

Course	Lawyering: White Collar Crime in Practice LAW 706H
Section	LS1
Professor	Wes R. Porter
Term	Spring 2012
Class meetings	Fridays, 10:15-11:55 am

Professor's Contact Information

Office Phone	415-442-6663
Office Location	Room 2342
Email Address	wporter@ggu.edu
Office Hours	E-mail to set up an appointment on Mondays, Wednesdays or Fridays.
Teaching Assistant	Sarah Gounder smgounder@gmail.com
Faculty Assistant	Sandra Derian sderian@ggu.edu , 415-369-5293, Room 2333

General Course Information

Our goals for this course come in two areas: one, your introduction to the exciting and extremely topical world of white collar crime *and*, two, your introduction to “lawyering” – where you learn by doing. By the end of this course, students will:

Course Objectives	<ul style="list-style-type: none"> ➤ Better understand fundamental criminal law concepts. ➤ Understand the concepts unique to white-collar crime and its distinctions from other types of crime. ➤ Understand some of the “traditional” white collar crimes, such as scheme to defraud offenses, bribery, money laundering and obstruction of justice offenses. ➤ Understand the parts of a white collar crime investigation from the government’s and defense perspective. ➤ Understand the parts of a white collar crime prosecution from the government’s and defense perspective. ➤ Understand how to evaluate a white collar case and developing a case strategy. ➤ Understand evidence gathering, witness interviews, and legal theories. ➤ Understand persuasive presentation of case facts and applicable law.
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No Final Exam This course has no final exam; instead your grade will be based upon class participation, written assignments, exercises and presentations.



Required Texts & Materials

- 1) White Collar Crime in Practice (WCC), a (free) collection of materials assembled and created by me, posted on TWEN and distributed during class
- 2) U.S. Code, available at <http://www.gpoaccess.gov/uscode/> or <http://www.law.cornell.edu/uscode/> and U.S. Sentencing Guidelines, available at <http://www.ussc.gov/guidelin.htm>
- 3) other online resources http://lawprofessors.typepad.com/whitecollarcrime_blog/ <http://dealbook.nytimes.com/category/white-collar-watch/>
- 4) TWEN: <http://lawschool.westlaw.com/twen> with **password: Porter**
Student must regularly visit TWEN as part of this course, including posting on “Forums” and regular submissions in “Assignment Drop Box.” To sign up, you will need your Westlaw account information; if you do not have a Westlaw account or have lost your password, please contact either Jodi Collova jcollova@ggu.edu (415) 442-6683 or Jennifer Pesetsky jpesetsky@ggu.edu (415) 442-6520 in the Law Library, who will provide you with one. Go to <http://lawschool.westlaw.com/twen> In the right hand upper quadrant, click on “drop/add a course.” Select this course by putting a checkmark in the box. Scroll to the bottom of the page and click on submit. You will now be looking at the TWEN Homepage; click on the course title to access the information.

Suggested Materials

Point Made (Ross Guberman), which I now recommend for every course.
In Law Library: Law Open Reserve KF251 .G83 2011

Course Policies

Attendance, Preparedness and Class Participation

Attendance and preparation are mandatory for this course. I will take attendance at the beginning of class. If a student will not be able to attend class or will be unprepared for class, then the student must either notify me (1) by email **before** the day of class (preferred) or (2) by note before class begins. I will excuse absences only if, and not until, I have been notified in advance about a **serious** reason and the student has satisfied all requirements from the missed class meeting. If the student is unprepared, then I will excuse it only if the student attends class and the student has satisfied all requirements from the class meeting.

Failures to abide by the attendance and class preparation rules may negatively affect a student’s final grade. Specifically, a student who has an unexcused absence, is unprepared, or fails to complete assignments on time will be subject to having his or her final grade reduced by one grade step (e.g., from A to A-, B- to C+), more than one step, or may not be allowed to complete the course, at the professor’s discretion.

Computer and Internet Policy

Students should review materials on-line and participate in class discussion on TWEN, before and after class meetings throughout the semester. Internet use and games distract other students and are not permitted during class. If laptops do distract students or disrupt class, then I may prohibit a student, or the entire class, from using them. **Disclaimer:** listening, participating and understanding during class is the most valuable – a transcript of this class will not be useful.



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Accommodations

Golden Gate University School of Law seeks to provide reasonable and necessary accommodations to students with disabilities. Please meet with the Disability Service Coordinator in Room 3339 or email lawds@ggu.edu for information on how to receive accommodations. All communications with the Disability Service office are confidential.

Grading & Assessment

Students will receive a letter grade in this class. There is no final exam.

Student's grades in this course will be based upon four parts:

(i) class preparation and participation (ii) written assignments; (iii) exercises; and (iv) a presentation. The percentage of the final grade is indicated below.

a. Class Preparation and Participation (25%).

