

# Fraud and Federalism

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## Program

Monday, March 27, 2006

### *A Cardozo Law Review Symposium*

Co-sponsored by:

The Samuel and Ronnie Heyman Center on Corporate Governance  
Securities Industry Association Compliance & Legal Division

*Cardozo Law Review*  
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# Fraud and Federalism

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This symposium will explore an explosive issue that makes the headlines on a daily basis: how federal, state and local prosecutors compete to prosecute white collar crimes and how corporate actors attempt to shield themselves from prosecution.

## Schedule

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**9:00 a.m.      Welcome**

ERIC J. PAN, Assistant Professor of Law, Benjamin N. Cardozo School of Law and Director, The Samuel and Ronnie Heyman Center on Corporate Governance

PHILIP A. WELLNER, Editor-in-Chief, *Cardozo Law Review*

**9:15 a.m.      Panel One: Effects of Multi-Jurisdictional Fraud Crimes Statutes on Prosecutorial Strategies.**

KYRON HUIGENS, Professor of Law, Benjamin N. Cardozo School of Law (Moderator)

DARRYL BROWN, Class of 1958 Alumni Professor of Law, Washington & Lee University

PAMELA BUCY, Frank M. Bainbridge Professor of Law, The University of Alabama School of Law

JOHN KROGER, Associate Professor of Law, Lewis and Clark Law School

ROBERT MORVILLO, Partner, Morvillo, Abramowitz, Grand, Iason & Silberberg

RICHARD OWENS, Chief, Securities Fraud Unit, U.S. Attorney's Office - Southern District of New York

MARY JO WHITE, Partner, Debevoise & Plimpton and Former United States Attorney for the Southern District of New York

**11:00 a.m.      Coffee Break**

**11:15 a.m. Panel Two: Effects of Multi-Jurisdictional Fraud Crimes Statutes and Prosecutions on Corporate Behavior.**

ERIC J. PAN (Moderator)

SAMUEL BUELL, Visiting Professor of Law, The University of Texas at Austin School of Law

STEVE HAMMERMAN, Former Vice Chairman and General Counsel of Merrill Lynch & Co., Inc. and Counsel for the Regulatory White Collar Department at Clifford Chance

WILLIAM LAUFER, Associate Professor of Legal Studies and Business Ethics and Sociology, the Wharton School, University of Pennsylvania

MICHAEL STONE, Adjunct Professor of Law, Benjamin N. Cardozo School of Law and Senior Fellow, The Samuel and Ronnie Heyman Center on Corporate Governance

DEBRA TORRES, Partner, Fried, Frank, Harris, Shriver & Jacobson LLP

**1:00 p.m. Lunch**

**2:30 p.m. Academic Roundtable: Implications for Federal and State Law.**

RICHARD BIERSCHBACH, Assistant Professor of Law, Benjamin N. Cardozo School of Law (Moderator)

PAMELA BUCY

SAMUEL BUELL

DARRYL BROWN

JOHN KROGER

WILLIAM LAUFER

**4:30 p.m. Cocktail Reception**

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*Symposium Publication Information:*

To order printed copies of the *Cardozo Law Review* Fraud and Federalism Symposium issue, which will be printed during the 2006-07 academic year, please contact Joya Cohen, Business Manager, at [jcohen5@yu.edu](mailto:jcohen5@yu.edu).

## Speaker Biographies

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### **RICHARD BIERSCHBACH**

Richard Bierschbach is Assistant Professor of Law at Benjamin N. Cardozo School of Law.

A former attorney-advisor in the Office of Legal Counsel at the US Department of Justice, as well as a Bristow Fellow in the Department's Office of the Solicitor General, Professor Bierschbach was an associate in the New York office of Wilmer, Cutler & Pickering before coming to Cardozo. He was articles editor of the *Michigan Law Review* and the recipient of the Henry M. Bates Memorial Scholarship, the law school's highest honor.

Professor Bierschbach clerked for Judge A. Raymond Randolph of the US Court of Appeals for the DC Circuit and for US Supreme Court Justice Sandra Day O'Connor.

