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COMMERCIAL CRIME IN CANADA

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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 chapter 15 (Fraudulent Trade Practices).

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Case Highlights

Recent case law introduced with this release includes the following:

- **Fraudulent Trade Practices—*Competition Act*—False or Misleading Representation—Retailer Misrepresenting Shopping Bags as Recyclable—"Greenwashing"—Quebec Court Finding No Cause of Action Outside Quebec—Class Action Proposed in Ontario—*Res Judicata* Not Arising—Quebec Court's Scope Limited to Consumers in Quebec—**Where the plaintiff commenced a proposed class action in Ontario under s. 52 of the Competition Act, alleging that the defendants misrepresented their shopping bags as "recyclable" when they were not recyclable in Canada, but a Quebec court found there was no cause of action under the Competition Act, relating to consumers outside Quebec, the defendants' motion to strike the claim based on *res judicata* was denied as the Quebec court in certifying the action had limited the scope of that proceeding to consumers in Quebec. In this case, the defendants operated a chain of retail stores. Between 2022 and 2023, the plaintiff purchased green shopping bags sold by the defendants for approximate a total of $15. The bags bore a label "Recyclable" and were marketed as environmentally friendly bags. In fact, the bags were made of woven polypropylene, and were not recyclable in Canada. The plaintiff commenced a proposed class action in Ontario alleging that the defendants made false or misleading representations within the meaning of s. 52 of the Competition Act, and that the defendants' conduct constituted "greenwashing" as defined by the Competition Bureau. The plaintiff sought relief under s. 36 of the Act. The defendants claimed that an earlier action brought in Quebec found there was no cause of action under the Competition Act, and that, while bags were not recyclable in Quebec, there was no evidence that bags were not recyclable in the rest of Canada. The defendants brought a motion to strike the statement of claim on the grounds of *res judicata* or, alternatively, for abuse of process based on the doctrines of re-litigation and collateral attack. The defendants' motion was dismissed: *Caverly v. Dollarama S.E.C.*, 2026 CarswellNat 2675, 2026 CarswellNat 2676, 2026 FC 825, 2026 CF 825 (F.C.).