

### White Collar Crime Elements

- intent to commit a wrongful act or to achieve a purpose inconsistent w/ public policy
- disguise of purpose of intent
- reliance of perp. on ignorance/carelessness of victim
- acquiescence of victim in what he believes to be the true nature/content of transaction
- concealment of crime by:
  - preventing the victim from realizing he has been victimized or;
  - relying on the fact that only a small % of victims will react and make provisions for restitution
  - creation of a deceptive paper/org/ or transactional facade to disguise true nature of occurrence

### Mail Fraud Prosecution

Govt must show:

- a scheme devised or intending to defraud for obtaining money/property by fraudulent means
- intent
- materiality
- use/causing the use of the mails

**not more than 20 years/fine**

**involving financial institution increases to 30 years/1M**

it is necessary that there be a nexus b/w the scheme to defraud and the mailing [mailing be "in furtherance" of scheme to defraud]

### U.S. v. D'Amato

govt must prove that third party knew that concealment would involve:

- info available to shareholders as provided by the state of incorporations laws providing access to corporate books and records,
- info that, if withheld or inaccurate would result in rendering info that is public materially misleading or,
- info that would materially aid shareholders in enforcing mgmt's fiduciary obligations under state law

### McNally

Citizens do not have a right of "honest services"

### Carpenter

- \* Reinforce McNally's holding requiring that a charge of mail fraud include a deprivation of money or property as opposed to intangible rights
- \* Includes both tangible and intangible property [does not include state/municipal licenses]

### 18 U.S.C. §1343

Fraud by wire, radio, or tv

\* whoever

\* devised/intending to devise scheme/artifice to defraud or obtaining money/property

\* by means of false/fraudulent pretenses/reps/promises/transmits/causes to be by means of

\* wire/radio/tv comm in interstate/foreign commerce

\* any writing/signs/signals/pictures/or sounds

\* for purpose of executing such scheme/artifice

**fined/jailed up to 20 years/ both**

**major disaster or financial institution = 1M fine/30 years prison**

**intent to defraud must be proven by govt**

### 18 U.S.C. §1344

Bank Fraud Statute

\* whoever

\* knowingly executes or attempts a scheme/artifice to defraud

\* a financial institution

or \* to obtain property owned by/ under custody/control of financial institution

\* by means of false/fraudulent pretenses/reps/promises

**fine 1M/jailed up to 30 years**

