

Index

This index is current to Release 2016-33

ACCESSORY LIABILITY

fiduciary duty, for breach of, 11:30
overview, 2:20.30, 11:10
trust, for breach of, 11:20
 claims against innocent volunteers, 11:20.30
 knowing assistance, 11:20.10
 knowing receipt and dealing, 11:20.20

ACCOUNTANTS. *See* FINANCIAL ADVISERS

ACCOUNTING. *See* REMEDIES

ACQUIESCENCE. *See* CONSENT AND ACQUIESCENCE

AD HOC FIDUCIARY RELATIONSHIPS. *See* FIDUCIARY RELATIONSHIPS

ADMINISTRATORS. *See* PERSONAL REPRESENTATIVES

ADVISERS

conflicts, duty to avoid, 8:10.50.20
 property, misuse of, 8:10.70.20
 remuneration, unauthorized, 8:10.60.20
 self-dealing, 8:10.70.20
overview, 5:30
prudence, duty of, 10:30.20
 financial advisers, 10:30.20.10
 inspectors under *Bankruptcy and Insolvency Act*, 10:30.20.20
 insurance advisers, 10:30.20.30
 legal advisers, 10:30.20.40
 medical advisers, 10:30.20.50
 spiritual advisers, 10:30.20.60

AGENTS

conflicts, duty to avoid, 8:10.50.30
 property, misuse of, 8:10.70.30
 remuneration, unauthorized, 8:10.60.30
 self-dealing, 8:10.70.30

FIDUCIARY DUTIES

AGENTS — *continued*

overview, 5:40
perform personally, duty to, 9:20.20
prudence, duty of, 10:30.30

ATTRIBUTION, 7:40

acts, of, 7:40.30
identification doctrine, by means of, 7:40.10
knowledge, of, 7:40.20

BANKERS. *See* FINANCIAL ADVISERS

BEST INTERESTS, 1:10

BRIBES. *See* REMUNERATION, UNAUTHORIZED

CARE. *See* PRUDENCE AND CARE

COHORT ROLES, 5:50

COMMISSIONS, SECRET. *See* REMUNERATION,
UNAUTHORIZED

COMPENSATION. *See* REMEDIES

CONFIDENCE. *See* TRUST AND CONFIDENCE

CONFIDENTIAL INFORMATION, 1:20.10.10

CONFIDENTIAL INFORMATION, LAW OF, 1:20.10.10

CONFLICTS, DUTY TO AVOID

authorized, 8:10.40
duty and duty, of, 8:20
lack of, 8:10.30
overview, 2:20.20, 7:20.10, 8:10
particular kinds of
 opportunities, misuse of, 8:10.50
 property, misuse of, 8:10.70
 remuneration, unauthorized, 8:10.60
 self-dealing, 8:10.70
rule against, 8:10
 conflict, 8:10.10
 profit, 8:10.10

INDEX

CONSENT AND ACQUIESCENCE

informed consent, the duty of full disclosure and, 10:20.10
overview, 2:20.40, 12:10
requirements, 12:20
 capacity, 12:20.10
 knowledge of all circumstances, 12:20.30
 positive approval, 12:20.20

CONSTRUCTIVE TRUST. *See* REMEDIES

CONTRACTS, LAW OF, 1:20.30

CO-VENTURERS

conflicts, duty to avoid, 8:10.50.40.2
 property, misuse of, 8:10.70.40.2
 remuneration, unauthorized, 8:10.60.40.2
 self-dealing, 8:10.70.40.2
overview, 5:50.20

CROWN

conflicts, duty to avoid, 8:10.50.10.6
 subordinating interests of beneficiaries, 8:10.70.10.5
nature, 7:40
overview, 5:20.60
 creation of reserves, 5:20.60.40
 Crown subjects, 5:20.60.190
 delegation of duty to consult and accommodate, 5:20.60.130
 duty to consult and accommodate, arising when, 5:20.60.90
 adverse effect of Crown conduct on aboriginal claim/right, 5:20.60.90.3
 Crown conduct or decision, 5:20.60.90.2
 knowledge by Crown of potential claim or right, 5:20.60.90.1
 duty to consult and accommodate, scope and content of, 5:20.60.100
 duty to consult and accommodate, source of, 5:20.60.80
 fiduciary duty owed to Métis, 5:20.60.60
 judicial review of breach of duty to consult, 5:20.60.140
 limitation periods, 5:20.60.170
 limits to *sui generis* fiduciary duty, 5:20.60.50
 protection of pre-existing and still existing aboriginal and treaty rights,
 5:20.60.30
 remedies for breach of duty to consult and accommodate, 5:20.60.180
 role of tribunals in consultation, 5:20.60.120
 section 35 of *Constitution Act, 1982*, 5:20.60.70
 standard of review, 5:20.60.150
 standing to assert collective right, 5:20.60.160

