



# WHITE COLLAR ALERT

## SEPTEMBER 2010

### *False Statements to the Government Can Land You in Jail*

When dealing with the government, be careful what you say, and be careful what you sign. In these days of increased compliance requirements—and increased government scrutiny—you'll likely find yourself signing documents and speaking to government representatives more often than you ever have, even in the ordinary course of your day-to-day business. But if anything you say to those representatives turns out not to have been true, or if one of those documents contains a statement that you knew wasn't true, you may have broken the law.

With the recent indictment of baseball great Roger Clemens, federal perjury and false statement charges are back in the news. While these charges tend to create press attention when they target celebrities—think Martha Stewart and rap star Lil' Kim—they are powerful, and common, tools that federal prosecutors also use against ordinary individuals every day. And while these tactics may be common, the penalties are serious: a maximum penalty of five years imprisonment and a fine of \$250,000, for either charge.

#### Perjury vs. False Statement

You probably already know what perjury is—lying under oath. For example, if you lie to a grand jury, the Securities and Exchange Commission or any other federal or state agency about an important fact while giving testimony under oath, that's perjury. If you lie to an FBI agent or other government agent who has knocked on your door, or when you sign a document making a certification you know is false, you haven't committed perjury because you weren't under oath. But you *may have* violated the federal law prohibiting making false statements, and the penalties are just as severe. You won't likely ever have to worry about committing perjury; it's rare even to be in a situation in which it's possible. It's more likely that you will find yourself in less formal situations where you might violate the false statements laws.

#### What to do

You must view *any* interaction with federal or state authorities—whether with criminal investigators, SEC staff, immigration officials or Congressional lawyers—as a serious matter and not approach it lightly. Be extremely careful in answering questions. Often the best course is to seek counsel *before* you speak to government authorities. In many instances, it is appropriate to prepare for the questioning in advance, think carefully when answering questions, and have a lawyer present during the questioning for your protection.

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