

Index

ACCESSORY LIABILITY

Fiduciary duty, for breach of, **11:6**
Overview, **2:7, 11:1**
Trust, for breach of, **11:2**
 claims against innocent
 volunteers, **11:5**
 knowing assistance, **11:3**
 knowing receipt and dealing,
 11:4

ACCOUNTANTS

See FINANCIAL ADVISERS

ACCOUNTING

See REMEDIES

ACQUIESCENCE

See CONSENT AND ACQUIESCENCE

AD HOC FIDUCIARY RELATIONSHIPS

See FIDUCIARY RELATIONSHIPS

ADMINISTRATORS

See PERSONAL REPRESENTATIVES

ADVISERS

Conflicts, duty to avoid, **8:8**
 property, misuse of, **8:18**
 remuneration, unauthorized, **8:13**
 self-dealing, **8:18**
Overview, **5:33 et seq.**
Prudence, duty of, **10:6**
 financial advisers, **10:6**
 inspectors under Bankruptcy and
 Insolvency Act, **10:6**
 insurance advisers, **10:6**
 legal advisers, **10:6**

ADVISERS—Cont'd

Prudence, duty of, **10:6**—Cont'd
 medical advisers, **10:6**
 spiritual advisers, **10:6**

AGENTS

Conflicts, duty to avoid, **8:9**
 property, misuse of, **8:19**
 remuneration, unauthorized, **8:14**
 self-dealing, **8:19**
Overview, **5:39**
Perform personally, duty to, **9:4**
Prudence, duty of, **10:7**

ATTRIBUTION

Generally, **7:6**
Acts, of, **7:9**
Identification doctrine, by means of,
 7:7
Knowledge, of, **7:8**

BANKERS

See FINANCIAL ADVISERS

BEST INTERESTS

Generally, **1:1**

BRIBES

See REMUNERATION, UNAUTHORIZED

CARE

See PRUDENCE AND CARE

COHORT ROLES

Generally, **5:40 et seq.**

COMMISSIONS, SECRET

See REMUNERATION, UNAUTHORIZED

COMPENSATION

See REMEDIES

FIDUCIARY DUTIES

CONFIDENCE

See TRUST AND CONFIDENCE

CONFIDENTIAL INFORMATION

Generally, 1:2

CONFIDENTIAL INFORMATION, LAW OF

Generally, 1:2

CONFLICTS, DUTY TO AVOID

Authorized, 8:5

Duty and duty, of, 8:21

Lack of, 8:4

Overview, 2:3, 7:2, 8:1 et seq.

Particular kinds of

opportunities, misuse of, 8:6

property, misuse of, 8:16

remuneration, unauthorized, 8:11

self-dealing, 8:16

Rule against, 8:1 et seq.

conflict, 8:2

profit, 8:2

CONSENT AND ACQUIESCENCE

Informed consent, the duty of full disclosure and, 10:2

Overview, 2:8, 12:1

Requirements, 12:2

capacity, 12:3

knowledge of all circumstances, 12:5

positive approval, 12:4

CONSTRUCTIVE TRUST

See REMEDIES

CONTRACTS, LAW OF

Generally, 1:4

CO-VENTURERS

Conflicts, duty to avoid, 8:10

property, misuse of, 8:20

remuneration, unauthorized, 8:15

self-dealing, 8:20

Overview, 5:41

CROWN

Conflicts, duty to avoid, 8:7

subordinating interests of beneficiaries, 8:17

Nature, 7:6

Overview, 5:9

Contractual undertakings to

Indigenous group, 5:17.50

creation of reserves, 5:13

Crown subjects, 5:30

delegation of duty to consult and accommodate, 5:24

duty to consult and accommodate, arising when, 5:19

adverse effect of Crown conduct on aboriginal claim/right, 5:18

Crown conduct or decision, 5:18

knowledge by Crown of potential claim or right, 5:18

duty to consult and accommodate, prior to enforcement, 5:21

duty to consult and accommodate, scope and content of, 5:20

duty to consult and accommodate, source of, 5:18

judicial review of breach of duty to consult, 5:25

limitation periods, 5:28

limits to sui generis fiduciary duty, 5:14

protection of pre-existing and still existing aboriginal and treaty rights, 5:12

remedies for breach of duty to consult and accommodate, 5:29

role of tribunals in consultation, 5:23

section 35 of Constitution Act, 1982, 5:17

standard of review, 5:26

CROWN—Cont'd

- Overview, **5:9**—Cont'd
 - standing to assert collective right, **5:27**
 - surrender of reserve lands to the Crown, **5:11**
 - treaty making and treaty interpretation, **5:22**
- Prudence, duty of, **10:5**
 - First Nations, to, **10:5**
 - wards, to, **10:5**

