

**COLLEGE OF LAW
WHITE COLLAR CRIME**

**FINAL EXAMINATION
Fall 1995**

**PROFESSOR ELLEN S. PODGOR
Time Limit: 3 Hours**

1. This examination is a three (3) hour closed book examination, with the exception that you may have with you and use any self-prepared outline (interpreted to include class notes). There are five pages to this examination. Please make certain that you have all of the pages.
2. Each section states the approximate weight assigned in deriving the grade for the entire examination.
3. There are three (3) parts to this examination. **PLEASE ANSWER EACH OF THE THREE (3) PARTS IN SEPARATE BLUE BOOKS.** You may use as many blue books as you need. You may use both sides of the pages in the blue books as well as every line.
4. Although sufficient time has been provided to properly complete this examination, should you find that you have insufficient time to finish any of the three parts, it is recommended that you list or outline all issues that you would have expounded upon if time had permitted.
5. Please make certain that your anonymous number (exam number) appears on every blue book and on this examination. Turn in blue books and the examination.

IN TAKING THIS EXAMINATION YOU ARE REQUIRED TO COMPLY WITH THE SCHOOL OF LAW RULES AND PROCEDURES FOR FINAL EXAMINATIONS.

Part I: White Collar Crime

Suggested time: Sixty-five (65) minutes

Approximately 35% of the grade

Poodell, Inc. is a national corporation that makes and distributes dog biscuits in the southeast portion of the United States. Specifically the corporation has plants in Georgia, Florida, and Alabama. Solomon Poodell, the president of the corporation, works out of the main office located in Birmingham, Alabama. The corporation's legal counsel, headed by Nalla Bichon Frisse, instituted a program two years ago to educate employees as to proper business practices. All employees must attend three hours of training each year. This training session includes instruction on new laws that apply to the making and distribution of dog biscuits.

Tamar Poodell, a half-sister of Solomon Poodell, is an employee who works in the Florida plant of Poodell, Inc. Specifically, she works in the advertising department that designs the boxes used for the dog biscuits. Tamar Poodell, an avid golfer, did not attend the training session this past year in that she was out golfing. She had a friend sign her name on the roll sheet so that she could get credit for having attended the session. Solomon Poodell, being president of the corporation, also did not attend the training session.

If Solomon and Tamar Poodell had attended the training session, they would have become aware of the fact that Congress passed a new criminal statute regarding the advertising of dog biscuits. This new statute, 18 U.S.C. § XXX provides that:

Any person who willfully distributes dog biscuits in a box, without specifying the ingredients of the biscuits, shall be fined under this title or imprisoned for not more than five years, or both, and shall forfeit to the United States any interest the person has acquired or maintained in violation of § XXX.

For purposes of this statute, "person" means any individual, corporation, company, association, firm, or partnership.

Tamar Poodell designed a box for dog biscuits that failed to specify the ingredients of the biscuits. This box was used for biscuits that were distributed throughout the southeast portion of the United States. Solomon Poodell, Tamar Poodell, and Poodell, Inc., have all been charged with violating 18 U.S.C. § XXX. Additionally, all assets of the corporation have been seized by the government. This has caused Nalla Bichon Frisse to quit her job and accept employment with Katz, Inc. All three defendants have no funds to employ new counsel.

What arguments and defenses should Solomon Poodell, Tamar Poodell, and Poodell, Inc. consider in preparing for their upcoming trial on this matter. Assume that Solomon Poodell, Tamar Poodell and Nalla Bichon Frisse are all human beings.

(If your answer is contingent upon information not provided, explain what that information is, and how it would affect your answer.)

PART II: White Collar Crime

Suggested time: Sixty-Five (65) minutes
Approximately 35% of the grade

Scholars have claimed that, in recent years, the federal government's criminal authority has expanded to include an increased number of prosecutions that normally would be handled by state and local authorities. Do you think this is an accurate statement with respect to federal prosecutions in the area of white collar crime? Explain your answer in detail including a discussion of the advantages and disadvantages of having U.S. Attorneys prosecute state and local crime.

Part III: White Collar Crime

Suggested Time: Fifty (50) Minutes

Approximately: 30 % of the grade

Maddie Madison is a partner in the law firm of Dewey, Cheatem, and Howe. One of Maddie Madison's clients is Labrador, Inc., a United States corporation. After a trial by jury, Maddie Madison was convicted of the following crimes: Count One- Mail Fraud (18 U.S.C. § 1341), Count Two- Mail Fraud (18 U.S.C. § 1341), Count Three- RICO (18 U.S.C. § 1962(c)). According to the Indictment, the mailing in Count I was a bill sent by Maddie Madison to Labrador, Inc. on August 1, 1992. According to the Indictment, the mailing in Count II was a second notice of a bill sent by Maddie Madison to Labrador, Inc. on September 1, 1992. Count III uses the acts of mail fraud alleged in Counts I and II as the predicate acts for the RICO charge. The Indictment alleges that Labrador, Inc. is the enterprise and that Maddie Madison associated with Labrador, Inc. through a pattern of racketeering.

According to the Indictment, Maddie Madison engaged in a scheme to defraud the shareholders of Labrador, Inc., by billing \$300 an hour for services rendered. The government alleged in the Indictment that Maddie Madison's services were only worth \$200 an hour.

The testimony at trial was that a bill to Labrador, Inc. was prepared by Maddie Madison on August 1, 1992. This bill was typed and placed in the mailroom by John Marshall, Maddie Madison's secretary. The second notice of a bill owing to the law firm of Dewey, Cheatem, and Howe, was automatically prepared by secretary John Marshall, without the knowledge of Maddie Madison, as a result of the first bill not being paid in thirty days. Upon receipt of the second bill, Labrador, Inc. paid the sum of \$1,500 to the law firm of Dewey, Cheatem, and Howe. At trial, Maddie Madison presented into evidence a retainer agreement signed by the President of Labrador, Inc. in which it was agreed that Maddie Madison would bill the company \$300 an hour for services rendered. Maddie Madison testified that she had spent five hours on work for Labrador, Inc.

Discuss in detail the legal arguments that can be raised by Maddie Madison in her appeal, and the likelihood of these arguments being successful. Assume that all parties, other than the corporation, are human beings.

(If your answer is contingent upon information not provided, explain what that information is, and how it would affect your answer.)