



SECURITIES REGULATION
LGST 223 / 807

SPRING 2017

Prof. Peter Conti-Brown

Legal Studies & Business Ethics Department
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Class Meetings Tuesdays & Thursdays, 1:30 – 3:00, Room TBD

Office Hours Tuesdays, 3:00-5:00pm, or email to arrange a meeting.

Course Description:

The subtitle of this course might conceivably be “How to make money in public securities markets without going to jail.” We’ll do much more than cover securities fraud, but the course is built around an exploration of recent (and some not so recent) scandals in securities markets. These will include fraud leading up to the Great Depression, after which our main securities laws were written; Wharton alum Michael Milken’s spectacular rise and even greater fall as the junk bond king of the 1980s; the Enron scandal, brought to you by MBAs from Harvard and Northwestern; the 2008 financial crisis; the Goldman Sachs/John Paulson Abacus deal at the heart of mortgage-backed securities; the Madoff Ponzi scheme; and insider trading cases from the relatively minor (like Martha Stewart) to the major (the Galleon insider trading scandal).

In the process, we will delve deeply into the law, politics, ethics, and history of securities regulation. While we will spend much of our time on scandals, we will also cover the structure of regulatory institutions, principally the Securities Exchange Commission; the rules governing the issuance of securities in public markets, with a focus on the initial public offering; and insider trading and market manipulation.

One note on the course’s approach: Although a degree of engagement with specific rules and some judicial opinions is inevitable, this is a course for future managers and market participants, not for lawyers. The course should be particularly useful for students pursuing a career in entrepreneurship, corporate management, corporate finance, investment banking, sales and trading, venture capital, or private equity.

Grading:

Your grade is divided into four equal parts: 25% class participation, 25% in-class exam at midterm, 25% in-class exam at the end of the term, and 25% final projects to be done in groups of 1-3 students, as you prefer.

Class participation is mandatory. I will alternate between soliciting volunteer comments on the reading material/class discussion and “cold calling” students. Inadequate preparation will be noted and held against you. Emergencies occur, of course, and I recognize that every student will not complete every part of the reading every week. To that end, you can email me **no more than four times** at least one hour ahead of class to note that you are unprepared to discuss the day’s readings. I will not call on you during those four days, and will not hold them against you.

The in-class exams will consist of twenty questions. The questions will be a mix of multiple choice, short answer, and brief essays. You will be expected to complete the exam during the 80-minute session.

The final project will be an analysis of an enforcement decision **not discussed in class**. The project will give discuss the background, legal context, political context, and resolution of the specific decision or scandal. It must also include your original analysis and discuss whether you think the SEC’s resolution of the case was justified, and how you would have done differently if you were in charge of the decision. **Note: I will be running each report through anti-plagiarism software. Plagiarized work will result in severe consequences for the student, consistent with the University of Pennsylvania’s rules.**

The final project is due to me via email on the day assigned to our course for final exams.

Required Texts:

1. There will be a course pack available for purchase at the usual time before the beginning of the semester.
2. I will also supplement material through Canvas.

Class Format and Policies:

This course will involve some lecture, some group discussion, some “Socratic” questioning, and some guest speakers. To better ensure class participation, electronic devices will only be permitted for pedagogical reasons. Email, online shopping, newspapers, etc. will not be tolerated.

Readings:

Reading assignments will be posted to the course's Canvas website and available for hard copy. Additionally, at the end of each class session I will preview the material assigned for the next session.

Course Outline (subject to revision):

1. Session 1
 - Introduction to the Securities Markets
 - 1A, Chu on Bowie Bonds
 - 1B, Smith v. Gross
2. Session 2
 - Raising money in private: Venture Capital and Private Markets
 - Special guest speaker Ann Miura-Ko (via Skype)
 - 2A, Ibrahim on Venture Capital
 - 2B, JOBS Act
3. Session 3
 - The Structure of Securities Regulation
 - 3 – The Structure of Securities Regulation
4. Session 4
 - IPOs #1—The Google Case
 - 4A Google Playboy Interview
 - 4B Google Response to Playboy
 - 4C Google IPO profile
5. Session 5
 - IPOs #2—Facebook and Square
 - 5A Facebook IPO
 - 5B Square IPO
6. Session 6
 - Secondary Trading and Securities Exchanges
 - 6A Self Regulatory Organizations
 - 6B Lewis, from Flash Boys
 - 6C Lewis on flash trading, part II

7. Session 7
 - The Investment Act and Mutual Funds
 - 7A Overview of the Investment Company Act of 1940
 - 7B Governance and Structure of Mutual Funds
8. Session 8
 - Cost-Benefit Analysis and Securities Regulation
 - 8A Business Roundtable v. SEC
 - 8B Posner & Weyl in defense of CBA
 - 8C Coates critique of CBA
9. Session 9
 - Enforcement and Adjudication
 - 9A Judge Rakoff rejects SEC settlement
 - 9B Second Circuit rejects Judge Rakoff
10. Session 10
 - Extraterritoriality
 - 10A – Morrison v. National Australia Bank
11. Session 11
 - Insider trading #1
 - 11A – SEC v. Capital Gains
 - 11B – U.S. v. Carpenter
12. Session 12
 - Insider trading #2
 - 12A – New Yorker Insider Trading
 - 12B – U.S. v. Newman
13. Session 13
 - Disclosures and Reg FD
 - 13A – Fisch on Reg FD
14. Session 14—In class midterm
15. Session 15
 - Derivatives and the CFTC
 - Special Guest: Gabe Rosenberg

- 15A Rosenberg on Futures
 - 15B New Yorker on Derivatives
- 16.** Session 16
- Securities and the Financial Crisis, Part I
 - 16A This American Life, Giant Pool of Money, available here:
 - <http://www.thisamericanlife.org/radio-archives/episode/355/the-giant-pool-of-money>
- 17.** Session 17
- Securities and the Financial Crisis, Part II
 - 17A Eight Days
- 18.** Session 18
- Securities Fraud: Materiality
 - 18A Matrixx Initiatives
- 19.** Session 19
- Private Enforcement through Securities Litigation
 - 19A Perino on PSLRA
 - 19B Tellabs v. Makor
- 20.** Session 20
- Scandal: Sunshine Charlie and the Great Depression
 - 20A Book Excerpt: Perino, Hellhound of Wall Street
 - 20B Mahoney, Blue Sky Laws
- 21.** Session 21
- Scandal: Ivan Boesky and Michael Milken
 - 21A Bruck, Billion Dollar Mind
 - 21B Michael Milken's biggest deal
- 22.** Session 22
- Scandal: Enron
 - 22A – Enron profile
 - 22B – Is Enron Overvalued?
- 23.** Session 23
- Scandal: Martha Stewart

- 23A – Martha Stewart litigation
 - 23B – Martha Stewart profile
 - 23C – Martha Stewart case
- 24. Session 24**
- Scandal: Bernie Madoff and Ponzi Schemes
 - 24A – Madoff profile
 - 24B – Second Circuit case
- 25. Session 25**
- Scandal: Abacus and the Global Financial Crisis
 - 25A – Rolling Stone on Goldman
 - 25B – Blankfein testimony
 - 25C – Goldman, Second Circuit
- 26. Session 26**
- Scandal: Galleon Group
 - 26A – Galleon profile
 - 26B – Rajaratnam indictment
- 27. Session 27**
- Wrap up: How Will You Measure Your Life?
- 28. Session 28**