September 28, 2010

White Collar Roundup, September 2010

Lose Some, Win Some:
the Life of a Basketball Maverick.

The Fifth Circuit just reinstated the SEC's case against well known Dallas Mavericks' owner, Mark Cuban. The court concluded that "[g]iven the paucity of jurisprudence on the question of what constitutes a relationship of 'trust and confidence' and the inherently fact-bound nature of determining whether such a duty exists," the better course was to allow discovery to proceed. The news wasn't all bad for Cuban, however: a district judge in D.C. ruled that the SEC improperly withheld documents from him.

Cha-Ching!

The Florida Attorney General is aggressively prosecuting healthcare fraud and filling his state's coffers. He recently announced that his office has recovered more than $400 million as a result of healthcare-fraud investigations of physicians, pharmacists, hospitals, durable-medical-equipment suppliers and others.

Cha-Ching Redux!

The FBI continues to take white-collar crime seriously. The White Collar Crime Prof Blog notes that a perusal of the FBI's press releases reveals its penchant for prosecuting white-collar crime. And of course recovering money by doing so.

One Book. One Sentence. Let's Get Together and Feel All Right.

After the high-profile prosecutions of several Computer Associates executives, the Second Circuit concluded that the one-book rule does not violate the Ex Post Facto clause.? Under that rule, judges can sentence defendants under the U.S. Sentencing Guidelines manual in effect at the time of sentencing, rather than the manuals in effect at the time of the commission of the offense. It doesn't matter whether the effect is a substantially longer sentence.

Steeeee-rike!

The Ninth Circuit has limited the government's ability to search electronic records in the high-profile criminal investigation into steroid use in Major League Baseball. In its en banc opinion, the court purported to establish "procedures and safeguards that federal courts must observe in issuing and administering search warrants and subpoenas for electronically stored information."

Welcome to the Party, (Union) Jack

The United Kingdom has finally joined the United States in its anti-foreign-corruption efforts. The U.K. recently passed the long-awaited Bribery Act, which follows the lead of the FCPA by prohibiting U.K. companies from engaging in foreign corrupt practices.

Reforming Healthcare, One Mental State at a Time

The Patient Protection and Affordable Care Act of 2010 made several changes to the *mens rea* requirements for various healthcare-fraud violations. Click here for a quick catalogue of the changes. Oh, and by the way, the U.S. Sentencing Guidelines for healthcare fraud got tougher, too.