



### Jordan Deering

#### Partner

CHAIR, CANADIAN CORPORATE CRIME, COMPLIANCE AND INVESTIGATIONS GROUP

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Jordan Deering assists clients in finding practical and business focused solutions to manage and respond to corporate misconduct.

Jordan is the Canadian Chair of DLA Piper (Canada) LLP's Corporate Crime, Compliance and Investigations Group. She brings over 20 years of experience acting in litigation, investigations, and regulatory proceedings involving all aspects of fraud, bribery, corruption, and white collar crime. Her mandates have involved a wide range of privileged and confidential investigations relating to fraudulent schemes, conflicts of interests, kick-backs and bribes, self-dealing, asset misappropriation, regulatory non-compliance, accounting issues, and other corporate misconduct. She often reports directly to the company's senior executives, board of directors, or special committees relating to these sensitive and serious investigation matters.

Jordan provides advice on compliance with and investigations pertaining to the *Corruption of Foreign Public Officials Act*. She is regularly called upon by clients to assist in developing fraud and corruption prevention policies and programs, including whistleblower programs, compliance officer training, and risk assessment.

Jordan has appeared before all levels of courts in Alberta and has obtained and administered Anton Piller orders (civil search warrants), Mareva injunctions (asset freezing orders), Norwich Pharmacal orders (third party production orders), preservation orders and receivership orders.

## LANGUAGES SPOKEN

- English

- Litigation, Arbitration and Investigations
- White Collar and Corporate Crime
- Investigations
- Professional Governance and Regulation

English

Jordan has acted on the following mandates:

- Represented a company impacted by the Mareva injunction in the class action proceedings arising from the Ottawa "Trucker Convoy"

(*Zexi Li et al v Chris Barber et al*)

- Advised numerous entities regarding the Emergency Economic Measures Order and the changes to Canada's *Proceed of Crime (Money Laundering) and Terrorist Financing Act* relating to crowdfunding and payment processors.
- Conducted a confidential investigation for a TSX company respecting a whistleblower complaint relating to Code of Conduct and other serious allegations of misconduct by senior management
- Legal counsel to a financial institution regarding successful applications under Civil Practice Note 7 - *Dekermejian v Royal Bank of Canada*, 2022 ABQB 54, 2022 ABQB 84
- Representing a private company respecting litigation relating to alleged fraud by a former employee
- Represented a financial institution respecting a complex multi-million dollar fraud scheme and investigation
- Represented a financial institution regarding litigation relating to a fraudulent scheme.
- Legal counsel to Doyle Salewski Inc., in its capacity as trustee and receiver of Golden Oaks Enterprises Inc. and Jean-Claude Lacasse regarding civil proceedings to recover damages against various individuals that allegedly participated in the Ponzi scheme. *Doyle Salewski Inc v Scott et al*, 2020 ONSC 7725
- Represented a public entity regarding an extensive investigation relating to various alleged misconduct involving conflicts of interest, procurement, and compliance
- Legal counsel to a private company relating to an alleged fraudulent scheme involved factored accounts receivable
- Legal counsel to the forensic computer expert concerning court proceedings for the return of seized hard drives as a result of the set aside of a Mareva injunction - *Tiger Calcium Services Inc v Sazwan*, 2019 ABQB 500

## CREDENTIALS

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### Admissions

- Alberta, 2002

### Recognitions

- *The Legal 500 Canada* (Dispute Resolution), 2022
- Law Society of Saskatchewan Gold Medallist, 2001

### Education

- LL.B., University of Saskatchewan, 2001
- B.Comm., University of Saskatchewan, 2000

### Memberships

- Association of Certified Fraud Examiners, Calgary chapter
- Board of directors, Green Calgary (2016 - 2019)
- Board of directors, Calgary Chamber of Voluntary Organizations (2011 - 2016)

### Community Involvement

- Alumni Volunteer, University of Saskatchewan Mock Trial 2022

## INSIGHTS

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### Publications

## **BC Court of Appeal sides with Securities Commission in the latest decision on exemption of administrative penalties in Bankruptcy**

22 August 2022

In *Poonian v British Columbia (Securities Commission)*, 2022 BCCA 274, the British Columbia Court of Appeal found that an order of discharge under the *Bankruptcy and Insolvency Act* would not release a debtor from debts arising from monetary sanctions owed to an administrative body.

