

BETWEEN:

THE QUEEN

Appellant

v

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ROMANO FALZON

Respondent

APPELLANT'S REPLY



**Part I: Suitability for internet publication**

- 20 1.1 The appellant certifies that this reply is in a form suitable for publication on the internet.

**Part II: Reply**

- 2.1 The gravamen of the respondent's case in this Court is that any appeal to so-called "past sales" reasoning necessarily invoked tendency reasoning. It didn't.
- 2.2 What the jury might, or might not, have been asked to accept about the provenance of the money was not put in terms of any supposed tendency on the part of the respondent in the sense of asserting that he was a man more likely to engage in drug trafficking rather than simply smoke drugs himself. It was argued that the possession of the money went, rather, to the existence of a commercial business.<sup>1</sup>
- 30 ~~The provenance of the cash money, together – for instance – with its amount and~~

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<sup>1</sup> See the prosecutor's closing, for instance, at T 1341(30)-1343(28), 1345(10)-(21), 1348(19)-1349(10), 1351(1)-(12) & 1363(4)-(14).

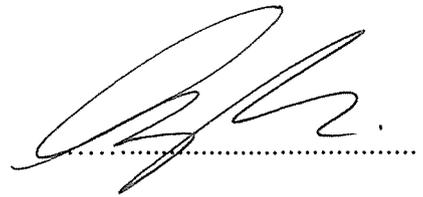
location, might have assisted in giving the money its status as a “tool” in a manner contemplated by the respondent.<sup>2</sup>

2.3 Once this fundamental distinction is understood, it is submitted that the respondent’s argument provides no answer to the appellant’s basic contention.

2.4 If the appellant’s appeal is allowed, the respondent’s sentence application is still yet to be considered by all members of the Court below.

Dated: the 26<sup>th</sup> day of March 2018

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<sup>2</sup> Cf the Respondent’s Submissions at paragraph 15. It is not to the point that the prosecutor may not actually have uttered the word “float”. The majority in the Court below was content to characterise the evidence of the money in this way. One might justifiably conclude, given the manner in which the prosecutor closed, that in essence this was precisely how the prosecutor sought to characterise the evidence of the money before the jury.