



Department of Justice

ADDRESS

OF

THE HONORABLE EDWIN MEESE III
ATTORNEY GENERAL OF THE UNITED STATES

BEFORE

THE METROPOLITAN CLUB

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NOTE: Mr. Meese often speaks from notes and may depart from this text. However, he stands behind the speech as printed.

I am particularly pleased to have this opportunity to come before the Metropolitan Club to reaffirm the commitment of the Department of Justice to a vigorous federal white collar crime enforcement program. It is also my pleasure to bring word to you of our unprecedented recent successes.

I'm afraid that this good news may not have gotten to you through the press. Indeed, a number of myths surround white collar crime and what this administration is doing about it. In hopes of laying to rest some of those myths, today I would like to share with you and with the American people the efforts this Administration is making on many fronts to stem economic crime.

First, let me describe the problem we're up against. Economic crime is extremely difficult to detect; much of it, perhaps the greater part of it, goes unreported. Consequently, any estimate of the magnitude of economic crime must be treated with caution. In 1982, the accounting firm of Peat, Marwick & Mitchell placed the total annual loss through economic crime at \$200 billion. How well that estimate squares with reality is

difficult to know. Certainly, we can say that a lot of good money is going into bad hands--in both the private and the public sectors.

White collar crime siphons billions of dollars a year from our economy. It adds to the cost of goods and services, and diminishes the revenues otherwise available to the federal and state treasuries, increasing the financial burden on all of us.

These costs cannot simply be charged off to society as a whole. They strike individuals, real people, very hard. For example consider that:

- 100 elderly citizens in Florida were cheated out of their life savings in a real estate scam and left destitute;
- desperate farmers in the Midwest sold their last possessions to pay an advance loan fee to an out-of-town con man;
- cancer patients saw proper treatment of their disease delayed by the offer of a miracle cure by a medical "quack."

Of course, many victims of white collar crime are themselves white collar. Whatever the social status of the victim--or the perpetrator--white collar crime is an unpardonable assault on both the individual and society.

White collar crime is not a new phenomenon, even if it is a growing one. It has been with us since the inception of this Republic. We need only recall the Yazoo Fraud, the gold market manipulations of Jay Gould and Jay Fisk during the corrupt Grant

administration, the Teapot Dome Scandal, and the ubiquitous Ponzi schemes of the 1920s and '30s to know that economic crime has been with us for decades.

What is new today, however, is that Americans are recognizing as never before the serious threat posed by white collar crime to the well-being of our country. For years, Americans were apt to turn their attention to other problems, unless they were among that number who lost directly and substantially. And frankly, who can blame them if they worry less about financial scams than about having a gun thrust in their face by some wild-eyed thug.

But white collar crime is no less reprehensible an assault on society for being committed with a pencil or a computer rather than a gun. No matter how sophisticated, subtle or classy an operator, the white collar criminal is out to get his--and yours, too.

Americans' perceptions of white collar crime are changing, perhaps because more of us have become the guy who gets stung. More of us have seen our banks close because of fraud; our pensions jeopardized by embezzlement; our taxes increased by health care and food stamp fraud; and our national defense weakened by shoddy work, cost-padding, and false claims. In short, more and more Americans have seen enough to realize that, directly or indirectly, we are paying the price for the greed of others.

Stories of "corporate skullduggery," as Time magazine puts it, are everywhere in the press. Fortune magazine suggests that we may soon have to publish a 500 Most Wanted list; the New York Times sees "deep gashes in corporate America's moral armor;" and a recent poll of adults suggested that only 32 percent of the public thinks most corporate executives are honest.

These are matters that trouble me deeply as Attorney General. They trouble most Americans, and, I'm sure, they seriously concern you as corporate and civic leaders.

I could speculate today on the reasons for the apparent rise in white collar crime; there are many, I believe. One of them, may well be a decline in public morality.