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## **Detoxifying the anonymous internet one troll at a time: Norwich orders**

18 August 2022

When people create profiles and interact with one another online, doing so anonymously under an assumed username remains the most common approach. While some major platforms have moved away from this model and have begun requiring users to register with their actual names, the vast majority of platforms continue to operate with anonymity as a key feature. When users layer anonymous accounts upon anonymous accounts it can be nigh impossible for parties who have been wronged online to identify the wrongdoers and hold them to account without the cooperation of platforms and ISPs who are able to connect anonymous usernames with identifying information such as names, email addresses, and IP addresses.

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## **New guidance from Alberta Court of Appeal on admission of fresh evidence after *ex parte* application**

26 July 2022

*Ex parte* applications always carry the extra burden of full and frank disclosure by the applicants — they are expected to put forward all relevant evidence, including potential defences. The question in a recent Alberta Court of Appeal case was whether that principle extended so far as to exclude relevant evidence at a comeback hearing for review of the *ex parte* order.

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## **Think the limitations clock has run out? Think again; it may not even be ticking**

13 July 2022

In *Golden Oaks Enterprises Inc v Scott*, 2022 ONCA 509 the Ontario Court of Appeal addressed important issues of the corporate attribution doctrine and its interplay with limitation periods. Most importantly, the Court of Appeal confirmed that the court has discretion to refuse to apply the corporate attribution doctrine for one-person corporations, particularly in cases of fraud.

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## **101 recommendations: Release of the Cullen Report on anti-money laundering in British Columbia**

16 June 2022

In May of 2019, the Government of British Columbia appointed B.C. Supreme Court Justice Austin Cullen to lead a Commission of Inquiry into money laundering in the province. Published on June 15, 2022, the Cullen Report broadly concludes that neither B.C.'s provincial, nor the federal, anti-money laundering regimes are effective in their current state to address the estimated billions of dollars in illicit funds that flow through B.C. annually.

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## **Calling on the code: Civil consequences for cryptocurrency**

19 May 2022

Would-be blockchain bandits that still believe cryptocurrency is beyond the reach of the law should think again. In *Cicada 137 LLC v Medjedovic*, the Ontario Superior Court of Justice had no qualms with taking a practical approach to providing relief in respect of digital assets.

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### **Fast fraud facts: News from *Occupational Fraud 2022: A Report to the Nations***

7 April 2022

Did you know that organizations worldwide lose five percent of their revenue each year, for an estimated total of \$4.7 trillion dollars, to occupational fraud on an annual basis? In the recently published 2022 version of the *Occupational Fraud Report*, the most comprehensive global study by The Association of Certified Fraud Examiners to date, the true cost of fraudulent schemes for organizations is addressed.

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### **Protecting creditors and the public interest: Ontario Court of Appeal modifies the corporate attribution doctrine**

1 April 2022

In its unanimous decision, *Ernst & Young Inc. v. Aquino*, the Ontario Court of Appeal modified the common law doctrine of corporate attribution in the bankruptcy and insolvency context to uphold a decision of Ontario Superior Court's Commercial List, which ordered a corporate officer and his associates, whom collectively orchestrated a fraudulent invoicing scheme, to repay over \$30 million to company creditors pursuant to s. 96 of the *Bankruptcy and Insolvency Act* ("BIA").

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### **Canadian sanctions in response to Russian military actions against Ukraine**

March 7, 2022

Global Sanctions Alert

The Government of Canada has recently announced a series of new economic sanctions in response to Russia's invasion of and continued military actions against Ukraine.

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### **Heightened cyber threats in times of crisis - be prepared**

3 March 2022

The governments of both Canada and the United States have warned of increased cyberattack risk in light of tension in Eastern Europe and the spike in ransomware and other cyberattacks as a result of an increasing reliance on the internet for work-from-home and online commerce.

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### **Integrity in Canadian public procurement: What should companies know about Canada's Integrity Regime?**

23 February 2022

Failure to comply with the disclosure requirements may have serious, long-term repercussions. This practical overview covers the basics companies should be aware of.

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### **Emergency Economic Measures Order and Regulation**

17 February 2022

On February 15, 2022, the Government of Canada made the *Emergency Economic Measures Order* (the **Order**) and the *Emergency Economic Measures Regulations* (the **Regulations**) under the *Emergencies Act*.

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### **Alberta Securities Commission v Hennig, 2021: The conflict between the fresh start principle in bankruptcy law and enforcement action of securities regulators**

13 January 2022

The Alberta Court of Appeal has overturned a decision of the Alberta Court of Queen's Bench, holding that an administrative penalty of the Alberta Securities Commission (the "ASC") does not survive bankruptcy. We discussed the Alberta Court of Queen's Bench decision in a previous legal update found [here](#).

