

Index

1977 AMENDMENTS

Documents of title and investment securities, 1977 amendments and Sections 8-301 and 8-302, 4:124

SECTION 2-721 OF UCC

Sales, election of remedies, 4:7

SECTION 1-103 OF UCC

Fraud and misrepresentation, 4:3, 4:4

SECTION 523(A)(2)(A)

Bankruptcy, this index

SECTION 523(A)(2)(B)

Bankruptcy, this index

SECTION 548

Bankruptcy, this index

SECTION 727

Bankruptcy, this index A

ABSENCE OR PRESENCE

Fraud and misrepresentation, absence of representations, 2:7

ACCOMMODATION PARTIES

Fraud and misrepresentation, to or for benefit of creditor, 6:17

ACCORD AND SATISFACTION

Payment and credit instruments, alteration of, 4:46

ACCOUNTS AND ACCOUNTING

Bankruptcy, denial of discharge under Section 727(a)(4), 7:19 to 7:22

ACTIONABLE

REPRESENTATIONS

Fraud and Misrepresentation, this index

ACTUAL FRAUD

Exceptions to discharge, 7:38 et seq., 7:41

ADEQUACY OR INADEQUACY

Bankruptcy, inadequate consideration, 7:10

Uniform Fraudulent Conveyance Act (UFCA), this index

ADVANCES OR ADVANCEMENTS

Bankruptcy, advancement of cash, 7:63

Fraud and misrepresentation, subsequent advance exception, 6:61 to 6:64

Lender liability theories, loan agreement provisions, 8:27

AFFILIATION

Fraud and misrepresentation, limitations period, 6:33, 6:34

ALTERATIONS

Documents of title and investment securities, alteration of certificated security or initial transactions statement, 4:123

Payment and Credit Instruments, this index

AMENDMENT

Bankruptcy, amendment of schedules, 7:21

AMOUNT OR QUANTITY

Bulk transfers, quantity transferred, 4:111

Fraud and misrepresentation, ordinary course of business exception, 6:51

ANALYSIS

Uniform Commercial Code, fraud and misrepresentation, 4:2

ANTECEDENT DEBT

Fraud and misrepresentation, for or on account of antecedent debt, 6:19 to 6:21

Uniform Fraudulent Conveyance Act (UFCA), fair consideration, 5:51

APPLICATION

Fraud and Misrepresentation, this index

ARTICLE 2, UNIFORM COMMERCIAL CODE

Sales, this index

ARTICLE 3, UNIFORM COMMERCIAL CODE

Payment and Credit Instruments, this index

ARTICLE 4, UNIFORM COMMERCIAL CODE

Payment and Credit Instruments, this index

ARTICLE 5, UNIFORM COMMERCIAL CODE

Letters of Credit, this index

ARTICLE 6, UNIFORM COMMERCIAL CODE

Bulk Transfers, this index

ARTICLE 7, UNIFORM COMMERCIAL CODE

Documents of Title and Investment Securities, this index

ARTICLE 8, UNIFORM COMMERCIAL CODE

Documents of Title and Investment Securities, this index

ARTICLE 9, UNIFORM COMMERCIAL CODE

Secured Transactions, this index

ASSETS

Fraud and misrepresentation, diminution of debtor's assets, 1:2
Loss or deficiency of assets, failure to explain, 7:25

ASSUMPTION OF OBLIGATIONS

Fraud and misrepresentation, transactional contexts, 5:5 B

BADGES OF FRAUD

Fraud and Misrepresentation, this index

BALANCING

Letters of Credit, this index

BALANCING—Cont'd

Uniform Commercial Code, balancing analysis, 4:2

BANKRUPTCY

Section 523(a)(2)(A), exceptions to discharge under
Act, exceptions under Code compared to exceptions under, 7:26
actual fraud, 7:41
collateral estoppel, prior determination of fraud, 7:46
credit card cases, 7:48, 7:49
credit, nature of debtor's gain, 7:30
creditor's reliance on misrepresentations, 7:38 et seq.
defense, intent as, 7:37
estoppel, prior determination of fraud, 7:46
evidence, standard of proof, 7:43
fraud and misrepresentation, generally, 7:26 to 7:53
gain, nature of debtor's, 7:27 to 7:30
inference, intent by, 7:36
intent to deceive, 7:35 to 7:37, 7:50
justifiable reliance, 7:39
knowingly making false representations, 7:34, 7:49
loss by creditor, 7:40
nature of debtor's gain, 7:27 to 7:30
pre-bankruptcy settlements, prior determination of fraud, 7:47
prior determination of fraud, 7:44, 7:45, 7:46, 7:47
property, nature of debtor's gain, 7:28
reliance on misrepresentations, 7:38 et seq., 7:51
representation, what constitutes, 7:33
res judicata, prior determination of fraud, 7:45
services, nature of debtor's gain, 7:29
settlements, prior determination of fraud, 7:47
standard of proof, 7:43

INDEX

BANKRUPTCY—Cont'd

- Section 523(a)(2)(B), exceptions to discharge under
 - financial statement, obtaining credit through false, 7:52 to 7:66
 - fraud and misrepresentation generally, 7:52 to 7:66
 - financial statement, obtaining credit through false, 7:52 to 7:66
 - liberal interpretation of reliance, 7:60
 - materially false statements, 7:54 to 7:59
 - re-examination of reliance, 7:62
 - reasonable reliance by creditor, 7:59 to 7:64
 - reliance by creditor, 7:59 to 7:64
 - scienter requirement, 7:58
 - statutory predicate, reasonable reliance by creditor, 7:59
 - traditional view of reliance, 7:61
 - written financial statement, obtaining credit through false, 7:53
 - liberal interpretation of reliance, 7:60
 - materially false statements, 7:54 to 7:59
 - re-examination of reliance, 7:62
 - reasonable reliance by creditor, 7:59 to 7:64
 - reliance by creditor, 7:59 to 7:64
 - scienter requirement, 7:58
 - statutory predicate, reasonable reliance by creditor, 7:59
 - traditional view of reliance, 7:61
 - written financial statement, obtaining credit through false, 7:53
- Section 548
- constructively fraudulent dispositions
 - generally, 5:55
 - equitable test of solvency, 5:59
 - financial condition of transferor, 5:57, 5:59
 - fraud and misrepresentation
 - dispositions
 - generally, 5:55

BANKRUPTCY—Cont'd

- Section 548—Cont'd
 - constructively fraudulent dispositions—Cont'd
 - fraud and misrepresentation—Cont'd
 - dispositions—Cont'd
 - equitable test of solvency, 5:59, 5:60
 - financial condition of transferor, 5:57, 5:59
 - legal test of solvency, 5:59
 - partnership transactions, 5:65
 - unreasonably small capital/assets, 5:61
 - value received by transferor, 5:63
 - legal test of solvency, 5:59
 - partnership transactions, 5:65
 - unreasonably small capital/assets, 5:61
 - value received by transferor, 5:63
 - dispositions
 - constructively fraudulent dispositions, above in this group
 - sources of law in historical context, 5:13
 - equitable test of solvency, 5:59
 - financial condition of transferor, 5:57, 5:59
 - fraud and misrepresentation
 - constructively fraudulent dispositions, above in this group
 - dispositions, above in this group
 - sources of law in historical context, 5:13
 - legal test of solvency, 5:59
 - partnership transactions, 5:65
 - unreasonably small capital/assets, 5:61
 - value received by transferor, 5:63
- Section 523(a)(2)(C), consumer debt for luxury goods or cash advances under, 7:63
- Section 727(a)(2), denial of discharge under, 7:3 to 7:15
- Section 727(a)(3), denial of discharge under, 7:16

BANKRUPTCY—Cont'd

- Section 727(a)(4), denial of discharge under, 7:17 to 7:24
- Accounts, denial of discharge under Section 727(a)(4), 7:19 to 7:22
- Act, exceptions under Code compared to exceptions under, 7:26
- Advancement of cash, consumer debt for under Section 523(a)(2)(C), 7:63
- Amendment of schedules, denial of discharge under Section 727(a)(4), 7:21
- Badges of fraud, denial of discharge under Section 727(a)(2), 7:7 to 7:12
- Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, 1:16
- Bulk transfers, consequences of failure to comply, 4:117, 4:118
- Burden of proof, denial of discharge, 7:6, 7:18
- Cash advances, consumer debt for under Section 523(a)(2)(C), 7:63
- Collateral estoppel, prior determination of fraud, 7:46
- Concealment of property, 7:3 to 7:15
- Consideration as inadequate, denial of discharge under Section 727(a)(2), 7:10
- Consumer debt for luxury goods, 7:63
- Continuing use of transferred property, denial of discharge under Section 727(a)(2), 7:11
- Conversion of nonexempt to exempt property on eve of bankruptcy, denial of discharge under Section 727(a)(2), 7:12
- Credit card cases, exceptions to discharge under Section 523(a)(2)(A), 7:48, 7:49
- Creditor's reliance on misrepresentations, exceptions to discharge under Section 523(a)(2)(A), 7:38 et seq.
- Defense, intent as, 7:37
- Definition of transfer, 7:8
- Delay creditors, denial of discharge under Section 727(a)(2), 7:4 to 7:6

BANKRUPTCY—Cont'd

- Denial of discharge
 - Section 727(a)(2), denial of discharge under, 7:3 to 7:15
 - Section 727(a)(3), denial of discharge under, 7:16
 - Section 727(a)(4), denial of discharge under, 7:17 to 7:24
 - exceptions to discharge, 7:31 to 7:42, 7:46
 - fraud and misrepresentation, 7:2 to 7:24
- Destruction, denial of discharge under Section 727(a)(2), 7:13
- Discharge. Fraud and misrepresentation, below
- Disclosure failure, denial of discharge under Section 727(a)(4), 7:22
- Dispositions. Fraud and misrepresentation, below
- Equitable test of solvency, 5:59
- Estoppel, prior determination of fraud, 7:46
- Evidence
 - burden of proof, denial of discharge, 7:6, 7:18
 - standard of proof, 7:43
- Exceptions
 - Section 523(a)(2)(A), exceptions to discharge under, below
 - Section 523(a)(2)(B), exceptions to discharge under, below
- Family or relatives, denial of discharge under Section 727(a)(2), 7:9
- Financial condition of transferor, 5:57, 5:59
- Financial statement, obtaining credit through false, 7:52 to 7:66
- Fraud and misrepresentation
 - Section 523(a)(2)(A), exceptions to discharge under, below
 - Section 523(a)(2)(B), exceptions to discharge under, below
 - Section 523(a)(2)(C), consumer debt for luxury goods or cash advances under, 7:63
 - Section 548 and the UFTA, below
 - Section 727(a)(2), denial of discharge under, 7:3 to 7:15

INDEX

BANKRUPTCY—Cont'd

Fraud and misrepresentation—Cont'd
Section 727(a)(3), denial of discharge under, 7:16
Section 727(a)(4), denial of discharge, 7:17 to 7:24
accounts, denial of discharge under Section 727(a)(4), 7:19 to 7:22
Act, exceptions under Code compared to exceptions under, 7:26
actual fraud, 7:41
advancement of cash, consumer debt for under Section 523(a)(2)(C), 7:63
amendment of schedules, denial of discharge under Section 727(a)(4), 7:21
badges of fraud, denial of discharge under Section 727(a)(2), 7:7 to 7:12
burden of proof, denial of discharge, 7:6, 7:18
cash advances, consumer debt for under Section 523(a)(2)(C), 7:63
causation issues, 7:64
collateral estoppel, exceptions to discharge under Section 523(a)(2)(A), 7:46
concealment of property, Section 727(a)(2), 7:3 to 7:15
consideration as inadequate, denial of discharge under Section 727(a)(2), 7:10
continuing use of transferred property, denial of discharge under Section 727(a)(2), 7:11
conversion of nonexempt to exempt property on eve of bankruptcy, denial of discharge under Section 727(a)(2), 7:12
credit card cases, exceptions to discharge under Section 523(a)(2)(A), 7:48, 7:49
creditor's reliance on misrepresentations, exceptions to discharge under Section 523(a)(2)(A), 7:38 et seq.
damage issues, 7:64

BANKRUPTCY—Cont'd

Fraud and misrepresentation—Cont'd
defense, intent as, 7:37
definition of transfer, 7:8
delay creditors, denial of discharge under Section 727(a)(2), 7:4 to 7:6
denial of discharge, 7:2 to 7:24
destruction, denial of discharge under Section 727(a)(2), 7:13
discharge
Section 523(a)(2)(A), exceptions to discharge under, below
Section 523(a)(2)(B), exceptions to discharge under, below
Section 727(a)(2), denial of discharge under, 7:3 to 7:15
Section 727(a)(3), denial of discharge under, 7:16
Section 727(a)(4), denial of discharge, 7:17 to 7:24
accounts, Section 727(a)(4) denial of discharge, 7:19 to 7:22
amendment of schedules, Section 727(a)(4) denial of discharge, 7:21
badges of fraud, denial of discharge under Section 727(a)(2), 7:7 to 7:12
burden of proof, denial of discharge, 7:6, 7:18
concealment of property, Section 727(a)(2), 7:3 to 7:15
consideration as inadequate, denial of discharge under Section 727(a)(2), 7:10
continuing use of transferred property, denial of discharge under Section 727(a)(2), 7:11
definition of transfer, denial of discharge under Section 727(a)(2), 7:8
delay creditors, denial of discharge under Section 727(a)(2), 7:4 to 7:6
denial of discharge, 7:2 to 7:24
destruction, denial of discharge under Section 727(a)(2), 7:13

BANKRUPTCY—Cont'd

Fraud and misrepresentation—Cont'd
 discharge—Cont'd
 disclosure failure, denial of discharge under Section 727(a)(4), 7:22
 exceptions, above
 family or relatives, denial of discharge under Section 727(a)(2), 7:9
 hindering creditors, denial of discharge under Section 727(a)(2), 7:4 to 7:6
 impediment to discharge, generally, 7:1
 inadequate consideration, denial of discharge under Section 727(a)(2), 7:10
 intent to deceive, below
 justification, below
 materiality, denial of discharge under Section 727(a)(4), 7:20
 oaths, denial of discharge under Section 727(a)(4), 7:19 to 7:22
 presentation of false claim, denial of discharge under Section 727(a)(4), 7:23
 preservation of records failure, denial of discharge under Section 727(a)(3) for, 7:16
 recantation by debtor, denial of discharge under Section 727(a)(4), 7:21
 records, denial of discharge under Section 727(a)(3) for failure to keep or preserve adequate records, 7:16
 removal, denial of discharge under Section 727(a)(2), 7:13
 schedules amended, denial of discharge under Section 727(a)(4), 7:21
 withholding information, denial of discharge under Section 727(a)(4), 7:24
 disclosure failure, denial of discharge under Section 727(a)(4), 7:22
 dispositions
 constructively fraudulent