FIDUCIARY DUTIES

CROWN — *continued*

overview — *continued*

- surrender of reserve lands to the Crown, 5:20.60.20
- treaty making and treaty interpretation, 5:20.60.110
- prudence, duty of, 10:30.10.40
 - First Nations, to, 10:30.10.40.1
 - wards, to, 10:30.10.40.2

DIRECTORS

- conflicts, duty to avoid
 - corporate clients, 8:10.50.10.1
 - corporate opportunities, 8:10.50.10.1
 - misuse of property, 8:10.70.10.1
 - remuneration, unauthorized, 8:10.60.10.1
 - self-dealing, 8:10.70.10.1
- overview, 5:20.10
- prudence, duty of, 10:30.10.10

DISCLOSURE, DUTY OF

- duty, nature of, 2:20.20.30.2, 10:20
- material information, 10:20.20

EMPLOYEES, SENIOR OR KEY

- conflicts, duty to avoid
 - corporate opportunities, 8:10.50.10.2
 - misuse of property, 8:10.70.10.2
 - self-dealing, 8:10.70.10.2
- overview, 5:20.20

EQUITY AND CONSCIENCE

- contextual approach to fiduciary law, 3:30
- development by courts of chancery, 3:20

EXECUTORS. *See* PERSONAL REPRESENTATIVES

FIDUCIARY

- definition, 1:10

FIDUCIARY DUTIES

- overview, 2:20.20, 7:20
- particular duties
 - conflicts, duty to avoid. *See* Conflicts, duty to avoid

INDEX

FIDUCIARY DUTIES — *continued*

particular duties — *continued*

- faithfulness
 - disclosure of information. *See* Disclosure, duty of
 - honesty. *See* Honesty
 - prudence. *See* Prudence and care
 - loyalty. *See* Conflicts, duty to avoid
 - perform personally, duty to. *See* Personal performance
- reasonable expectations, 7:30

FIDUCIARY RELATIONSHIPS

ad hoc fiduciary relationships, 6:10

- fiduciary duties in the government context, 6:20.40
- persons entrusted with vital practical interests, 6:20.30
- persons who are already fiduciaries, 6:20.20
- persons who are not typically fiduciaries, 6:20.10
- advisers, 5:30
 - financial, 5:30.10
 - insurance, 5:30.20
 - legal, 5:30.30
 - medical, 5:30.40
 - spiritual, 5:30.50
- agents, 5:40
- caretakers, 5:20
 - crown, 5:20.60
 - creation of reserves, 5:20.60.40
 - Crown subjects, 5:20.60.190
 - delegation of duty to consult and accommodate, 5:20.60.130
 - duty to consult and accommodate, arising when, 5:20.60.90
 - adverse effect of Crown conduct on aboriginal claim/right, 5:20.60.90.3
 - Crown conduct or decision, 5:20.60.90.2
 - knowledge by Crown of potential claim or right, 5:20.60.90.1
 - duty to consult and accommodate, scope and content of, 5:20.60.100
 - duty to consult and accommodate, source of, 5:20.60.80
 - judicial review of breach of duty to consult, 5:20.60.140
 - limitation periods, 5:20.60.170
 - limits to *sui generis* fiduciary duty, 5:20.60.50
 - protection of pre-existing and still existing aboriginal and treaty rights, 5:20.60.30
 - remedies for breach of duty to consult and accommodate, 5:20.60.180
 - role of tribunals in consultation, 5:20.60.120
 - section 35 of *Constitution Act, 1982*, 5:20.60.70
 - standard of review, 5:20.60.150

FIDUCIARY DUTIES

FIDUCIARY RELATIONSHIPS — *continued*

caretakers — *continued*

 crown — *continued*

 standing to assert collective right, 5:20.60.160

 surrender of reserve lands to the Crown, 5:20.60.20

 treaty making and treaty interpretation, 5:20.60.110

 wards, 5:20.60.10

 directors, 5:20.10

 parents and guardians, 5:20.30

 personal representatives, 5:20.40

 receivers and receiver-managers, 5:20.55

 senior management, 5:20.20

 trustees, 5:20.50

cohorts, 5:50

 co-venturers (or joint venturers), 5:50.20

 partners, 5:50.10

 spouses, 5:50.30

overview, 2:20.20, 4:10

presumed trust, 4:30, 5:10

FIDUCIARY STANDARDS

introduction, 7:10

prescriptive (positive) duties generally, 7:20.20, 7:20.30

 disclosing material information. *See* Disclosure, duty of honesty. *See* Honesty

