel**

Robert M. Cary, Hon. Paul L. Friedman, Prof. Bruce A. Green, Gary G. Grindler

**Moderator:** Morris Weinberg, Jr.

In the wake of the fallout from the *Stevens* prosecution, this panel will consider how prosecutors comply with *Brady* in today's white collar cases and identify strategies for defense counsels, who encounter such issues.

**11:00 a.m. Coffee Break**

**11:15 a.m. Breakout Sessions IV**

## A. Environmental Enforcement

Eric S. Merrifield, Stacey H. Mitchell, Steven P. Solow, Judson W. Starr, Lee Stein

**Moderator:** Ronald A. Sarachan

The government continues to prosecute environmental crimes very aggressively, often pioneering theories and tactics that set trends for white collar cases generally. Along with actions arising from catastrophic oil spills and alleged public endangerment, the growing breadth of this area is exemplified by the recent pursuit by DOJ of a major guitar maker for alleged violations of wood import laws. The panel will place recent developments in broader context, taking stock of the direction of the DOJ environmental crimes program, and provide insights for defending and counseling clients on compliance and corporate risk.

## B. Healthcare Fraud and False Claims Act

John C. Richter, John R. Roth, Joseph F. Savage, Jr., William N. Shepherd

**Moderator:** Jodi L. Avergun

2012 proved to be an interesting year in the healthcare fraud and abuse area. Panelists will address trends, cases, emerging government strategies and best practices in the enforcement of healthcare law, including those related to off-label drug promotion, supply chain integrity, the government's reliance on the responsible corporate officer (RCO) doctrine, whistleblower actions, and third party audit of billing practices.

**1:00 p.m. Conference Concludes**



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ABA Members	\$1,185	\$1,275	\$1,355
Criminal Justice Section Members	\$1,025	\$1,100	\$1,180
Solo, Small Firm and General Practice Division Members	\$1,025	\$1,100	\$1,180
Young Lawyers Division Members	\$1,025	\$1,100	\$1,180
Government Lawyers / Employees	\$500	\$550	\$575

- I qualify for a \$50/person group discount. **Enter your \$50 discount on line 6B.**

To qualify for a group discount, **three or more people** must register together. Please call us to register your group or send all registrations in the same envelope. Not applicable to government rates.

## Step 2: Please check one workshop for each day and time slot.

- Wednesday ▪ March 6, 2013 ▪ Women in White Collar Subcommittee Reception ▪ 6:00 p.m.**

- Wednesday ▪ March 6, 2013 ▪ Young Lawyers Reception ▪ 6:00 p.m.**

- Thursday ▪ March 7, 2013 ▪ Luncheon ▪ 12:30 p.m.**  
*(This luncheon is an additional \$55. All Registrants welcome. Ticketed event. Space is limited.)*

**Thursday ▪ March 7, 2013 ▪ Breakout Session I ▪ 11:00 a.m.**

- A. The Foreign Corrupt Practices Act – Recent Developments and New Trends
- B. Trial Tactics in White Collar Cases: The Jury
- C. Securities Fraud: What's Happening Post-Indictment
- D. Money Laundering and Asset Forfeiture
- E. Criminal Tax Enforcement

**Thursday ▪ March 7, 2013 ▪ Breakout Session II ▪ 2:00 p.m.**

- A. Litigating FCPA Cases: Prosecution and Defense Strategies
- B. Ethics in White Collar Cases (ETHICS)
- C. Dos and Don'ts of an Internal Corporate Inquiry
- D. The Intersection of Export Controls and Economic Sanctions – What You Need to Know about OFAC, ITAR, and EAR
- E. What Are the Odds? The Future of U.S. Criminal Law Enforcement for Online Gaming and Online Piracy Against Offshore Companies and Individuals

**Thursday ▪ March 7, 2013 ▪ Breakout Session III ▪ 3:45 p.m.**

- A. Conducting Global Investigations
- B. Sentencing Strategies: Advocacy in White Collar Cases
- C. The New Landscape of Insider Trading Cases
- D. Antitrust Enforcement in 2012-2013: Planes, Banks, and Automobiles
- E. Cybercrime

**Friday ▪ March 8, 2013 ▪ Breakout Session IV ▪ 11:15 a.m.**

- Environmental Enforcement
- Healthcare Fraud and False Claims Act

## Step 3: Section Membership

- Criminal Justice Section – \$60. **Enter your \$60 fee on line 6C.**
- Solo, Small Firm and General Practice Division - \$45. **Enter your \$45 fee on line 6D.**
- Young Lawyers Division – Enroll me in the Young Lawyers Division. Membership in the Young Lawyers Division is free and automatic for all ABA members under 36 years old or admitted to practice for less than 5 years

## Step 4: Course Materials \*

Electronic course materials are provided on-site as part of your registration. Printed course materials are available on-site for an additional fee.

- Please provide printed course materials on-site for \$50. **Enter your \$50 fee on line 6E.**

\* If you cannot attend, but would like to order the **Course Materials**, please visit us at [www.ambar.org/2013wcc](http://www.ambar.org/2013wcc) or call (800) 285-2221 for pricing and availability. Course materials will be shipped after the event.