BANKRUPTCY—Cont'd

Fraud and misrepresentation—Cont'd
 dispositions—Cont'd
 dispositions. Section 548 and the UFTA, below
 relationship with other bodies of law, 5:26
 Section 548 and the UFTA, below
 estoppel, prior determination of fraud, 7:46
 evidence, standard of proof, 7:43
 exceptions, above
 false pretenses, 7:42
 family or relatives, denial of discharge under Section 727(a)(2), 7:9
 financial statement, obtaining credit through false, 7:52 to 7:66
 gain, nature of debtor's, 7:27 to 7:30
 hindering creditors, denial of discharge under Section 727(a)(2), 7:4 to 7:6
 impediment to discharge. Discharge, above in this group
 inadequate consideration, denial of discharge under Section 727(a)(2), 7:10
 inference, intent by, 7:36
 intent to deceive, below
 justification, below
 knowingly making false representations, exceptions to discharge under Section 523(a)(2)(A), 7:34, 7:49
 liberal interpretation of reliance, exceptions to discharge under Section 523(a)(2)(B), 7:60
 loss by creditor, exceptions to discharge under Section 523(a)(2)(A), 7:40
 luxury goods, consumer debt for under Section 523(a)(2)(C), 7:63
 materiality, denial of discharge under Section 727(a)(4), 7:20
 materially false statements, exceptions to discharge under Section 523(a)(2)(B), 7:54 to 7:59

INDEX

BANKRUPTCY—Cont'd

Fraud and misrepresentation—Cont'd
nature of debtor's gain, exceptions to discharge under Section 523(a)(2)(A), 7:27 to 7:30
oaths, denial of discharge under Section 727(a)(4), 7:19 to 7:22
pre-bankruptcy settlements, prior determination of fraud, 7:47
preferences, structure of statute, 6:3
presentation of false claim, denial of discharge under Section 727(a)(4), 7:23
preservation of records failure, denial of discharge under Section 727(a)(3) for, 7:16
prior determination of fraud, exceptions to discharge under Section 523(a)(2)(A), 7:46, 7:47
property, nature of debtor's gain, 7:28
reasonable reliance by creditor, exceptions to discharge, 7:59 to 7:64
recantation by debtor, denial of discharge under Section 727(a)(4), 7:21
records, denial of discharge under Section 727(a)(3) for failure to keep or preserve adequate records, 7:16
reliance, exceptions to discharge, 7:38 et seq., 7:51, 7:59 to 7:64
removal, denial of discharge under Section 727(a)(2), 7:13
representation, what constitutes, 7:32
res judicata, prior determination of fraud, 7:45
savings provisions, Bankruptcy Code and UVTA, 5:94 to 5:97
schedules amended, denial of discharge under Section 727(a)(4), 7:21
scienter requirement, exceptions to discharge under Section 523(a)(2)(B), 7:58
services, nature of debtor's gain, 7:29

BANKRUPTCY—Cont'd

Fraud and misrepresentation—Cont'd
settlements, prior determination of fraud, 7:47
sources of law and transactional contexts, 1:16
standard of proof, exceptions to discharge under Section 523(a)(2)(A), 7:43
statutory predicate, reasonable reliance by creditor, 7:59
traditional view of reliance, exceptions to discharge under Section 523(a)(2)(B), 7:61
withholding information, denial of discharge under Section 727(a)(4), 7:24
written financial statement, obtaining credit through false, 7:53
Fraud by fiduciary
Exceptions to discharge under Section 523(a)(4), 7:65
Gain or loss
creditor's loss, exceptions to discharge under Section 523(a)(2)(A), 7:40
exceptions to discharge under Section 523(a)(2)(A), 7:27 to 7:30
Hindering creditors, denial of discharge under Section 727(a)(2), 7:4 to 7:6
Impediment to discharge. Fraud and misrepresentation, above
Inadequate consideration, denial of discharge under Section 727(a)(2), 7:10
Inference, intent by, 7:36
Intent to deceive
denial of discharge, 7:4 to 7:6
exceptions to discharge under Section 523(a)(2)(A), 7:35 to 7:37, 7:50
Intercompany guaranties, Bankruptcy Code Section 548, 5:75
Justification for failure to disclose, denial of discharge under Section 727(a)(4), 7:22
Knowingly making false representations, exceptions to discharge under Section 523(a)(2)(A), 7:34, 7:49

BANKRUPTCY—Cont'd

- Legal test of solvency, Section 548 and the UFTA, 5:59, 5:60
- Leveraged buyouts, Bankruptcy Code Section 548, 5:70
- Liberal interpretation of reliance, exceptions to discharge under Section 523(a)(2)(B), 7:60
- Loss or deficiency of assets, failure to explain, 7:25
- Luxury goods, consumer debt for under Section 523(a)(2)(C), 7:63
- Materiality, denial of discharge under Section 727(a)(4), 7:20
- Materially false statements, exceptions to discharge under Section 523(a)(2)(B), 7:54 to 7:59
- Nature of debtor's gain, exceptions to discharge under Section 523(a)(2)(A), 7:27 to 7:30
- Oaths, denial of discharge under Section 727(a)(4), 7:19 to 7:22
- Partnership transactions, Section 548 and the UFTA, 5:65, 5:66
- Pre-bankruptcy settlements, prior determination of fraud, 7:47
- Presentation of false claim, denial of discharge under Section 727(a)(4), 7:23
- Preservation of records failure, denial of discharge under Section 727(a)(3) for, 7:16
- Prior determination of fraud, exceptions to discharge under Section 523(a)(2)(A), 7:46, 7:47
- Property, exceptions to discharge under Section 523(a)(2)(A), 7:28
- Re-examination of reliance, exceptions to discharge under Section 523(a)(2)(B), 7:62
- Reasonable or reasonableness
 - exceptions to discharge, reasonable reliance by creditor, 7:59 to 7:64
 - Section 548 and the UFTA, unreasonably small capital/assets, 5:61, 5:62
- Recantation by debtor, denial of discharge under Section 727(a)(4), 7:21
- Records, denial of discharge under Section 727(a)(3) for failure to

BANKRUPTCY—Cont'd

- keep or preserve adequate records, 7:16
- Reliance, exceptions to discharge, 7:38 et seq., 7:51, 7:59 to 7:64
- Removal, denial of discharge under Section 727(a)(2), 7:13
- Representation, what constitutes, 7:33
- Res judicata, prior determination of fraud, 7:45
- Schedules amended, denial of discharge under Section 727(a)(4), 7:21
- Scienter requirement, exceptions to discharge under Section 523(a)(2)(B), 7:58
- Services, nature of debtor's gain, 7:29
- Settlements, prior determination of fraud, 7:47
- Sources of law and transactional contexts, 1:16
- Standard of proof, exceptions to discharge under Section 523(a)(2)(A), 7:43
- Statutory predicate, reasonable reliance by creditor, 7:59
- Traditional view of reliance, exceptions to discharge under Section 523(a)(2)(B), 7:61
- UFTA. Section 548 and the UFTA, above
- Unreasonably small capital/assets, Section 548 and the UFTA, 5:61, 5:62
- Value received by transferor, Section 548 and the UFTA, 5:63, 5:64
- Withholding information, denial of discharge under Section 727(a)(4), 7:24
- Written financial statement, obtaining credit through false, 7:53

BANKS AND BANKING

- Payment and Credit Instruments, this index

BENEFIT OF CREDITORS

- Fraud and misrepresentation, preferences, 6:16 to 6:18

BREACH OF WARRANTY

- Letters of credit, breach of warranty distinguished, 4:85

INDEX

BULK TRANSFERS

- Bankruptcy considerations, consequences of failure to comply, 4:117, 4:118
- Compliance or noncompliance
 - consequences of failure to comply, 4:117, 4:118
 - rights of transferor's creditors after, 4:108
- Consequences of failure to comply, 4:117, 4:118
- Enterprises covered, 4:104 to 4:108
- Equipment, attendant transfers of, 4:113
- Exceptions from scope of Article 6, 4:115
- Expanding Article 6 applicability, 4:107
- Fraud and misrepresentation, generally, 4:17 to 4:20, 4:100 et seq.
- Historical context, 4:101
- Manufacturers, 4:105
- Merchants, 4:105
- Nature of property transfers covered, 4:109
- Noncompliance. Compliance or noncompliance, above
- Nonuniform statutory solutions, 4:119
- Public filing alternative, schedule of property and list of creditors, 4:36
- Purpose of law, 4:102
- Quality transferred, 4:112
- Quantity transferred, 4:111
- Revision
 - enterprises covered, 4:108
 - excepting large and small dollar value transactions, 4:116
 - transactions covered, 4:114
- Scope issues, generally, 4:103
- Selling services, 4:106
- Services, sale of, 4:106
- Statutes, nonuniform statutory solutions, 4:119
- Transactions covered, 4:110

BURDEN OF PROOF

- Bankruptcy, denial of discharge, 7:6, 7:18 C

CALCULATIONS

- Fraud and misrepresentation, calculation of value, 6:40

CASE LAW

- Payment and credit instruments, shelter principle, 4:37

CASH

- Bankruptcy, cash advances, 7:63
- Sales, reclamation right of seller, 4:27

CATASTROPHE

- Insurance fraud, caution by insurer, 3:18

CAUSATION

- Fraud as impediment to discharge, causation issues, 7:64

CAUSE OF ACTION

- Fraud and misrepresentation, intentionally fraudulent dispositions, 5:83
- Lender liability theories, elements of RICO cause of action, 8:31

CAUTION BY INSURER

- Insurance fraud, claims following catastrophe or natural disaster, 3:18

CERTIFICATES AND CERTIFICATION

- Documents of title and investment securities, alteration of certificated security, 4:123

CHARITABLE CONTRIBUTIONS

- Fraud and misrepresentation, constructively fraudulent dispositions, 5:80

CHATTEL PAPER

- Secured transactions, chattel paper purchase, 4:130

CHECKS

- Fraud and misrepresentation, limitations period, 6:29
- Sales, limitations on right to reclaim dishonored checks, 4:26

CLANDESTINE DISPOSITION

- Statute of 13 Elizabeth, cover of fraud, 5:41

CLOSING LOOPHOLE

Letters of credit, closing the fraud
loophole, 4:96

COLLATERAL ESTOPPEL

Bankruptcy, prior determination of
fraud, 7:46

COLLATERAL INTERESTS

Fraud and Misrepresentation, this
index
Uniform Fraudulent Conveyance Act
(UFCA), fair consideration, 5:53

COLLECTIONS

Fraud and misrepresentation,
ordinary course of business
exception, 6:53

COMMERCIAL CONTEXT

Uniform Commercial Code, this
index

COMMERCIAL INSTRUMENTS

Documents of title and investment
securities, 4:121

COMMERCIAL INTERESTS

Letters of Credit, this index

COMMERCIAL VALUE

Letters of credit, 4:82

COMMERCIALLY REASONABLE

Secured transactions, commercially
reasonable disposition of collateral,
4:131

COMMITMENT LETTER

Lender liability theories, loan agree-
ment provisions, 8:28

COMMON LAW

Fraud and Misrepresentation, this
index
Letters of credit, independence
principle, 4:84 to 4:86
Sales, common law damages, 4:7
Uniform Commercial Code, common
law displacement in sales
transactions, 2:30

COMPENSATORY DAMAGES

Fraud and misrepresentation, 2:22

**COMPLIANCE OR
NONCOMPLIANCE**

Bulk Transfers, this index

COMPROMISE OR SETTLEMENT

Bankruptcy, pre-bankruptcy settle-
ments, 7:47

COMPUTATION

Fraud and misrepresentation,
computation of preference
period, 6:27

CONCEALMENT

Bankruptcy Section 727(a)(2),
concealment of property, 7:3 to
7:15
Insurance fraud, 3:7

CONFIDENTIAL AGREEMENT

Superior knowledge, 2:8

CONFLICT OF LAWS

Fraud and Misrepresentation, this
index

CONSEQUENCES

Bulk transfers, consequences of
compliance failure, 4:117, 4:118

CONSEQUENTIAL DAMAGES

Sales, this index

CONSIDERATION

Bankruptcy, denial of discharge
under Section 727(a)(2), 7:10
Uniform Fraudulent Conveyance Act
(UFCA), this index

CONSTITUTIONAL LAW

Fraud and misrepresentation,
constitutionality of punitive
damages, 2:25

**CONSTRUCTION OR
INTERPRETATION**

Letters of credit, construction of Sec-
tion 5-114(2), 4:89
Uniform Commercial Code,
construction of Section 1-103,
4:4

CONSTRUCTIVE DISPOSITIONS

Leveraged Buyouts, this index
Statute of 13 Elizabeth, this index
Uniform Fraudulent Conveyance Act
(UFCA), this index

INDEX

CONSTRUCTIVELY FRAUDULENT DISPOSITIONS

- Fraud and Misrepresentation, this index
- Intercompany Guaranties, this index

CONTEMPORANEOUS MATTERS

- Fraud and misrepresentation, contemporaneous exchange exception, 6:42 to 6:47

CONTINUING USE

- Bankruptcy, continuing use of transferred property, 7:11

CONTRACTS

- Fraud and Misrepresentation, this index
- Insurance Fraud, this index
- Lender Liability Theories, this index
- Sales, contractual limitation of remedies, 4:10

CONVERSION

- Bankruptcy, conversion of nonexempt to exempt property on eve of, 7:12

CORPORATIONS

- Dividends, relationship with other bodies of law, 5:30
- Fraud and misrepresentation

- dividends, relationship with other bodies of law, 5:30
- Intercompany Guaranties, this index
- parallel corporate law, relationship with other bodies of law, 5:27 to 5:30
- relationship of corporate law with other bodies of law, 5:27 to 5:30
- Intercompany Guaranties, this index
- Parallel corporate law, relationship with other bodies of law, 5:27 to 5:30
- Relationship of corporate law with other bodies of law, 5:27 to 5:30

