

Seventh Annual Corporate
Accountability Conference
11 June 2008

Crime and Punishment

*Alistair Graham
White & Case LLP*

Norris Update

- House of Lords judgment March 2008
- Mere price fixing not conspiracy to defraud
- Double criminality – Offence vs Conduct test-implications
- No criticism of new extradition regime
- Future for Norris – Obstruction – Human Rights Balancing

Norris – Implications and Risks

Norris

- DoJ and SEC both assert strong extra territorial jurisdiction
- Scott Hammond – DoJ “No longer.....”
- Linda Chatman Thomsen – Director of Enforcement SEC – May 2008
“In today’s global markets we will act quickly and decisively against violations of US securities laws no matter where that conduct occurs”
- May 16 2008 Cristian De Colli charged re DRS Technologies – insider trading
- May 21 2008 SEC obtain High Court London Freezing-Glenn Manterfield Lydia Capital – re mis-stating hedge fund performance - first time -
- US/UK Extradition a key weapon in an Extra Territorial Campaign

Increasing use of subpoena powers will extradition be next

- May 2008 BAE Business Development Director A. Garwood – Ex MOD
- BAE CEO Mike Turner – Sir N. Rudd BAE Non Ex
- DoJ detaining UBS Head of Wealth Management – M. Liechti – UK Executive?
- US Investigation where UK dropped – Insider trading?

Future Trends

- UK/US Authorities working more closely together
- Marine Hose plea agreement DOJ/OFT – off set – “Alice in Wonderland”
- UK/US Prisoner Transfer Treaty – min of 85% US max of 50% UK
- Nat West guilty plea and application for transfer
- Will DoJ/SEC be emboldened to increase extradition?
- Will UK Govt introduce “sunrise” provision where most of conduct takes place in the UK?

Crime and Punishment

WHITE & CASE LLP

4

Worldwide. For Our Clients.

Alistair Graham
Tel: +44 20 7532 1800
Email: agraham@whitecase.com

www.whitecase.com

White & Case, a New York State registered limited liability partnership, is engaged in the practice of law directly and through entities compliant with regulations regarding the practice of law in the countries and jurisdictions in which we have offices.