Syllabus for Commercial Fraud
Fall 2013
Professor Byrne

1. Description of the Course:

Parallel to the legitimate world of international commerce and finance, there exists the alternative universe of commercial fraud. From Charles Ponzi to Bernard Madoff, commercial fraud is a matter of the gravest concern because, apart from direct and indirect losses, it poses a serious threat to the integrity of national and global economies.

There is no precise delineation of commercial fraud. It encompasses financial fraud, commodity fraud, and fraud regarding the sale and delivery of goods. It includes other dimensions, as well, including consumer fraud, securities fraud, bank fraud, risk management, insurance, and money laundering. It touches on issues in commercial law, contract, tort, and regulatory matters as well as criminal law. And it has a psychological dimension with respect to the victim and the fraudster.

The class will be focused around presentations by leading figures in the field from institutions, criminal and commercial, which are at the forefront of combatting commercial fraud.

2. Objectives

One of the significant problems in dealing with commercial fraud is the lack of a systematic study of its nature and of the role of law in combating it. This course is designed to assist in that study in the context of coordination of actual efforts to combat commercial fraud including the work of the Secretariat of the United Nations Commission on International Trade Law and the United Nations Office on Drugs and Crime.

The goals of the course are to expose students to the various aspects of commercial fraud, to acquaint them with the methodology and tools of analysis appropriate to fraud cases, to provide them with an opportunity to exchange views with internationally recognized experts, and to enable them to explore an aspect of commercial fraud that is of interest to them.

Because of the flexibility of the class, students may focus on any aspect of commercial fraud which is of interest to them. Every effort will be made to provide the student with resources and maximum exposure for his or her work.

3. Materials

Commercial Fraud has not been a traditional subject of legal studies. As a result, there is no history of collected cases or materials. To remedy this gap, the instructor has collected materials in Introduction to Commercial Fraud. The text will be available through the
bookstore.\textsuperscript{1} The various presenters will also assign materials throughout the semester which will include essays, reports of cases, and miscellaneous documents and be made available electronically.

In addition, students are requested to read \textit{The Myth of Prime Bank Fraud} (Byrne, ed.) (3\textsuperscript{rd} Ed.) and R. Cialdini, \textit{Influence}, which will form a basis for the class sessions. These books will be placed on reserve in the Library.

From time to time useful supplementary materials will also be sent electronically or placed on reserve for copying and made available through the University Copy Center.

4. \textbf{Grades & Examination}

The grades will be based on a paper and an oral report on the topic investigated. The paper must be submitted by a date agreed between the instructors and the student. Students may propose any topic for approval by the instructor that is of interest to them within the wide range of commercial fraud. The oral report will be given at a time to be scheduled on TWEN.

The schedule for the papers and Reports is as follows: 1.) Written proposal stating the topic, its scope, the method of research, and the approach to be taken, together with a proposed outline: 11:59 PM 15 September 2012; 2.) Initial draft: 11:59 PM 19 October 2012; 3.) Presentation of Oral Report: times to be announced; 4.) Final paper by date agreed by student and instructors.

The paper will be graded on its professionalism, the rigor of its methodology and analysis, and the ability to organize data and approach the topic.

4. \textbf{Class Participation, Assignments, & Exercises}

It is expected that students will be regularly prepared for class as part of the attendance requirements. Reading assignments will be given in the previous class and posted. Preparation includes the completion of class assignments.

5. \textbf{Attendance}

A seating chart will be circulated at the first class. Students are responsible for selecting a seat. Attendance will be taken at the beginning of each class based on this chart. Any student not seated in the seat selected at the time class is scheduled to begin will be marked absent. Anyone coming to class after attendance has been taken is responsible after class for advising the instructor of his or her presence. At the discretion of the

\textsuperscript{1} Although I am the editor of the assigned book and one of the books placed on reserve, I receive no royalties for them. They are published by the Institute of International Banking Law & Practice, Inc., a non profit 501(c)(3) educational organization of which I am Director but I draw no salary for my work and have not been compensated for my work on either book.
instructor, an attendance sheet may be circulated for signature in which case it is
governed by the Honor Code and only the student named may indicate his or her
presence by signing.

The maximum number of absences permitted will be allowed for this course under law
school regulations. As it is assumed that all students will conduct themselves as
professionals, there is no need to advise the instructor in advance of an absence.

Cancelled classes will be announced in advance in class whenever possible and notices
posted in accordance with University policies. To the extent possible, make up classes
will be scheduled as extensions of regularly scheduled classes. Please be prepared to
discuss possible make up classes at the first class session. When classes are cancelled due
to inclement weather, arrangements will be made to make them up as announced.

6. Notices & TWEN

All information regarding the course will be posted on TWEN and notices sent to
students via TWEN. Students are required to register on TWEN by the first class.

7. Office Hours and Individual Appointments

Professor Byrne warmly welcomes any questions relating to the course or otherwise. He
will be available regularly for office hours during the following times:

   30 minutes before and after class

If these times are inconvenient, he is available by appointment. They can be contacted
through the Faculty Secretary at (703) 993-8065.

8. Tentative Topics to be studied:

   [Agencies that will be invited are indicated in brackets. The
   order in which these topics are to be discussed will depend
   on the availability of guest lecturers.]

   • Bank Fraud & the Use/Misuse of Banks in Frauds [Federal Reserve]
   • Criminal Fraud & Prosecution [US DOJ]
   • Kiting, Commodities, & Check/Drafts/Bills of Exchange: Jacob Manning, Dinsmore & Shohl,
     LLP.
   • Letter of Credit & Maritime Frauds
   • Money Laundering & Regulatory Responses [FINcen]
   • Risk Management & Fraud
   • Securities Frauds & Prime Bank Frauds [SEC]
   • State Security Laws & Enforcement [NAASA]
   • Treasury Instruments & Historical Bonds [Bureau of the Public Debt]
9. **Special Exercise**

In connection with an initiative by the Institute of International Banking Law & Practice, two projects are underway this Fall related to commercial fraud. One is domestic in character, addressing the abuse of trust or escrow accounts including attorney escrow accounts in connection with commercial frauds. The other relates to an initiative by the United Nations Commission on International Trade Law in connection with a Colloquium to be held in Spring 2014 or 2015. Interested students may participate in either of these efforts and focus their paper topic on matters preparatory to either project.