

Publisher's Note

2018 — Release 9

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Commercial Crime in Canada

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

What's New in this Release

This release features updates to the case law and commentary in the following chapters: 2 (Criminal Fraud), 3 (Theft), 5 (Forgery), 7 (Bribery and Corruption), 12 (Proceeds of Crime), and 14 (Fines, Forfeiture and Restitution).

Case Highlights

Recent case law introduced with this release includes the following:

- **Criminal Fraud — Offence of Fraud — Complexity** — The accused appealed his conviction, *inter alia*, on the basis that the trial judge erred in admitting into evidence two out-of-court videotaped statements made by the accused's mother to the police. The trial judge correctly stated the applicable law on threshold reliability (citing *R. v. Khelawon*), and made no error in its application. The analysis disclosed no error that would permit the appellate court to substitute their own conclusion on admissibility for that of the trial judge. The accused's appeal

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was dismissed: *R. v. Klimitz*, 2018 ONCA 553, 2018 CarswellOnt 9519 (Ont. C.A.).

- **Bribery and Corruption — Frauds on the Government — Proof of Offence** — Where the accused offered a bribe to an immigration officer to give priority to certain group refugee applications, he was guilty of fraud on the government. The accused appealed his conviction and sentence. His appeal was dismissed: *R. v. Abdulle*, 2018 ONCA 643, 2018 CarswellOnt 11542 (Ont. C.A.), affirming, 2015 CarswellOnt 17827, 2015 ONSC 7023, [2015] O.J. No. 6073, 126 W.C.B. (2d) 460 (Ont. S.C.J.); affirming, 2016 CarswellOnt 17292, 2016 ONSC 6796, [2016] O.J. No. 5660, 134 W.C.B. (2d) 295, 47 Imm. L.R. (4th) 260 (Ont.S.C.J.).
- **Bribery and Corruption — Breach of Trust by a Public Officer — Breach of Trust** — Where the operations manager of a school board used employees to perform work for his personal benefit and the benefit of a contractor, charged their hours to the school board, and the product of their work was removed from school board premises, these activities amounted to breach of trust and fraud. The accused acted with the intention to use his public office for a purpose other than the public good, for a dishonest, partial, corrupt, or oppressive purpose: *R. v. Newhook*, 2018 CarswellNfld 262 (N.L. Prov. Ct.).