### **DARRYL BROWN**

Darryl Brown is Professor of Law and Alumni Faculty Fellow at Washington and Lee University School of Law.

Prior to teaching, Professor Brown worked as a law clerk to a federal appellate judge, a commercial litigator, and as a public defender in state courts. He also worked as a staff attorney at the University of Georgia School of Law Legal Aid Clinic from 1992-94.

Professor Brown primarily teaches courses related to criminal law, criminal procedure and evidence, and his scholarship has focused largely on issues related to criminal juries and on comparative studies of government prosecution and sentencing policy with regard to street crime and corporate crime. His scholarship has appeared in the *University of Pennsylvania Law Review* and the *Michigan Law Review*, among other journals.

From 1996-99 Brown was Assistant Professor of Law at the University of Dayton School of Law. He has been a visiting Assistant Professor at Mercer University School of Law (1994-95) and Rutgers University School of Law (1995-96).

## **PAMELA BUCY**

Pamela Bucy is the Frank M. Bainbridge Professor of Law at the University of Alabama School of Law.

Professor Bucy has received numerous bar association awards. She has also held leadership positions with the American Bar Association, Alabama Bar, and Birmingham Bar. Professor Bucy has written four books and is near completion on three, all in the area of white-collar crime. She has also testified before Congress and is regularly quoted by the national news media.

Professor Bucy served as a law clerk to Judge Theodore McMillian, United States Court of Appeals for the Eighth Circuit; as an associate at the St. Louis firm of Thompson & Mitchell; and as an assistant United States attorney, Eastern District of Missouri.

## **SAMUEL BUELL**

Samuel Buell is a Visiting Assistant Professor at the University of Texas at Austin School of Law.

Sam Buell is the inaugural Fellow in the Law School's Emerging Scholars Program. His present research explores relationships between the normative influence of the criminal law and the state's regulation of behavior in corporations and markets. His writings have been published or are forthcoming in *New York University Law Review* and *Indiana Law Journal*.

As a federal prosecutor in New York, Boston, Washington, and Houston, Professor Buell led cases involving, among others, the former top executive officers of the Enron Corporation and the organized crime group headed by James "Whitey" Bulger. His awards include the Attorney General's Award for Exceptional Service (the Justice Department's highest honor); New York

University School of Law's University Graduation Prize (first in class); and NYU Law awards for outstanding scholarship and professional activities, outstanding law review note, and outstanding criminal law scholarship.

Professor Buell served as Law Clerk to the Honorable Jack B. Weinstein of the United States District Court for the Eastern District of New York and was an associate with Covington & Burling in Washington, DC.

## **STEVE HAMMERMAN**

Steve Hammerman is the former Vice Chairman and General Counsel of Merrill Lynch & Co., Inc. and Counsel for the Regulatory White Collar Department at Clifford Chance.

Mr. Hammerman, was an executive at Merrill Lynch & Co. between 1978 and 2002. At Merrill Lynch he was Vice Chairman of the Board and a member of the Board of Directors and the Executive Committee. He served in numerous senior positions at Merrill Lynch, including General Counsel and Chief Financial Officer. From 2002 through 2004, Mr. Hammerman was Deputy Commissioner of Legal Matters for the New York City Police Department.

Mr. Hammerman also served as a Director of the New York Stock Exchange, Chairman of the National Association of Securities Dealers, Director of the Securities Investors Protection Corporation, New York Regional Administrator for the Securities and Exchange Commission and an Assistant United States Attorney for the Southern District of New York.

Mr. Hammerman graduated from the Wharton School of the University of Pennsylvania and received his law degree from the New York University School of Law.

## **KYRON HUIGENS**

Kyron Huigens is Professor of Law at the Benjamin N. Cardozo School of Law.

Before joining the Cardozo faculty, Professor Huigens practiced in the Seattle-Tacoma area for 12 years, including five as a prosecutor and three as a criminal defense attorney.

His primary scholarly interest is the theory of punishment. He has published articles and essays in *Harvard Law Review*, *California Law Review*, and *Georgetown Law Journal*, among others.