I will post regular discussion questions/topics for you on TWEN related to current topics within white collar crime. In preparation for most Friday class meetings, you will be expected to post (a paragraph or two) about a discussion topic (by **Tuesday at midnight**) and then comment (a sentence or two) on your classmates' posts (by **Wednesday at midnight**). Discussion topics will coincide with the assigned reading and noteworthy cases. Our class discussion will flow from these discussion topics, postings and comments. *I will provide more information about these online and class discussion assignments via TWEN.*

b. Written Assignments (25%).

I will assign **at least 4** short written assignments during the semester. Most, if not all, of the short written assignments will derive from your representation of a client in a simulated white collar crime case. For example, you may be asked to draft: witness interview outlines; case memoranda; correspondence with opposing counsel; document requests; presentation materials; motions and arguments to the court; witness examination outlines; and/or jury addresses. *I will provide more information about the written assignments, including subject matter, page limits, formatting, and due dates via TWEN.*

c. Exercises (25%)

I will assign **at least 4** outside of class or in-class exercises during the semester. Most, if not all, of the exercises also will derive from your representation of a client in a simulated white collar crime case. For example, you may be asked to: interview a witness; prepare a witness; conference with opposing counsel or the court; argue a motion; conduct a witness examination; and/or jury address. *I will provide more information about the exercises, including the subject matter, learning objectives, and performance dates via TWEN.*

d. Presentation (25%).

I will assign **at least 1** presentation during the semester. The presentation(s) will operate as an equivalent to a final exam in this course, in that it may incorporate the topics taught throughout the semester. The presentation(s) will have both a written and oral component and also will derive from your representation of a client in a simulated white collar crime case. *I will provide more information about the presentations including subject matter, guidelines and presentation dates via TWEN.*

Grading Method



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Assignments & Academic Calendar

**The following is set forth below for your planning purposes and I may change the schedule depending on the class progress and, if I do so, I will provide a revised syllabus through TWEN.

Before Our 1st Class	<p><i>Relax and prepare to learn how to be a lawyer and have some fun in a law school class!</i></p> <p>Skim our TWEN site (password: Porter), our Jury Instruction Packet (JI packet) and the White Collar Crime Reader (WCC)</p> <p>Familiarize yourself with: (i) the U.S. Code (USC), available at http://www.gpoaccess.gov/uscode/ or http://www.law.cornell.edu/uscode/; (ii) U.S. Sentencing Guidelines (USSG), available at http://www.ussc.gov/guidelin.htm; and (iii) federal jury instructions, available at http://federalevidence.com/evidence-resources/federal-jury-instructions and http://federalevidence.com/pdf/JuryInst/8.2010.Final.Criminal.pdf (9th Circuit).</p> <p>Read WCC I (approx. 20 pages)</p> <p>Read Assignment 1 on TWEN and <i>post</i> your first assignment in TWEN Forums</p>
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Week # Date	Class Discussion	Assignments	Workshops
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Introduction to White Collar Crime

1 Jan 13	<p>Intro to white collar crime</p> <p>-unique offense conduct, issues & procedure</p>	<p>Read WCC I</p> <p>ASSIGNMENT 1: <i>by Jan 11</i> Forum Topic: Your WCC Story Read Forum Topic 1 on TWEN, <i>post</i> your story to Forums & <i>comment</i> on others</p>	<p>EXERCISE: Open Class: WCC Client Interview</p>
2 Jan 20	<p>Dissection of WCC cases:</p> <p>-analyzing infamous cases - the charges, the offense conduct & the results, as well as unique issues</p>	<p>Read WCC II</p> <p>ASSIGNMENT 2: <i>by Jan 17</i> <i>Post</i> on Forum Topic & <i>comment</i> on others <i>by Jan 18</i></p> <p>ASSIGNMENT 3: <i>by Jan 19</i> The federal hook for WCC Read assignment on TWEN and submit report on TWEN</p>	<p>EXERCISE: Open Class: Next steps strategy meeting and exploring the information needed</p>



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Investigating & Defending White Collar Crimes
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3 Jan 27	Pre-indictment process & the Government's investigative tools: -search warrants & witnesses -the grand jury: subpoenas, testimony & grants of immunity	<i>Read WCC III</i> ASSIGNMENT 4: <i>by Jan 24</i> <i>Post on Forum Topic & comment on others by Jan 25</i>	EXERCISE: Break Out Groups: Witness Interview & client summary (Peer evaluations)
4 Feb 3	Understanding the role of defense counsel: -"shadow grand jury," internal investigations and -presentations, disclosures and asserting privilege	<i>Read WCC IV</i> ASSIGNMENT 5: <i>by Jan 31</i> Memo of Interview <i>Submit on TWEN</i> ASSIGNMENT 6: <i>by Feb 2</i> Investigate your case <i>Read assignment on TWEN and submit, as assigned, on TWEN:</i> - subpoena attachment - GJ testimony outline	EXERCISE 6: Break Out Groups: Witness Interview & client summary (Peer evaluations)



