

From Pink to White with Various Shades of Embezzlement: Women Who Commit White-Collar Crimes

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In 2001, Martha Stewart's image was scorched by allegations of an insider-trading scandal that suggested she had cooked up a scheme to sell 3,928 shares of ImClone stock based on privileged information that the company would fail to receive FDA approval of a lucrative cancer drug. Overall, the core aspects of the case and seriousness of the crime were relatively insignificant during a time of major corporate wrongdoing, including the collapse of Enron and WorldCom. Stewart's powerful home-making image, corporate status, and gender, however, stood out as unique attributes compared to previous and contemporary white-collar offenders. Much of the controversy surrounding her indictment, trial, and sentence was brought about by the intense media maelstrom it created, and gender-related characteristics clearly emerged as variables that contributed to the hoopla. The Stewart case, along with those of other prominent female offenders such as Leona Helmsley, Diane Brooks, and Lea Fastow, offer insight into the historical and current debates surrounding gendered varieties of white-collar crimes.

Traditionally, and not surprisingly, white-collar crimes almost exclusively have been concocted and conducted by men. The primary obstacle to female involvement in elite crime is linked to limited opportunities and less participation in the upper echelons of the corporate milieu. In the United States, the number of women involved in the public sphere continues to increase, despite a developing trend toward "opting out" that shows female executives are choosing to leave corporate positions for less demanding employment that is more conducive to personal freedom and family life.¹ In 2004, about 59 percent of the women in the United States were involved in the work force, though they continue to play relatively minor roles in corporate, political, and medical realms. In 2005, the U.S. Bureau of Labor Statistics reported that women represented 29 percent of the physicians and surgeons nationwide.² Worldwide, political leadership remains in the hands of men with a count (as of the 1990s) of 42 women who have served as presidents or prime ministers.³ Upper-level positions in corporations and financial institutions also continue to be male dominated. Over the past three years, only eight women have or are holding CEO positions in Fortune 500 companies and, in 2002, just 9 of the 1,000 largest companies in the United States were headed by women.⁴ Women compose about 14 percent of board members in Fortune 500 companies and

represent only 5.2 percent of the top-earning corporate officers.⁵ Additionally, Wall Street remains primarily a male domain with men accounting for 82 percent of the salespeople, while women continue to hold low-level jobs as sales assistants.⁶

Gaining acceptance into male-dominated enterprises continues to be problematic for women who face sexual and gender discrimination, and other structural barriers that prevent them from moving up the ranks even after breaking through the glass-ceiling—a term coined by *Wall Street Journal* reporters in 1986.⁷ The limited opportunities in corporate America for women also have been referred to in more graphic terms as the “sticky floor,” “concrete ceiling,” and “pink collar ghetto.”⁸ Even women who rise to the higher ranks in male-dominated cultures continue to face obstacles based on gendered stereotypes and exclusionary practices. Journalist Michael Lewis notes that “[the] curious problem of women on Wall Street is that even the ones making a million and a half dollars a year too often feel like outsiders, or oddballs or people whom their firms might be about to burn. And they are!”⁹

Critiques of the achievements and failures of women executives often are cast in gender-related terms instead of professionalism and competence. Linda Wachner, the former Chief Executive Officer (CEO) of Warnaco who successfully transformed the clothing company into a \$2.2 billion-a-year business, was hailed as the darling of Wall Street until the business filed for bankruptcy protection in 2001. Her aggressive manner and lavish lifestyle that garnered so much respect during her reign as CEO became liabilities when she was labeled the “iron maiden of lingerie” and colleagues denigrated her aggressive leadership style and called her tough behavior inappropriate.¹⁰ Generally, women in the corporate world tend to view their experiences as similar to male peers and, ultimately, they take the same risks and use similar tactics, but scrutiny of their actions is intrinsically linked to gender. Obtaining gender equity in the public sphere relies on developing a framework that teaches women “the rules of the game,” removes structural barriers, and shifts the focus from eliminating differences to embracing differences.¹¹ Women, when given the opportunity to participate in corporate or political positions, may develop a different way of “doing business,” though the established patterns of practice often demand that women “do gender” in the workplace by mimicking traditional masculine behavior.

Some commentators and scholars have argued that women bring a more ethical perspective to the workplace. A Canadian study, for example, found that 94 percent of the corporate boards with three or more women had established conflict-of-interest guidelines compared to 68 percent of the companies with all male boards and that 91 percent of the boards with women members verified audit information compared to 74 percent of all male boards.¹² The study results are suggestive, though preexisting policies for each company were not included in the analysis. Another survey of 515 women and 608 men from companies with more than 1,000 employees found that women placed a higher value on family/home, fairness/equity, teams/collaboration, friends/relationships and recognition/rewards; whereas men tended to value pay/money/benefits, and power/status/authority.¹³ An unpublished study by Judith Collins, a professor at Michigan State University, that examined the characteristics of 71 female executives incarcerated in federal prisons for white-collar crimes compared to 172 non-criminal female executives in managerial positions found that personal

and situational factors related to friends and family had an enormous impact on the actions of women.¹⁴ According to Collins, females score more positively compared to men on measures of socialization, self-control, empathy, responsibility, and social involvement. Overall, women in her study tended to act in ways that were “other-directed” and often viewed their crimes as benefiting friends and family.¹⁵

The “different voice” of women in business may carry a sense of community and connectedness and perhaps a more ethical way of doing business. The concept of a different voice is associated with notions of variations in moral reasoning between males and females. Carol Gilligan’s work on moral reasoning and women debunked the traditional six stage model put forth by Lawrence Kohlberg in the 1970s that suggested men were more likely to achieve higher levels on his measurements. Kohlberg, who placed women at an intermediate, more simplistic level of development, noted that stage three “is a functional morality for housewives and mothers; it is not for businessmen and professionals” who rise to more advanced and complex levels.¹⁶ Gilligan’s research found that women tended to view moral issues as a network of inter-connecting responsibilities, whereas men focused more on individual rights based on formal rules.¹⁷ More recent research, however, suggests that moral reasoning and ethical behavior are deeply embedded in situational contexts and that these factors offer better explanatory power than gender. Care-based approaches are more likely to emerge when interacting with a friend than a stranger and when others are seen as in-group members.¹⁸ The connectedness to others typically attributed to women may fail to predict ethical decision making as the social distance between self and others increases, particularly in corporate environments.

