Customer went to Star Computers (Star) to buy a refurbished computer. Upon arrival, Customer was approached by Owner, who identified himself as the owner of Star. Owner directed Customer to a refurbished desktop computer and told Customer, "We have the best refurbished computers in town. We send used computers to a computer technician who always installs new hard drives and replaces any defective parts." Owner made these claims because Owner believed that they would be effective in persuading Customer to buy a refurbished computer. In fact, Customer was persuaded by Owner's claims and purchased a computer for $250 cash.

At the time of this transaction, Owner did not believe that Star had the best refurbished computers in town. Owner was aware of at least two other computer stores in town and believed that the refurbished computers sold by these other stores were better than those sold by Star. Owner also thought it was very likely that the computer technician used by Star did not actually install new hard drives in the refurbished computers. Owner had never raised the issue with the technician because the technician offered much faster service and lower rates than those of any other technician in the area.

After Customer's purchase, a local news station conducted an investigation into the computer technician used by Star and reported that the technician did not install new hard drives in any of the computers she refurbished. After the report aired, the computer technician acknowledged that no new hard drives had been installed in the computers she had refurbished for Star.

Owner has been charged with larceny by false pretenses in connection with the computer sale to Customer.

Is Owner guilty of larceny by false pretenses? Explain.

## Question Presented

A store owner told a customer, we have the best refurbished computers in town, directing him to a used desktop.

← puffery / opinion, not a statement of fact

He added that the technician always installs new hard drives and replaces defective parts.

← a representation of a present, verifiable fact

He made the claims because he believed they would persuade the customer to buy.

← purpose to induce reliance = intent to defraud

Persuaded, the customer bought the computer for $250 cash.

← cash sale: title passes → false pretenses, not larceny by trick

The owner did not believe Star had the best computers and knew of two better stores.

← he knew the opinion was untrue, but it is still opinion

He thought it very likely the technician installed no new hard drives, but never asked because she was faster and cheaper.

← high probability + deliberate avoidance = willful blindness

*Is the owner guilty of larceny by false pretenses?*

← → run all five elements

## False Pretenses: Elements & Passing of Title

**Issue.** Whether the owner obtained the customer's property by false pretenses.

*Did he obtain property by false pretenses?*

**Rule.** FALSE PRETENSES: (1) a false representation of a present or past material fact; (2) that causes the victim to pass title (not mere possession); (3) to the defendant; (4) who knows the representation is false; and (5) intends to defraud. A cash sale passes title, which distinguishes false pretenses from larceny by trick (where only possession passes).

*Title (not just possession) is the dividing line from larceny by trick.*

**Analysis.** Here, the owner's claims induced a sale, and the customer, relying on them, handed over $250 cash, so title passed. Elements (2) and (3) are met; the contest is over falsity and materiality, knowledge, and intent.

*Cash sale = title passed to the owner.*

**Conclusion.** Therefore, the case turns on whether a false statement

*Remaining fight: falsity, knowledge,*

of material fact was made knowingly and with intent to defraud.

*intent.*

## Puffery vs. Statement of Material Fact

**Issue.** Whether the owner's claims were false statements of material fact or mere puffery.

*Fact, or sales talk?*

**Rule.** The representation must concern a present or past fact; commercial puffery (opinion or sales talk) is not actionable. A claim of being the best is opinion; whether a specific act was performed is a verifiable fact.

*Puffery (opinion) is not a false statement of fact.*

**Analysis.** Here, the best refurbished computers in town claim is puffery, opinion a buyer should not treat as a guarantee, even though the owner privately knew of better stores. By contrast, that the technician always installs new hard drives is a present fact, and it was false: she installed none.

*'Best' = opinion; 'new hard drives' = a false present fact.*

**Conclusion.** Therefore, only the new-hard-drive claim can support the charge.

*Only the hard-drive claim counts.*

## Knowledge: Willful Blindness

**Issue.** Whether the owner knew his hard-drive representation was false.

*Did he know it was false?*

**Rule.** Knowledge of falsity is required. Most jurisdictions treat willful blindness (awareness of a high probability of a fact plus deliberate avoidance of confirming it) as the equivalent of knowledge; a minority require actual knowledge.

*Willful blindness = knowledge (majority); a minority need actual knowledge.*

**Analysis.** Here, the owner thought it very likely no new hard drives were installed yet deliberately never asked, to keep the faster, cheaper service. That is willful blindness under the majority test, though not actual knowledge.

*Suspected + avoided asking to keep cheap service.*

**Conclusion.** Therefore, the owner knew the statement was false in most jurisdictions, but not in an actual-knowledge jurisdiction.

*Knowledge in most jx; not in an actual-knowledge jx.*

## Intent to Defraud

**Issue.** Whether the owner intended to defraud the customer.

*Intent to defraud?*

**Rule.** The defendant must intend that the victim rely on the false representation and thereby part with title.

*Intend reliance leading to loss of title.*

**Analysis.** Here, the owner made the claims precisely because he believed they would persuade the customer to buy, and the customer did rely. That is intent to defraud.

*Made to induce the purchase, and it worked.*

**Conclusion.** Therefore, in most jurisdictions the owner is guilty of larceny by false pretenses; in an actual-knowledge jurisdiction he is not.

*Guilty in most jx; not guilty where actual knowledge is required.*

## Step-by-Step: Larceny by False Pretenses

*Run the five elements; the fight is puffery vs. fact, then whether willful blindness supplies knowledge.*

1. **False representation of a present or past material fact?**

   → 'Best in town' = puffery (opinion). 'New hard drives' = present fact, and false. **hard-drive claim = false fact**

↓

2. **Did it cause the victim to pass TITLE (not just possession)?**

   → Cash sale → title passes → false pretenses, not larceny by trick. **$250 cash → title**

↓

3. **Did the defendant KNOW it was false?**

   → Willful blindness (high probability + deliberate avoidance) = knowledge in most jx; a minority require actual knowledge. **never asked the technician**

↓

4. **Intent to defraud?**

   → Claims made to induce reliance → yes. **GUILTY in most jurisdictions**. **claims meant to persuade**