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### **Canada - Global bribery offenses guide**

11 January 2022

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### **White collar, corporate crime and investigations: End of year review 2021**

4 January 2022

2021 featured the ongoing uncertainty, challenges and risk for businesses associated with COVID-19 pandemic. Despite the challenges, compliance programs, investigations and proceedings continued as close to normal as possible, with adjustments made to adapt the "new normal". In this 2021 Year In Review, we offer key updates from the year past and offer our predictions on 2022 and beyond.

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### **Will Canada finally pass a law addressing the resort to modern slavery and child labour by commercial stakeholders and their supply chains?**

17 December 2021

On November 24, 2021, the Honorable Julie Miville-Dechéne, Senator, introduced a bill in the Senate to fight against the use of forced labor and child labor, in Canada and elsewhere, by companies doing business in Canada. Considering that Canada is a party to the *Forced Labour Convention (No. 29)* adopted in Geneva in 1930, the *Abolition of Forced Labour Convention (No. 105)* adopted in Geneva in 1957 and the *Worst Forms of Child Labor Convention (No. 182)* adopted in Geneva in 1999, to name just a few, some would conclude that the adoption of this bill is imminent.

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### **B.C. Appeal Court holds a fraudster's registered retirement accounts are safe from seizure**

13 December 2021

In the recent decision *Pasquill v. British Columbia (Securities Commission)*, 2021 BCCA 424 ("*Pasquill*"), the British Columbia Court of Appeal held that the B.C. Securities Commission does not have the statutory authority to issue preservation orders to restrict a fraudster from withdrawing or transferring funds from their registered retirement accounts. The Court reasoned that such preservation orders would amount to "seizure" of the fraudster's registered retirement income and is therefore prohibited by the *Pension Benefits Standards Act*, S.B.C. 2012, c. 30 ("*PBSA*") and the regulations thereunder.

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## Interpretation of releases: The Supreme Court of Canada lets go of 150-year-old rule

5 August 2021

In its unanimous decision, *Corner Brook (City) v Bailey*, the Supreme Court of Canada held that the general rules of contractual interpretation articulated in *Sattva Capital Corp. v Creston Moly Corp.* now apply to releases. In other words, releases will now be interpreted in the same manner as any other contract.

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## Supreme Court sets aside sealing orders in Sherman Estate

22 June 2021

In *Sherman Estate v Donovan*, the Supreme Court of Canada unanimously lifted sealing orders that had been placed over the estate files of Barry and Honey Sherman (the “Shermans”), reiterating the importance of the open court principle and clarifying that it is engaged by all Court proceedings, regardless of whether the matter is adversarial or administrative in nature.

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## B.C. Court provides Commission another chance to collect from fraudster’s spouse

15 June 2021

In March 2020, landmark amendments to the British Columbia *Securities Act*, RSBC 1996, c 418 (the “Act”) came into force that conferred upon the British Columbia Securities Commission (the “Commission”) some of the strongest enforcement powers in the country (the “March 2020 Amendments”).

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## Fraudulent concealment fails in failure to disclose case

1 June 2021

In *Geophysical Service Incorporated v. Total SA*, 2020 ABQB 730, the Court interpreted the scope of fraudulent concealment under section 4(1) of the *Limitations Act*, RSA 2000, c. L-12. In particular, the Court assessed whether a failure to notify a counterparty of its breach of contract constituted “fraudulent concealment,” thereby extending the limitation period under the *Limitations Act*.

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## Recent Alberta Court decision determines if intent adds another element to the established test for fraud or deceit

17 May 2021

In the recent decision of *NEP Canada ULC v MEP OP LLC*, the Court took the opportunity to provide direction on whether intent is a required element of the test for fraud in Alberta.

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## Enough is enough — Governing the ungovernable

12 February 2021

Online harassment weighs heavily on affected people, feeling like an unstoppable intrusion. One’s personal domicile offers no haven. Some people succumb, taking desperate action under this weighty burden. Courts have taken notice, evidenced through awards of punitive and exemplary damages in an effort to express disapprobation. But increased damages are irrelevant against an indigent defendant with no means to pay. When the perpetrator is unrestrained by basic tenets of decency, the court is left with a conundrum: how to govern the ungovernable?

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## **Wastech v Greater Vancouver: The Supreme Court narrows the scope of review over the exercise of contractual discretionary power**

9 February 2021

In *Wastech Services Ltd. v. Greater Vancouver Sewerage and Drainage District*, the Supreme Court of Canada has given further guidance on the overarching organizing principle of good faith performance of contracts, narrowing its imposition in the context of contractual exercise of discretion.