Week # Date	Class Discussion	Assignments	Workshops
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Understanding Substantive White Collar Crimes
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<p>5</p> <p>Feb 10</p>	<p>Understanding specific WCC offenses I:</p> <p>-scheme to defraud and conspiracy offenses</p>	<p><i>Read WCC V and JI packet</i></p> <p><i>Review 18 USC 371,1341-50 and USSG 2B1.1</i></p> <p>ASSIGNMENT 7: <i>by Feb 7 Post on Forum Topic & comment on others by Feb 8</i></p> <p>ASSIGNMENT 8: <i>by Feb 9 Investigate your case Read assignment on TWEN and submit, as assigned, on TWEN:</i></p> <ul style="list-style-type: none"> - subpoena attachment - GJ testimony outline 	<p>EXERCISE:</p> <p>Break out: GJ presentment exercise</p> <p>(peer evaluations)</p>
<p>6</p> <p>Feb 17</p>	<p>Understanding specific WCC offenses II:</p> <p>-corruption, bribery and kickback offenses</p>	<p><i>Read WCC VI</i></p> <p><i>Review 18 USC 201, 666, etc. and USSG 2C1.1</i></p> <p><i>Review JI packet</i></p> <p>ASSIGNMENT 9: <i>by Feb 14 Post on Forum Topic & comment on others by Feb 15</i></p>	<p>EXERCISE :</p> <p>Open Class: Charging Conference with supervisors</p> <p>EXERCISE:</p> <p>Witness prep and debrief</p> <p>-and video break-out</p>
<p>7</p> <p>Feb 24</p>	<p>Understanding specific WCC offenses III:</p> <p>-money laundering, false statement, and obstruction of justice</p> <p>-understanding defenses to white collar crimes</p>	<p><i>Read WCC VII and JI packet</i></p> <p><i>Review 18 USC 1956-57, 1512, etc. and USSG 2C1.1</i></p> <p>ASSIGNMENT 10: <i>by Feb 22 Prosecution / Client Memo Read assignment on TWEN and submit memo</i></p>	<p>EXERCISE:</p> <p>Break out groups: Charging conference</p> <p>(peer evaluation)</p>

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Prosecuting & Defending White Collar Crimes

<p>8</p> <p>Mar 2</p>	<p>Prosecuting & Defending a WCC case I:</p> <p>-understanding the end-game: current state of federal sentencing, <i>Booker</i> and</p> <p>-plea negotiations, plea agreements and FRCrP 11</p>	<p><i>Read WCC VIII</i></p> <p><i>Review FRCrP 11, 18 USC 3553(a) and USSG</i></p> <p>ASSIGNMENT 11: <i>by Feb 28 Post on Forum Topic & comment on others by Feb 29</i></p>	<p>EXERCISE:</p> <p>Break out groups: plea negotiations</p> <p>(peer evaluation)</p>
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<p>9</p> <p>TBD Week of Mar 5-9</p>	<p>JOINT CLASS:</p> <p>Securities Fraud and Parallel Proceedings:</p> <p>-civil and criminal authorities investigating the same offense conduct</p>	<p>Joint Class with Lawyering : Securities Enforcement & Government Investigations class</p> <p><i>Read WCC IX</i></p> <p><i>Review 18 USC 1349, Rule 10b-5, and Section 10b of the '34 Act (15 USC Sec. 78j)</i></p> <p>**No assignment</p>	
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**** Spring Break (March 12-16) ****



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<p>10</p> <p>Mar 23</p>	<p>Prosecuting & Defending a WCC case II:</p> <p>-prosecutorial discretion, cooperating witnesses and proffer letters</p>	<p><i>Read WCC X</i></p> <p>ASSIGNMENT 12: <i>by Apr 3</i> <i>Post on Forum Topic & comment on others by Apr 4</i></p> <p>ASSIGNMENT 13: <i>by Apr 5</i> Sentencing memorandum <i>Read assignment on TWEN and submit letter on TWEN</i></p>	<p>EXERCISE: Open Class Defense presentation & client debrief (peer evaluation)</p> <p><i>*Distribute cases, roles and partners for our final presentations</i></p>
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****Meetings with supervisor/senior partner (by cases & teams)**

<p>11</p> <p>TBD</p> <p>Week of Mar 30</p>	<p>Prosecuting & Defending a WCC case III:</p> <p>-Pretrial motions in WCC cases: discovery violations, bill of particulars and venue</p>	<p><i>Read WCC XI</i></p> <p>ASSIGNMENT 14: <i>by Mar 27</i> Proffer letter & interview outline <i>Read assignment on TWEN and submit letter on TWEN</i></p>	<p>EXERCISE: Small groups – proffer session with witness (peer evaluation)</p>
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****Meetings with supervisor/senior partner (by cases & teams)**

<p>12</p> <p>Apr 6</p>	<p>Understanding specific WCC offenses IV:</p> <p>-FCPA, healthcare fraud, tax and antitrust</p>	<p><i>Read WCC XII</i></p>	<p>EXERCISE: Small groups – pretrial motions (peer evaluation)</p>
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<p>13 – 14</p> <p>TBD</p> <p>Apr 9-20</p>	<p>***WCC PRESENTATIONS***</p>		
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