

What's New 2025-2026 Edition

- o Fraudulent Accounting and Sarbanes-Oxley – Who is an Employer Under the Statute? (*New* § 6:1.70; *Vuoncino v. Forterra, Inc.*, 140 F.4th 200 (5th Cir. 2025))
- o Subjective and Objective Falsity under the progeny of *Omnicare* – Could it be proper to promise a 150% annual return on a real estate syndicator investment? (§ 7:14.20; *Pino v. Cardone Cap., LLC*, 139 F.4th 1102 (9th Cir. 2025))
- o Is it unconstitutional for FINRA to have the ability to impose a dealer suspension prior to SEC review? Private Non-Delegation Doctrine (*New* § 8:36; *Alpine Sec. Corp. v. Fin. Indus. Regul. Auth.*, 121 F.4th 1314 (D.C. Cir. 2024))
- o Non-final SEC administrative order: is it subject to judicial Article III court review (*New* § 8:37; *Black v. Sec. & Exch. Comm'n*, 125 F.4th 541 (4th Cir. 2025))
- o Solicitation and Proxy Voting Advice Businesses – Post *Loper Bright* - (*New* § 8:39; *Institutional S'holder Servs., Inc. v. Sec. & Exch. Comm'n*, No. 24-5105, 2025 WL 1802786 (D.C. Cir. July 1, 2025))
- o Will Proxy Services Businesses be required to permit company screening through 'Notice-and-Awareness' clauses? (*New* § 8:38 *Chamber of Com. of United States v. Sec. & Exch. Comm'n*, 115 F.4th 740 (6th Cir. 2024))
- o Investment Advisers Act- Could back-dated trading formulas be used to invest customer assets without disclosure of the practice? (*New* § 8:27.95; *Sec. & Exch. Comm'n v. Navellier & Assocs., Inc.*, 108 F.4th 19 (1st Cir. 2024))
- o Can companies via contract weaken employee rights under Whistleblower laws? (*New* § 6:1.60; *In the Matter of AppFolio, Inc.*, SEC Administrative Proceedings, 2024)
- o Uncertain Status of Beneficial ownership information reporting requirements pursuant to ongoing litigation regarding FinCEN rules (*New* Appendix 15C)
- o New C&DIs promulgated regarding Cybersecurity disclosure (*New* Appendix 11A)
- o Corp Fin director releases statement regarding selective disclosure of cybersecurity incidents (*New* Appendix 11B)
- o Updated C&DIs on Securities Act Rules (*New* Appendix 17)
- o Updated C&DIs on Regulation S-K (*New* Appendix 18)
- o Updated C&DIs on Exchange Act Rules (*New* Appendix 19)