SYLLABUS

Purpose of the Course: This course addresses criminal statutes that impact employers and employees in a business setting. It is designed to provide insight to students interested in the criminal, labor, employment and commercial fields to better enable them to advise clients as to possible liabilities and regulatory pitfalls that could result in criminal liability. Those interested in workers’ rights advocacy will learn how to interface with and utilize government agencies tasked with protecting workers and their wages. Prospective criminal practitioners who have an interest in white collar crime will gain knowledge of how to prosecute and defend criminal cases involving businesses and their employees; as well as strategies employed during investigations of business and corporate clients or targets. The course reviews corporate criminal liability, various theories of larceny and the criminal statutes most commonly violated by businesses and their principals. Students will also learn about the various criminal laws designed to address wage and benefit theft, as well as tax crimes committed by multi-employee businesses.

Learning Outcomes: Students will learn to analyze the statutes covered in class, with an emphasis on picking out the necessary elements, as well as the elements in each that are subject to interpretation or dispute among adversaries in the courtroom. Pattern jury instructions are assigned where appropriate so that the students learn to recognize the essential elements of proof required and what evidence is needed to satisfy each statute. The need to read, analyze, comprehend and critically interpret the assigned statutes and cases cannot be over-emphasized because of the central role they play in class discussions. Students will learn to understand the evolution of statutory and case law, with the goal of predicting where the law will take us in the future. Students will also learn to appreciate the ongoing trend of criminalizing previously civil or regulatory transgressions. In addition, the assignment of written practicums will sharpen student’s writing and provide a basis for developing the skills necessary to a practicing attorney by having them draft “nuts and bolts” documents that are frequently used by practitioners.

Course Materials: During the semester, we will be using statutes, case law and pattern jury instructions to guide our discussions of each topic. Students are expected to printout or download each document and have each available for class. I suggest either a binder or digital folder for this purpose which will allow for annotation during class discussions. Students will also be assigned a series of practicums that will synthesize academic discussions and practical legal application. Students are responsible for obtaining the following course materials which will be used according to the schedule set forth below. (ALL DATES ARE APPROXIMATE BASED UPON THE EBB AND FLOW OF THE CLASS!):
CLASS SCHEDULE and ASSIGNMENTS

August 26, 2014:
1. Corporate Criminal Liability
   A. PL §§10.00, 20.20 – Basis for Corporate liability
      i. Definitions: Agent, High Managerial Agent
      ii. When criminal liability attaches to corporations
   B. Liability of Principals
      i. PL §20.25


September 2, 2014:
2. Penal Law (Common Statutes in “White Collar Crime” Prosecutions)
   A. Article 155 (Larceny)
      i. PL §155.00 Definitions: Property, Obtain, Deprive, Appropriate, Owner.
      ii. PL §155.05 Theories of Larceny: Manner in Which Larceny Committed.
      iii. PL §§155.25 – 155.45: Degrees of Crime, Special Proof/Pleading Requirements.


   Assigned Practicum 1 due: Draft appropriate criminal charges based on hypothetical fact pattern.

September 9, 2014:
B. Article 170 (Forgery)
   i. PL §170.00 Definitions: Written Instrument, Falsely Make, Falsely Made v. Made Falsely.
   ii. PL §§170.05 – 170.35: Degrees of Crimes, Special Pleading Considerations


   Assigned Practicum 2 due: Draft Letter Motion to Dismiss based upon hypothetical fact pattern.
September 16, 2014:

C. Article 175 (False Written Statements)
   i. PL §175.00 Definitions: Enterprise, Business Record
   ii. PL §§175.05 – 175.35: Degrees of Crimes, Bookkeeper Defense