## Step 5: Your Information

Name			
Law Firm/Organization			
Address		Suite/Apt.	
City	State	Zip Code	
Telephone			
Email		ABA Member ID	

The ABA and many of its entities provide content through email. We do not share email addresses with anyone outside the ABA.

## Step 6: Your Total Due Amount



<b>Registration Rate</b> (from Step 1)	6A	\$ _____
<b>Three or More People Registering</b> (from Step 1) <i>(\$50/person discount. Applicants must register together to receive discount. Not applicable to government rates.)</i>	6B	\$ - _____
<b>ABA Criminal Justice Section Enrollment - \$60</b> (from Step 3)	6C	\$ + _____
<b>ABA Solo, Small Firm and General Practice Division Enrollment - \$45</b> (from Step 3)	6D	\$ + _____
<b>Printed Course Materials - \$50</b> (from Step 4)	6E	\$ + _____
<b>White Collar Crime Committee Luncheon - \$55</b> (from Step 2)	6F	\$ + _____
	<b>Total</b>	\$ _____

## Step 7: Payment Information

- ABA Credit Card from Bank of America       Other Credit Card  
 Check Payable to American Bar Association

Name as it appears on Card	
Account Number	Expiration Date
Signature	

## Step 8: 4 Easy Ways to Register

-  Visit [www.ambar.org/2013wcc](http://www.ambar.org/2013wcc)
-  Call **(800) 285-2221**
-  Fax this form to **(312) 988-5850**

 Complete and mail this form:

**The American Bar Association**  
Financial Services Dept. CEN3WCC  
P.O. Box 109078  
Chicago, IL 60654-7598



Visit [www.ambar.org/2013wcc](http://www.ambar.org/2013wcc)



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## MCLE

ABA programs ordinarily receive CLE credit in AK, AL, AR, AZ, CA, CO, DE, FL, GA, GU, HI, IA, ID, IL, IN, KS, KY, LA, ME, MN, MS, MO, MT, NH, NM, NV, NY, NC, ND, OH, OK, OR, PA, RI, SC, TN, TX, UT, VT, VA, VI, WA, WI, WV, and WY. These states sometimes do not approve a program for credit before the program occurs. This course is expected to qualify for 11.50 CLE credit hours including 1.25 hours of ethics credit in 60-minute-hour states, and 13.80 credit hours in 50-minute-hour states including 1.50 hours of ethics credit. This transitional program is approved for both newly admitted and experienced attorneys in NY and is expected to qualify for 13.0 CLE credit hours including 1.50 hours of ethics. For more information about CLE accreditation in your state, visit [www.ambar.org/2013wcc](http://www.ambar.org/2013wcc).

## NASBA

The American Bar Association 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 submitted to the National Registry of CPE Sponsors through its website: [www.learningmarket.org](http://www.learningmarket.org).

## Scholarships

For more information on scholarships, visit [www.americanbar.org/groups/cle/scholarship](http://www.americanbar.org/groups/cle/scholarship).

## Attire

Business casual attire is appropriate for all activities.

## Cancellations

Cancellations received five business days or more before the program will receive a full refund, less a \$50 cancellation fee. No refunds will be provided for cancellations after that date; however, substitute registrants are welcome at any time. To cancel your registration or substitute another individual, please call the ABA at **(800) 285-2221** or fax your request to **(312) 988-5850**. Registrants who do not cancel within the allotted time period and who do not attend the program will receive a copy of the course materials after program completion.

## Program Location

The Cosmopolitan of Las Vegas  
3708 Las Vegas Blvd. South  
Las Vegas, NV 89109-4312  
(702) 698-7000



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**Hotel Deadline:** Monday, February 11, 2013. Please reserve early to be sure you get the group rate!

Mention this ABA meeting to receive the group discount.

## Services for Persons with Disabilities

If special arrangements are required, please contact Courtney Anderson at **(312) 988-6210** or [courtney.anderson@americanbar.org](mailto:courtney.anderson@americanbar.org). 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.

## Program Confirmation

Written confirmation of your registration will be sent to you upon receipt. If you do not receive the confirmation notice prior to the program, please call the ABA at **(800) 285-2221** at least 24 hours in advance to confirm that your registration was received and that the program is being held as scheduled.

## Airline Information

- **American Airlines:** Call **(800) 433-1790**- Discount Code: **A8913TT** Discount NOT available at [www.aa.com](http://www.aa.com)
- **United Airlines:** Call **(800) 426-1122**; Agreement Code: **937323**, Z Code: **ZP65**  
Discount available at [www.united.com](http://www.united.com)- Online Discount Code: **ZP65937323**
- **Virgin America Airlines:** Go to [www.virginamerica.com](http://www.virginamerica.com)- Discount Code: **VXABA312**

More details at [www.americanbar.org/travel](http://www.americanbar.org/travel).

## Standing Committee on Continuing Legal Education

Under the guidance of the Standing Committee on Continuing Legal Education, the Center for Professional Development administers and produces National Institutes, webinars, teleconferences, other technology-based products and written course materials to assist lawyers' professional development efforts.



# The 27th Annual National Institute on White Collar Crime

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