## **JOHN KROGER**

John Kroger is Associate Professor of Law at the Lewis and Clark Law School.

Professor Kroger was a federal prosecutor before becoming a professor. Kroger successfully prosecuted over one hundred federal criminal cases involving the mafia, violent gangs, public corruption, and narcotics trafficking. Professor Kroger also argued frequently before the U.S. Court of Appeals for the Second Circuit.

In 1999, Professor Kroger received the Director's Award from Attorney General Janet Reno for convicting two mafia captains of multiple murders. In 2001, Kroger worked on the emergency response to the 9/11 terrorist attack on the World Trade Center. From 2002 to 2003, Professor Kroger served as a prosecutor on the U.S. Justice Department's Enron Task Force. Professor Kroger has also worked as an economic and domestic policy adviser to a number of leading Democratic politicians. He was Deputy Policy Director of Bill Clinton's 1992 Presidential Campaign, a legislative assistant to Speaker of the House Thomas Foley, and senior policy analyst at the U.S. Treasury Department.

Professor Kroger served in the United States Marine Corps for three years prior to college. He clerked for the Honorable Judge Anthony Scirica, U.S. Court of Appeals for the Third Circuit. He is a member of the Connecticut Bar and admitted to practice before the U.S. Courts of Appeals for the Second and Third Circuits.

## **WILLIAM LAUFER**

William Laufer is Associate Professor of Legal Studies and Business Ethics and Sociology at the Wharton School, University of Pennsylvania.

Professor Laufer is currently engaged in exploring a theoretical foundation for the corporate criminal law. He has held many academic positions to date including the following positions at Wharton: 1989-present, Director, Carol and Lawrence Zicklin Center for Business Ethics; 2000-present, Anheuser-Busch Term Assistant Professor of Legal Studies; 1989-95, Associate Director, Sellin Center for Studies in Criminology and Criminal Law, 1989-90.

Professor Laufer has also held a visiting appointment at New York University School of Law. He has held many professional leadership positions including: Chair, Working Group on Crime as Business, 2001-present; Senior Fellow, ERC, 1997-2000; and Series Editor, *Advances in Criminological Theory*, 1986-present.

## **ROBERT MORVILLO**

Robert G. Morvillo is a partner of Morvillo, Abramowitz, Grand, Iason & Silberberg.

Mr. Morvillo is one of the most experienced white collar criminal defense attorneys in the country. He was named one of the outstanding criminal defense lawyers in New York by *New York* magazine in 1995 and was the recipient of the Norman Ostrow Award for significant contribution to the defense function from the New York Council of Defense Lawyers in March 2000.

Previously, Morvillo clerked for the Honorable William B. Herlands, United States District Judge for the Southern District of New York, and served as an Assistant United States Attorney for the Southern District of New York from 1964 to 1968. In 1970, he was named Chief Trial Assistant in charge of the Frauds Unit at the United States Attorney's Office. One year later, he became Chief of the Criminal Division.

Morvillo has also held many leadership positions including former Chairman of the New York Downstate Committee of the American College of Trial Lawyers;

Chairman of the Federal Bar Foundation; former secretary of the Federal Bar Council; and former President of the New York Council of Defense Lawyers.

## **RICHARD OWENS**

Richard Owens is the Chief of the Securities Fraud Unit, U.S. Attorney's Office – Southern District of New York.

Mr. Owens joined the U.S. Attorney's Office in 1994 and has been a member of the Securities Fraud Unit since 1995. Mr. Owens is a Harvard Law School graduate and served as deputy chief of the securities unit from 1999 through 2001, when he became chief of the unit.

Mr. Owens has twice received the Attorney General's annual Distinguished Service Award for significant white-collar prosecutions, including the 1996 conviction of the Daiwa Bank and the collection of a record-breaking \$340 million fine, and the 1999 conviction of Patrick R. Bennett, former CFO of the Bennett Funding Group. In 2001, Mr. Owens handled the Southern District's prosecution and convictions of Steve Madden, former president of Steve Madden, Ltd., and Republic New York Securities Corporation which paid a record-breaking \$600 million in restitution.