Speculations among journalists, business executives, and scholars that women are engaging in more white-collar crime have triggered intense scrutiny. Anthony Paonita, in his journalist account of “women behaving badly,” notes that females are “involved in high-profile misdeeds in numbers that would have been unthinkable a few years ago.”¹⁹ The controversy over how and why women engage in white-collar crime, however, is far from settled. The assumption that women will behave like men in similar situations was disputed by Eileen Leonard who noted that historical, social, and economic experience may forecast less white-collar crime among female even when given the opportunity.²⁰ In 1989, feminist scholar Kathleen Daly first called attention to lower-level clerical and administrative wrongdoing among women and noted that female embezzlers and fraudsters are more appropriately considered pink-collar criminals committing “petty” acts.²¹ The focus of who commits white-collar crime, along with feminist theories of why women commit crime, is rapidly changing from victims to perpetrators as the 21st century progresses.²²

Challenging Masculine Theory and Practice

Edwin Sutherland’s ground-breaking work on white-collar crime, which began in the late in 1930s, understandably focused on male offenders. The emergence of feminist theory and criminality shifted attention from men as an increasing number of scholars sought explanation for the rising involvement of women in crime. In 1975, in a controversial look at women and crime, Freda Adler

challenged the status quo when she predicted the emergence of a new breed of women criminals who would, like men, use their power, status, and position to commit crimes for economic gain. In her widely acclaimed and often critiqued book, *Sisters in Crime*, Adler noted:

In the future a greater proportion of this wealth and power will pass through feminine hands, and almost all of it will be wielded responsibly. But it would be an unrealistic reversion to quixotic chivalry to believe that, for better or worse, women will be any more honest than men.²³

That same year, Rita Simon also predicted increases in female participation in white-collar crime as opportunities became available, particularly for embezzlement and fraud.²⁴ Not all scholars agree on the accuracy of these forecasts and the actual involvement of women in upper-echelon crimes. Darrell Steffensmeier has quibbled over women's involvement; specifically, he notes that larceny, fraud, forgery, and embezzlement on a small scale involving low sums of money fail to fit within the of traditional white-collar crime definitions. Trends that indicate a rise in shoplifting, check kiting, welfare fraud, and credit card fraud more aptly come within the notion of traditional female criminal activities based on available, limited opportunities. Steffensmeier argues that women rarely are arrested for occupation-related frauds or "real white-collar crimes." He notes that female crimes of insider trading, price-fixing, restraint of trade, toxic waste dumping, and official corruption, for example, are practically nonexistent.²⁵

In 1993, Jay Albanese examined data from the United States and Canada and found a "dramatic" increase in the number of women who were employed in white-collar jobs and a similar pattern in arrests for fraud, forgery and counterfeiting, and embezzlement during the 1970s and 1980s.²⁶ Sandy Haantz, a research assistant at the National White-Collar Crime Center, reported a pronounced upward progression of women who engage in elite deviance and noted that of the 1,016 federal prisoners incarcerated for white-collar crime in 2000, nearly one in four were women.²⁷ The Bureau of Justice Statistics reported a 55 percent increase in the number of women convicted of fraud felonies in state courts from 1990 to 1996.²⁸ The increase in arrests for embezzlement skyrocketed over the last 20 years and rates for forgery/counterfeiting have steadily increased for women.²⁹ Simon and Ahn-Redding's recent analysis of women and crime data notes that "[t]he increase in arrests for serious offenses can be attributed largely to women's greater participation in property offenses, especially larceny, embezzlement, fraud, and forgery."³⁰

Adler and Simon's early forecast of greater female involvement in white-collar crimes is yet to be put to the test, although the ideas appear to represent a legitimate aspect of criminological inquiry, despite the backlash regarding the validity of their claims. Currently, in fact, there is neither reason nor evidence to support the belief that women when presented with the opportunity will be any less likely than men to commit crimes from positions of power and through occupational opportunities. The difficulty of testing any thesis about women and white-collar crime, however, is limited by real-world circumstances and inadequate data. As noted by Simon and Ahn-Redding, "we have no systematic evidence regarding the qualitative nature of contemporary women's white-collar

offending relative to that of contemporary men.”³¹ Consequently, like much of the early work in white-collar crime, case studies offer valuable insight into understanding the participation of women in white-collar crime.³² Women who have committed white-collar crimes may stand out as the exception to the rule, though the following cases suggest that gender plays an important role in the conceptualization and treatment of female white-collar offenders. From the well-publicized incidents beginning with the prosecution of Leona Helmsley in 1992 to the sentencing of Martha Stewart in 2004, the behavior of women who are involved in white-collar crime is becoming remarkably similar to that of their male counterparts. The case study method, though limited in explanatory power, provides insight and understanding into what occurs when women cross the line into elite law-breaking.

Case Studies

The Queen of Mean

In 1992, Leona Helmsley became one of the first high-profile female entrepreneurs to be convicted of a white-collar crime. Her tough and sometimes nasty persona defied the stereotypes associated with femininity. The labeling of Helmsley as unladylike was widespread: New York Mayor Edward Koch called her the “Wicked Witch of the West” and *Newsweek* headlined a description of Helmsley as “Rhymes with Rich.”³³ Even her defense attorney Gerald A. Feffer commented that his client was one “tough bitch.”³⁴ The personification of Helmsley based on gender was not unlike the traits attributed to Martha Stewart eight years later and demonstrates that participation in the corporate world, legal or illegal, may require women to redefine their role to fit in a “man’s world,” but they are still be held to societal expectations of traditional femininity. Men who commit white-collar crime rarely are heralded in media headlines as ruthless, tough bastards—characteristics that are associated with success in the corporate world.

Helmsley, who was 69 years old at the time of the federal indictment and her 80-year-old husband Harry were charged with conspiracy, fraud, and tax evasion. The charges stemmed partly from a billing scheme that involved extensive renovations to the couple’s 28-room Greenwich, Connecticut, mansion that were paid for by charging the expenses to legitimate Helmsley business enterprises using phony invoices. The renovations to the Helmsley home included a \$1 million swimming pool enclosure and dance floor; and \$500,000 worth of artwork, furniture, interior decorating, and gardening.³⁵ Leona also allegedly charged personal items such as clothing and gifts for her husband to the company.