A commercial republic, such as ours, where dollar competes with dollar, and interest with interest, needs a good measure of virtue for its health and well-being. Surely, now more than ever America's corporate leaders must assert ethical leadership over their companies and set the tone for the conduct of business by their employees.

America's enemies, at home and abroad, would indict our entire free enterprise system for the crimes of some businessmen and businesswomen. Clearly that would be throwing the baby out with the bathwater. Rather than scuttling an economic system that has brought us prosperity unrivaled in any age or land, we must move forcefully and intelligently against those criminals who undermine it by their transgressions.

The Department of Justice under this Administration has done and is doing exactly that, with a degree of success unmatched by any prior administration.

But the myth-makers have been at work, too. This Administration's successes in uncovering and prosecuting white collar crime have been turned against it. As ever more indictments are brought, and convictions secured, the critics nonetheless say, "Look at all that white collar crime." With a tut-tut, they ask, what have you done about it lately?

Well, the vigor of Justice Department prosecutions in the past six months is simply unprecedented. Certainly, we can always do even more--and we will. But this Administration can be proud of a record that is second to none in combatting white collar crime. The Criminal Division, particularly the Fraud Section, deserves special commendation for its excellent work.

We welcome the oversight hearings which the Senate Judiciary Committee will hold in November. We expect the Committee to find not only that the Department has handled the prosecution of economic crime cases professionally and responsibly, but that it has compiled a record superior to that of previous administrations.

White collar crime prosecutions have risen as a percentage of total federal prosecutions from 8 percent during the Nixon Administration to 20 percent during the Carter Administration to 24 percent during the Reagan Administration.

Not only is our strategy to go after more white collar criminals--and more aggressively I might add--but to tackle the big, complex cases in a way that has never been done before.

Our national effort against white collar crime has yielded results in the past six months that are nothing short of remarkable. Let me highlight these results:

- On March 2, 1985, J. David Dominelli was convicted in San Diego of mail fraud after the J. David Company defrauded 1,500 people of some \$200 million. The California financier pulled 20 years and must make restitution to 1500 investors.

- On March 27, 1985, the LeBlanc brothers in Detroit were convicted for an investment scheme in which 800 investors lost a total of \$10.5 million.

- On April 4 & 9, 1985, six defendants including Crawford Enterprises, were convicted in Texas of Foreign Corrupt Practices Act violations in the \$10 million Pemex/Crawford foreign bribery scheme.

- On April 22, 1985, Jake Butcher pled guilty to looting a series of banks in Tennessee and Kentucky. He started serving a 20-year prison term on September 3, 1985. Two of his accomplices also have been sentenced to several years hard time.

- On April 23, 1985, Jack Rose, convicted con-man and boiler-room operator, was indicted in Florida in a scheme that bilked 1,200 investors out of \$12 million in a precious metals scam.

- On April 29, 1985, Fred Soudan drew a 35-year prison term in Houston, Texas for his role in masterminding the largest maritime fraud in history--the infamous sinking of the supertanker "Salem" off the west coast of Africa.

- On May 8, 1985, Paul Thayer, former Deputy Secretary of Defense and former President of the U.S. Chamber of Commerce, and Dallas stockbroker Billy Bob Harris each received four-year prison terms for obstructing justice in connection with their roles in a million dollar insider stock trading scheme.

- On May 13, 1985, General Electric pled guilty to charges of defrauding the Defense Department. The company was fined \$1.04 million, forced to pay \$800,000 in restitution

and was suspended from doing business with the United States Government. Four GE managers subsequently have been indicted.

- On August 21, 1985, we indicted Alex Herbage, the British high-society financier who defrauded some 3,000 Americans of \$46 million in a modern Ponzi scheme. We are presently seeking his extradition for trial on 23 counts of mail fraud and 2 counts of transportation of money obtained by fraud.