## **ERIC J. PAN**

Eric J. Pan is Assistant Professor of Law and Director of The Samuel and Ronnie Heyman Center on Corporate Governance at the Benjamin N. Cardozo School of Law.

Before joining Cardozo, Professor Pan was an attorney in the Washington, DC office of Covington & Burling, where he worked in Covington's corporate, securities, and international practice groups. His practice consisted of mergers and acquisitions, public and private securities offerings, securities regulation, general corporate advisory work, and public and private international law matters. Before his time at Covington, he was a Jean Monnet Lecturer in Law at Warwick University, England, and served as director of Warwick's Programme

in Law and Business. He was also a visiting fellow in international law at Cambridge University, England.

Professor Pan is a term member of the Council on Foreign Relations and a life member of the Royal Institute for International Affairs. Professor Pan received an A.B. in Economics from Harvard College, a M.Sc. in European and International Politics from Edinburgh University, Scotland, and a J.D. from Harvard Law School. Professor Pan is a member of the New York State and District of Columbia bars.

## **MICHAEL STONE**

Michael H. Stone is a Senior Fellow of The Samuel and Ronnie Heyman Center on Corporate Governance and Adjunct Professor of Law at Cardozo. He formerly was a Managing Director and General Counsel of Morgan Stanley Individual Investment Group (formerly Morgan Stanley Dean Witter) and interim Chief Legal Officer of Morgan Stanley & Co. Prior to joining Dean Witter in April 1982, Professor Stone was Chief Attorney, Branch of Enforcement at the US Securities and Exchange Commission. From 1973 to 1977, Professor Stone served as a law clerk in the Appellate Term of the Supreme Court of the State of New York.

Professor Stone is a Past President of the Compliance and Legal Division, Executive Committee of the Securities Industry Association and served on the SIA's Federal Regulation Committee. He presently serves on the Board of Directors of Regulatory DataCorp, International LLC, and the Mediation Panel for the Federal District Court in the Eastern District of New York.

He is a member of the ABCNY Committee on Professional & Judicial Ethics, the ABA Section of Dispute Resolution and the ABA Center for Professional Responsibility. Previously, he served on the Chicago Board Options Exchange Business Conduct Committee. Professor Stone teaches Ethics for the Business Attorney at Cardozo. Professor Stone holds a BA from the State University of New York at Binghamton, JD from Brooklyn Law School and LLM from New York University.

## **DEBRA TORRES**

Debra Torres is a partner at Fried, Frank Harris, Shriver & Jacobson LLP.

Ms. Torres handles a variety of general corporate and commercial litigation, particularly cases involving federal securities law and corporate law. She has also been involved in representing companies and individuals in United States Securities and Exchange Commission and criminal investigations, real estate and other commercial disputes, as well as bankruptcy litigation.

Ms. Torres is a current member of the Board of Directors of the Puerto Rican Legal Defense and Education Fund, and a former member of the Board of Directors of the Legal Aid Society of New York. In addition, she belongs to the Association of the Bar of the City of New York (including the Task Force on Minorities in the Profession) and the American Bar Association (member of Sections on Litigation and Business Law).

## **MARY JO WHITE**

Mary Jo White is a partner at Debevoise & Plimpton and Former United States Attorney for the Southern District of New York.

Ms. White is Chair of the 222 lawyer litigation group of Debevoise & Plimpton LLP. Her practice concentrates on internal investigations and defense of companies and individuals accused by the government of involvement in white collar corporate crime or SEC and civil securities law violations, and on other major business litigation disputes and crises. For her criminal work, she leads a Debevoise team that includes eight former Assistant U.S. Attorneys with extensive experience in major commercial investigations and prosecutions.

Ms. White is a Fellow in the American College of Trial Lawyers, a Fellow in the International Academy of Trial Lawyers, and was named to The National Law Journal's 2002 list of Top 10 Women Litigators. She is also a Director of The NASDAQ Stock Market, Inc. where she serves on its Executive, Audit and Policy Committees. She is a member of the Council on Foreign Relations.