

Commercial Equity

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This paper examines the impact of equitable principles on the sphere of commercial law. It will make particular reference to the effect of the incursion of equity on ordinary creditors with regard to obtaining priorities in cases of insolvency. It will analyze the Quistclose trust and show how this type of trust may be used to obtain an advantage by those who would otherwise be ordinary creditors. It will refer to the use of equitable tracing to recover assets in a money-laundering scheme. The paper will suggest that judicial acceptance of the concept of the remedial constructive trusts has enhanced the development of proprietary restitutionary remedies in commercial transactions where no proprietary remedy would have previously existed.