- On September 10, 1985, GTE Government Systems Corporation pled guilty to conspiring to illegally obtain Pentagon budget documents relating to future procurements in the area of electronic warfare. The company's vice-president for marketing, Walter Edgington, and company consultant, Bernard Zettl, were charged individually with stealing government property and defrauding the United States in its procurement process. If convicted they face maximum 25 year prison terms. Robert Carter, a former GTE marketing manager, was also charged with conspiracy.

- And then, too, there was E.F. Hutton.

By any standard, the Hutton case is a landmark. But that news may not have gotten to you.

Here is why the Hutton case was such a success:

We were faced with two prosecution options. First, we could have pursued a conventional prosecution of Hutton and, also, of two mid-level employees. Such a prosecution, in addition to being costly and inefficient, would not have reached the most widespread abuses of Hutton and the rest of the money management community. Had it failed -- a real possibility -- the wrong signals would have been sent.

The second option was to enter into a comprehensive settlement with Hutton that we judged would address in a very timely and direct way the serious problem of widespread money management abuses. This we chose.

It was the right choice.

Here's what we got in the settlement with Hutton:

First, Hutton was required to plead guilty--not nolo contendere but guilty--to an unprecedented 2,000 felony counts of intentional mail and wire fraud.

In addition, Hutton was fined an unprecedented \$2,000,000, the maximum the law allows for this extraordinary number of counts.

Hutton also was made to pay the Government \$750,000 to cover the costs of the investigation. Those costs are ordinarily not recoverable, even with a jury verdict of guilty.

We also used a new injunction-against-fraud provision for the first time to stop Hutton's cash management abuses--all of them, including some not in the indictment and others that were not made criminal until the passage of the Comprehensive Crime Control Act in 1984.

Finally, we ordered the most comprehensive program of restitution ever developed in a federal criminal case. Hutton was required to make immediately full and complete restitution, with interest, to each and every one of the bank victims.

The significance of the Hutton prosecution has not been lost on the money management community. Shortly after the settlement, the financial monthly Cashflow devoted a lot of ink to detailing to money managers the legal pitfalls of sharp cash management procedures. Said Cashflow, "The Hutton situation provides a good case study of what a treasury manager shouldn't do." Apparently money managers are getting that message. Federal Reserve Chairman Paul Volcker attributes a \$1 billion rise in M-1, the nation's basic monetary measurement, to changes in cash management brought on by the E.F. Hutton prosecution.

Well, so much for the reverse magicians who can pull thin air out of a rabbit. No other administration in recent history has had such results in this area in such a short period of time. And this fall should see several cases that have been in the "pipeline"--we have a good supply--come to fruition.

Of course, the cases I have mentioned are a very small part of the total number of cases brought against white collar criminals. Nearly 7,000 such cases were filed in federal courts last year. Hundreds of thousands of cases, however, are brought at the state and local level. And that is as it should be. We have a federal system which recognizes that, in general, law enforcement can best be handled locally. The disposition of our law enforcement resources reflects this organization. For example, state and local prosecutors in California outnumber all the Federal prosecutors in the entire nation.

Nonetheless, the Department of Justice must take the lead in prosecuting cases that, because of their multi-state or multi-national character, might otherwise elude effective enforcement. This we have done, making significant innovations along the way.

Perhaps more than any previous administration we are addressing the problem of economic crime from a strategic perspective. The resources that any government may direct at a given problem--even a problem as troubling as white collar crime--are, of course, limited. While more of our budget in dollars and manhours is directed at economic crime than in the past, the most significant enforcement gains have come from better utilization of existing personnel. Our dedicated people are working harder--and smarter--than ever before.

The efficient use of our resources requires selecting our priorities with care. The Economic Crime Council, established by my predecessor in May 1983 as an advisory body to the Attorney

General, has proven highly effective in identifying the most serious white collar crime problems and formulating appropriate responses. Working in conjunction with the Criminal Division of the Justice Department, the Council has targeted six priority enforcement areas. These are: defense procurement fraud, fraud against banks and savings and loans, investment "boiler room" fraud, money laundering, various types of securities fraud, and health care fraud--with a further focus on professional con artists.