The federal grand jury indictment issued on April 14, 1988, by prosecutor Rudolph Giuliani included 41 charges that carried a total maximum sentence of 182 years (see Table 1). Michael Moss, author of *Palace Coup*, noted that the grand juries, state and federal, initially included as many as 188 counts of tax fraud.³⁶ The federal indictment on conspiring to commit extortion accused Leona and her personal aide of demanding and receiving free goods and services from contractors and vendors and of instructing employees to prepare fraudulent travel vouchers.³⁷ The Helmsleys also allegedly underpaid their

Table 1. Helmsley's federal indictment.

Number of counts	Charge	Maximum sentence
1	Conspiracy to defraud the government and the IRS	5 years
3	Tax evasion	15 years
3	Making and submitting false income tax returns	9 years
16	Aiding and assisting the filing of false tax returns	48 years
17	Mail fraud	85 years
1	Extortion conspiracy	20 years

personal income tax by as much as \$1.2 million over a three-year period—an amount noted by some as petty compared to the \$140 million in taxes that were paid.³⁸

Helmsley's 1992 trial, along with those of her two co-defendants, former company officials Joseph Licari and Frank Turco, contained all the elements of a high-profile "bitch hunt" that centered on the charges of tax evasion. Harry Helmsley was found to be mentally incompetent and did not stand trial. In his opening statement Assistant U.S. Attorney James R. DeVita, known for his prosecution of the Reverend Sun Myung Moon, noted, "This defendant, Leona Helmsley, and her husband Harry Helmsley, used their position in society of privilege, and power and wealth to evade one of the most important . . . responsibilities of citizenship . . . to pay their fair and accurate share of income taxes."³⁹ In a surprising move, Helmsley's defense attorney claimed that the couple actually had overpaid their income taxes by almost \$600,000. Also, hoping to downplay the reputation of his client, he acknowledged her status and toughness to the jury: "I don't believe Ms. Helmsley is charged in the indictment with being a tough bitch. In this country, we do not put people in jail because they're unpopular, or because they think differently, or because they are wealthy."⁴⁰

The jury found Helmsley guilty of 33 felonies, including conspiracy, tax evasion, filing false tax returns, and mail fraud.⁴¹ Whether her husband would have been treated differently by the courts raised some speculation about his role in the fraudulent activities and rumors that he kowtowed to his wife's bullying. Certainly, Harry's introverted mild personality and his reputation for integrity and honesty in the business community would have offered a much more sympathetic image to the jury.

Expectations regarding Helmsley's sentencing created a great deal of speculation based on her age and gender. One defense attorney commented, "Look, she's 69 years old. That's clearly a consideration. She's no spring chicken and her husband's sick."⁴² Many people involved in the case expected a long sentence. Research data showed that from July 1, 1984, to June 30, 1986, of the 188 people convicted of extortion conspiracy in the United States 65 percent were sentenced to an average of 8 years in prison and the average sentence for income tax evasion was 2.8 years.⁴³ Any leniency in the sentencing of Helmsley seemed unlikely, and, in fact, her haughty and acerbic personality probably had a negative impact on the judge's decision.

Gender bias in sentencing has been extensively explored by scholars but remains controversial. Overall, empirical research has shown that women

defendants receive preferential treatment.⁴⁴ Kathleen Daly, however, argues that any statistical analysis of disparity in sentencing based solely on gender is faulty because it ignores other important variables. She notes that decisions regarding sentencing based on equal or gender-neutral treatment neglect variables such as family and fail to recognize “the variations in women’s lives and the circumstances of their lawbreaking.”⁴⁵ The controversy over judicial paternalism in sentencing remains unsettled, particularly when crimes are designated as white-collar, though Helmsley’s sentence appeared somewhat lenient, perhaps because of her age and gender, which were employed in later court maneuvers seeking to reduce her prison time.

Helmsley’s sentence included a four-year prison term, a \$7.1 million fine, and a payment of \$1.7 million in back taxes. In June 1993, a district court judge reduced her sentence to 30 months after the parole commission denied her release during the discretionary period for time-served of 16 to 32 months. The judge noted, in his opinion, that Helmsley is “a 72-year-old woman” with a husband who “is a person of advanced age and in seriously ill health” and concluded that “32 months of prison is unduly harsh.”⁴⁶ Helmsley served a total of 18 months in Danbury prison and 3 months under house arrest in her Manhattan residence at the luxurious Park Lane Hotel.

Helmsley, who turned 85 on July 4, 2005, continues to run her hotel empire, though she is reported to suffer from memory and health problems.⁴⁷ She denies any ailments and manages the \$4 billion enterprise that she inherited after the passing of her husband in her traditional tough and abrasive manner. In an interview just prior to her 84th birthday she described herself as very much in charge and living up to her self-described reputation as a mean bitch, though she acknowledged the inherently negative role that greed and wealth had played in her life: “It’s all about money . . . Money is the root of all evil.”⁴⁸

Ironically, Helmsley offered survival advice to Martha Stewart based on her own prison experiences. Helmsley, who continues to claim, “I did nothing wrong,” expressed her regrets that Stewart was being sent to prison, because from her perspective Martha had engaged in no misdeeds. Helmsley simply stated, “I’ll give you my advice—don’t go! There are no nice jails.”⁴⁹ Helmsley, when asked by a female journalist to reflect on the difficulties of prison life, commented that she was a “good girl” and explained, “If people are going to be contrary, there’s really nothing that’s going to help them. Darling, they’re not there to torture you. They’re there to reform you. I think [prison] does that. I think it helps people to go there.”⁵⁰ Helmsley also continues to display an acute sense of toughness in her business dealings. In 2004, she lost a breach of contract lawsuit that was filed by a former employee who claimed that she backed out of a landscaping deal and she was ordered to pay \$100,000.⁵¹ That same year, Leona topped the list in a *Forbes* poll that inquired, “Which billionaire would you least like to work for?”⁵²

The behavior of Leona Helmsley is analogous to that seen in male white-collar criminals, though the negative labeling of her persona as a woman surely contributed to the final outcome. Obviously, Helmsley’s position allowed her opportunity and greed played a central role in motivation, but the acquisition of power is fundamental in explaining her actions. Michael Moss argues that her thirst for power trumped all other motives, though amusement also explained

much of her behavior:

Leona's motivation is clear to those closest to her. If she cooked the company books as her aides say she did, she did not cook them for money. If she screwed contractors out of their payments as they say she did, she did not screw them for money. And if she fired hotel employees willy-nilly without regard to justice or feelings as they say she did, she did not do it for her guests. Rather, she did all that for fun.⁵³

Prisoner of Park Avenue

Diana "Dede" Brooks was a well-known and high-profile CEO for Sotheby's auction house in New York. Her innovative efforts to modernize Sotheby's by establishing an online network and partnering with Amazon.com were heralded as moves that helped overcome a serious financial crisis in the company. Brooks, raised on the North Shore of Long Island, was the oldest of six children in an upper-class family. From her childhood she remembers her father's encouragement that she could accomplish the same goals as her brothers and recalled: "I believed him. When I was eight, I announced I wanted to go to Yale."⁵⁴ After completing her studies at Miss Porter's high-society finishing school, she attended Yale University and graduated in 1972. Her initial employment at Sotheby's as director of financial planning required that she eliminate 90 staff positions through buyouts and firings, and in 1987, she was promoted to president of Sotheby's America and regarded as the most powerful woman in the art world.

Brooks, an imposing figure at six feet tall, is well known among associates for her competitive nature; she is an avid golfer, who often beats male employees on company outings. She was described by colleagues as smart and aggressive, and she had a reputation for toughness, almost to the point of being tyrannical. Author Christopher Mason notes that "lesser mortals found it hard to cope with Brooks' enormous energy, her demands and verbal abuse."⁵⁵ She also was no stranger to corporate scandal. Brooks had left the board of the family-owned company JWP Incorporated just before the computer reseller collapsed in bankruptcy after allegations of bookkeeping fraud emerged.⁵⁶

After a three-year criminal probe, Brooks and former chairman of Sotheby's A. Alfred Taubman were charged in an antitrust conspiracy that rocked the international art world. The price-fixing scheme also involved Christie's, the most prominent auction house in England. The two companies controlled almost 95 percent of a \$4 billion worldwide auction market. The Sotheby's and Christie's antitrust scheme included exchanging confidential lists of top customers who were not charged a commission and coordinating auction dates to avoid competition. Overall, their actions were said to have defrauded art sellers out of more than \$400 million during the 1990s.

Brooks, who was granted conditional amnesty from prosecution for her testimony, pled guilty in October 2000 to price-fixing. At the trial, she testified that Taubman, who was in his mid-seventies at the time, directed her to meet with Christie's chief executive Christopher Davidge to discuss details of the schemes. She recalled a meeting with Taubman after the story of the scandal first appeared in print in which he told her, "You know, just don't act like a girl," a comment that she interpreted as meaning she should remain tough.⁵⁷ Brooks also told the jury about Taubman's offhanded remark that she would "look good in stripes" when her picture appeared on the front-page of the *Financial Times*,

suggesting that the blame and punishment for the illegal actions would fall on her. Her testimony helped to convict Taubman for his part in the price-fixing conspiracy, and he was sentenced to a year and a day in prison and fined \$7.5 million.

Brooks was sentenced to six months of home arrest, three years' probation, and 1,000 hours of community service, and was fined \$350,000 fine. At the sentencing hearing Brooks, who was deathly afraid of receiving time in jail, apologized for the hurt she caused and accepted responsibility for her actions. U.S. District Judge George Daniels scoffed at her attempt to act contrite: "Your words are the all-too-familiar refrain of the white-collar criminal; the rationalization that somehow their theft is less serious because theirs is not a crime of violence and is committed while wearing a business suit."⁵⁸ Brooks was dubbed the "Prisoner of Park Avenue" by the *New York Daily News* while she served time in her \$5 million apartment on 79th Street.

Brooks, like other high-profile women offenders, suffered a great deal of public humiliation. A professional who during the heyday of her career had been hailed as a tough executive regardless of gender, was now a woman who had dared to enter and participate in the male-dominated culture, and challenge the male patriarchy, that dominated Sotheby's. Journalists focused on her appearance and apparel during the trial, describing her "mane of blond hair [that] had turned almost entirely gray" and her "black, fur-trimmed coat." The *Times of London* referred to her as "the reincarnation of Cruella De Vil."⁵⁹ A columnist for the *New York Post* described Brooks a "dragon lady" and wrote that Taubman was the "victim of a conniving woman."⁶⁰

Dede Brooks is an admitted third-rate crook who hid behind a skirt . . . The fact that the old fella [Taubman] had to be put through this, rich or not, by a Wagnerian tank commander called Dede Brooks is just bloody outrageous . . . He is a bit of a darling old fella—and she would eat a barracuda without taking out the bones.⁶¹

The characterization of Brooks is reminiscent of the more primitive description of female criminality offered by Otto Pollak that assumes a sense of deception is endowed socially and physiologically in women.⁶² The idea that Brooks failed to act like a woman by undermining the male patriarchy and was solely responsible for the price-fixing scheme is nonsensical. While the decision-making processes in the illegal acts are vague, it seems likely that Brooks readily agreed to play the game under the rules established by her colleagues. The ill-gotten gains surely boosted her career, income, and ego, which at the time outweighed the cost of getting caught.

The Domestic Diva

In 1991, Martha Stewart Living Omnimedia, Inc. had an estimated worth of more than a billion dollars. Stewart had risen through the corporate world by combining domesticity with her acumen for high finance after starting a small catering company that was run from her home. By the time the ImClone stock scandal emerged Stewart was heralded as one of the most powerful business executives in the country. On the day that the charges became public she was slated to take her position as a member of the New York Stock Exchange board of directors.⁶³

Martha Kostyra was born the second of six children on August 3, 1941, in the working class neighborhood of Nutley, New Jersey. Her parents, Eddie Kostyra, a pharmaceutical salesman who never achieved his dream of being a doctor, and her mother, a schoolteacher—lived a modest, working-class life-style. The Kostyras set strict rules and high expectations for their children; Stewart credits her drive and ambition to her father.⁶⁴ She began her career in media as a model for television and print advertisements at the age of 13. Always an overachiever with straight A's in school, she received a partial scholarship to study European and architectural history at Barnard College, where she met Yale law student Andy Stewart, whom she married in 1961. Martha Stewart joined the Wall Street firm of Monness, Williams, and Sidel six years later as a stockbroker and worked there until 1972, when the family moved to Westport, Connecticut. She stayed at home to care for the couple's infant daughter and worked on restoring "Turkey Hill" their 1805 farmhouse.

