

Man acquitted in alleged \$1.7-million fraud: Stilman

By Rob Lamberti, AdvocateDaily.com Contributor



A man was acquitted of charges after being accused of fraud and false pretences in a business deal involving about \$1.7 million from a major Canadian bank, says Toronto criminal lawyer [Jacob Stilman](#).

The Crown failed to prove his client issued a series of cheques knowing that they would be found insufficient, causing the bank to lose the money, says Stilman, partner with [Lo Greco Stilman LLP](#).

He tells AdvocateDaily.com his client and a co-accused, whose case was severed and is still before the Ontario Court of Justice in Brampton, were charged in 2012 following an internal investigation by bank authorities.

Stilman's client, charged with fraud over \$5,000 and false pretences, was acting as a middleman for offshore investors in a deal to purchase a company — which sold discount long-distance phone cards — from his co-accused.

His client issued a number of cheques worth about \$1.7 million in total from a bank in Calgary, where his company was based.

The cheques were deposited by the co-accused in a Peel Region branch of a different bank, which then issued bank drafts based on the value of the cheques that had not yet cleared, Stilman says. He then used the money to mostly pay off business-related debts.

"The cheques all bounced," he says.

"There's no indication of any money flowing back to my client and the disbursed money was traced and went to the man's legitimate business creditors," he says.

"Nothing gets converted into cash or is unaccounted for," Stilman says.

"The whole theory of the Crown is my client wrote these cheques knowing they would all bounce and therefore he was part of a fraud," he says.

But the investigation was fraught with shortcomings, Stilman says. The bank that issued the drafts investigated his client's co-accused in an internal investigation before handing the case to police.

"They really never took a look at my client and they only had one-half of the equation," he says. "They didn't get a production order to prove there was no money in the Calgary account. They never had any evidence as to what was occurring at my client's end."

Stilman says the Crown inferred that anyone who bounces about \$1.7 million in cheques must have known they were no good when issued.

"I said, that's all well and good, but we don't know anything about my client's account history," he says. "We didn't know how many signing officers my client's numbered company had. We don't know anything about my client's account history."

"The judge agreed and my client was acquitted," Stilman says. "The Crown failed to develop the case more fully and get a production order on my client's account and so couldn't prove anything fraudulent in issuing cheques in this amount."

He explains his client may have had the money at one point and it was improper for the Crown to "simply infer it was fraudulent."

Stilman says what is known is that the cheques bounced, but not why they did, and that is what the Crown could not prove.

"There are all kinds of possibilities but in the absence of any information about his account activity, we can't say what occurred," he says. "In the absence of any information about that account, they could not prove the fraud."