No doubt, other administrations have set priorities. The difference is that we are not simply declaring our priorities and hoping that something happens. Instead we are working to implement them in close cooperation with all agencies of law enforcement, including our own U.S. Attorneys, many of whom now closely follow the trends we set in economic crime enforcement. At the same time, the Criminal Division of the Justice Department has reserved the right to assign attorneys to those cases where it believes insufficient resources and staffing are lacking.

You may have read that, on Monday, this Administration sent to Congress a major legislative package aimed at strengthening the federal government's ability to detect and prosecute fraud. This package consists of eight bills in all. Their names don't sound very impressive, but the effect is like putting Mad Max, Rambo, and Mr. T together on the same A-Team. Only this time the "A" stands for Anti-Fraud. Maybe Congress will give us the weapons we need to win this war on white collar crime.

Let me briefly outline what the Anti-Fraud Enforcement Initiative contains:

1. The False Claims Act Amendment of 1985 clarifies the burden of proof required in the 1863 statute, expands the venue in which actions could be brought, raises the amount of recoverable damages, and allows for prejudgment attachment of assets. It also arms the government with Civil Investigative Demands like those antitrust enforcement wielded.

2. The Program Fraud Civil Penalties Act of 1985 assigns small fraud cases -- claims under \$100,000 -- to hearing examiners.

3. The Contracts Disputes Act and Federal Courts Improvement Act of 1985 streamlines procurement litigation by directing that suits brought to challenge the award of a government contract be heard in the Claims Court rather than in federal courts.

4. The Bribes and Gratuities Act of 1985 allows the government, at its option, to recover up to ten times the amount of any bribe or simply to rescind the contract and retain all benefits.

5. The Grand Jury Disclosure Amendments of 1985 gives our attorneys pursuing civil False Claims Act cases access to material presented to a grand jury in criminal prosecutions.

6. The Anti-Fraud Criminal Enforcement Act of 1985 is directed at our number one priority--defense procurement fraud and abuse. It gives Department of Defense auditors a subpoena power over the books and records of a contractor and backs it up with a new crime of obstructing a federal audit. It also disallows government reimbursement of the legal fees of a Defense contractor and empowers the court to assess the costs of investigation and prosecution as part of the sentence. Finally, it extends the present injunction-against-fraud statute to cover procurement fraud and lengthens the statute of limitations in certain fraud cases.

7. The Federal Computer Systems Protection Act of 1985 proscribes theft, fraud, and destruction of government computers and the information they contain.

8. The Debt Collection Act Amendments of 1985 enables us to retain private counsel to aid in the collection of debts owed to the United States.

That in capsule form is the proposed Anti-Fraud Enforcement Initiative. It has gone to the Hill where it awaits action by Congress. There it has joined a comprehensive money laundering bill that we endorsed in June.

Money laundering, as you may know, is a cross-over crime, that uses bankers, lawyers, and accountants to conceal the origins of money proceeding from a wide variety of crimes, including narcotics trafficking, income tax evasion, bribery, investment fraud, illegal tax shelter programs, securities fraud, prostitution and gambling. It is a white collar crime that facilitates other white collar crimes. This gives us all the more reason to go after it aggressively.

The proposed legislation provides up to \$250,000 in fines and 20 years in prison for anyone who launders money with reason to know what they are doing.

Well, lest I begin to imitate the preacher who was too lazy to stop, let me conclude. I have appreciated this opportunity to tell you about the work that we are doing at the Department of Justice to combat white collar crime, and to let you know of our many successes. We will be busy in the coming months implementing our white collar crime priorities and pushing for enactment of much needed legislation. We expect to have more good news to share with the public. With a little luck, it will get to you this time.

Thank you.