In the late 1970s, Stewart started a small catering company that offered gourmet menus and high-quality services. The company in time developed into a \$1 million-dollar business that served a host of corporate and celebrity clients. Her first book, *Entertaining*, released in 1982, became a best seller and Martha Stewart soon was an icon of the American Dream, embodying the unique combination of prosperous homemaker and business entrepreneur.⁶⁵ Her life was not without conflict, however, and in 1987 after 27 years of marriage her husband left her to pursue a relationship with her former assistant.

Martha Stewart experienced enormous growth in her professional life as she focused her energy on business. Martha Stewart Living Omnimedia, Inc. (MSLO) publishes magazines and books, produces cable television and radio shows, runs a syndicated newspaper column, and supplies an exclusive product line for Kmart with an estimated \$730 million in annual retail sales. MSLO stock went public in 1999 and the first day of trading generated almost \$130 million for the company.

On December 27, 2001, Stewart was enroute to San Jose del Cabo in Mexico, when she made a phone call to her broker to sell her shares of ImClone stock that changed the course of her life. Also on the plane was Mariana Pasternak, the ex-wife of a doctor, who sold 10,000 ImClone shares the next day. News was spreading among the inner circles that the Food and Drug Administration (FDA) was planning to reject approval of Erbitux, a cancer drug developed by ImClone. Peter Bacanovic had placed a call to Stewart, leaving a message that ImClone had started "trade downward." Stewart's phone conversation with Bacanovic's assistant resulted in an order to sell her 3,928 shares of the stock. It had fallen to \$58 per share, and Stewart allegedly had established a preexisting arrangement to sell if the value dropped below \$60. She claimed that the verbal "stop-loss" order was in place in late November, though Bacanovic disputes this version and says that he placed the agreement in December (by that time some ImClone executives knew that the drug would not receive FDA approval). Stewart's stock sale reaped less than \$230,000. Ultimately, the trip would cost Stewart far more than the value of the stock and the \$17,000 vacation at the exclusive Las Ventanas resort that included a \$1,500 per night suite, \$1,500 in massages, and a \$1,060 "sea grill dinner" all claimed as business expenses, although the request for reimbursement was rejected by the company's chief financial officer.⁶⁶

Stewart's phone call to Bacanovic's assistant Douglas Faneuil included a discussion of the price of the stock and the trading volume, that had reached almost 8 million shares compared to about 1 1/2 million the day before.⁶⁷ Faneuil, who eventually pled guilty to a misdemeanor charge of misleading investigators, claimed that Stewart knew that Samuel Waksal CEO and founder of ImClone had unloaded his stock.

Waksal had tried unsuccessfully to dump substantial shares of stock—almost 80,000 which were worth nearly \$5 million—and four family members had sold more than \$10 million worth of the stock. Waksal was a close personal friend of Stewart's and had briefly dated her daughter Alexis. On the same day that Stewart dumped her shares, Waksal had allegedly tipped an unidentified seller in Florida, who sold 50,000 shares and another person who sold 40,000 shares. Waksal was arrested on June 12, 2002, and charged with insider trading; conspiracy to commit securities fraud by tipping people to sell stock in the biotech company the day before the cancer drug was rejected; and lying to the Securities and Exchange Commission.

Stewart claimed to have received no inside information on ImClone and released the following statement:

I did not speak to Dr. Samuel Waksal regarding my sale, and did not have any nonpublic information regarding ImClone when I sold my ImClone shares. After directing my broker to sell, I placed a call to Dr. Waksal's officer to inquire about ImClone. I did not reach Dr. Waksal and he did not return my call.⁶⁸

According to the notes from the phone recording taken by Waksal's secretary, the call was related to the stock: "Martha Stewart something is going on with ImClone and she wants to know what."

Waksal's wrongdoing, however, was soon forgotten as the media focused unmercifully on Stewart.⁶⁹ In June 2002 on the CBS *Early Show* Stewart chopped cabbage and expressed a desire to "focus on my salad," though she commented, "I will be exonerated of any ridiculousness." This incident became fodder for jokes and snide comments. A satirical cover of *Martha Stewart Living Behind Bars* that showed a decorated prison cell was distributed over the Internet and late-night hosts were relentless in their one-liners.

On June 4, 2003, after a year-long investigation by the U.S. Attorney's Office and the Securities and Exchange Commission (SEC), Stewart and Bacanovic faced a nine-count indictment. The difficulties of proving that Stewart engaged in insider-trading prevented officials from pursuing what appeared to be the most serious allegation. In order to win an insider-trading case against Stewart, the government needed to show that she received information from a person with a legal duty to keep it confidential, that she knew it was an improper disclosure, and that she traded based on that information.⁷⁰

The indictment was based on her alleged actions surrounding the sale of the stock and her behavior during the investigation. Stewart was charged with conspiracy to obstruct justice, making false statements, and committing perjury, because she allegedly lied about the stop-loss order and knew that Waksal was selling his stock. Stewart was charged with making false statements to the government, because when questioned she denied that the conversation with Bacanovic included any non-public information. Bacanovic was charged with making and using false documents based on allegations that he had added in a different ink color the stop-loss notation "@60" as a cover-up. Both parties were

charged with obstruction of justice for giving false information to the SEC. The charge of securities fraud was based on Stewart's public announcement that she had a prearranged stop-loss order. Prosecutors argued that the public statement was designed to defraud investors.⁷¹

Many experts found the absence of insider-trading charges perplexing and some commentators believed that the indictment of Stewart was an attempt to undermine her status in the corporate world. U.S. Attorney James Comey noted that Stewart was not being prosecuted for who she is, but for what she did: "This is a criminal case about lying—lying to the FBI, lying to the SEC and investors."⁷² Others disagreed and maintained that gender was central to Stewart's treatment by prosecutors. An editorial titled, "White-Lace-Collar Crime" noted that, "Stewart is being made an example because she's a high-profile woman."⁷³ Fans visited her website to read her statement of innocence—in a strong show of support, the site received 1.7 million hits in 17 hours.⁷⁴