   Assigned Reading: Statutes identified above; Criminal Jury Instructions (CJI2d) pertaining to
   the identified statutes (http://www.nycourts.gov/cji/); People v. Kisina, 14 N.Y.3d 153, 897 N.Y.S.2d
   684, 924 N.E.2d 792 (2010); People v. Bel Air Equipment Corp., 39 N.Y.2d 48, 382 N.Y.S.2d 728,
   346 N.E.2d 529 (1976); People v. Armitt, 195 Misc.2d 879, 762 N.Y.S.2d 222 (App. Term, 1st
   Dept. 2003); People v. Saxton, 75 A.D.3d 755, 907 N.Y.S.2d 316 (3rd Dept. 2010); People v. Daba, 12
   Misc.3d 36, 820 N.Y.S.2d 382 (App. Term, 2nd Dept. 2006); People v. W.D. Boccard & Sons, Inc., 74
   A.D.2d 654, 425 N.Y.S.2d 130 (2nd Dept. 1980); People v. Papatonis, 243 A.D.2d 898, 663 N.Y.S.2d
   341 (3rd Dept. 1997); People v. Norman, 6 Misc.3d 317, 789 N.Y.S.2d 613 (Sup. Ct., Kings Co.
   2004); People v. Jacob, 248 A.D.3d 638, 670 N.Y.S.2d 530 (2 Dept. 1998); People v. Taylor, 14

   Assigned Practicum 3 due: Draft appropriate Jury Charges based on hypothetical fact pattern.

September 23, 2014:

D. Article 176 (Insurance Fraud)
   i. PL §§176.00, 176.05, 176.40, Definitions: Terms and Acts
   ii. PL §§176.10 – 176.70 Degrees of Crimes

   Assigned Reading: Statutes identified above; Criminal Jury Instructions (CJI2d) pertaining to
   the identified statutes (http://www.nycourts.gov/cji/), People v. Boothe, 68 A.D.3d 402, 890 N.Y.S.2d
   484 (1st Dept. 2009); People v. Ferone 136 A.D.2d 282, 526 N.Y.S.2d 973 (2d Dept. 1988); People v.
   NYS2d 806, 644 NE2d 1362 (1992), app. dism. 191 A.D.2d 271; 595 N.Y.S.2d 402; People v

   Assigned Practicum 3 due: Draft a Grand Jury Subpoena based on hypothetical fact pattern.

September 30, 2014:

   Return and review of Practicums 1, 2 and 3. (Catch-up or advance depending on class
   progress. Read and brief/outline upcoming materials!)

October 7, 2014:

3. Grand Jury Subpoenae
   A. Laws governing Grand Jury subpoenae issued to businesses, their principals and
      employees.
      i. CPLR §§2305, 2307; CPL §§190.40, 190.50, 610.00, 610.20, 610.30

   Assigned Reading: Statutes identified above; Virag v. Hynes, 54 N.Y.2d 437, 446 N.Y.S.2d
   2001); Matter of Application to Quash a Grand Jury Subpoena, 239 A.D.2d 412 (2d Dept. 1997);
   People v. Natal, 75 N.Y.2d 379, 553 N.Y.S.2d 650, 553 N.E. 239 (1990); People v. Mc Neill, 204
   366 (Sup. Ct., N.Y. Co. 1976); People v. Daniel, 206 A.D.2d 856, 615 N.Y.S.2d 170 (4th Dept. 1994);
   People v. Owens, 188 Misc.2d 200, 727 N.Y.S.2d 266 (Sup. Ct., N.Y. Co. 2001); People v. Johnson,
   103 A.D.2d 754, 477 N.Y.S.2d 225 (2nd Dept. 1984); Hirschfeld v. City of New York, 253 A.D.2d 53,
   686 N.Y.S.2d 367 (1st Dept. 1999); In re Grand Jury Subpoena Dated June 30, 2003, 1 Misc.3d 510,
   770 N.Y.S.2d 568 (Sup. Ct., Suff. Co. 2003); Bellis v. United States, 417 U.S. 85, 94 S.Ct. 2179,
   2183, 40 L.Ed.2d 678 (1974); Matter of Bleakley v. Schlesinger, 294 N.Y. 312, 294 N.Y.S. 312, 62
   N.E.2d 85 (1945).

