

IN THE SUPREME COURT OF NOVA SCOTIA

Citation R v. Black, 2002 NSSC 276

Date: 20021220

Docket: Cr. # 145665

Registry: Halifax

Between:

Her Majesty The Queen

Crown

v.

Frederick William Logan Black

Defendant

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Judge: The Honourable Justice John D. Murphy

Heard: May 17, 21, 22, 23, 24, 27, 28, 29 and 30, 2002
June 3, 4, 5, 6, 11, 12, 17, 18, 19, 20, and 27, 2002
July 2, 3, and 4, 2002
August 20 and 21, 2002
December 20, 2002

Written Decision: December 20, 2002

Subject: **Criminal Law - Fraud - Criminal Code Section 380(1)(a)**

Summary: The Accused's company, NsC Diesel Power Inc., was engaged in a business arrangement with Krupp MaK involving supply of marine engines during refit of vessel Louis St. Laurent. NsC's participation in the project included providing a facility at Sheet Harbour, Nova Scotia for testing MaK engines and equipment. NsC arranged financing for the Sheet Harbour facility from ABN Bank and ACOA, both of which required \$5,000,000 equity contribution by NsC.

During February 1989, when the Sheet Harbour project was in early stages, Accused requested and obtained \$1,000,000 for NsC from MaK, and ABN Bank and ACOA advanced funds upon being advised that the \$1,000,000 obtained from MaK was injected as equity into NsC.

NsC was eventually adjudged bankrupt, the funds advanced were not repaid to MaK and the financial assistance provided by ABN and ACOA was not repaid.

- Issue(s):**
- a. Whether Accused defrauded MaK by misrepresenting the need and use to which NsC would put the \$1,000,000 payment.
 - b. Whether Accused defrauded ABN and ACOA by misrepresenting the \$1,000,000 received from MaK to be an equity investment in NsC.

Result:

Accused guilty of defrauding MaK, ABN, and ACOA. The \$1,000,000 payment was found to be a loan from MaK to NsC, which was advanced relying upon representations by Accused that NsC would use the proceeds for specific purposes associated with the Sheet Harbour project.

Accused was guilty of defrauding MaK when he directed use of loan proceeds for other purposes, including substantial payments to companies related to NsC.

Accused was guilty of defrauding ABN and ACOA when he misrepresented in a statutory declaration that the \$1,000,000 loan from MaK was an equity injection into NsC. That misrepresentation induced ABN and ACOA to advance funds which would otherwise not have been made available to NsC, and which were not repaid.

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION.
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