Stewart maintained her plea of innocence, but stepped down as chair and CEO of her company. She commented, "It's sort of the American way to go up and down the ladder, maybe several times in a lifetime. And I've had a real long up—along the way my heels being bitten at for various reasons, maybe perfectionism, or maybe exactitude, or something. And now I've had a long way down."⁷⁵ Stewart placed the blame on a "small personal matter" that was criminalized unfairly and worsened by overzealous prosecutors and the intense scrutiny by the media.⁷⁶ Her defense attorneys argued that the government was determined to make an example of her: "She is a woman who has successfully competed in a man's business world."⁷⁷ For Stewart her reputation as being bossy and demanding bolstered arguments that she was singled out for prosecution because of her gender, not her crime. Carol Stabile notes that "[p]owerful women who do not conform to subservient and heteronormative models of female behavior . . . are simply not tolerated for long (if at all) within the highest levels of private or public institutions."⁷⁸ Stabile's analysis of the media coverage compared Stewart with Kenneth Lay, the former CEO of Enron, showed that from June 1, 2002, until June 30, 2003, a total of 1,279 articles in major New York area newspapers appeared on Stewart, while only 23 were published on Lay.⁷⁹ Analyses of Stewart's behavior based on gender are hard to ignore given her dedicated, almost compulsive need for perfection in domestic and business affairs. The "noxious, misogynistic language" in the media, according to Stabile, portrayed Stewart as a rich, mean, lying woman who got what was coming to her. Newspaper reporters seemed to revel in describing Stewart's attire, commenting on her recent 15- to 25-pound weight gain, and discussing how she tucked her 38-year-old daughter Alexis into bed and slept with her after the verdict.

At the trial, the securities fraud charge, which carried a maximum 10 years in prison and a \$250,000 fine, was dismissed. Federal Judge Mariam Goldman Cedarbaum ruled that "no reasonable juror can find beyond a reasonable doubt that the defendant lied" to change market perceptions of her company.⁸⁰ On the other charges, some of the most damaging testimony was given by Stewart's assistant Ann Armstrong, who claimed that the call she had taken from Bacanovic on December 27th, did not match what he had told investigators, and that Martha had tried to delete the message "Peter Bacanovic thinks ImClone is going to start trading downward." Martha changed the message to read, "Peter Bacanovic. Re: imclone." Faneuil, who had cut a deal with prosecutors,

provided powerful testimony that he had informed Stewart that Waksal and his family had dumped stock. The defense attorneys worked to undermine his testimony by characterizing Faneuil as a “liar, drug user, and weirdly fixated on Stewart.”⁸¹

On March 2004, a jury of eight women and four men found Stewart guilty of making false statements to the FBI, engaging in a conspiracy, and obstructing justice. A public statement by juror Chappell Hartride, a 47-year-old computer technician at an insurance company, called the verdict a victory for “the average guy” and commented that he was unimpressed by celebrity appearances and not swayed by testimony that Stewart was “above everyone.”⁸² Lawyers quickly filed a motion for a new trial after information emerged that Hartride had lied about a previous arrest for assault and had allegedly embezzled money as treasurer of a little league team.⁸³ The judge refused the request. Stewart’s second attempt to get a new trial argued that charges of perjury against a Secret Service laboratory director had sullied the verdict. This motion also was dismissed by the judge.⁸⁴

Many legal experts believed that the judge needed to avoid an appearance of showing favoritism. Cedarbaum sentenced Stewart to five months in federal prison and five months of house detention. Stewart reported to Danbury federal prison camp in October 2004 to serve her sentence—obviously, not heeding the advice of Helmsley. At Danbury, about 2 percent of the inmates are considered white-collar—the majority are incarcerated for drug-related offenses. According to the U.S. Bureau of Prisons, approximately 1,100 women of the total 11,800 female inmates are in the Federal Prison System.⁸⁵ Stewart was released from prison in March 2005 to finish her sentence under house arrest.

Political, Professional, and Corporate Crime

The roster of professional women who have perpetrated fraud continues to grow, despite the relatively small number of women in high-profile positions. The following examples show that some women when given the opportunity will engage in white-collar crimes that are clearly occupationally related and involve high dollar amounts. “Petty theft” now appears to be inaccurate terminology for many elite women offenders. In 2003, Sara Bost made headlines when the city of Irvington, New Jersey, discovered a serious deficit in its budget. Bost, who previously had worked as a bank auditor, was elected the first African American mayor in Irvington. She was charged with taking bribes from developers and with witness tampering—she allegedly received a \$1,500 kick-back and \$7,000 in bribes from contractors and developers.⁸⁶ Bost pled guilty to attempted witness tampering and was sentenced to one year, 150 hours of community service, and fined \$2,000. Frances Cox in her position as treasurer for Fairfax, Virginia, embezzled \$48,000. Betty Loren-Maltese, former town president of Cicero, Illinois, bilked \$12 million from the city in an elaborate insurance fraud. Mary Hudson, board chair of Hudson Oil Company, pled no contest to charges of price-fixing gas pumps to shortchange customers. Nancy Young, an attorney in New York, stole \$300,000 from clients over a nine-year period.

Lea Fastow was one of the few women executives who became entangled in the corporate misdeeds surrounding the collapse of Enron. The 2003 indictment

of Fastow, former Assistant Treasurer of Enron, included charges of wire fraud, money laundering conspiracy, tax fraud, and aiding and abetting. Her husband, chief financial officer Andrew Fastow, faced nearly 100 charges for his part in the scandal.

Lea Fastow was a socialite heiress to a grocery and real estate fortune. She was born to Mariam Hader, a former beauty queen who was crowned Miss Israel and was a semifinalist in the 1958 Miss University pageant, and Jack Weingarten, a member of one of Houston's wealthiest families. Lea, had a difficult childhood because of the divorce of her parents in 1970 and insecurities over her weight.⁸⁷ She graduated in 1984 from Tufts University, where she first met Andrew during his freshman orientation and they married a year after finishing college. Lea eventually received her masters in Business Administration at Northwestern University's night program while working at the Continental Bank in Chicago.