   Assigned Practicum 4 due: Draft a Grand Jury Subpoena based on hypothetical fact pattern.
October 14, 2014:
4. Search Warrants (Searches of business enterprises)
   A. Laws governing the issuance of Search Warrants.
      i. CPL Article 690, §§690.05 – 690.35, 690.40 – 690.50
   Assigned Practicum 5 due: Draft a Search Warrant based on hypothetical fact pattern.

October 21, 2014:
5. Workers Compensation Law (Enforcement and criminal sanctions)
   A. New York State Workers Compensation Law
      i. WCL §§2, 10, 11, 24-a, 50, 52, 96, 114; 114-a, 131, 132, 141, 141a, 141b;
   Assigned Practicum 6 due: Prepare a Witness List of the persons you plan to call in the trial of a Worker’s Compensation fraud prosecution based upon a hypothetical fact pattern.

October 28, 2014:
   Return and review of Practicums 4, 5 and 6. (Catch-up or advance depending on class progress. Read and brief/outline upcoming materials!)

November 4, 2014:
6. Unemployment Insurance Law (Enforcement and criminal sanctions)
   A. New York State Unemployment Insurance Law (Labor Law)

Assigned Practicum 7 due: Prepare an Exhibit List of the evidence you plan to enter in the trial of an Unemployment Insurance fraud prosecution based upon a hypothetical fact pattern.

November 11, 2014:
7. Labor Law (Criminal sanctions for wage and benefit theft)
   A. Prevailing Wage laws and recent amendments
      i. Labor Law §220
      ii. Misclassification: Labor Law §861 et seq.
   Assigned Practicum 8 due: Draft a direct examination of a witness in the Grand Jury in a Labor Law §220 case you are presenting based upon a hypothetical fact pattern.

November 18, 2014:
8. Tax Law (Criminal sanctions)
   A. General Tax Law Crimes
      i. TL §§1801, 1802, 1803, 1804, 1805, 1806, 1807, 1808, 1809, 1831, 1832
   B. "Payroll" (Withholding) tax
      i. TL §§671, 674

November 25, 2014:
   Return and review of Practicums 7 and 8. Final Exam review. (Catch-up or advance depending on class progress.)
**Classes:**  This class is scheduled to meet every Tuesday Night from 8:10PM - 10:00PM in Kushner Hall Room 0243.

**Attendance and Preparation:**  Students are expected to attend classes regularly and to prepare for classes conscientiously. Proper preparation includes reading assigned materials (cases and statutes), analyzing and briefing those materials so that the student can hopefully display mastery when called upon. Part of your final grade is based upon class participation, therefore, reading and briefing the cases and being prepared to discuss the facts, holdings and rules of law is essential. **THE SCHEDULE OUTLINED ABOVE IS APPROXIMATE! YOU SHOULD BE READING AHEAD.** If you miss class frequently or are unprepared several times, your grade may be lowered. Alternatively, I may ask the Registrar to withdraw you from the course.

**Lateness:**  Students are expected to be on time to class. However, it is better to come to class late than not at all. You may walk in late if you have a good reason, as long as you don’t abuse this privilege.

**Final Grade for the Course:**  The final grade for the course will be determined as follows: Class preparation/participation = 18% of final grade; Practicums = will each be worth a maximum of 4 points for a total of 32% of the student’s final grade; the Final Exam will constitute 50% of the final grade.

**Final Exam:**  The final exam will consist of multiple choice responses to a series of fact patterns. I will provide more information about the final later in the semester.

**Practicums:**  Are due on the dates indicated within the class schedule to allow me time to grade them prior to return and review in class. A note on Practicums: Students are expected to turn in a level of work product that they would submit to a court, supervising partner or supervisor in a government office that is professional in appearance and content.

**Computer Policy:**  Computers are to be used during class for taking notes and no other purpose. They are not to be used to “surf the net” or send email or instant messages. Violations of this rule may lead to you being prohibited from using a laptop during class.

**Communications:**  The best way to communicate with me is by email at the address noted at the top of this syllabus. I will get back to you within 24 hours. While I do not maintain regular office hours, if you need to speak with me in person, we can set up an appointment either before or after class.