COURTS

- Seller's rights, reclamation of, 4:23

COVER OF FRAUD

- Statute of 13 Elizabeth, constructively fraudulent dispositions, 5:39 to 5:41

CREDIT CARD CASES

- Bankruptcy, exceptions to discharge under Section 523(a)(2)(A), 7:48, 7:49

CREDIT INSTRUMENTS

- Payment and Credit Instruments, this index

CREDITORS' STANDING

- Fraud and Misrepresentation, this index
- Uniform Fraudulent Conveyance Act (UFCA), this index
- Uniform Fraudulent Transfer Act (UFTA), 5:87 D

DAMAGES

- Fraud and Misrepresentation, this index
- Fraud as impediment to discharge, damage issues, 7:64
- Sales, this index

DEAN V. DAVIS

- Fraud and misrepresentation, contemporaneous exchange exception, 6:43

DEFENSES

- Bankruptcy, intent as defense, 7:37
- Payment and Credit Instruments, this index

DEFICIENCY

- Loss or deficiency of assets, failure to explain, 7:25

DEFINITIONS

- Debt, 6:20
- Fraudulence and materiality, 4:45
- Limitations period, definition in Code, 6:32
- Ratification, 4:50
- Reclamation right of seller, 4:29
- Transfer, 7:8

DELAY

- Bankruptcy, delay creditors, 7:4 to 7:6

DELAY—Cont'd

- Fraud and misrepresentation, delayed perfection of collateral interests, 6:45 to 6:47
- Statute of 13 Elizabeth, intent to delay, 5:35

DENIAL

- Refusal or Denial, this index

DEPECAGE

- Fraud and misrepresentation, conflict of laws in fraud actions, 2:29

DESTRUCTION

- Bankruptcy, denial of discharge under Section 727(a)(2), 7:13

DIMINUTION

- Fraud and misrepresentation, diminution of debtor's assets, 1:2

DISCHARGE

- Bankruptcy, this index

DISCLOSURE

- Bankruptcy disclosure failure, denial of discharge under Section 727(a)(4), 7:22

DISCRETION

- Lender liability theories, discretionary advance clauses, 8:27

DISHONORED CHECKS

- Sales, limitations on right to reclaim, 4:26

DISPLACEMENT

- Uniform Commercial Code, displacement of common law fraud in sales transactions, 2:30

DISPOSITIONS

- Bankruptcy, this index
- Constructive Dispositions, this index
- Fraud and Misrepresentation, this index
- Intercorporate Guaranties, this index
- Leveraged Buyouts, this index
- Secured Transactions, this index
- Statute of 13 Elizabeth, this index
- Uniform Fraudulent Conveyance Act (UFCA), this index
- Uniform Fraudulent Transfer Act (UFTA), this index

DISTINCTIONS

- Letters of credit, distinguishing breach of warranty, 4:85

DIVIDENDS

- Fraud and misrepresentation, relationship with other bodies of law, 5:30

DOCUMENTS OF TITLE AND INVESTMENT SECURITIES

- 1977 amendments and Sections 8-301 and 8-302, 4:124
- Alteration of certificated security or initial transactions statement, 4:123
- Certificated security, alteration of, 4:123
- Commercial instruments, 4:121
- Initial transactions statement, alteration of, 4:123
- Negotiation, rights to documents of title acquired by due negotiation, 4:122

DUBAY V. WILLIAMS

- Fraud and misrepresentation, security interests in inventory or receivables, 6:66

DURESS

- Lender liability theories, 8:13 E

EARMARKING DOCTRINE

- Fraud and misrepresentation, transfer of interest of debtor in property, 6:15

EGREGIOUS MATTERS

- Letters of credit, egregious fraud standard, 4:97

ELECTION OF REMEDIES

- Fraud and misrepresentation, 2:23
- Sales, this index

ELEMENTS OF FRAUD

- Fraud and Misrepresentation, this index

ELEMENTS OF RICO

- Lender liability theories, elements of cause of action, 8:31

INDEX

ELIMINATION

Fraud and misrepresentation, debtor's insolvency, 6:25

EMPLOYERS AND EMPLOYEES

Payment and credit instruments, bank liability for fiduciary fraud, 4:79

ENABLING

Fraud and misrepresentation, enabling loan exception, 6:58 to 6:60

ENHANCEMENT

Fraud and misrepresentation, enhancement of position, 6:35 to 6:40

ENTERPRISES COVERED

Bulk transfers, 4:104 to 4:108

EQUIPMENT

Bulk transfers, attendant transfers of equipment, 4:113

EQUITY

Bankruptcy Section 548 and the UFTA, equitable test of solvency, 5:59, 5:60

Fraud and misrepresentation, equitable subordination, 5:28

ESSENTIAL ELEMENT OF FRAUD

Generally, 2:20

ESTOPPEL

Bankruptcy, prior determination of fraud, 7:46

Payment and credit instruments, preclusion based on estoppel, 4:52 to 4:54

Secured transactions, perfection of security interest, 4:127

EVIDENCE

Bankruptcy, this index

Letters of credit, evidence of fraud as insufficient, 4:98

EXCEPTIONS OR EXCLUSIONS

Bankruptcy, this index

Bulk transfers, exceptions from scope of Article 6, 4:115

Fraud and Misrepresentation, this index

EXCEPTIONS OR EXCLUSIONS

—Cont'd

Sales, exclusion of consequential damages, 4:15

EXCLUSIONS

Exceptions or Exclusions, this index

EXECUTORY PROMISES

Uniform Fraudulent Conveyance Act (UFCA), fair consideration, 5:51

EXPANSION

Bulk transfers, expanding Article 6 applicability, 4:107

Lender liability theories, expanding scope of RICO lender liability, 8:9

EXTENT OF RECOVERY

Uniform Fraudulent Conveyance Act (UFCA), savings provisions, 5:93

EXTRAORDINARY MATTERS

Fraud and misrepresentation, extraordinary collection efforts, 6:53 F

FACT

Payment and credit instruments, fraud in fact, 4:39

Sales, factual approach, 4:6

FAIR CONSIDERATION

Uniform Fraudulent Conveyance Act (UFCA), this index

FALSE PRETENSES

Exceptions to discharge, 7:42

FALSE SWEARING

Insurance fraud, 3:8

FAMILY OR RELATIVES

Bankruptcy, denial of discharge under Section 727(a)(2), 7:9

Fraud and misrepresentation, intrafamilial transfers, 5:4

Relation back exception, constructively fraudulent dispositions, 5:37

Statute of 13 Elizabeth, intrafamilial transactions as sui generis, 5:36

FEDERAL LAW

Fraud and Misrepresentation, this index

FEDERALIZATION

Lender liability theories, federalization under lender liability law, 8:7 to 8:9

FIDUCIARIES

Lender liability theories, fiduciary duty breach, 8:16, 8:17
Payment and Credit Instruments, this index

FINANCES AND FUNDS

Condition. Financial Condition, this index
Statements. Financial Statements, this index

FINANCIAL CONDITION

Bankruptcy, financial condition of transferor, 5:57, 5:59
Uniform Fraudulent Conveyance Act (UFCA), financial condition of grantor, 5:45 to 5:48
Uniform Fraudulent Transfer Act (UFTA), financial condition of transferor, 5:58, 5:60

FINANCIAL STATEMENTS

Bankruptcy, obtaining credit through false financial statement, 7:52 to 7:66
Sales, limitations on right to reclaim, 4:25

**FIRST OR SECOND
RESTATEMENT**

Conflict of laws, 2:28

**FIT AMONG SOURCES OF FRAUD
LAW**

Generally, 2:2

FORECLOSURE

Fraud and Misrepresentation, this index

FORGERY

Payment and Credit Instruments, this index

FORM OF PAYMENT

Fraud and misrepresentation, ordinary course of business exception, 6:52

**FRAUD AND
MISREPRESENTATION**

Absence of representations, 2:7
Accommodation parties, to or for benefit of creditor, 6:17
Actionable representations
 generally, 2:4
 absence of representations, 2:7
 future acts, representations regarding, 2:6
 oral or written representations, 2:5
 superior knowledge, 2:8
Advances or advancements, subsequent advance exception, 6:61 to 6:64
Affiliation, limitations period, 6:33, 6:34
Amount of payment, ordinary course of business exception, 6:51
Antecedent debt, for or on account of, 6:19 to 6:21
Application
 dispositions, application to particular transactional contexts, 5:67 to 5:80
 fraud principles, application of, 2:1
Assets, diminution of debtor's, 1:2
Assumption of obligations, transactional contexts, 5:5
Badges of fraud
 bankruptcy, denial of discharge under Section 727(a)(2), 7:7 to 7:12
 intentionally fraudulent dispositions, 5:82
Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, 1:16
Bankruptcy, this index
Benefit of creditor, preferences, 6:16 to 6:18
Bulk Transfers, this index
Calculation of value, enhancement of position, 6:40
Cause of action, intentionally fraudulent dispositions, 5:83

INDEX

FRAUD AND MISREPRESENTATION

—Cont'd

- Charitable contributions,
constructively fraudulent
dispositions, 5:80
- Checks, limitations period, 6:29
- Collateral interests. Dispositions,
below
- Collection efforts, ordinary course of
business exception, 6:53
- Common law
 - fraudulent disposition law, 1:13
 - Uniform Commercial Code, com-
mon law displacement in
sales transactions, 2:30
- Compensatory damages, 2:22
- Computation of preference period,
limitations period, 6:27
- Concealment, insurance fraud, 3:7
- Confidential agreement, superior
knowledge, 2:8
- Conflict of laws in fraud actions
 - generally, 2:26, 2:28
 - contract, 2:27
 - depecage, 2:29
 - first restatement, 2:28
 - restatements, 2:28
 - second restatement, 2:28
 - tort, 2:27
- Constitutionality of punitive dam-
ages, 2:25
- Constructive fraud, 2:17
- Constructively fraudulent disposi-
tions. Dispositions, below
- Consumer debtors, payments by, 6:73
- Contemporaneous exchange excep-
tion, 6:42 to 6:47
- Contracts
 - conflict of laws in fraud actions,
2:27
 - Insurance Fraud, this index
 - Lender Liability Theories, this
index
- Corporations, this index
- Creditors' standing
 - dispositions
 - generally, 5:85
 - maturity of claim, 5:88
 - remedies available, 5:88

FRAUD AND MISREPRESENTATION

—Cont'd

- Creditors' standing—Cont'd
 - dispositions—Cont'd
 - Uniform Fraudulent Convey-
ance Act (UFCA), below
 - Uniform Fraudulent Transfer
Act (UFTA), 5:87
 - maturity of claim, 5:88
 - remedies available, 5:88
 - Uniform Fraudulent Conveyance
Act (UFCA), this index
 - Uniform Fraudulent Transfer Act
(UFTA), 5:87
- Damage
 - generally, 2:19
 - compensatory damages, 2:22
 - constitutionality of punitive dam-
ages, 2:25
 - election of remedies, 2:23
 - elements of fraud, 2:20
 - essential element of fraud, 2:20
 - punitive damages, below
 - recovery in fraud cases, 2:21 to
2:25
- Dean v. Davis, contemporaneous
exchange exception, 6:43
- Definitions. Preferences, below
- Delayed perfection of collateral
interests, contemporaneous
exchange exception, 6:45 to
6:47
- Depecage, conflict of laws in fraud
actions, 2:29
- Diminution of debtor's assets,
interests at stake, 1:2
- Dispositions
 - generally, 5:1
 - application to particular
transactional contexts, 5:67 to
5:80
 - assumption of obligations,
transactional contexts, 5:5
 - Bankruptcy, this index
 - cause of action, actual intent, 5:83
 - charitable contributions,
constructively fraudulent
dispositions, 5:80
 - collateral interests
 - foreclosure of collateral
interests, below

**FRAUD AND
MISREPRESENTATION
—Cont'd**

Dispositions—Cont'd
 collateral interests—Cont'd
 transactional contexts, 5:6 to 5:8
 constructively fraudulent dispositions
 generally, 5:31
 application to particular
 transactional contexts, 5:67
 to 5:80
 charitable contributions, 5:80
 collateral interests. Foreclosure
 of collateral interests,
 below
 foreclosure of collateral
 interests, below
 Intercorporate Guaranties, this
 index
 Leveraged Buyouts, this index
 Statute of 13 Elizabeth, below
 Uniform Fraudulent Convey-
 ance Act (UFCA), this
 index
 corporate law, relationship with
 other bodies of law, 5:27 to
 5:30
 creditors' standing, above
 dividends, relationship with other
 bodies of law, 5:30
 equitable subordination, relation-
 ship with other bodies of law,
 5:28
 foreclosure of collateral interests,
 below
 generic fraud and misrepresenta-
 tion, relationship with other
 bodies of law, 5:21
 gifts, transactional contexts, 5:4
 historical context, sources of law
 in, 5:10 to 5:14
 intentionally fraudulent disposi-
 tions, below
 Intercorporate Guaranties, this
 index
 intrafamilial transfers,
 transactional contexts, 5:4
 Leveraged Buyouts, this index
 parallel corporate law, relationship
 with other bodies of law, 5:27
 to 5:30

**FRAUD AND
MISREPRESENTATION
—Cont'd**

Dispositions—Cont'd
 piercing corporate veil, relation-
 ship with other bodies of law,
 5:29
 preferences, relationship with other
 bodies of law, 5:22 to 5:26
 relationship with other bodies of
 law, sources of fraudulent
 disposition law, 5:16 to 5:30
 remedies, sources of fraudulent
 disposition law, 5:17 to 5:19
 restrictions on corporate dividends,
 relationship with other bodies
 of law, 5:30
 sales, transactional contexts, 5:3
 savings provisions, below
 sources of law and transactional
 contexts, 1:12 to 1:15, 5:1 to
 5:30
 Statute of 13 Elizabeth, this index
 subordination, relationship with
 other bodies of law, 5:28
 supplementary law, UCC and, 5:20
 transactional contexts, 5:2 to 5:9
 Twyne's Case, relationship with
 other bodies of law, 5:23
 Uniform Fraudulent Conveyance
 Act (UFCA), this index
 Uniform Fraudulent Transfer Act
 (UFTA), this index
 unreasonably small capital, 5:47
 validity of disposition between
 immediate parties, sources of
 fraudulent disposition law,
 5:15
 Dividends, relationship with other
 bodies of law, 5:30
 Dubay v. Williams, security interests
 in inventory or receivables, 6:66
 Earmarking doctrine, transfer of
 interest of debtor in property,
 6:15
 Election of remedies, 2:23
 Elements of fraud, generally, 2:3 to
 2:25, 3:10
 Elimination of reasonable cause to
 believe, debtor's insolvency,
 6:25
 Enabling loan exception, 6:58 to 6:60