DEPENDENT CONTRACTORS

- Generally, **5:4, 8:7**

DIRECTORS

- Conflicts, duty to avoid
 - corporate clients, **8:7**
 - corporate opportunities, **8:7**
 - misuse of property, **8:17**
 - remuneration, unauthorized, **8:12**
 - self-dealing, **8:17**
- Overview, **5:2**
- Prudence, duty of, **10:5**

DISCLOSURE, DUTY OF

- Duty, nature of, **2:6, 10:2**
- Material information, **10:3**

EMPLOYEES, SENIOR OR KEY

- Conflicts, duty to avoid
 - corporate opportunities, **8:7**
 - misuse of property, **8:17**
 - self-dealing, **8:17**
- Overview, **5:3**

EQUITY AND CONSCIENCE

- Contextual approach to fiduciary law, **3:3**
- Development by courts of chancery, **3:2**

EXECUTORS

- See **PERSONAL REPRESENTATIVES**

FIDUCIARY

- Definition, **1:1**

FIDUCIARY DUTIES

- Overview, **2:3, 7:2**
- Particular duties
 - conflicts, duty to avoid
 - See **Conflicts, duty to avoid**
 - faithfulness
 - disclosure of information
 - See **Disclosure, duty of**
 - honesty
 - See **Honesty**
 - prudence
 - See **Prudence and care**
 - loyalty
 - See **Conflicts, duty to avoid**
 - perform personally, duty to
 - See **Personal performance**
- Reasonable expectations, **7:5**

FIDUCIARY RELATIONSHIPS

- Ad hoc fiduciary relationships, **6:1**
 - fiduciary duties in the government context, **6:5**
 - persons entrusted with vital practical interests, **6:4**
 - persons who are already fiduciaries, **6:3**
 - persons who are not typically fiduciaries, **6:2**
- Advisers, **5:33 et seq.**
 - financial, **5:34**
 - insurance, **5:35**
 - legal, **5:36**
 - medical, **5:37**
 - spiritual, **5:38**
- Agents, **5:39**
- Caretakers, **5:2 et seq.**
 - crown, **5:9**
 - contractual undertakings to Indigenous group, **5:17.50**
 - creation of reserves, **5:13**
 - Crown subjects, **5:30**
 - delegation of duty to consult and accommodate, **5:24**

FIDUCIARY DUTIES

FIDUCIARY RELATIONSHIPS

—Cont'd

- Caretakers, **5:2 et seq.**—Cont'd
 - crown, **5:9**—Cont'd
 - duty to consult and accommodate, arising when, **5:19**
 - adverse effect of Crown conduct on aboriginal claim/right, **5:18**
 - Crown conduct or decision, **5:18**
 - knowledge by Crown of potential claim or right, **5:18**
 - duty to consult and accommodate, scope and content of, **5:20**
 - duty to consult and accommodate, source of, **5:18**
 - judicial review of breach of duty to consult, **5:25**
 - limitation periods, **5:28**
 - limits to sui generis fiduciary duty, **5:14**
 - protection of pre-existing and still existing aboriginal and treaty rights, **5:12**
 - remedies for breach of duty to consult and accommodate, **5:29**
 - role of tribunals in consultation, **5:23**
 - section 35 of Constitution Act, 1982, **5:17**
 - standard of review, **5:26**
 - standing to assert collective right, **5:27**
 - surrender of reserve lands to the Crown, **5:11**
 - treaty making and treaty interpretation, **5:22**
 - wards, **5:10**
 - directors, **5:2**
 - parents and guardians, **5:5**

FIDUCIARY RELATIONSHIPS

—Cont'd

- Caretakers, **5:2 et seq.**—Cont'd
 - personal representatives, **5:6**
 - appointment of
 - committee, **5:6.70**
 - estate trustee, **5:6.60**
 - guardian, **5:6.80**
 - fiduciary duty
 - administrator, **5:6.50**
 - executor, **5:6.20, 5:6.40**
 - power of attorney, **5:6.30**
 - standing to bring action, **5:6.10**
 - receivers and receiver-managers, **5:8**
 - senior management, **5:3**
 - business opportunities, **5:3.10**
 - interlocutory relief, **5:3.40**
 - non-suit applications, **5:3.50**
 - other abuses, **5:3.30**
 - section 178(1), **5:3.60**
 - summary judgment, **5:3.70**
 - unauthorized remuneration, **5:3.20**
 - trustees, **5:7**
- Cohorts, **5:40 et seq.**
 - co-venturers (or joint venturers), **5:41**
 - partners, **5:40**
 - spouses, **5:42**
- Overview, **2:3, 4:1**
- Presumed trust, **4:3, 5:1**

