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COMMERCIAL CRIME IN CANADA

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Release No. 10, November 2024

This practical service compiles information regarding criminal liability arising from white collar crime in Canada. For each offence the full text of the specific legislation is provided together with an analysis of the important case law, the form of charge and cross-references to related legislation. There is detailed coverage of modes of criminal participation and the means available for pursuing proceeds of crime and restitution.

What's New in this Release

This release features updates to the case law and commentary in Chapter 15 (Fraudulent Trade Practices).

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Case Highlights

Recent case law introduced with this release includes the following:

- **Fraudulent Trade Practices — Competition Act — Price-Fixing Conspiracy — Class Action — Conspirators Fixing Price of Product in United States — No “Basis in Fact” for Claim That Conspiracy Affected Canadian Consumers** — A motion to certify a class action lawsuit relating to an alleged price-fixing conspiracy for the Canadian market for canned tuna was dismissed as, while three of the 11 defendants had participated in a conspiracy to fix the prices of canned tuna in the United States, there was no “basis in fact” for the claim that the alleged conspiracy could or might have affected Canadian consumers. In this case, the plaintiff was a representative plaintiff for direct, indirect, and umbrella purchasers that purchased the brands of canned tuna allegedly sold in Canada by the 11 defendants or their associated entities. She alleged that she and the putative class members purchased cans of tuna at super-competitive prices. She alleged that since 2004, in violation of the Competition Act, R.S.C. 1985, c. C-34, the Criminal Code, and the competition law of other jurisdictions, including countries in Asia and the United States, the defendants and their associated entities conspired together to fix the price of canned tuna sold in Canada, including shelf-stable packaged tuna products sold in cans, pouches, or other packages, by controlling output, price, and other aspects of the manufacture, production, or supply, thereby causing loss or damage to individuals in Canada who purchased canned tuna. The plaintiff based her claim on findings from U.S. anti-trust proceedings. These foreign proceedings found that three major tuna producers — Bumble Bee Foods LLC, Tri-Union Seafoods LLC (operating as Chicken of the Sea International Inc.), and StarKist Co. — conspired to fix prices in the United States between 2011 and 2013. The plaintiff also claimed that a similar conspiracy involving these U.S. companies and their Canadian affiliates existed in Canada: *Lilleyman v. Bumble Bee Foods LLC*, 2024 ONCA 606, 2024 CarswellOnt 11881 (Ont. C.A.), affirming 2023 ONSC 4408, 2023 CarswellOnt 14688 (Ont. S.C.J.).