

fraud

fraternal society. See *benevolent association* under ASSOCIATION.

fraternity. See FRATERNAL BENEFIT ASSOCIATION.

frater nutricius. See FRATER.

frater uterinus. See FRATER.

fratres conjurati (fray-treez kon-jə-ray-ii). [Latin "sworn brothers"] *Hist.* Sworn brothers or companions for the defense of their sovereign or for other purposes.

fratriage (fra-tree-ij or fray-). *Hist.* 1. A younger brother's portion of his father's estate, received as an inheritance. • Under feudal law, even though the land was from the father's estate, the younger brother was bound to pay homage to the older brother. 2. A portion of an inheritance given to coheirs. — Also termed *fratriagium*.

fratricide (fra-trə-sid or fray-). 1. The killing of one's brother or sister. 2. One who has killed one's brother or sister. Cf. SORORICIDE. — *fratricidal, adj.*

fraud, n. 1. A knowing misrepresentation of the truth or concealment of a material fact to induce another to act to his or her detriment. • Fraud is usu. a tort, but in some cases (esp. when the conduct is willful) it may be a crime. — Also termed *intentional fraud*. [Cases: Fraud ⊕1, 3, 16.] 2. A misrepresentation made recklessly without belief in its truth to induce another person to act. [Cases: Fraud ⊕31.] 3. A tort arising from a knowing misrepresentation, concealment of material fact, or reckless misrepresentation made to induce another to act to his or her detriment. [Cases: Fraud ⊕13(3).] 4. Unconscionable dealing; esp., in contract law, the unfair use of the power arising out of the parties' relative positions and resulting in an unconscionable bargain. [Cases: Contracts ⊕1. C.J.S. *Contracts* §§ 2-3, 9, 12.] — *fraudulent, adj.*

"[T]he use of the term fraud has been wider and less precise in the chancery than in the common-law courts. This followed necessarily from the remedies which they respectively administered. Common law gave damages for a wrong, and was compelled to define with care the wrong which furnished a cause of action. Equity refused specific performance of a contract, or set aside a transaction, or gave compensation where one party had acted unfairly by the other. Thus 'fraud' at common law is a false statement . . . : frau in equity has often been used as meaning unconscientious dealing — 'although, I think, unfortunately,' a great equity lawyer has said." William R. Anson, *Principles of the Law of Contract* 263 (Arthur L. Corbin ed., 3d Am. ed. 1919).

actual fraud. A concealment or false representation through a statement or conduct that injures another who relies on it in acting. — Also termed *fraud in fact*; *positive fraud*; *moral fraud*. [Cases: Fraud ⊕3.]

bank fraud. The criminal offense of knowingly executing, or attempting to execute, a scheme or artifice to defraud a financial institution, or to obtain property owned by or under the control of a financial institution, by means of false or fraudulent pretenses, representations, or promises. 18 USCA § 1344. [Cases: Banks and Banking ⊕509.10, 509.25. C.J.S. *Banks and Banking* §§ 687, 746, 749-754, 756-757, 769-783.]

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BRYAN A. GARNER
EDITOR IN CHIEF