INDEX

FRAUD AND MISREPRESENTATION

—Cont'd

- Enhancement of position, 6:35 to 6:40
- Equitable subordination, relationship with other bodies of law, 5:28
- Essential element of fraud, 2:20
- Exceptions. Preferences, below
- Extraordinary collection efforts, ordinary course of business exception, 6:53
- False swearing, insurance fraud, 3:8
- Falsity
 - elements of fraud in falsity of representation, 2:13 to 2:16
 - misrepresentation, insurance fraud, 3:3
- Federal law
 - Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, 1:16
 - preferences, enabling loan exception, 6:60
- First or second restatement, conflict of laws, 2:28
- Fit among sources of fraud law, 2:2
- Foreclosure of collateral interests
 - constructively fraudulent dispositions
 - generally, 5:77
 - personal property, collateral interests in, 5:79
 - seminal cases, 5:78
 - dispositions
 - constructively fraudulent dispositions, above in this group
 - transactional contexts, 5:9
 - personal property, collateral interests in, 5:79
 - seminal cases, 5:78
 - sources of law and transactional contexts, 5:9
 - transactional contexts, 5:9
- Form of payment, ordinary course of business exception, 6:52
- Fraudulent disposition law, sources of law and transactional contexts, 1:12 to 1:15, 5:1 to 5:30
- Future acts, representations regarding, 2:6

FRAUD AND MISREPRESENTATION

—Cont'd

- Garnishment. Preferences, below
- Generic Fraud, this index
- Gifts, transactional contexts, 5:4
- Governing law. Conflict of laws in fraud actions, above
- Grace period, enabling loan exception, 6:59
- Grain Merchants v. Union Bank, security interests in inventory or receivables, 6:66
- Guaranties. Intercorporate Guaranties, this index
- Historical context, sources of law in, 5:10 to 5:14
- Impediment to discharge, fraud as. Bankruptcy, this index
- Innocent Misrepresentations, this index
- Insiders, limitations period, 6:31 to 6:34
- Insolvency of debtor, 6:22 to 6:25
- Insurance Fraud, this index
- Intent of misrepresentation, insurance fraud, 3:6
- Intentionally fraudulent dispositions
 - generally, 5:81
 - badges of fraud, 5:82
 - cause of action, 5:83
 - objectification of fraudulent disposition law, 5:84
- Intercorporate Guaranties, this index
- Interests at stake, generally, 1:1 to 1:4
- Intervening fluctuations in value, security interests in inventory or receivables, 6:70
- Intrafamilial transfers, transactional contexts, 5:4
- Inventory, security interests in, 6:65 to 6:71
- Junior unsecured creditors, 1:21
- Law, nonactionable representations concerning, 2:11
- Lender Liability Theories, this index
- Letters of Credit, this index
- Letters. Lender Liability Theories, this index
- Leveraged Buyouts, this index

**FRAUD AND
MISREPRESENTATION
—Cont'd**

- Liens or encumbrances, statutory
liens, 6:72
- Limitations period, preferences, 6:26
to 6:34
- Majority rule, delayed perfection of
collateral interests, 6:46
- Materiality of misrepresentation,
insurance fraud, 3:4
- Maturity of claim, creditors' standing,
5:88
- Minority rule, delayed perfection of
collateral interests, 6:47
- National City Bank v. Hotchkiss,
contemporaneous exchange
exception, 6:43
- Negligent misrepresentation, ele-
ments of fraud, 2:15
- Negotiable instruments, Uniform
Commercial Code, 1:9
- New terms, ordinary course of busi-
ness exception, 6:54
- New value. Preferences, below
- No improvement of position test,
security interests in inventory or
receivables, 6:67 to 6:71
- Nonactionable representations
generally, 2:9
- law, representations concerning,
2:11
- opinion, representations concern-
ing, 2:10
- value, representations concerning,
2:12
- Nonuniform savings provision, 5:90
- Objectification of fraudulent disposi-
tion law, 5:84
- Opinion, representations concerning,
2:10
- Oral or written representations, 2:5
- Ordinary course of business excep-
tion, 6:48 to 6:57
- Parallel corporate law, relationship
with other bodies of law, 5:27 to
5:30
- Parties
generally, 1:18
- debtors and creditors, 1:19 to 1:22
- junior unsecured creditors, 1:21

**FRAUD AND
MISREPRESENTATION
—Cont'd**

- Parties—Cont'd
- standing. Creditors' standing,
above
- third parties, below
- transferors and transferees, debtors
and creditors, 1:19, 1:20
- Payment and Credit Instruments, this
index
- Payments. Preferences, below
- Personal property
foreclosure, collateral interests in
personal property, 5:79
- Uniform Commercial Code,
personal property security
interests, 1:11
- Piercing corporate veil, relationship
with other bodies of law, 5:29
- Ponzi schemes, ordinary course of
business exception, 6:57
- Preferences
generally, 6:1
- accommodation parties, to or for
benefit of creditor, 6:17
- advances or advancements,
subsequent advance excep-
tion, 6:61 to 6:64
- affiliation, limitations period, 6:33,
6:34
- amount of payment, ordinary
course of business exception,
6:51
- antecedent debt, for or on account
of, 6:19 to 6:21
- bankruptcy code § 547, structure
of statute, 6:3
- benefit of creditor, 6:16 to 6:18
- calculation of value, enhancement
of position, 6:40
- checks, limitations period, 6:29
- collection efforts, ordinary course
of business exception, 6:53
- computation of preference period,
limitations period, 6:27
- consumer debtors, payments by,
6:73
- contemporaneous exchange excep-
tion, 6:42 to 6:47
- Dean v. Davis, contemporaneous
exchange exception, 6:43

INDEX

FRAUD AND MISREPRESENTATION

—Cont'd

- Preferences—Cont'd
 - debtor in property, transfer of interest of, 6:9 to 6:14
 - definitions. Elements of preference action, below in this group
 - delayed perfection of collateral interests, contemporaneous exchange exception, 6:45 to 6:47
 - determination of secured status, enhancement of position, 6:38 to 6:40
 - dispositions, relationship with other bodies of law, 5:22 to 5:26
- Dubay v. Williams, security interests in inventory or receivables, 6:66
- earmarking doctrine, transfer of interest of debtor in property, 6:15
- elements of preference action
 - generally, 6:8
 - accommodation parties, to or for benefit of creditor, 6:17
 - affiliation, limitations period, 6:33, 6:34
 - antecedent debt, for or on account of, 6:19 to 6:21
 - benefit of creditor, 6:16 to 6:18
 - calculation of value, enhancement of position, 6:40
 - checks, limitations period, 6:29
 - computation of preference period, limitations period, 6:27
 - debtor in property, transfer of interest of, 6:9 to 6:14
 - definitions
 - debt, 6:20
 - limitations period, definition in Code, 6:32
 - determination of secured status, enhancement of position, 6:38 to 6:40
 - earmarking doctrine, transfer of interest of debtor in property, 6:15

FRAUD AND MISREPRESENTATION

—Cont'd

- Preferences—Cont'd
 - elements of preference action
 - Cont'd
 - elimination of reasonable cause to believe, debtor's insolvency, 6:25
 - enhancement of position, 6:35 to 6:40
 - garnishment, below in this group
 - incurring debt, time when, 6:21
 - insiders, limitations period, 6:31 to 6:34
 - insolvency of debtor, 6:22 to 6:25
 - limitations period, 6:26 to 6:34
 - presumptions, debtor's insolvency, 6:24
 - property, 6:11 to 6:14
 - reasonable cause to believe, debtor's insolvency, 6:25
 - secured creditors, enhancement of position, 6:37
 - standards, debtor's insolvency, 6:23
 - time
 - enhancement of position, time of valuation, 6:39
 - incurring debt, time when, 6:21
 - unsecured creditors, enhancement of position, 6:36
 - value or valuation, below in this group
 - elimination of reasonable cause to believe, debtor's insolvency, 6:25
 - enabling loan exception, 6:58 to 6:60
 - enhancement of position, 6:35 to 6:40
- exceptions
 - generally, 6:41
 - advances or advancements, subsequent advance exception, 6:61 to 6:64
 - amount of payment, ordinary course of business exception, 6:51

**FRAUD AND
MISREPRESENTATION
—Cont'd**

Preferences—Cont'd
 exceptions—Cont'd
 collection efforts, ordinary
 course of business excep-
 tion, 6:53
 contemporaneous exchange
 exception, 6:42 to 6:47
 Dean v. Davis, contemporaneous
 exchange exception, 6:43
 delayed perfection of collateral
 interests, contemporaneous
 exchange exception, 6:45
 to 6:47
 Dubay v. Williams, security
 interests in inventory or
 receivables, 6:66
 enabling loan exception, 6:58 to
 6:60
 extraordinary collection efforts,
 ordinary course of business
 exception, 6:53
 federal provisions reconciled,
 enabling loan exception,
 6:60
 form of payment, ordinary
 course of business excep-
 tion, 6:52
 grace period, enabling loan
 exception, 6:59
 Grain Merchants v. Union Bank,
 security interests in inven-
 tory or receivables, 6:66
 intervening fluctuations in value,
 security interests in inven-
 tory or receivables, 6:70
 inventory, security interests in,
 6:65 to 6:71
 liens or encumbrances, statutory
 liens, 6:72
 majority rule, delayed perfection
 of collateral interests, 6:46
 minority rule, delayed perfection
 of collateral interests, 6:47
 National City Bank v.
 Hotchkiss, contemporane-
 ous exchange exception,
 6:43
 new terms, ordinary course of
 business exception, 6:54

**FRAUD AND
MISREPRESENTATION
—Cont'd**

Preferences—Cont'd
 exceptions—Cont'd
 new value, below in this group
 no improvement of position test,
 security interests in inven-
 tory or receivables, 6:67 to
 6:71
 ordinary course of business
 exception, 6:48 to 6:57
 payments, below in this group
 Ponzi schemes, ordinary course
 of business exception, 6:57
 receivables, security interests in,
 6:65 to 6:71
 reconciling state and federal
 provisions, enabling loan
 exception, 6:60
 security interests in inventory or
 receivables, 6:65 to 6:71
 state provisions reconciled,
 enabling loan exception,
 6:60
 statutory liens, 6:72
 subsequent advance exception,
 6:61 to 6:64
 termination of business by
 debtor, ordinary course of
 business exception, 6:56
 third parties, subsequent
 advance exception, 6:63
 timing, below in this group
 unsecured claims, security
 interests in inventory or
 receivables, 6:69
 value or valuation, below in this
 group
 workout agreements, ordinary
 course of business excep-
 tion, 6:55
 extraordinary collection efforts,
 ordinary course of business
 exception, 6:53
 federal provisions reconciled,
 enabling loan exception, 6:60
 form of payment, ordinary course
 of business exception, 6:52
 garnishment
 elements of preference action
 limitations period, 6:30

INDEX

FRAUD AND MISREPRESENTATION

—Cont'd

- Preferences—Cont'd
 - garnishment—Cont'd
 - elements of preference action—Cont'd
 - transfer of interest of debtor in property, 6:12
 - limitations period, 6:30
 - transfer of interest of debtor in property, 6:12
- grace period, enabling loan exception, 6:59
- Grain Merchants v. Union Bank, security interests in inventory or receivables, 6:66
- incurring debt, time when, 6:21
- insiders, limitations period, 6:31 to 6:34
- insolvency of debtor, 6:22 to 6:25
- intervening fluctuations in value, security interests in inventory or receivables, 6:70
- inventory, security interests in, 6:65 to 6:71
- liens or encumbrances, statutory liens, 6:72
- limitations period, 6:26 to 6:34
- majority rule, delayed perfection of collateral interests, 6:46
- minority rule, delayed perfection of collateral interests, 6:47
- National City Bank v. Hotchkiss, contemporaneous exchange exception, 6:43
- new terms, ordinary course of business exception, 6:54
- new value
 - contemporaneous exchange exception, 6:44
 - subsequent advance exception, new value remain unpaid, 6:64
- no improvement of position test, security interests in inventory or receivables, 6:67 to 6:71
- ordinary course of business exception, 6:48 to 6:57
- payments
 - consumer debtors, payments by, 6:73

FRAUD AND MISREPRESENTATION

—Cont'd

- Preferences—Cont'd
 - payments—Cont'd
 - exceptions
 - consumer debtors, payments by, 6:73
 - new value remain unpaid, subsequent advance exception, 6:64
 - ordinary course of business exception, 6:49 to 6:52
 - new value remain unpaid, subsequent advance exception, 6:64
 - ordinary course of business exception, 6:49 to 6:52
- Ponzi schemes, ordinary course of business exception, 6:57
- presumptions, debtor's insolvency, 6:24
- purposes, 6:7
- reasonable cause to believe, debtor's insolvency, 6:25
- receivables, security interests in, 6:65 to 6:71
- reconciling state and federal provisions, enabling loan exception, 6:60
- relationship with other bodies of law, 5:22 to 5:26
- savings provisions, structure of statute, 6:5
- secured creditors, enhancement of position, 6:37
- security interests in inventory or receivables, 6:65 to 6:71
- standards, debtor's insolvency, 6:23
- state provisions reconciled, enabling loan exception, 6:60
- statutory liens, 6:72
- structure of statute, 6:2 to 6:5
- Subchapter V, 6:6
- subsequent advance exception, 6:61 to 6:64
- termination of business by debtor, ordinary course of business exception, 6:56
- third parties, subsequent advance exception, 6:63

**FRAUD AND
MISREPRESENTATION
—Cont'd**

Preferences—Cont'd
time
elements of preference action,
above in this group
exceptions
payment, ordinary course of
business exception, 6:49,
6:50
transfers, subsequent advance
exception, 6:62
payment, ordinary course of
business exception, 6:49,
6:50
preferences, timing of transfer,
6:28
transfer timing, 6:28
transfers
garnishment, transfer of interest
of debtor in property, 6:12
subsequent advance exception,
6:62
timing, 6:28
UFTA § 5(b), structure of statute,
6:4
unsecured claims, security interests
in inventory or receivables,
6:69
unsecured creditors, enhancement
of position, 6:36
value or valuation
contemporaneous exchange
exception, 6:44
debtor's insolvency, valuation
standards, 6:23
elements of preference action
debtor's insolvency, valuation
standards, 6:23
enhancement of position,
6:39, 6:40
enhancement of position, 6:39,
6:40
exceptions
contemporaneous exchange
exception, 6:44
security interests in inventory
or receivables, 6:70, 6:71
subsequent advance excep-
tion, 6:64