FIDUCIARY STANDARDS

- Introduction, **7:1**
- Prescriptive (positive) duties generally, **7:3, 7:4**
 - disclosing material information
 - See Disclosure, duty of
 - honesty
 - See Honesty
 - prudence
 - See Prudence and care

FIDUCIARY STANDARDS

—Cont’d

Proscriptive (negative) duties generally, **7:2**
 avoiding unauthorized conflicts or profits
 See Conflicts, duty to avoid disclosing material information
 See Disclosure, duty of
 Reasonable expectations, based on, **7:5**

FINANCIAL ADVISERS

See also ADVISERS
 Overview, **5:34**
 Prudence, duty of, **10:6**

FIRST NATIONS

See INDIAN BANDS

GUARDIANS

See PARENTS AND GUARDIANS

HONESTY

Generally, **2:6, 10:1**

INDIAN BANDS

Generally, **5:11, 10:5**

INSURANCE ADVISERS

See also ADVISERS
 Overview, **5:35**
 Prudence, duty of, **10:6**

JOINT VENTURERS

See CO-VENTURERS

KNOWING ASSISTANCE

See ACCESSORY LIABILITY

KNOWING RECEIPT AND DEALING

See ACCESSORY LIABILITY

LEGAL ADVISERS

See also ADVISERS
 Overview, **5:36**
 Prudence, duty of, **10:6**

LIEN, EQUITABLE

See REMEDIES

MANAGEMENT

See EMPLOYEES, SENIOR OR KEY

MEDICAL ADVISERS

See also ADVISERS
 Overview, **5:37**
 Prudence, duty of, **10:6**

OPPORTUNITIES

See CONFLICTS, DUTY TO AVOID

PARENTS AND GUARDIANS

Best interests and well-being of child, failure to fulfill, **5:5.30**
 Conflicts, duty to avoid, **8:17**
 Financial responsibilities, **5:5.20**
 Overview, **5:5**
 Prudence, duty of, **10:5**
 Sexual, physical, emotional and psychological abuse, **5:5.10**

PARTNERS

Conflicts, duty to avoid, **8:10**
 property, misuse of, **8:20**
 remuneration, unauthorized, **8:15**
 self-dealing, **8:20**
 Overview, **5:40**

PERSONAL PERFORMANCE

Generally, **2:5, 9:1**

PERSONAL REPRESENTATIVES

Conflicts, duty to avoid, **8:7**
 misuse of property, **8:17**
 remuneration, unauthorized, **8:12**
 self-dealing, **8:17**
 Overview, **5:6 et seq.**

PRIESTS

See SPIRITUAL ADVISERS

PRUDENCE AND CARE

Duty, **10:4**
 advisers, **10:6**

FIDUCIARY DUTIES

PRUDENCE AND CARE—Cont'd

Duty, **10:4**—Cont'd
agents, **10:7**
Crown, **10:5**
First Nations, to, **10:5**
wards, to, **10:5**
directors, **10:5**
parents and guardians, **10:5**
trustees, **10:5**
Overview, **2:6, 7:4**

PUBLIC GUARDIAN AND TRUSTEE

Generally, **5:10**

PUBLIC OFFICIALS

Overview, **5:31**
Remuneration, unauthorized, **8:12**

RECEIVERS AND RECEIVER-MANAGERS

Generally, **5:8**

REMEDIES

Overview, **2:10, 13:1**
Personal remedies, **13:2**
accounting, **2:12, 13:4**
compensation, **2:11, 13:3**
duty to mitigate, **13:3**
Proprietary remedies, **2:13, 13:5**
constructive trusts, **2:14, 13:6**
equitable liens, **2:15, 13:7**

REMUNERATION, UNAUTHORIZED

Generally, **8:11**

SPIRITUAL ADVISERS

See also ADVISERS
Overview, **5:38**
Prudence, duty of, **10:6**

SPOUSES

Generally, **5:42, 8:20**

STOCKBROKERS

See FINANCIAL ADVISERS

STRANGERS

See ACCESSORY LIABILITY

TORT LAW

Generally, **1:3, 7:4, 10:4**

TRUST AND CONFIDENCE

Fact of, **6:1**
Overview, **1:1, 4:2**
Presumptions of, **4:3**
Required degree, **1:1, 4:2**

TRUSTEES

Conflicts of interest, **8:7**
misuse of property, **8:17**
remuneration, unauthorized, **8:12**
self-dealing, **8:17**
Overview, **5:7**
Perform personally, duty to, **9:3**
Prudence, duty of, **10:5**

TRUSTS, LAW OF

Generally, **1:2**

VICARIOUS LIABILITY

Generally, **7:6, 7:10**