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LAW OF FRAUD AND RELATED OFFENCES

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This work examines the complexities of criminal fraud together with the full range of related offences, including frauds in relation to the stock market and securities, fraudulent conveyances, fraudulent concealment and welfare fraud. This work will assist defence counsel, Crown prosecutors and trial judges in applying the principles of fraud, and the doctrines of mistake, recklessness and wilful blindness to fraud cases being adjudicated.

This release features updates to Chapter 12, "Related Offences", and to Appendix WP, "Words and Phrases".

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What's New in this Update:

Frauds in Relation to Financial Markets and Money Laundering—Defrauding Creditors—Fraudulent Disposition Found in s. 198(1) of the Bankruptcy and Insolvency Act—An individual is guilty of an offence under s. 198(1)(a) where he fraudulently disposes of property before or after the date of the initial bankrupt event. The key element under this provision is that the accused made a “fraudulent” disposition. In other words, a disposition made in good faith or before contemplating bankruptcy would hardly suffice: see *R. v. Kalair and Panchbhaya*, 2019 ONSC 3471.

Frauds in Relation to Financial Markets and Money Laundering—Proceeds of Crime—The Mens Rea of the Offences of Laundering Proceeds of Crime Found in s. 462.31—Wilful blindness of an accused as to the source of the funds with which they are dealing is also sufficient to constitute the *mens rea* for the offence of laundering proceeds of crime. In *R. v. Cady*, 2024 ONCA 4372, the accused’s wife defrauded her employer of over \$1,000,000 and deposited the funds in her bank account, to which the accused was later added and from which he made several withdrawals, deposits, and electronic money transfers to his own personal bank account. The accused testified that he was not specifically aware of his wife’s income, however, there was evidence of several purchases and transactions from the joint bank account that related to assets registered or owned by the accused, including a residence, several vehicles, various home improvements, trips to the Caribbean, and concert tickets. The accused argued that the trial judge erred in finding him guilty even after accepting his evidence that he deferred to his wife’s financial management and that he believed her in handling the family finances. The Ontario Court of Appeal disagreed, and found:

The doctrine of wilful blindness “imputes knowledge to an accused whose suspicion is aroused to the point where he or she sees the need for further inquiries, but deliberately chooses not to make those inquiries”: *R. v. Briscoe*, 2010 SCC 13, [2010] 1 S.C.R. 411, at para. 21 (emphasis in original). It was open to the trial judge to conclude that the appellant knew inquiries should be made but chose not to do so.