The couple lived in a 4,666-square-foot home in Southhampton and owned vacation homes in Galveston, Texas, and Norwich, Vermont. They were in the process of building a \$4 million home at the time of their arrest. Lea had left her position at Enron in 1997 after the birth of the couple's first child. In 2001 and 2002, she became a member of the Enron art committee with a \$20 million budget to assemble a contemporary art collection.⁸⁸

The Enron schemes included numerous off-the-book partnerships and secret deals. The Fastows were accused of laundering money from the transactions by bestowing phony gifts on family members and falsifying tax returns. Lea, said by colleagues to be the smarter half of the couple, reportedly created an elaborate tax shelter while still at Enron in 1994, subsequently the Treasury Department sought to ban such practices.⁸⁹ The couple's success was readily apparent from their tax returns. The Fastows showed an incredible growth in income, primarily from the underhanded partnership deals and the sale of Enron stock, despite the underreporting that was claimed by the Internal Revenue Service. Their joint tax return in 1997 reported an income of just over \$1 million, 2000 their income had risen to \$48½ million.⁹⁰

Lea's plea bargain negotiations included one count of filing a false tax return by failing to report \$47,800 on her 2000 personal taxes and an estimated \$204,000 undeclared income over four years. Skirmishes between Fastow and U.S. Federal Judge David Hittner began when he rejected the plea bargain that limited his sentencing options. Ultimately, she pled guilty to signing tax forms that hid income obtained illegally from the Enron schemes. Her lawyer argued for leniency in sentencing because of her position as a mother and her prospects for a new career as a nurse.⁹¹ The change of career for Fastow appeared to be a blatant attempt to sway the judge with notions that she would make amends for her misdeeds by engaging in a more nurturing career in the future—an idea likely met with skepticism. In July 2004, Fastow was sentenced to one year at the Federal Detention Center in Houston for a misdemeanor conviction of signing a fraudulent tax return not related to her tenure at Enron. Her husband was sentenced to 10 years and agreed to cooperate with further investigative efforts. The couple ultimately forfeited control of assets worth more than \$29 million. Lea and Andrew also negotiated serving consecutive sentences so that at least one parent would be home with their two children, ages eight and four.

Women of the Saving and Loans Scandal

The savings and loan scandal in the 1980s represents perhaps the most widespread and insidious example of fiduciary fraud by persons in positions of trust. The debacle has been called the worst financial disaster of the 20th century and experts estimate the cost of the S&L incident to American taxpayers as high as \$500 billion.⁹² By October 1990, a total of 331 convictions had resulted in an average sentence of 3½ years and included the involvement of at least 49 women.⁹³ While only a small percentage of the crimes were committed by women their behavior and seriousness mirrored that of their male counterparts (see Table 2). Women involved in the S&L scandal, based on 15 cases, embezzled or stole over \$3 million (mean = \$204,080). In one instance, Luann Price, a loan officer, worked with her husband to kite \$2 million in checks.⁹⁴ Many of the women held high-level positions, and, undoubtedly, were playing the game of fraud according to the same rules and for the same reasons as their male colleagues.

Pink and White Embezzlers

The definitional issues of what offenses and offenders fit within the framework of white-collar crime continue to plague the field and, in many respects, have limited much of the discourse on the participation of women. Embezzlement ignores the conceptual tenets of white-collar crime established by Sutherland and is regarded by many experts as not really counting as white-collar crime. Scholars disagree as to whether or not embezzlement is more aptly described as an occupational crime, though this categorization is rarely considered as separate and distinct from traditional typologies of elite deviance.⁹⁵ The term “pink-collar crime” was coined by Kathleen Daly during the 1980s to describe embezzlement type crimes that typically are committed by females. Women are more likely to commit low-level crimes such as check-kiting and bookkeeping fraud from positions of less power compared to men who engage in acts of white-collar crime.

Embezzlement represents an equal opportunity crime and overall rates for women tend to be slightly higher than men. In 2002, a reported 5,917 embezzlement crimes were attributed to women compared to 5,898 to men. According to the Association of Certified Fraud Examiners, that same year men were responsible for stealing larger amounts of money (median = \$185,000) compared to women (median = \$48,000). A handful of embezzlement studies, though dated, have focused on female offenders and have confirmed trends that women tend to commit embezzlement at a higher rate, steal less money, and invoke different rationalizations for their actions compared to men.

Donald Cressey’s 1953 study of male embezzlers noted that frequently offenders were attempting to solve “non-shareable problems” and neutralized their behavior as “borrowing.”⁹⁶ In contrast, a study by Dorothy Zietz of women embezzlers discovered that they tended to be motivated by family needs and rarely rationalized their behavior as “borrowing.” Similarly, the embezzlers in Daly’s study were twice as likely as men to use the rationalization of needs of the family. Men appeared to be motivated by self-interest or greed.⁹⁷ Overall,

Table 2. Women of the savings & loan scandal.

