

MEMORANDUM

**To** File  
**From** Lou Brzezinski  
**Date** September 30, 2010  
**Re** Fuller Landau - Bankruptcy of Erez  
File No. 098901-0006

Today I spoke to the Assistant Crown Attorney to whom the Erez criminal case was assigned. Her name is Donna Gillespie.

She advised me that the 12 counts of fraud against Tzvi Erez were dropped, because they were not in the public interest for two reasons:

1. The courts at College Park were tied up with more serious criminal matters (such as rape and murder) and that court time and availability of Judges were insufficient. She was fearful that many of these more serious charges would “walk” as a result of the inordinate delay of the Crown under 11(b) (the Charter of Human Rights and Freedoms), and as a result, hard choices had to be made.
2. She advised that with respect to the merits of the case, there was some issue in respect of the complainant’s failure to perform due diligence, and whether or not a blind eye was turned to some of the issues of forgery and fraud. In other words, there may not have been any reliance on the fraudulent misrepresentation. She specifically pointed out that there was only one complainant involved, being William Tencer. She specifically pointed out that he did not prepare sufficient due diligence in respect of his review of the materials that were provided to him, including the purchase orders and the supplier invoices. The Crown indicated that simple phone calls could have been made by Mr. Tencer, but he chose not to. She more or less indicated that the lending of money by Mr. Tencer was done so with him knowing the existence of red flags and without committing any research or background checks on Mr. Erez.

Although she told me quite candidly that it appears that Mr. Erez committed a fraud, it would have been extremely difficult to convict him given the nature of the defence, the onus of proof being beyond a reasonable doubt and the stretched resources of the Crown.

In other words, the Crown has indicated that this charge was not sufficiently serious for them to expend public resources, given the other matters which require public attention and public resources.

I have been told, however, that if other complainants and/or witnesses come forward with documentation, the Crown would still be prepared to review that material in respect of pressing other charges.

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It is my view that Mr. Erez is guilty, but the system does not have sufficient resources to convict him, and so he walks.

/jb