**FRAUD AND
MISREPRESENTATION
—Cont'd**

Preferences—Cont'd
value or valuation—Cont'd
security interests in inventory or
receivables, 6:70, 6:71
subsequent advance exception,
6:64
workout agreements, ordinary
course of business exception,
6:55
Presumptions, debtor's insolvency,
6:24
Prevent fraudulent transfers, Injunc-
tive relief to, 5:98
Procurement of insurance contract
fraudulently, 3:1 to 3:8
Punitive damages
generally, 2:24
constitutionality of, 2:25
Reasonable cause to believe, debtor's
insolvency, 6:25
Reasonable reliance, elements of
fraud, 2:18
Receivables, security interests in,
6:65 to 6:71
Reckless misrepresentation, elements
of fraud, 2:14
Reconciling state and federal provi-
sions, enabling loan exception,
6:60
Recovery of damages in fraud cases,
2:21 to 2:25
Rehabilitation of debtor to protect
creditor's position, interests at
stake, 1:4
Relationship with other bodies of law
corporate law, relationship with
other bodies of law, 5:27 to
5:30
preferences, 5:22 to 5:26
sources of fraudulent disposition
law, 5:16 to 5:30
Reliance on misrepresentation, insur-
ance fraud, 3:5
Remedies
creditors' standing, 5:88
dispositions, sources of fraudulent
disposition law, 5:17 to 5:19
Representations concerning the law,
elements of fraud, 2:11

INDEX

FRAUD AND MISREPRESENTATION —Cont'd

Restatements, conflict of laws in
fraud actions, 2:28

Restrictions on corporate dividends,
relationship with other bodies of
law, 5:30

RICO. Lender Liability Theories, this
index

Rights of creditor, interests at stake,
1:3

Sales, this index

Savings provisions

- bankruptcy code and UVTA, 5:94
to 5:97
- dispositions

 - generally, 5:89
 - bankruptcy code and UVTA,
5:94 to 5:97
 - nonuniform savings provision,
5:90

- Uniform Fraudulent Convey-
ance Act (UFCA), this
index
- UVTA, bankruptcy code and,
5:94 to 5:97
- nonuniform savings provision,
5:90
- preferences, structure of statute,
6:5
- Uniform Fraudulent Conveyance
Act (UFCA), this index
- UVTA, bankruptcy code and, 5:94
to 5:97

Scienter, elements of fraud, 2:13

Second restatement, conflict of laws
in fraud actions, 2:28

Secured creditors, enhancement of
position, 6:37

Secured Transactions, this index

Security interests in inventory or
receivables, 6:65 to 6:71

Seminal cases, foreclosure of collat-
eral interests, 5:78

Sources of law and transactional
contexts

- generally, 1:5
- Bankruptcy Abuse Prevention and
Consumer Protection Act of
2005, 1:16

FRAUD AND MISREPRESENTATION —Cont'd

Sources of law and transactional
contexts—Cont'd

- common law, fraudulent disposi-
tion law, 1:13
- dispositions, fraudulent disposition
law, 1:12 to 1:15, 5:1 to 5:30
- federal law, Bankruptcy Abuse
Prevention and Consumer
Protection Act of 2005, 1:16
- foreclosure of collateral interests,
5:9
- fraudulent disposition law, 1:12 to
1:15, 5:1 to 5:30
- lender liability theories, 1:17
- letters of credit, Uniform Com-
mercial Code, 1:10
- negotiable instruments, Uniform
Commercial Code, 1:9
- personal property security
interests, Uniform Com-
mercial Code, 1:11
- sales of goods, Uniform Com-
mercial Code, 1:8
- state law, 1:6 to 1:15
- Statute of 13 Elizabeth, fraudulent
disposition law, 1:13
- UFCA, fraudulent disposition law,
1:14
- UFTA, fraudulent disposition law,
1:15
- Uniform Commercial Code, this
index

Standards, debtor's insolvency, 6:23

Standing. Creditors' standing, above
State law

- enabling loan exception, state pro-
visions reconciled, 6:60
- sources of law and transactional
contexts, 1:6 to 1:15

Statute of 13 Elizabeth, this index

Statutes

- liens, 6:72
- preferences, structure of statute,
6:2 to 6:5
- Statute of 13 Elizabeth, this index

Striking a balance, interests at stake,
1:1

Submission of fraudulent insurance
claim, 3:982113:19

**FRAUD AND
MISREPRESENTATION
—Cont'd**

Subordination, relationship with other bodies of law, 5:28

Subsequent advance exception, 6:61 to 6:64

Superior knowledge, actionable representations, 2:8

Supplementary law, UCC and, 5:20

Termination of business by debtor, ordinary course of business exception, 6:56

Third parties

- generally, 1:22
- subsequent advance exception, 6:63

Time

- delayed perfection of collateral interests, contemporaneous exchange exception, 6:45 to 6:47
- future acts, representations regarding, 2:6
- grace period, enabling loan exception, 6:59
- preferences, above

Torts

- conflict of laws in fraud actions, 2:27
- Lender Liability Theories, this index

Transactional contexts. Sources of law and transactional contexts, above

Transfers

- parties, debtors and creditors, 1:19, 1:20
- preferences, above
- Uniform Fraudulent Transfer Act (UFTA), this index

Twyne's Case, relationship with other bodies of law, 5:23

UFCA. Uniform Fraudulent Conveyance Act (UFCA), this index

UFTA. Uniform Fraudulent Transfer Act (UFTA), this index

Uniform Commercial Code, this index

Uniform Fraudulent Conveyance Act (UFCA), this index

**FRAUD AND
MISREPRESENTATION
—Cont'd**

Uniform Fraudulent Transfer Act (UFTA), this index

Unsecured claims, security interests in inventory or receivables, 6:69

Unsecured creditors, enhancement of position, 6:36

Validity of disposition between immediate parties, sources of fraudulent disposition law, 5:15

Value or valuation

- insolvency of debtor, valuation standards, 6:23
- nonactionable representations concerning value, 2:12
- preferences, above
- security interests in inventory or receivables, 6:70, 6:71
- subsequent advance exception, 6:64

**FRAUDULENT DISPOSITION
LAW**

Uniform Fraudulent Conveyance Act (UFCA), sources, 1:14, 5:18

FUTURE ACTS

Fraud and misrepresentation, representations regarding future acts, 2:6 G

GAIN OR LOSS

Bankruptcy, this index

GARNISHMENT

Fraud and Misrepresentation, this index

GENERAL GIFT

Statute of 13 Elizabeth, constructively fraudulent dispositions, 5:37

GENERIC FRAUD

Lender Liability Theories, this index

Relationship with other bodies of law, 5:21

GIFTS

Fraud and misrepresentation, transactional contexts, 5:4

INDEX

GOOD FAITH

- Lender liability theories, Uniform Commercial Code as source for tort liability, 8:19
- Payment and Credit Instruments, this index
- Secured transactions, good faith and the standard, 4:134
- Statute of 13 Elizabeth, good faith protestations, 5:43
- Uniform Fraudulent Conveyance Act (UFCA), this index

GOVERNING LAW

- Fraud and Misrepresentation, this index

GRACE PERIOD

- Fraud and misrepresentation, enabling loan exception, 6:59

GRAIN MERCHANTS V. UNION BANK

- Fraud and misrepresentation, security interests in inventory or receivables, 6:66

GUARANTIES

- Intercompany Guaranties, this index
- H

HINDRANCE

- Bankruptcy, hindering creditors, 7:4 to 7:6
- Statute of 13 Elizabeth, intent to hinder, 5:35

HISTORICAL CONTEXT

- Bulk transfers, 4:101
- Fraud and misrepresentation, sources of law in historical context, 5:10 to 5:14
- Insurance fraud, 3:1
- Uniform Fraudulent Conveyance Act (UFCA), sources of law in historical context, 5:12

HOLDER IN DUE COURSE

- Payment and Credit Instruments, this index I

IDENTIFICATION

- Payment and Credit Instruments, this index

IMPACT ON COMMERCE

- Uniform Commercial Code, this index

IMPEDIMENT TO DISCHARGE

- Bankruptcy, this index

IMPLIED RATIFICATION

- Payment and credit instruments, 4:51

IMPOSTURE RULE

- Payment and credit instruments, drawer in position to have prevented forgery, 4:57

INADEQUACY

- Adequacy or Inadequacy, this index

INCIDENTAL DAMAGES

- Sales, incidental and consequential damages, 4:9

INCURRING DEBTS

- Uniform Fraudulent Conveyance Act (UFCA), incurring debts beyond ability to pay, 5:48

INDEPENDENCE PRINCIPLE

- Letters of Credit, this index

INDICIA OF FRAUD

- Secured transactions, 4:136

INDORSEMENTS

- Payment and Credit Instruments, this index

INDUCEMENT

- Payment and credit instruments, defenses against holder in due course, 4:40

INFERENCES

- Bankruptcy, intent by inference, 7:36

INITIAL TRANSACTIONS STATEMENT

- Documents of title and investment securities, alteration of initial transactions statement, 4:123

INJUNCTIONS

- Fraudulent transfers, Injunctive relief to prevent, 5:98
- Letters of credit, principle of independence, 4:91

INJUNCTIVE RELIEF

Prevent fraudulent transfers, 5:98

INNOCENT INSURED

Insurance fraud, 3:17

INNOCENT

MISREPRESENTATIONS

Elements of fraud, 2:16

Sales, warranty liability and innocent misrepresentation, 4:33

INSIDERS

Fraud and misrepresentation, limitations period, 6:31 to 6:34

INSOLVENCY

Fraud and misrepresentation, insolvency of debtor, 6:22 to 6:25

Uniform Fraudulent Conveyance Act (UFCA), this index

INSURANCE FRAUD

Generally, 3:1 to 3:8, 3:982113:19

Catastrophe, caution by insurer following, 3:18

Categories of fraudulent claims, 3:11

Civil action by insurer, 3:16

Concealment, 3:7

Criminal action by insurer, 3:15

Denial of fraudulent claim, 3:14

Effect of fraudulent insurance claim on innocent insured, 3:17

Elements of fraudulent claim, 3:10

False swearing, 3:8

Falsity, 3:3

Federal curtailment of fraudulent insurance claims, 3:19

Innocent insured, 3:17

Insurer's obligation to report fraudulent claim, 3:12

Insurer's redress

generally, 3:13

civil action, 3:16

criminal action, 3:15

denial of claim, 3:14

submission of fraudulent claim by insured, 3:13 to 3:19

Intent, 3:6

Materiality, 3:4

Misrepresentations, 3:2 to 3:6

INSURANCE FRAUD—Cont'd

Natural disaster, caution by insurer following, 3:18

Obligation of insurer to report fraudulent claims, 3:12

Procurement of insurance contract, 3:1 to 3:8

Public insurer protection, 3:19

Redress. Insurer's redress, above

Reliance, 3:5

Report of fraudulent claim by insurer, 3:12

Submission of fraudulent insurance claim, 3:9 to 3:19

INTENT

Bankruptcy, this index

Fraud and Misrepresentation, this index

Insurance fraud, 3:6

Lender liability theories, intentional fraud, 8:15 to 8:17

Statute of 13 Elizabeth, constructively fraudulent dispositions, 5:34 to 5:37

INTERCORPORATE

GUARANTIES

Bankruptcy code Section 548, constructively fraudulent dispositions, 5:75

Constructively fraudulent dispositions

generally, 5:72

bankruptcy code Section 548, 5:75

Rubin v. Manufacturers Hanover Trust, 5:73

UFCA, 5:74

UFTA, 5:76

Dispositions

constructively fraudulent dispositions, above

transactional contexts, 5:8

Fraud and misrepresentation

bankruptcy code Section 548, 5:75

constructively fraudulent dispositions, above

dispositions, above

Rubin v. Manufacturers Hanover Trust, 5:73

transactional contexts, 5:8

UFCA, 5:74

INDEX

INTERCORPORATE

GUARANTIES—Cont'd

- Fraud and misrepresentation—Cont'd
UFTA, 5:76
- Rubin v. Manufacturers Hanover
Trust, constructively fraudulent
dispositions, 5:73
- Transactional contexts, fraud and
misrepresentation, 5:8
- UFCA, constructively fraudulent
dispositions, 5:74
- UFTA, constructively fraudulent
dispositions, 5:76

INTERESTS AT STAKE

- Fraud and Misrepresentation, this
index

INTERFERENCE

- Lender liability theories, interference
with management, 8:14

INTERPRETATION

- Construction or Interpretation, this
index

INTERRELATIONSHIPS

- Lender liability theories, inter-
relationship of theories, 8:3 to
8:6

INTERVENTION

- Fraud and misrepresentation,
intervening fluctuations in value,
6:70

INTRAFAMILIAL

- Family or Relatives, this index

INVENTORY

- Fraud and misrepresentation, security
interests in inventory, 6:65 to
6:71

INVESTMENT SECURITIES

- Documents of Title and Investment
Securities, this index

IRAN CASES

- Letters of credit, balancing fraud
allegations and commercial
interests, 4:99 J

JUNIOR UNSECURED

CREDITORS

- Fraud and misrepresentation, 1:21

JUSTIFICATION

- Bankruptcy, this index K

KNOWLEDGE

- Notice or Knowledge, this index L

LAW SCHOOLS

- Fraud and misrepresentation,
opinions, 2:10

LENDER LIABILITY THEORIES

- Advance clauses, loan agreement
provisions, 8:27
- Cause of action, RICO, 8:31
- Commitment letter, loan agreement
provisions, 8:28
- Contract attacks on lender-borrower
contract, 8:25
- Contract liability
 - advance clauses, loan agreement
provisions, 8:27
 - commitment letter, loan agreement
provisions, 8:28
 - contract attacks on lender-bor-
rower contract, 8:25
 - discretionary advance clauses, loan
agreement provisions, 8:27
 - fraud and misrepresentation, gener-
ally, 8:6, 8:22 to 8:29
 - letters, below in this group
 - loan agreement provisions, 8:26 to
8:29
 - proposal letters, loan agreement
provisions, 8:29
 - tort attacks on lender-borrower
contract, 8:24
- Uniform Commercial Code
 - contract principles, 8:23 to
8:25
- Discretionary advance clauses, loan
agreement provisions, 8:27
- Duress, tort liability, 8:13
- Elements of RICO cause of action,
8:31
- Expanding scope of RICO lender
liability, 8:9
- Federalization under lender liability
law, RICO, 8:7 to 8:9
- Fiduciary duty breach, tort liability,
8:16, 8:17
- Fraud and misrepresentation, gener-
ally, 8:1 to 8:9