 prudence. *See* Prudence and care

proscriptive (negative) duties generally, 7:20.10

 avoiding unauthorized conflicts or profits. *See* Conflicts, duty to avoid

 disclosing material information. *See* Disclosure, duty of

reasonable expectations, based on, 7:30

FINANCIAL ADVISERS. *See also* ADVISERS

overview, 5:30.10

prudence, duty of, 10:30.20.10

FIRST NATIONS. *See* INDIAN BANDS

GUARDIANS. *See* PARENTS AND GUARDIANS

HONESTY, 2:20.20.30.1, 10:10

INDIAN BANDS, 5:20.60.20, 10:30.10.40.1

INDEX

INSURANCE ADVISERS. *See also* ADVISERS

overview, 5:30.20

prudence, duty of, 10:30.20.10

JOINT VENTURERS. *See* CO-VENTURERS

KNOWING ASSISTANCE. *See* ACCESSORY LIABILITY

KNOWING RECEIPT AND DEALING. *See* ACCESSORY LIABILITY

LEGAL ADVISERS. *See also* ADVISERS

overview, 5:30.30

prudence, duty of, 10:30.20.40

LIEN, EQUITABLE. *See* REMEDIES

MANAGEMENT. *See* EMPLOYEES, SENIOR OR KEY

MEDICAL ADVISERS. *See also* ADVISERS

overview, 5:30.40

prudence, duty of, 10:30.20.50

OPPORTUNITIES. *See* CONFLICTS, DUTY TO AVOID

PARENTS AND GUARDIANS

conflicts, duty to avoid, 8:10.70.10.2a

overview, 5:20.30

prudence, duty of, 10:30.10.30

PARTNERS

conflicts, duty to avoid, 8:10.50.40.1

property, misuse of, 8:10.70.40.1

remuneration, unauthorized, 8:10.60.40.1

self-dealing, 8:10.70.40.1

overview, 5:50.10

PERSONAL PERFORMANCE, 2:20.20.20, 9:10

PERSONAL REPRESENTATIVES

conflicts, duty to avoid, 8:10.50.10.4

misuse of property, 8:10.70.10.3

remuneration, unauthorized, 8:10.60.10.3

self-dealing, 8:10.70.10.3

overview, 5:20.40

FIDUCIARY DUTIES

PRIESTS. *See* SPIRITUAL ADVISERS

PRUDENCE AND CARE

duty, 10:30
advisers, 10:30.20
agents, 10:30.30
Crown, 10:30.10.40
 First Nations, to, 10:30.10.40.1
 wards, to, 10:30.10.40.2
directors, 10:30.10.10
parents and guardians, 10:30.10.30
trustees, 10:30.10.20
overview, 2:20.20.30.3, 7:20.30

PUBLIC GUARDIAN AND TRUSTEE, 5:20.60.10

PUBLIC OFFICIALS

overview, 5:20.70
remuneration, unauthorized, 8:10.60.10.5

RECEIVERS AND RECEIVER-MANAGERS, 5:20.55

REMEDIES

overview, 2:30.10, 13:10
personal remedies, 13:20
 accounting, 2:30.10.20, 13:20.20
 compensation, 2:30.10.10, 13:20.10
 duty to mitigate, 13:20.10.60
proprietary remedies, 2:30.20, 13:30
 constructive trusts, 2:30.20.10, 13:30.10
 equitable liens, 2:30.20.20, 13:30.20

REMUNERATION, UNAUTHORIZED, 8:10.60

SPIRITUAL ADVISERS. *See also* ADVISERS

overview, 5:30.50
prudence, duty of, 10:30.20.60

SPOUSES, 5:50.30, 8:10.70.40.3

STOCKBROKERS. *See* FINANCIAL ADVISERS

STRANGERS. *See* ACCESSORY LIABILITY

INDEX

TORT LAW, 1:20.20, 7:20.30, 10:30

TRUST AND CONFIDENCE

fact of, 6:10

overview, 1:10, 4:20

presumptions of, 4:30

required degree, 1:10, 4:20

TRUSTEES

conflicts of interest, 8:10.50.10.5

 misuse of property, 8:10.70.10.4

 remuneration, unauthorized, 8:10.60.10.4

 self-dealing, 8:10.70.10.4

overview, 5:20.50

perform personally, duty to, 9:20.10

prudence, duty of, 10:30.10.20

TRUSTS, LAW OF, 1:20.10.20

VICARIOUS LIABILITY, 7:40, 7:40.40