

CITY BAR CENTER FOR CLE

STANDARDS FOR PROSECUTING CORPORATE FRAUD BY FEDERAL & STATE AGENCIES CURRENT APPROACHES TO PRIVILEGE ISSUES

Thursday, April 29, 2010 / 6:00 p.m. to 8:15 p.m.

This program will examine current issues concerning attorney-client privilege following the 2008 revisions to the DOJ guidelines for prosecuting corporate fraud. The faculty will review approaches taken by the DOJ as well as Congress and prosecutorial and other agencies not governed by the DOJ guidelines. The panel will feature federal and state prosecutors and practitioners who will discuss how the guidelines have been applied and review cases in the past 12 months concerning privilege waiver issues in the context of government investigations.

Program Co-Chairs

Gregory G. Ballard
Howrey LLP

Marilyn C. Kunstler
Boies, Schiller & Flexner LLP

Faculty

Marc P. Berger
Assistant United States Attorney
Securities & Commodities Fraud Task Force
United States Attorney's Office (SDNY)

James Bernard
Stroock & Stroock & Lavan LLP

David A. Markowitz
Special Deputy Attorney General for Investor Protection
Office of NYS Attorney General

Charles A. Stillman
Stillman, Friedman & Shechtman PC

Jess Velona
Senior Attorney
Division of Enforcement
New York Regional Office
U.S. Securities and Exchange Commission

Sponsoring Association Committee:
Government Ethics, Gregory G. Ballard, Chair

Agenda

- 6:00–6:15 **Introduction & Overview**
•History of the *Thompson/McNulty* Memos
•Views of courts & commentators
Gregory G. Ballard & Marilyn C. Kunstler
- 6:15–6:30 **Revised Justice Department Charging Guidelines**
•Description of Guidelines adopted in August 2008
•Recent developments in application of Guidelines
Marc P. Berger & Panel
- 6:30–6:45 **Current Approaches to Privilege Issues by the SEC**
•Privilege waiver in the context of investigations by the SEC
Jess Velona & Panel
- 6:45–7:00 **Current Approaches to Privilege Issues by the NY Attorney General**
•Privilege waiver in the context of investigations by the NY Attorney General
David A. Markowitz & Panel
- 7:00–7:10 **Break**
- 7:10–7:25 **Ethical Considerations**
•Ethical issues raised for practitioners & prosecutors
James Bernard & Panel
- 7:25–7:40 **Practical Considerations**
•Recent developments in privilege issues impacting corporations in the context of government investigations
•Issues to be considered by practitioners
Charles A. Stillman & Panel
- 7:40–7:55 **Panel Discussion**
- 7:55–8:15 **Questions & Answers**

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