LENDER LIABILITY THEORIES

—Cont'd

- Generic fraud
 - RICO, relationship to generic fraud, 8:8
 - tort liability, 8:11 to 8:18
- Good faith, Uniform Commercial Code as source for tort liability, 8:19
- Intentional fraud, tort liability, 8:15 to 8:17
- Interference with management, tort liability, 8:14
- Interrelationship of theories, 8:3 to 8:6
- Less than intentional fraud, tort liability, 8:15 to 8:17
- Letters
 - commitment letter, loan agreement provisions, 8:28
 - fraud and misrepresentation
 - commitment letter, loan agreement provisions, 8:28
 - proposal letters, loan agreement provisions, 8:29
 - proposal letters, loan agreement provisions, 8:29
- Management, interference with, 8:14
- Pervasiveness of fraud theories, 8:4
- Prime rate cases, RICO, 8:34
- Proposal letters, loan agreement provisions, 8:29
- Relationship to preceding chapters, 8:2
- RICO
 - cause of action, 8:31
 - elements of cause of action, 8:31
 - expanding scope of RICO lender liability, 8:9
 - federalization under lender liability law, 8:7 to 8:9
 - fraud and misrepresentation, generally, 8:30 et seq.
 - generic fraud, relationship to, 8:8
 - lender liability cases, 8:33
 - other RICO theories, 8:35
 - prime rate cases, 8:34
 - Sedima, SPRL v. Imrex Co., 8:32
 - Sedima, SPRL v. Imrex Co., 8:32
 - Sources of law and transactional contexts, 1:17

LENDER LIABILITY THEORIES

—Cont'd

- State National Bank v. Farah Manufacturing Co., 8:12
- Tension between tort and contract principles, 8:6
- Tort liability
 - contract liability, tort attacks on lender-borrower contract, 8:24
 - duress, 8:13
 - fiduciary duty, breach of, 8:16, 8:17
 - fraud and misrepresentation, generally, 8:6, 8:10 to 8:21
 - fraud liability between lenders, 8:18
 - generic fraud, 8:11 to 8:18
 - good faith, Uniform Commercial Code as source for tort liability, 8:19
 - intentional fraud, less than, 8:15 to 8:17
 - interference with management, 8:14
 - lenders, fraud liability between, 8:18
 - less than intentional fraud, 8:15 to 8:17
 - management, interference with, 8:14
 - State National Bank v. Farah Manufacturing Co., 8:12
 - Uniform Commercial Code as source for tort liability, 8:19 to 8:21
- Uniform Commercial Code
 - contract liability, 8:22 to 8:29
 - good faith, Uniform Commercial Code as source for tort liability, 8:19
 - theories, 8:5
 - tort liability, 8:19 to 8:21

LESS THAN INTENTIONAL FRAUD

- Lender liability theories, 8:15 to 8:17

LETTERS

- Credit. Letters of Credit, this index
- Lender Liability Theories, this index

INDEX

LETTERS OF CREDIT

- Approach and theories, balancing fraud allegations and commercial interests, 4:90 to 4:95
- Bad faith and fraud, relationship between, 4:95
- Balancing fraud allegations and commercial interests
 - generally, 4:83
 - approach and theories, 4:90 to 4:95
 - bad faith and fraud, relationship between, 4:95
 - breach of warranty distinguished, 4:85
 - closing the fraud loophole, 4:96
 - common law, independence principle, 4:84 to 4:86
 - construction of Section 5-114(2), independence principle, 4:89
 - credit transactions, principle of independence, 4:92
 - distinguishing breach of warranty, 4:85
 - egregious fraud standard, 4:97
 - evidence of fraud as insufficient, 4:98
 - independence principle, common law, 4:84 to 4:86
 - independence principle, Section 5-114, 4:87 to 4:99
 - injunctive relief, principle of independence, 4:91
 - insufficient evidence of fraud, 4:98
 - Iran cases, 4:99
 - reconciling Sztejn and Asbury Park, 4:86
 - theories, approach and, 4:90 to 4:95
 - types of fraud, connection between, 4:94
 - underlying transactions, principle of independence, 4:93
- Breach of warranty distinguished, 4:85
- Closing the fraud loophole, 4:96
- Commercial interests. Balancing fraud allegations and commercial interests, above
- Commercial value of instrument, 4:82
- Common law, independence principle, 4:84 to 4:86

LETTERS OF CREDIT—Cont'd

- Construction of Section 5-114(2), independence principle, 4:89
- Credit transactions, principle of independence, 4:92
- Distinguishing breach of warranty, 4:85
- Egregious fraud standard, 4:97
- Evidence of fraud as insufficient, 4:98
- Fraud and misrepresentation
 - generally, 1:10
 - balancing fraud allegations and commercial interests, above
 - commercial value of instrument, 4:82
 - Uniform Commercial Code, 1:10
- Independence principle
 - common law, 4:84 to 4:86
 - Section 5-114, 4:87 to 4:99
- Injunctive relief, principle of independence, 4:91
- Insufficient evidence of fraud, 4:98
- Iran cases, balancing fraud allegations and commercial interests, 4:99
- Reconciling Sztejn and Asbury Park, balancing fraud allegations and commercial interests, 4:86
- Theories, balancing fraud allegations and commercial interests, 4:90 to 4:95
- Types of fraud, connection between, 4:94
- Underlying transactions, principle of independence, 4:93
- Uniform Commercial Code, fraud and misrepresentation, 1:10

LEVERAGED BUYOUTS

- Bankruptcy code Section 548, leveraged buyouts and, 5:70
- Constructively fraudulent dispositions
 - bankruptcy code Section 548, leveraged buyouts and, 5:70
 - fraud and misrepresentation, generally, 5:68
- UFCA, leveraged buyouts and, 5:69
- UFTA, leveraged buyouts and, 5:71

LEVERAGED BUYOUTS—Cont'd

Dispositions
 constructively fraudulent dispositions, above
 transactional contexts, 5:7
 Fraud and misrepresentation
 bankruptcy code Section 548, leveraged buyouts and, 5:70
 constructively fraudulent dispositions, above
 dispositions, above
 UFCA, leveraged buyouts and, 5:69
 UFTA, leveraged buyouts and, 5:71
 Transactional contexts, 5:7
 UFCA, leveraged buyouts and, 5:69
 UFTA, leveraged buyouts and, 5:71

LIBERAL INTERPRETATIONS

Bankruptcy, liberal interpretation of reliance, 7:60

LIENS AND ENCUMBRANCES

Fraud and misrepresentation, statutory liens, 6:72

LIMITATION OF ACTIONS

Bulk Transfers, this index
 Fraud and misrepresentation, preferences, 6:26 to 6:34

LIMITATIONS OR RESTRICTIONS

Fraud and misrepresentation, restrictions on corporate dividends, 5:30
 Payment and Credit Instruments, this index
 Sales, this index
 Statute of limitations. Limitation of Actions, this index

LISTS OR SCHEDULES

Bankruptcy, schedules amended, 7:21

LOSS ALLOCATION

Payment and credit instruments, loss allocation in cases of fraudulent alteration, 4:47 to 4:64

LOSS OF ASSETS

Failure to explain, 7:25

LUXURY GOODS

Bankruptcy, consumer debt for under Section 523(a)(2)(C), 7:63 M

MAJORITY RULE

Fraud and misrepresentation, delayed perfection of collateral interests, 6:46

MANAGERS AND MANAGEMENT

Lender liability theories, interference with management, 8:14

MANUFACTURERS

Bulk transfers, 4:105

MATERIALITY

Bankruptcy, denial of discharge under Section 727(a)(4), 7:20
 Insurance fraud, 3:4
 Payment and credit instruments, materiality of alteration, 4:44 to 4:46

MATERIALLY FALSE

Bankruptcy, materially false statements, 7:54 to 7:59

MATURITY

Fraud and misrepresentation, maturity of claim, 5:88

MERCHANTS

Bulk transfers, 4:105

MINORITY RULE

Fraud and misrepresentation, delayed perfection of collateral interests, 6:47

MISREPRESENTATION

Fraud and Misrepresentation, this index

MORTGAGES

Bulk Transfers, this index N

NATIONAL CITY BANK V. HOTCHKISS

Fraud and misrepresentation, contemporaneous exchange exception, 6:43

NATURAL DISASTER

Insurance fraud, caution by insurer, 3:18

INDEX

NEGLIGENCE

- Fraud and misrepresentation, negligent misrepresentation, 2:15
- Payment and credit instruments, preclusion based on negligence, 4:52 to 4:54

NEGOTIABLE INSTRUMENTS

- Uniform Commercial Code, this index

NEGOTIATION

- Documents of title and investment securities, rights to documents of title acquired by due negotiation, 4:122
- Payment and credit instruments, negotiation obtained by fraud, 4:41

NEW TERMS

- Fraud and misrepresentation, ordinary course of business exception, 6:54

NEW VALUE

- Fraud and Misrepresentation, this index

NO IMPROVEMENT OF POSITION TEST

- Fraud and misrepresentation, security interests in inventory or receivables, 6:67 to 6:71

NONACTIONABLE REPRESENTATIONS

- Fraud and Misrepresentation, this index

NONCOMPLIANCE

- Bulk Transfers, this index

NONUNIFORM SAVINGS PROVISION

- Fraud and misrepresentation, 5:90

NONUNIFORM STATUTORY SOLUTIONS

- Bulk transfers, 4:119

NOTICE OR KNOWLEDGE

- Bankruptcy, knowingly making false representations, 7:34, 7:49
- Bulk Transfers, this index

NOTICE OR KNOWLEDGE

—Cont'd

- Payment and Credit Instruments, this index O

OATH

- Bankruptcy, denial of discharge under Section 727(a)(4), 7:19 to 7:22

OBJECTIVE STANDARDS

- Payment and credit instruments, objective good faith standard, 4:61

OPERATION OF STANDARD

- Secured transactions, 4:133

OPINION

- Fraud and misrepresentation, representations concerning opinion, 2:10

ORDINARY COURSE OF BUSINESS

- Fraud and misrepresentation, ordinary course of business exception, 6:48 to 6:57
- Secured transactions, ordinary course of business buyers, protection of, 4:129

ORIGINAL UCC ARTICLE 3

- Payment and credit instruments, bank liability for fiduciary fraud, 4:66 to 4:69

OWNERSHIP

- Title and Ownership, this index P

PADDED PAYROLL CASES

- Payment and credit instruments, drawer in position to have prevented forgery, 4:58

PARALLEL CORPORATE LAW

- Fraud and misrepresentation, relationship with other bodies of law, 5:27 to 5:30

PAROL MATTERS

- Fraud and misrepresentation, oral or written representations, 2:5

PARTIES

- Bulk Transfers, this index

PARTIES—Cont'd

- Fraud and Misrepresentation, this index
- Third Parties, this index
- Uniform Fraudulent Conveyance Act (UFCA), this index

PARTNERSHIP

- Constructively fraudulent dispositions
 - Bankruptcy Code Section 548, 5:65
 - Uniform Fraudulent Conveyance Act (UFCA), 5:54
 - Uniform Fraudulent Transfer Act (UFTA), 5:66

PAYMENT AND CREDIT INSTRUMENTS

- Accord and satisfaction, alteration of, 4:46
- Alterations
 - accord and satisfaction, alteration of, 4:46
 - definitions
 - fraudulence and materiality, 4:45
 - ratification, 4:50
 - estoppel, preclusion based on, 4:52 to 4:54
 - forgery, below
 - fraud and misrepresentation, generally, 4:42, 4:43
 - good faith
 - estoppel or negligence, preclusion based on, 4:54
 - objective good faith standard, revision of Article 3, 4:61
 - implied ratification, 4:51
 - imposture rule, drawer in position to have prevented forgery, 4:57
 - indorsement, drawer in position to have prevented forgery, 4:56
 - loss allocation in cases of fraudulent alteration, 4:47 to 4:64
 - materiality of alteration, 4:44 to 4:46
 - negligence, preclusion based on, 4:52 to 4:54
 - objective good faith standard, revision of Article 3, 4:61

PAYMENT AND CREDIT

INSTRUMENTS—Cont'd

- Alterations—Cont'd
 - padded payroll cases, drawer in position to have prevented forgery, 4:58
 - payee, effect of forgery on, 4:59
 - payment in good faith, preclusion based on estoppel or negligence, 4:54
 - preclusion based on estoppel or negligence, 4:52 to 4:54
 - prevention of forgery, drawer in position, 4:55 to 4:58
 - ratification by party whose name is signed, 4:49 to 4:51
 - revision, below
 - signatures, below
 - validity of forgery not denied, 4:48 to 4:58
- Bank liability for fiduciary fraud
 - defenses. Notice of claims or defenses, below in this group
 - employee fraud, 4:79
 - good faith under revised UCC Article 3, 4:78
 - identifying proper payee
 - original UCC Article 3, 4:67
 - revised UCC Article 3, 4:71
 - indorsements. Restrictive indorsements, below in this group
 - notice of claims or defenses
 - original UCC Article 3, 4:69
 - revised UCC Article 3, 4:73 to 4:77
 - original UCC Article 3, 4:66 to 4:69
 - restrictive indorsements
 - original UCC Article 3, 4:68
 - revised UCC Article 3, 4:72
 - revision
 - Article 3, 4:70 to 4:81
 - Sections 3-404 and 3-406, 4:80
 - summary of revised Article 3 rules regarding bank liability for fiduciary fraud, 4:81
 - Uniform Fiduciaries Act, 4:65
- Case law, shelter principle, 4:37
- Defenses
 - bank liability for fiduciary fraud, above