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## **Kowal v. Sun Star Energy Inc.: Liability for fraudulent misrepresentation by joint tortfeasors and through intermediaries**

18 January 2021

In the recent decision of *Kowal v. Sun Star Energy Inc.*, 2020 ABQB 244, all but one of the plaintiffs were awarded damages when the Court found that both the corporate defendant and the defendants in their personal capacity were liable to the plaintiffs for fraudulent misrepresentation arising from purchase of shares. Though offering no new guidance on intent as a requisite element to prove fraudulent misrepresentation, the case is meaningful in that it entrenches appellate decisions from outside Alberta with respect to joint liability and fraudulent misrepresentation through an intermediary into Alberta's civil fraud jurisprudence.

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## **Callow v Zollinger: the Supreme Court of Canada expands the duty of good faith performance of a contract**

23 December 2020

The Supreme Court of Canada has issued a significant case on the common law duty of good faith performance of contracts in *Callow v Zollinger*.

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## **Registered retirement accounts are fair game: Enhanced tools for securities regulators to fight white-collar crime**

14 December 2020

In November 2020, the British Columbia Securities Commission dismissed an application brought by Earle Pasquill for an order to revoke a preservation order made under the British Columbia *Securities Act* that prohibited Pasquill from withdrawing or transferring funds from his registered retirement income funds. This case comes at the heels of far-reaching legislative amendments to the Act earlier this year which significantly expanded on the Commission's powers to fight white-collar crime."

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- "Detoxifying the Anonymous Internet One Troll at a Time: Norwich Orders", [republished by *Internet and E-Commerce Law in Canada*, vol. 23, no. 6, October 2022]
- "Calling on the Code: Civil Consequences for Cryptocurrency" [republished by *Internet and E-Commerce Law in Canada*, vol. 23, no 3, July 2022]
- "Suspicion and Straw Buyer Mortgage Fraud -- Toronto Dominion Bank v. Whitford", *Banking and Finance Law Review*, Volume 37.2, April 2022
- "B.C. Court provides Commission another chance to collect from fraudster's spouse" republished in *Canadian Securities Law News*, August 2021 issue.
- "The Employer, the Bank, and the Fraudster: Vicarious Liability and Boma Manufacturing Ltd v CIBC", 20 BFLR 465, cited by the Supreme Court of Canada in *Teva Canada Ltd v TD Canada Trust*, 2017 SCC 51., 2005
- "Alberta Court Clarifies Tracing Principles in Ponzi Scheme: Easy Loan Corporation v Wiseman, ABCA 58", *CBA Law Matters*, Spring 2017.
- "The Supreme Court of Canada rules on 'knowing assistance' in the context of fraudulent schemes", 24 CSFLR 45., 2019

- “Clawback Proceedings in Bankrupt Ponzi Schemes” *Insolvency Insider*, 2019
- “Freezing of Cryptocurrencies in Fraud”, Taxnet Pro, 2020

## Events

### Upcoming

#### Corporate Crime, Compliance and Investigations Symposium 2022

October 4 to October 27  
Webinar

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### Previous

#### White Collar Crime, Investigations and Compliance Symposium

5 October 2021  
Webinar

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#### Corporate Fraud, Corruption and Cyber Risks: Current Trends and Practical Strategies

16 December 2020  
Webinar

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- "Compliance Programs – Legal Perspective," Association of Certified Fraud Examiners, November 7-10, 2021
- "Developments and Trends in Fraud and Investigations," Association of Certified Fraud Examiners, Montreal, October 22, 2019
- "Fraud trends and their Impacts," HSBC, Edmonton, May 16, 2019
- "Pre-Judgement Remedies," Association of Certified Fraud Examiners, Calgary, May 2, 2018
- "Remedies for Victims of Fraud," Association of Certified Fraud Examiners, Calgary, February 20, 2014

## NEWS

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#### DLA Piper Canada recommended by *Legal 500 Canada 2022*

12 November 2021

DLA Piper (Canada) LLP and its lawyers have been recommended in the latest edition of the *Legal 500 Canada*.

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## **Jordan Deering named Chair of the Canadian White Collar, Corporate Crime and Investigations practice**

21 December 2020

DLA Piper (Canada) LLP is pleased to announce that Jordan Deering has been appointed Chair of the Canadian White Collar, Corporate Crime and Investigations practice.

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