Name	Position	Offense	Sentence
Byrn, Peggy	Unknown	Charged 18 vehicles to the company	1 year
Crooks, Frances	Sales Officer	Siphoned \$103,000	6 months
Crawford, Judy P.	VP of Operations	False loan worth \$263,350	15 months
Davis, Pamela	Account Manager	Embezzlement from escrow accounts, losses estimated at \$102,000	2½ years \$98,000 restitution
Feezel, Mary	Assistant Treasurer	Embezzled \$597,657	3 years
Grimm, Carol Lee	Purchasing Agent	Kickbacks \$15,000	2 years' probation
Hulon, Susan	Real Estate Co. Owner	Undervaluing possessions in a bankruptcy	4 years
Killen, Rebecca	Assistant Manager	Kited \$80,000 in checks	9 months
Lawler, Janet	Branch Manager	Stole \$510,000	Unknown
Lee, Janis	Clerk	Skimmed \$100,000 from dormant accounts	Unknown
Lickiss, Mary Jo	Secretary/ Treasurer	Altered minutes of the board of directors on loan approvals	80 days
Loren, Gina	Investment Manager	Misused clients money for personal luxuries	6 years
Luker, Rebecca L.	Real Estate Agent	Falsified collateral to borrow \$10,000	4 years' probation
Mallet, Mildred	Vice President	Embezzled \$600,000	6 months in jail 5 years' probation
Martin, Kipi Elaine	Unknown	Stole \$48,729 in loans using fake identities & documents	6 years and restitution
McKinzie, Janet	Executive Assistant	Set up a fake escrow account and submitted phony invoices	20 years
Newbill, Sharon	Vice President	Embezzlement	3 years' probation
Payne, Sandra L.	Vault Teller	Embezzled \$100,000	5 months
Peters, Darlene	Vice President	Created a fictitious loan & spent the money	1 year
Powers, Linda	Unknown	Transferred \$300,000 into her personal account	1 year 2 years' probation
Price, Luann	Loan Officer	Kited \$2 million in checks	4 years
Sears, Sherilane	Branch Manager	\$27,000 withdrawn from dormant customer accounts	5 years' probation
Schaefer, Lori	Loan Officer	Made secret loans to herself (\$128,000)	15 months
Skidmore, Alice	Assistant Branch Manager	Made 50 bogus loans to herself	1 year
Smith, Mary	Head of Title Company	False policies for real estate backing \$3.7 million in loans	5 years \$10,000 fine
Stawinski, Laura	Accounting Supervisor	Embezzled \$91,471	3 years' probation
Wilson, Mary Jane	Officer Manager	Submitted fictitious invoices	5 years' probation

Source: Farnham, Alan (1990) *Fortune*.

according to Daly, crimes by men were more serious and were committed with a work group using organizational resources. The data also showed that women bank embezzlers were younger, less educated, reported lower incomes, and acted alone.

More recent cases, however, show that embezzlement schemes by women given the opportunity can be and are comparable to the those of men. Carol Braun, the former controller of Goodwill Industries of North Central Wisconsin and a trusted employee for 26 years, embezzled more than half a million dollars to cover her gambling debts. In 2003 she pled no contest and was sentenced to

serve five years.⁹⁸ Sharon Wertz stole more than \$700,000 in a case that appeared to be motivated by greed. Authorities found that she had bought new vehicles and gambled away a fortune—some speculate as much as \$420,000—at a local casino. Wertz stated that she committed the fraud to “better my own life, I guess,” and her defense attorney noted that “greed” and “the thrill of getting away with it” served as powerful motivators.⁹⁹

Conclusions

The corporate environment and ethos, along with opportunity, may play an important role in the decision-making processes connected to conducting illegal or unethical business practices. A woman, for example, allowed in the inner circle of men, may find saying no difficult.¹⁰⁰ Betty Vinson was a mid-level accountant for WorldCom when company executives requested that she enter fraudulent numbers into the accounts. Initially, she refused to take part in the scheme, but because she feared losing her job, which she needed to support her family, she acquiesced.

How and why women engage in white-collar crime appear to be somewhat mediated by the strength of the existing patriarchy and perceptions of who’s in charge. Generally, males are seen by others as having more influence than women. This perception may develop out of notions that women are less competent and thus not as influential.¹⁰¹ Women may be more likely to commit white-collar crimes when given the chance to enhance career opportunities because of the pressures to perform and higher standards that demand they work harder than men to achieve the same goals. Women may also wish to avoid being ostracized and become “one of the boys” by participating in illegal schemes. In addition to career limitations, opportunities for women to engage in white-collar criminal activities are hindered by closer supervision and exclusion from social networks.¹⁰²

The motivational differences between male and female white-collar offenders, as noted by scholar James Coleman, remain unresolved. Some insight into motivation can be gained from Jody Miller’s exploration of gender and street robbery.¹⁰³ She found that women who participate in a male-dominated environment are likely to have similar motivations. Likewise, the female police officers in a study conducted by Deborah Parsons and Paul Jesilow were attracted to the job for the excitement rather than “helping others.”¹⁰⁴ The women tended to hide their femininity while on the job in order to fit within the male culture and conform to public images of law enforcement. Crime, according to some scholars, may represent “a resource for accomplishing gender—for demonstrating masculinity within a given context or situation.”¹⁰⁵ Greed, fame, and power, however, are likely to impact both genders in a similar fashion, despite sociological and biological differences in how “gender is done.”

The idea that women are taking on masculine qualities in order to compete, according to Adler, who stands by her assessment 30 years later, ignores the real issue about a human nature of which is not about gendered socialization, though the “masculinity thesis” continues to spark debate. Simon and Ahn-Redding note a lack of evidence for increases in aggressive criminality among women and that research that documents the competitive nature of aggressive

women looking for their “piece of the action” is scant.¹⁰⁶ Adler argues that opportunity is central to understanding the involvement of women in white-collar crime:

There is no “masculinization.” Women have made it because the doors have been opened. They use the same tactics as men. These are human characteristics not male or female—they are not gender issues in science. Women are making a lot of money now and it will only increase as their opportunity increases. They too will take advantage of the opportunity to go further—cut corners, make more money as it presents itself—legal and illegal. They are driven by the same factors and motivations as men.¹⁰⁷

Perceptions of women by male counterparts create a catch 22 for females striving for standing as a competent professionals. Achieving success in male-dominated spheres means being tough, aggressive, competitive, and, sometimes, ruthless, though women must also maintain some modicum of femininity or suffer the denigration seen in the Helmsley, Stewart, and Brooks cases. “When women are perceived to be as competent as men, they are often seen as violating prescriptive gender role norms that require women to be communal.”¹⁰⁸ Deborah C. Hopkins, chief financial officer for Lucent and next in line to serve as CEO, for example, lost her job allegedly because she was seen as being too “pushy.”¹⁰⁹ Stabile notes,

Thus, behavior that is socially sanctioned among male executives (perfectionism, self-absorption, coolness, self-confidence) is an indication of full-blown malevolence in women. Expected to be more caring and giving than men, women who do not conform to these still dominant stereotypes about maternal warmth and proper womanly behavior always risk vilification. They are just not normal.¹¹⁰

Ironically, the trend today toward greater involvement of women in white-collar crimes seems no more certain than predictions made by scholars some 25 years ago. National data that distinguish types of fraud by gender, amount stolen, and circumstances of the crime are difficult to obtain. The increase of women in the workplace may correlate with higher levels of elite deviance, though the difficulties of determining the accuracy of this statement represent a challenge for future research.

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