INDEX

PAYMENT AND CREDIT

INSTRUMENTS—Cont'd

Defenses—Cont'd

holder in due course. Defenses
against holder in due course,
above

Defenses against holder in due course

fact, fraud in fact, 4:39

fraud, generally, 4:38

inducement, fraud in, 4:40

Definitions

fraudulence and materiality, 4:45

ratification, 4:50

Employee fraud, bank liability for
fiduciary fraud, 4:79

Estoppel, preclusion based on, 4:52
to 4:54

Fact, fraud in fact, 4:39

Fiduciaries. Bank liability for fidu-
ciary fraud, above

Forgery

imposture rule, drawer in position
to have prevented forgery,
4:57

indorsement, drawer in position to
have prevented forgery, 4:56

padded payroll cases, drawer in
position to have prevented
forgery, 4:58

payee, effect of forgery on, 4:59

preclusion based on estoppel or
negligence, 4:53

prevention of forgery, drawer in
position, 4:55 to 4:58

ratification by party whose name is
signed, 4:49 to 4:51

signatures

preclusion based on estoppel or
negligence, 4:53

ratification by party whose name
is signed, 4:49 to 4:51

validity of forgery not denied, 4:48
to 4:58

Fraud and misrepresentation

alterations, above

bank liability for fiduciary fraud,
above

case law, shelter principle, 4:37

defenses against holder in due
course, above

forgery, above

PAYMENT AND CREDIT

INSTRUMENTS—Cont'd

Fraud and misrepresentation—Cont'd

limitations, shelter principle, 4:36

negotiable instruments, 4:34

negotiation obtained by fraud, 4:41

shelter principle, 4:35 to 4:37

Good faith

alterations, above

bank liability for fiduciary fraud,
good faith under revised UCC
Article 3, 4:78

estoppel or negligence, preclusion
based on, 4:54

Holder in due course. Defenses

against holder in due course,
above

Identifying proper payee. Bank
liability for fiduciary fraud,
above

Implied ratification, 4:51

Imposture rule, drawer in position to
have prevented forgery, 4:57

Indorsements

alterations, drawer in position to
have prevented forgery, 4:56

bank liability for fiduciary fraud,
above

Inducement, defenses against holder
in due course, 4:40

Limitations or restrictions

indorsements, restrictive. Bank
liability for fiduciary fraud,
above

shelter principle, 4:36

Loss allocation in cases of fraudulent
alteration, 4:47 to 4:64

Materiality of alteration, 4:44 to 4:46

Negligence, preclusion based on,
4:52 to 4:54

Negotiable instruments, 4:34

Negotiation obtained by fraud, 4:41

Notice of claims or defenses. Bank
liability for fiduciary fraud,
above

Objective good faith standard, revi-
sion of Article 3, 4:61

Original UCC Article 3, bank liability
for fiduciary fraud, 4:66 to 4:69

Padded payroll cases, drawer in posi-
tion to have prevented forgery,
4:58

PAYMENT AND CREDIT

INSTRUMENTS—Cont'd

- Payee, effect of forgery on, 4:59
- Preclusion based on estoppel or negligence, 4:52 to 4:54
- Prevention of forgery, drawer in position, 4:55 to 4:58
- Ratification by party whose name is signed, 4:49 to 4:51
- Restrictive indorsements. Bank liability for fiduciary fraud, above
- Revision
 - Article 3, 4:60 to 4:63
 - bank liability for fiduciary fraud, above
 - Section 4-406, 4:64
- Shelter principle, fraud and misrepresentation, 4:35 to 4:37
- Summary of revised Article 3 rules regarding bank liability for fiduciary fraud, 4:81
- Uniform Fiduciaries Act, bank liability for fiduciary fraud, 4:65
- Validity of forgery not denied, 4:48 to 4:58

PAYMENTS

- Credit instruments. Payment and Credit Instruments, this index
- Fraud and Misrepresentation, this index

PENDING MATTERS

- Statute of 13 Elizabeth, pending the writ, 5:42

PERFECTION OF SECURITY INTEREST

- Secured Transactions, this index

PERSONAL PROPERTY

- Fraud and Misrepresentation, this index
- Uniform Commercial Code, this index

PERVASIVENESS

- Lender liability theories, pervasiveness of fraud theories, 8:4

PHYSICIANS

- Confidential agreement, superior knowledge, 2:8

PIERCING CORPORATE VEIL

- Fraud and misrepresentation, relationship with other bodies of law, 5:29

PONZI SCHEMES

- Fraud and misrepresentation, ordinary course of business exception, 6:57

POSSIBILITY

- Secured transactions, possibility of fraud, 4:125

PRECLUSION

- Payment and credit instruments, preclusion based on estoppel or negligence, 4:52 to 4:54

PREFERENCES

- Fraud and Misrepresentation, this index
- Uniform Fraudulent Transfer Act (UFTA), structure of statute, 6:4

PRESENTATION

- Bankruptcy, presentation of false claim, 7:23

PRESERVATION

- Bankruptcy, preservation of records failure, 7:16

PRESUMPTIONS

- Fraud and misrepresentation, debtor's insolvency, 6:24

PREVENTION

- Injunctive relief to prevent fraudulent transfers, 5:98
- Payment and credit instruments, drawer in position to prevent forgery, 4:55 to 4:58

PRIME RATE

- Lender liability theories, RICO, 8:34

PRIOR MATTERS

- Bankruptcy, prior determination of fraud, 7:46

PROCEDURE

- Sales, procedural unconscionability, 4:13

INDEX

PROPERTY

- Bankruptcy, exceptions to discharge under Section 523(a)(2)(A), 7:28
- Personal property. Fraud and Misrepresentation, this index

PROPOSALS

- Lender liability theories, proposal letters, 8:29

PROTESTS

- Statute of 13 Elizabeth, protestations of good faith, 5:43

PUBLIC INSURER

- Insurance fraud, 3:19

PUNITIVE DAMAGES

- Excessiveness, 2:25
- Fraud and Misrepresentation, this index
- Sales, 4:8 Q

QUALITY

- Bulk transfers, 4:112

QUANTITY

- Amount or Quantity, this index R

RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS (RICO)

- Lender Liability Theories, this index

RATIFICATION

- Payment and credit instruments, ratification by party whose name is signed, 4:49 to 4:51

RE-EXAMINATION

- Bankruptcy, re-examination of reliance, 7:62

REASONABLE OR REASONABLENESS

- Bankruptcy, this index
- Fraud and Misrepresentation, this index
- Uniform Fraudulent Conveyance Act (UFCA), unreasonably small capital, 5:47

RECANTATION

- Bankruptcy, recantation by debtor, 7:21

RECEIVABLES

- Fraud and misrepresentation, security interests in receivables, 6:65 to 6:71

RECKLESS

MISREPRESENTATION

- Fraud and misrepresentation, elements of fraud, 2:14

RECLAMATION

- Sales, this index

RECONCILIATION

- Fraud and misrepresentation, reconciling state and federal provisions, 6:60
- Letters of credit, reconciling Sztejn and Asbury Park, 4:86

RECORDS

- Bankruptcy, denial of discharge under Section 727(a)(3) for failure to keep or preserve adequate records, 7:16
- Documents of Title and Investment Securities, this index

RECOVERY

- Fraud cases, recovery of damages in, 2:21 to 2:25

REDRESS

- Insurer's redress. Insurance Fraud, this index

REFUSAL OR DENIAL

- Bankruptcy, denial of discharge, 7:2 to 7:24
- Insurance fraud, denial of fraudulent claim, 3:14

REHABILITATION

- Fraud and misrepresentation, rehabilitation of debtor to protect creditor's position, 1:4

RELATIONSHIP

- Corporate law, relationship with other bodies of law, 5:27 to 5:30
- Family or Relatives, this index
- Fraud and Misrepresentation, this index
- Lender liability theories, relationship to preceding chapters, 8:2

RELATIONSHIP—Cont'd

- Other bodies of law, relationship with. Fraud and Misrepresentation, this index
- Statute of 13 Elizabeth, this index
- Uniform Fraudulent Conveyance Act (UFCA), relationship with other bodies of law, 5:24
- Uniform Fraudulent Transfer Act (UFTA), relationship with other bodies of law, 5:25

RELATIVES

- Family or Relatives, this index

RELEVANCY

- Sales, relevant UCC definitions, 4:29

RELIANCE

- Bankruptcy, exceptions to discharge, 7:38 et seq., 7:51, 7:59 to 7:64
- Misrepresentation, insurance fraud, 3:5

REMEDIES

- Fraud and Misrepresentation, this index

REMOVAL

- Bankruptcy, denial of discharge under Section 727(a)(2), 7:13

REPORTS

- Submission of fraudulent insurance claim, reporting obligation of insurer, 3:12

REPRESENTATION

- Bankruptcy, what constitutes representation, 7:33

RES JUDICATA

- Bankruptcy, prior determination of fraud, 7:45

RESTATEMENTS

- Fraud actions, conflict of laws in, 2:28

RESTRICTIVE INDORSEMENTS

- Payment and Credit Instruments, this index

RETENTION

- Sales, fraudulent retention, 4:17 to 4:20

RETENTION—Cont'd

- Statute of 13 Elizabeth, retention of possession, 5:40

REVISION

- Bulk Transfers, this index
- Payment and Credit Instruments, this index

RICO

- Lender Liability Theories, this index

RIGHTS OF CREDITORS

- Fraud and misrepresentation, interests at stake, 1:3

ROLE OF COURT

- Sales, reclamation right of seller, 4:23

RUBIN V. MANUFACTURERS HANOVER TRUST

- Intercorporate guaranties, constructively fraudulent dispositions, 5:73 S

SALES

- Bulk transfers, selling services, 4:106
- Cash sale, reclamation right of seller, 4:27
- Checks, limitations on right to reclaim dishonored, 4:26
- Common law damages, 4:7
- Consequential damages
 - generally, 4:9
 - unconscionability, limitation or exclusion of consequential damages, 4:15
- Contractual limitation of remedies, 4:10
- Court's role, reclamation right of seller, 4:32
- Credit sale, reclamation right of seller, 4:27
- Damages
 - common law damages, 4:7
 - consequential damages, above election of remedies, generally, 4:7
 - incidental and consequential damages, 4:9
 - punitive damages, 4:8
 - statutory damages, 4:7
- Definitions, reclamation right of seller, 4:29

INDEX

SALES—Cont'd

- Dishonored checks, limitations on right to reclaim, 4:26
- Displacement of common law fraud in sales transactions, 2:30
- Election of remedies
 - contractual limitation of remedies, 4:10
 - damages, above
 - fraud and misrepresentation
 - contractual limitation of remedies, 4:10
 - damages, above
 - Section 2-721, 4:7
 - statutory and common law remedies and damages, 4:11
 - Section 2-721, 4:7
- Exclusion of consequential damages, 4:15
- Factual approach, 4:6
- Financial statements, limitations on right to reclaim, 4:25
- Fraud and misrepresentation
 - generally, 1:8
 - damages, above
 - displacement of common law fraud in sales transactions, 2:30
 - election of remedies, above
 - factual approach, 4:6
 - innocent misrepresentation, warranty liability and, 4:33
 - reclamation right of seller, below
 - retention, fraudulent, 4:17 to 4:20
 - sources of law and transactional contexts, 1:8, 5:3
 - third parties. Reclamation right of seller, below
 - title, voidable, 4:22
 - unconscionability, below
 - voidable title, 4:22
 - warranty liability and innocent misrepresentation, 4:33
- Incidental and consequential damages, 4:9
- Innocent misrepresentation, warranty liability and, 4:33
- Limitations
 - reclamation right of seller, 4:24 to 4:26

SALES—Cont'd

- Limitations—Cont'd
 - unconscionability, limitation or exclusion of consequential damages, 4:15
- Procedural unconscionability, 4:13
- Punitive damages, 4:8
- Reclamation right of seller
 - cash sale, 4:27
 - checks, limitations on right to reclaim dishonored, 4:26
 - court's role, 4:32
 - credit sale, 4:27
 - definitions, third parties, 4:29
 - dishonored checks, limitations on right to reclaim, 4:26
 - financial statements, limitations on right to reclaim, 4:25
 - fraud and misrepresentation, generally, 4:23
 - limitations on right to reclaim, 4:24 to 4:26
 - relevant UCC definitions, 4:29
 - role of court, 4:32
 - third parties
 - generally, 4:28 to 4:32
 - court's role, 4:32
 - definitions, 4:29
 - judicial application of UCC terms, seller defeats secured creditor, 4:30
 - relevant UCC definitions, 4:29
 - role of court, 4:32
 - secured creditor defeats seller, 4:31
- Relevant UCC definitions, reclamation right of seller, 4:29
- Retention, fraudulent, 4:17 to 4:20
- Role of court, reclamation right of seller, 4:32
- Section 2-721, election of remedies, 4:7
- Secured transactions, sales out of trust, 4:128 to 3:130
- Sources of law and transactional contexts, 1:8, 5:3
- Statutory damages, 4:7
- Substantive unconscionability, 4:14
- Third parties. Reclamation right of seller, above
- Title, voidable, 4:21, 4:22

SALES—Cont'd

- Unconscionability
 - consequential damages, limitation or exclusion of, 4:15
 - exclusion of consequential damages, 4:15
 - fraud and misrepresentation, generally, 4:12
 - limitation or exclusion of consequential damages, 4:15
 - procedural unconscionability, 4:13
 - Section 2A-108, 4:16
 - substantive unconscionability, 4:14
- Voidable title, 4:21, 4:22
- Warranty liability and innocent misrepresentation, 4:33

SAVINGS PROVISIONS

- Fraud and Misrepresentation, this index
- Uniform Fraudulent Conveyance Act (UFCA), this index
- UFTA, bankruptcy code and, 5:94 to 5:97

SCHEDULES

- Lists or Schedules, this index

SCIENTER

- Bankruptcy, exceptions to discharge under Section 523(a)(2)(B), 7:58
- Fraud, elements of, 2:13

SCOPE

- Bulk Transfers, this index

SECOND RESTATEMENT

- Fraud actions, conflict of laws in, 2:28

SECURED TRANSACTIONS

- Analysis, usefulness of fraud analysis, 4:136
- Chattel paper purchase, sales out of trust, 4:130
- Collusion, 4:137
- Commercially reasonable disposition of collateral, 4:131
- Disposition of collateral
 - commercially reasonable, 4:131
 - fraud and misrepresentation commercially reasonable, 4:131
 - transactional context, 4:132
- transactional context, 4:132

SECURED TRANSACTIONS

—Cont'd

- Estoppel analysis, perfection of security interest, 4:127
- Fraud and misrepresentation
 - analysis, usefulness of fraud analysis, 4:136
 - chattel paper purchase, sales out of trust, 4:130
 - commercially reasonable disposition of collateral, 4:131
 - disposition of collateral, above enhancement of position, 6:37
 - estoppel analysis, perfection of security interest, 4:127
 - fraud and the standard, 4:135
 - good faith and the standard, 4:134
 - indicia of fraud, 4:136
 - operation of standard, 4:133
 - ordinary course of business buyers, protection of, 4:129
 - perfection of security interest, below
 - possibility of fraud, 4:125
 - sales out of trust, perfection of security interest, 4:128 to 3:130
 - standards, 4:133 to 4:135
 - transactional context, 4:132
 - trust, sales out of, 4:128 to 3:130
 - usefulness of fraud analysis, 4:136
- Good faith and the standard, 4:134
- Indicia of fraud, 4:136
- Operation of standard, 4:133
- Ordinary course of business buyers, protection of, 4:129
- Perfection of security interest
 - chattel paper purchase, sales out of trust, 4:130
 - estoppel analysis, 4:127
 - fraud and misrepresentation, generally, 4:126
 - ordinary course of business buyers, protection of, 4:129
 - sales out of trust, 4:128 to 3:130
 - trust, sales out of, 4:128 to 3:130
- Possibility of fraud, 4:125
- Sales out of trust, perfection of security interest, 4:128 to 3:130
- Standards, 4:133 to 4:135

INDEX

SECURED TRANSACTIONS

—Cont'd

- Transactional context, disposition of collateral, 4:132
- Transfer of money, 4:137
- Trust, sales out of, 4:128 to 3:130
- Usefulness of fraud analysis, 4:136

SECURITY INTERESTS

- Fraud and misrepresentation, security interests in inventory or receivables, 6:65 to 6:71

SEDIMA, SPRL V. IMREX CO.

