

## Publisher's Note

An Update has Arrived in Your Library for:

<b>Please circulate this notice to anyone in your office who may be interested in this publication.</b> <i>Distribution List</i>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

### COMMERCIAL CRIME IN CANADA

Michael Brent Henderson

Release No. 3, April 2026

This practical service compiles information regarding criminal liability arising from white collar crime in Canada. For each offence the full text of the specific legislation is provided together with an analysis of the important case law, the form of charge and cross-references to related legislation. There is detailed coverage of modes of criminal participation and the means available for pursuing proceeds of crime and restitution.

#### What's New in this Release

This release features updates to the case law and commentary in the following chapters: 2 (Criminal Fraud), 3 (Theft), 8 (Securities Fraud and Market Manipulation), 12 (Proceeds of Crime), 13 (Possession of Property Obtained by Crime), 14 (Fines, Forfeiture and Restitution), and 15 (Fraudulent Trade Practices).

---

Thomson Reuters®

**Customer Support**

1-416-609-3800 (Toronto & International)

1-800-387-5164 (Toll Free Canada & U.S.)

E-mail [CustomerSupport.LegalTaxCanada@TR.com](mailto:CustomerSupport.LegalTaxCanada@TR.com)

This publisher's note may be scanned electronically and photocopied for the purpose of circulating copies within your organization.

## Case Highlights

Recent case law introduced with this release includes the following:

- **Criminal Fraud—Sentencing for Fraud—Accused Legal Secretary Having Bookkeeping Responsibilities—Defrauding Law Firm of Trust Accounts and General Accounts Totaling \$622,088—Accused Having Addiction and Mental Health Diagnoses—Accused Sentenced to Four Years’ Imprisonment**—Where the accused legal secretary with bookkeeping responsibilities defrauded her employer law firm of \$622,088 over a six-year period, she was sentenced to four years’ imprisonment. In this case, the accused was employed as a secretary with bookkeeping responsibilities at law firm. During her employment, she fraudulently took funds from the law firm’s general and trust accounts, by issuing cheques to her benefit. She took at least \$60,000. Over the course of a *Gardiner* hearing, the Crown sought to prove, as an aggravating factor, that the accused was responsible for fraud totaling \$774,757.85. The court ultimately determined that the Crown had proven, beyond a reasonable doubt, that the accused committed a total fraud of \$622,088, comprising \$609,531 in fraudulent trust-account transactions and \$12,557 in fraudulent general-account transactions. The accused committed a prolonged fraud over a period of approximately six years, while she was employed in a position of trust with bookkeeping and accounting responsibilities. Through 88 proven fraudulent trust transactions, and a smaller number of proven fraudulent general-account transactions, the accused misappropriated a total of \$622,088. The fraud involved repeated manipulation of accounting records to conceal improper withdrawals, and the funds were largely directed to the accused herself or to third parties for her benefit. The accused pleaded guilty to one count of fraud over \$5,000, contrary to s. 380(1) of the Criminal Code: *R. v. Chevis*, 2026 CarswellOnt 3362, 2026 ONCJ 126 (Ont. C.J.).
- **Securities Fraud and Market Manipulation—Ontario Securities Act—Software Engineer and Companies Promoting Cryptocurrency Tokens—Tokens Allegedly Backed by Gold Bullion—Tokens Not So Backed and Investors Suffering Losses of US\$51 Million—Capital Market Tribunal Finding Fraud Committed—Finding Based on Compelled Interviews of Investors and Engineer—Engineer Not Protected by Evidence Act—Regulatory Proceeding Not Separate Proceeding From Investigation—Fraudulent Trade Practices—Customs Act—Review of Seizure and Forfeiture—Police Investigating Manufacture of Firearms by Accused—CBSA Providing Customs Information to Police—Disclosure Amounting to Nine-Year Data Dump—Some Entries Included in ITO Used for Search Warrant—Customs Information to be Excised from ITO as Overly Broad and Privacy-Invasive Data**—Where a software engineer and his companies promoted the sale of cryptocurrency tokens allegedly backed by gold bullion, when they were not so backed, resulting in losses to investors of US\$51 million, the finding of fraud by the Capital Markets Tribunal based on compelled interviews of investors and the engineer was upheld as the engineer was not protected by s. 9 of the Evidence Act because the regulatory proceeding did not constitute a separate proceeding from the

investigation in which the compelled interviews were taken. In this case, TH, a software engineer and his companies, including Arbitrade Ltd. (the “appellants”) promoted sale of cryptocurrency tokens allegedly backed by gold bullion, and would increase in value from earnings related to cryptocurrency mining and investment in the gold bullion. In total, over US\$51 million was raised from the token sales. In reality, the tokens were not backed by precious metals, and the investor money did not go where it was supposed to. A panel of the Capital Markets Tribunal found the appellants committed two frauds contrary to the Securities Act, R.S.O. 1990, c. S.5 (“Act”), and the sale of tokens without a prospectus and registration amounted to further breaches of the Act. The Tribunal’s findings included that the appellants made various false and misleading statements (i.e., there was no gold bullion backing the tokens) and US\$37 million was misappropriated as it was used for purposes not relayed to the investors. Various sanctions were subsequently ordered, including that the appellants were permanently banned from participating in the market and ordered to pay significant administrative penalties, costs, and disgorge the amounts they received as a result of their misconduct. TH was held jointly and severally liable for a portion of disgorgement of the investor’s lost funds. The appellants appealed, and their appeal was dismissed: *Hogg v. Ontario Securities Commission*, 2025 CarswellOnt 18290, 2025 ONSC 6214 (Ont. Div. Ct.), affirming *Hogg (Re)* (2024), 47 O.S.C.B. 5075, 48 O.S.C.B. 585, 2024 CarswellOnt 9125 (Ont. C.M.T.); and affirming *Hogg (Re)*, 2024 CarswellOnt 20661, 2024 ONCMT 31, 48 O.S.C.B. 9 (Ont. C.M.T.).