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White Collar Roundup, October 2010

The Slippery Slope to Fraud

In this detailed and insightful report, the Center for Audit Quality details how financial-accounting fraud can sometimes creep up on a company that would never have expected to become so embroiled in it.

Big, Broad Bankruptcy Bill

The Second Circuit expanded the extent to which the 2005 Bankruptcy Abuse Prevention and Consumer Protection Act applies to bankruptcy lawyers. In a recent opinion, that court went beyond the Supreme Court's application of the law in *Milavetz* to include other provisions of the act not considered by the Supreme Court.

FREEEEEDOM (of Information)!

Only a few months old and the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act has already been amended. President Obama signed a measure altering the FOIA treatment under the act. The new law makes any entity the SEC is responsible to regulate, supervise, or examine a "financial institution" as defined in the FOIA. The change clarifies that the entities, such as hedge funds, newly regulated by Dodd-Frank are susceptible to FOIA requests.

Gone to the Cleaners

The Ninth Circuit followed Justice Stevens' approach in *Santos* that when determining whether a money-laundering count is viable, the court should focus on whether there would be a "merger problem" between the money-laundering statute and the underlying offense. Unfortunately for the defendant in the Ninth Circuit case, the court held that there was no merger problem.

Mo' Money, Mo' Money, Mo' Money for Uncle Sam

All told, the alleged FCPA violations of ABB Ltd., a Swiss company, will cost it approximately $58 million in civil and criminal fines. Both the DOJ and the SEC took part in the prosecutions.

A Call for Transparency in the FCPA

In a recent report, the Organization for Economic Cooperation and Development has called for the DOJ and SEC to provide more data about "why a particular type of agreement is used [in an FCPA prosecution], the choice of an agreement's terms and duration, and how a company has met the agreement's terms."