- Lender liability theories, 8:32

SEMINAL CASES

- Fraud and misrepresentation, foreclosure of collateral interests, 5:78

SERVICES

- Bankruptcy, nature of debtor's gain, 7:29
- Bulk transfers, sale of services, 4:106

SHELTER PRINCIPLE

- Payment and credit instruments, fraud and misrepresentation, 4:35 to 4:37

SOURCES OF LAW

- Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, sources of law and transactional contexts, 1:16
- Fraud and Misrepresentation, this index
- Intercompany guaranties, fraud and misrepresentation, 5:8
- Lender liability theories, 1:17
- Leveraged buyouts, transactional contexts, 5:7
- Sales, 1:8, 5:3
- Secured transactions, disposition of collateral, 4:132
- Statute of 13 Elizabeth, this index
- Uniform Commercial Code, 1:7 to 1:11
- Uniform Fraudulent Conveyance Act (UFCA), this index
- Uniform Fraudulent Transfer Act (UFTA), this index

STANDARDS

- Bankruptcy, standard of proof, 7:43

STANDARDS—Cont'd

- Fraud and misrepresentation, debtor's insolvency, 6:23
- Secured transactions, 4:133 to 4:135

STANDING

- Parties, this index

STATE LAW

- Fraud and Misrepresentation, this index

STATE NATIONAL BANK V. FARAH MANUFACTURING CO.

- Lender liability theories, 8:12

STATUTE OF 13 ELIZABETH

- Clandestine disposition, cover of fraud, 5:41
- Constructively fraudulent dispositions
 - generally, 5:32
 - clandestine disposition, cover of fraud, 5:41
 - cover of fraud, 5:39 to 5:41
 - delay, intent to, 5:35
 - general gift, 5:38
 - good faith protestations, 5:43
 - hinder, intent to, 5:35
 - intent, 5:34 to 5:37
 - intrafamilial transactions as sui generis, 5:36
 - pending the writ, 5:42
 - protestations of good faith, 5:43
 - relation back exception, 5:37
 - relationship to intentional fraud, 5:34 to 5:37
 - retention of possession, cover of fraud, 5:40
 - Twyne's Case and badges of fraud, 5:33
- Cover of fraud, constructively fraudulent dispositions, 5:39 to 5:41
- Delay, intent to, 5:35
- Dispositions. Constructively fraudulent dispositions, above
- Fraud and misrepresentation
 - constructively fraudulent dispositions, above
 - dispositions. Constructively fraudulent dispositions, above

STATUTE OF 13 ELIZABETH

—Cont'd

- Fraud and misrepresentation—Cont'd
 - relationship with other bodies of law, 5:23
 - sources of law, below
- General gift, constructively fraudulent dispositions, 5:38
- Good faith protestations, 5:43
- Hinder, intent to, 5:35
- Intent, constructively fraudulent dispositions, 5:34 to 5:37
- Intrafamilial transactions as sui generis, 5:36
- Pending the writ, 5:42
- Protestations of good faith, 5:43
- Relation back exception, 5:37
- Relationship
 - intentional fraud, relationship to, 5:34 to 5:37
 - other bodies of law, relationship with, 5:23
- Retention of possession, cover of fraud, 5:40
- Sources of law
 - fraud and misrepresentation
 - fraudulent disposition law, 1:13
 - historical context, sources of law in, 5:11
 - fraudulent disposition law, 1:13
 - historical context, sources of law in, 5:11
- Twyne's Case and badges of fraud, 5:33

STATUTES

- Bankruptcy, statutory predicate, 7:59
- Bulk transfers, nonuniform statutory solutions, 4:119
- Fraud and Misrepresentation, this index
- Limitation of Actions, this index
- Sales, statutory damages, 4:7
- Statute of 13 Elizabeth, this index

STRIKING BALANCE

- Fraud and misrepresentation, interests at stake, 1:1

SUBMITTING FRAUDULENT INSURANCE CLAIM

- Fraudulent insurance claims, 3:982113:19

SUBORDINATION

- Fraud and misrepresentation, relationship with other bodies of law, 5:28

SUBSEQUENT MATTERS

- Fraud and misrepresentation, subsequent advance exception, 6:61 to 6:64

SUBSTANTIVE UNCONSCIONABILITY

- Sales, 4:14

SUFFICIENCY OR INSUFFICIENCY

- Letters of credit, insufficient evidence of fraud, 4:98

SUMMARIES

- Payment and credit instruments, summary of revised Article 3 rules regarding bank liability for fiduciary fraud, 4:81

SUPERIOR KNOWLEDGE

- Fraud and misrepresentation, actionable representations, 2:8

SUPPLEMENTARY MATTERS

- Uniform Commercial Code, this index T

TENSION

- Lender liability theories, tension between tort and contract principles, 8:6

TERMINATION

- Fraud and misrepresentation, termination of business by debtor, 6:56

TESTS

- Bankruptcy, legal test of solvency, 5:59, 5:60

THEORIES

- Lender Liability Theories, this index
- Letters of credit, balancing fraud allegations and commercial interests, 4:90 to 4:95

THIRD PARTIES

- Fraud and Misrepresentation, this index
- Sales, this index

INDEX

TIME

- Fraud and Misrepresentation, this index
- Statute of limitations. Limitation of Actions, this index

TITLE AND OWNERSHIP

- Documents of Title and Investment Securities, this index
- Sales, voidable title, 4:21, 4:22

TORTS

- Fraud and Misrepresentation, this index
- Lender Liability Theories, this index

TRADITION

- Bankruptcy, traditional view of reliance, 7:61

TRANSACTIONAL CONTEXTS

- Sources of Law, this index

TRANSFERS

- Bulk Transfers, this index
- Fraud and Misrepresentation, this index

TRUSTS AND TRUSTEES

- Secured transactions, sales out of trust, 4:128 to 3:130

TWYNE'S CASE

- Fraud and misrepresentation, relationship with other bodies of law, 5:23
- Statute of 13 Elizabeth, Twyne's Case and badges of fraud, 5:33
- U

UCC

- Uniform Commercial Code, this index

UFCA

- Uniform Fraudulent Conveyance Act (UFCA), this index

UFTA

- Uniform Fraudulent Transfer Act (UFTA), this index

UNCONSCIONABILITY

- Sales, this index

UNDERLYING TRANSACTIONS

- Letters of credit, principle of independence, 4:93

UNIFORM COMMERCIAL CODE

- Analysis, fraud and misrepresentation, 4:2
- Article 2. Sales, this index
- Article 3. Payment and Credit Instruments, this index
- Article 4. Payment and Credit Instruments, this index
- Article 5. Letters of Credit, this index
- Article 6. Bulk Transfers, this index
- Article 7. Documents of Title and Investment Securities, this index
- Article 8. Documents of Title and Investment Securities, this index
- Article 9. Secured Transactions, this index
- Balancing analysis, fraud and misrepresentation, 4:2
- Bulk Transfers, this index
- Commercial context. Fraud and misrepresentation, below
- Common law displacement in sales transactions, 2:30
- Construction of Section 1-103, 4:4
- Displacement of common law fraud in sales transactions, 2:30
- Documents of Title and Investment Securities, this index
- Fraud and misrepresentation analysis, balancing analysis, 4:2
- Article 2. Sales, this index
- Article 3. Payment and Credit Instruments, this index
- Article 4. Payment and Credit Instruments, this index
- Article 5. Letters of Credit, this index
- Article 6. Bulk Transfers, this index
- Article 7. Documents of Title and Investment Securities, this index
- Article 8. Documents of Title and Investment Securities, this index
- Article 9. Secured Transactions, this index
- balancing analysis, 4:2

UNIFORM COMMERCIAL CODE

—Cont'd

Fraud and misrepresentation—Cont'd
 Bulk Transfers, this index
 commercial context, generally, 4:5
 common law displacement in sales transactions, 2:30
 construction of Section 1-103, 4:4
 displacement of common law fraud in sales transactions, 2:30
 Documents of Title and Investment Securities, this index
 impact on commerce, generally, 4:1
 Letters of Credit, this index
 negotiable instruments, generally, 1:9
 Payment and Credit Instruments, this index
 personal property security interests, generally, 1:11
 Sales, this index
 Section 1-103, 4:3, 4:4
 Secured Transactions, this index
 sources of law and transactional contexts, 1:7 to 1:11
 supplementary legal and equitable principles, 4:3, 4:4
 Impact on commerce. Fraud and misrepresentation, above
 Investment securities. Documents of Title and Investment Securities, this index
 Lender Liability Theories, this index
 Letters of Credit, this index
 Negotiable instruments
 fraud and misrepresentation, above
 payment and credit instruments, 4:34
 Payment and Credit Instruments, this index
 Personal property security interests.
 Fraud and misrepresentation, above
 Sales, this index
 Section 1-103, fraud and misrepresentation, 4:3, 4:4
 Secured Transactions, this index
 Sources of law and transactional contexts, 1:7 to 1:11

UNIFORM COMMERCIAL CODE

—Cont'd

Supplementary matters
 fraud and misrepresentation, 5:20
 legal and equitable principles, 4:3, 4:4

UNIFORM FIDUCIARIES ACT

Payment and credit instruments, bank liability for fiduciary fraud, 4:65

UNIFORM FRAUDULENT CONVEYANCE ACT (UFCA)

Adequacy of consideration,
 constructively fraudulent dispositions, 5:50
 Antecedent debt, fair consideration, 5:51
 Collateral interest, fair consideration, 5:53
 Consideration
 adequacy of consideration, above
 fair consideration, below
 Constructively fraudulent dispositions
 generally, 5:44
 adequacy of consideration, 5:50
 antecedent debt, fair consideration, 5:51
 collateral interest, fair consideration, 5:53
 executory promises, fair consideration, 5:51
 fair consideration, 5:49 to 5:53
 financial condition of grantor, 5:45 to 5:48
 good faith, fair consideration, 5:52
 incurring debts beyond ability to pay, 5:48
 insolvency calculus, 5:46
 partnership transactions, 5:54
 unreasonably small capital, 5:47
 Creditors' standing, generally, 5:86
 Dispositions
 constructively fraudulent dispositions, above
 savings provisions, below
 Executory promises, fair consideration, 5:51
 Extent of recovery, savings provisions, 5:93

INDEX

UNIFORM FRAUDULENT CONVEYANCE ACT (UFCA)

—Cont'd

- Fair consideration
 - constructively fraudulent dispositions, 5:49 to 5:53
 - savings provisions, 5:92
- Financial condition of grantor, 5:45 to 5:48
- Fraudulent disposition law, sources, 1:14, 5:18
- Good faith
 - constructively fraudulent dispositions, 5:52
 - savings provisions, 5:92
- Historical context, sources of law in, 5:12
- Incurring debts beyond ability to pay, 5:48
- Insolvency, calculus, 5:46
- Intercorporate guaranties, constructively fraudulent dispositions, 5:74
- Leveraged buyouts and UFCA, 5:69
- Partnership transactions, 5:54
- Relationship with other bodies of law, 5:24
- Savings provisions
 - dispositions, generally, 5:91
 - extent of recovery, 5:93
 - fair consideration, 5:92
 - good faith, 5:92
- Sources
 - fraudulent disposition law, 1:14, 5:18
 - historical context, sources of law in, 5:12
- Standing. Creditors' standing, above
- Unreasonably small capital, 5:47

UNIFORM FRAUDULENT TRANSFER ACT (UFTA)

- Constructively fraudulent dispositions
 - generally, 5:56
 - financial condition of transferor, 5:58, 5:60
 - legal and equitable tests of solvency, 5:60
 - unreasonably small capital/assets, 5:62
- Creditors' standing, 5:87

UNIFORM FRAUDULENT TRANSFER ACT (UFTA)

—Cont'd

- Dispositions
 - relationship with other bodies of law, 5:25
 - sources, below
- Intercorporate guaranties, constructively fraudulent dispositions, 5:76
- Leveraged buyouts and UFTA, 5:71
- Preferences, structure of statute, 6:4
- Relationship with other bodies of law, 5:25
- Savings provisions, bankruptcy code and UVTA, 5:94 to 5:97
- Sources
 - fraudulent disposition law, 1:15, 5:19
 - historical context, sources of law in, 5:14

UNSECURED CLAIMS

- Fraud and misrepresentation, security interests in inventory or receivables, 6:69

UNSECURED CREDITORS

- Fraud and misrepresentation, enhancement of position, 6:36

USEFULNESS

- Secured transactions, usefulness of fraud analysis, 4:136 V

VALIDITY OR INVALIDITY

- Fraud and misrepresentation, validity of disposition between immediate parties, 5:15
- Payment and credit instruments, validity of forgery not denied, 4:48 to 4:58

VALUE OR VALUATION

- Bankruptcy, value received by transferor, 5:63
- Fraud and Misrepresentation, this index
- UFTA, value received by transferor, 5:64

VOID OR VOIDABLE

- Sales, voidable title, 4:21, 4:22 W

THE LAW OF FRAUDULENT TRANSACTIONS

WARRANTIES

- Letters of credit, breach of warranty distinguished, 4:85
- Sales, warranty liability and innocent misrepresentation, 4:33

WITHHOLDING INFORMATION

- Bankruptcy, denial of discharge under Section 727(a)(4), 7:24

WRITINGS OR WRITTEN INSTRUMENTS

- Bankruptcy, obtaining credit through false written financial statement, 7:53